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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SHAW).

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
October 29, 2003.

I hereby appoint the Honorable E. CLAY SHAW, Jr. to act as Speaker pro tempore on this day.

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

PRAYER

The Reverend Bryce Anderson, pastor, Church of the Living Word, Vincennes, Indiana, offered the following prayer:

God of our forefathers, refuge of good and wise people in every generation: when history began, You were the first enlightener of minds. Yours was the Spirit that first led them out of their brutish estate. You are the Lord and giver of life, the source of all knowledge, the fountain of all goodness.

The patriarchs trusted You and were not put to shame. The prophets sought You and You committed Your word to their lips. The psalmists rejoiced in You and You were present in their psalms. The apostles waited upon You and they were filled with Your Spirit. The martyrs called upon You and You were with them in the midst of the flame.

Forbid it that we should fail to profit by these great memories of the ages or to enter into the glorious inheritance which You have prepared for us through Jesus Christ our Lord. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. DEFAZIO led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

S. 247. An act to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, and for other purposes.

WELCOMING THE REVEREND BRYCE ANDERSON

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

Mr. HOSTETTLER. Mr. Speaker, I am pleased that our session today began with a prayer delivered by Bryce Anderson, pastor of the Church of the Living Word in Vincennes, Indiana.

It is a proud and longstanding part of our heritage that the work of Congress begins only after God's blessing and favor is sought, and I am proud that Pastor Anderson could participate in this historical duty.

In 1987, Pastor Anderson and his wife, Bobbie, established the Church of the Living Word as an outreach to their community. In his 16 years as pastor, Bryce has demonstrated the commitment and dedication that make him both a role model and spiritual leader in Knox County.

Bryce shares with the first Speaker of the House, Frederic Augustus Muhlenberg, the notion that service to God and public service go hand in hand. Like so many of our founders, Pastor Anderson believes the church has both a role and responsibility to be active in faith and in service to community and country.

Mr. Speaker, I could not agree more.

ON THE RELEASE OF U.S. CITIZEN FUMING FONG

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

Mr. PASCRELL. Mr. Speaker, for both sides of the aisle, Monday evening was a great time for New Jersey and America. I was at the Newark Airport at 11 p.m. when Fuming Fong, an American citizen who has been held in prison by the Chinese for 3 years, was finally released and returned home.

Mr. Speaker, I want to thank the State Department, most notably Assistant Secretary Kelly, and Will Laidlaw from the U.S. embassy in Beijing who came with Fuming Fong to join his family here in the United States. He is from West Orange, New Jersey, which is part of my district.

Fuming Fong is an electrical engineer. He was charged in a universal charge of bribery, which so many people are in Chinese prisons for. He was detained by the Chinese Government in February of 2000. After meeting with the Fong family in August 2001, I made the decision that this was something we could all get on board with, and so I went to China in January and the end of this year to plead with the Chinese Government, indeed, the President himself.

Mr. Speaker, any time that we begin to take freedom for granted, I would like my colleagues here in this House to think of Fuming Fong and what he went through and how beautiful this country of America is.

WASHINGTON WASTE WATCHERS

(Mr. MARIO DIAZ-BALART of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I once again want to talk a little about the Washington Waste Watchers and the work that a number of us are trying to do to root out waste in Washington. The examples are just one after another; but one that hit me, I think like a ton of bricks, was the $814,000 in salary and bonuses for a Head Start executive director in Kansas.

Yet, Mr. Speaker, when we bring these up, our good friends on the Democratic side of the aisle have only one solution. What is their solution? Do they join us when the chairman of the Committee on the Budget proposes to cut 1 percent in waste, fraud, and abuse? No, they propose increased taxes on the American people.

When we see a $470,000 grant to study individuals, now, listen to this, drinking alcohol while watching pornography, do we get the Members of the other side of the aisle coming forward to say we want to help cut waste, fraud, and abuse? No, they propose to increase taxes on the American people. When we see, for example, the Impact Aid funds intending to go to schools in South Dakota that were instead used, some of them, to purchase real estate, to purchase a Lincoln Navigator and a Cadillac Escalade, do we get our friends on the Democratic side of the aisle to say we want to support you in cutting this waste? No, they propose increasing taxes, 25 times just this year alone.

NO MONEY FOR EXTENDED UNEMPLOYMENT BENEFITS FOR AMERICANS

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

Mr. DEFAZIO. Mr. Speaker, the whining from the other side of the aisle is extraordinary. They can see all this waste, fraud, and abuse; but they control the White House, the Senate, and the House and yet they do not do anything about it. Puzzling.

Here is something else they do nothing about which is very puzzling. There are 4 million American workers who have exhausted their unemployment benefits and cannot find work. The President and the Republican majority say that we cannot afford to extend unemployment benefits to these people, despite the fact there is $20 billion sitting in the Unemployment Trust Fund of taxes paid by Americans.

No waste, fraud, and abuse here; there are just people who cannot find work and want it. Now, the Republicans say we cannot afford it, but they are borrowing hundreds of millions of dollars to pay Iraqis for no-show jobs. The anti-waste, -fraud, and -abuse crowd is happy to pay Iraqis for no-show jobs, but they will not give unemployed Americans benefits out of a trust fund. These are people who want to work and cannot find work because of the miserable economic record of this administration.

IRMO HIGH SCHOOL'S BLUE RIBBON AWARD FOR 2003

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

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to honor the students and faculty of Irmo High School in Irmo, South, Carolina. Irmo High just received recognition from the U.S. Department of Education as a blue ribbon school, their third such award.

As Secretary of Education Rod Paige has said, schools chosen for the blue ribbon will be ones that are meeting our mission to ensure that every child learns and no child is left behind. Blue ribbon recipients will be national models of excellence that others can learn from.

I want to personally thank the hard work of the faculty who have visited Washington, including Principal Gerald Witt, teachers Phil Tanner, Jan McCarthy, and JROTC director Colonel Pete Sercer. Also, School District Five school board members have supported the progress made at Irmo High School, especially Jan Hammond, Paula Hite, and Carol Sloop. Yet above all, the ones who really deserve recognition are the students who have achieved remarkably.

Irmo High School is truly an example of educational success, and I ask all my colleagues to join me in honoring the school today, a day highlighted by the visit of California Governor-elect Arnold Schwarzenegger.

In conclusion, may God bless our troops.

THE ECONOMY

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

Ms. SOLIS. Mr. Speaker, when I travel home to Los Angeles County, the people ask me, where are the jobs? Where are the extended unemployment insurance benefits?

When we look at this chart, we can see that since January of 2001 we have not made any progress. In fact, in the San Gabriel Valley the unemployment rate is still above 10 percent, and it is double digit in areas that are unincorporated in East Los Angeles where we have high minority populations. These are working people that are looking for relief. They are waiting for unemployment insurance. And they are also asking why is the Republican Party not doing more to strengthen our economy.

The Democrats want to provide pay increases for our Reservists and our military families. I am ashamed to say these are the same families we represent that are in waiting lines to get food, these Reservist families in my district; and I think that is abominable.

We need to provide a tax incentive to encourage companies to keep jobs at home, not abroad, like Halliburton and Bechtel. We need to raise the minimum wage. We need to pass a highway infrastructure bill that will keep good-paying jobs, not minimum-wage jobs, but jobs that pay above minimum wage.

Mr. Speaker, I ask my colleagues to consider proposing those incentives that we are talking about today to restore the economy for Americans.

NO FINANCIAL AID FOR SEX OFFENDERS ACT

(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, today I am introducing the No Financial Aid for Sex Offenders Act for 2003. It is a national embarrassment that we are handing out taxpayer dollars for pedophiles and rapists to take college courses while hardworking young people from poor and middle class families are left to flip hamburgers and mow lawns to pay for college.

In 1972, Congress created the Pell grant program to help children from low- and moderate-income families go to college. In 1994, Congress prohibited State and Federal prisoners from getting these Pell grants. This past year, 54 violent sexual predators in Florida obtained over $200,000 in Pell grants at taxpayer expense. They got a free ride by exploiting a loophole, that is, they were involuntarily confined in something called a civil commitment center as opposed to being called a prison.

This legislation closes that loophole and ensures that this money will be used as intended, by needy law-abiding college students. I urge my colleagues to cosponsor this legislation, H.R. 3385.

ARMED FORCES TAX FAIRNESS BILL

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

Mr. EDWARDS. Mr. Speaker, it is outrageous, it is unbelievable, but it is true. The House Republican leadership has kept at the Speaker's desk, since March of this year, the Armed Forces Tax Fairness Bill. Several months ago, they said we could afford to give a $230,000 tax break to American citizens living safely here at home making $1

million in dividend income; yet the gentleman from Texas (Mr. DELAY) and the gentleman from Illinois (Mr. HASTERT) say we cannot afford to provide modest tax help to brave service men and women, many of whom are serving in Afghanistan and Iraq.

Yesterday, the leadership said we had time to rename three post offices around the country; yet we have not had the time to consider the Armed Forces Tax Fairness Act. Why? Because it is paid for by closing the Benedict Arnold loophole that lets American citizens renounce their citizenship to keep from paying taxes.

It is shameful the Republican leadership seems to be more interested in protecting Benedict Arnolds than in helping our service men and women.

ENERGY PLAN VITAL FOR AMERICA'S HOMELAND DEFENSE

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

Mr. STEARNS. Mr. Speaker, with national security foremost on the minds of the American people, there is one thing we can do to simultaneously protect our shores and boost the economy: quickly approve a comprehensive energy plan.

With the President's support, the House passed a responsible energy plan last Congress that will free us from the undue burden of dependence on foreign oil and, of course, bring new jobs to parts of the country that sorely need them.

Ignoring this impending energy crisis will do nothing to solve it. ANWR exploration could free us from trading with leaders like Saddam Hussein, who used oil money to develop weapons of mass destruction. Increased domestic production is an indispensable component of any energy plan.

Mr. Speaker, during World War II, our great nations bonded together and made personal sacrifices to make this world a safer place to live.

□ 1015

Now, again, we are at war, a Nation at war, and just like in the past, we need to come together. We can take one giant step forward by implementing the House's energy plan.

EXTEND UNEMPLOYMENT BENEFITS

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

Ms. HOOLEY of Oregon. Mr. Speaker, today I am introducing a petition to force a vote on legislation to extend unemployment benefits as a triage effort to tide people over until we address the underlying problem behind high unemployment rates: the U.S. economy's job losses.

This country has lost 3.2 million private sector jobs in the last 3 years. It is not that Americans are not looking for work, it is that the jobs are just not there.

In addition to providing a safety net to individuals, we need to focus on creating an environment allowing the private sector to grow and create these desperately needed jobs. Not only do unemployment benefits provide a level of security to families, unemployment benefits also help stimulate our local economies. When people do not have spending power, businesses hurt.

Last week 11,000 Oregonians exhausted their benefits, and that number is going to continue to grow unless this Congress acts. This deprives our State's local economy of $3 million every week in stimulus. Unemployment benefits are intended as a safety net to bridge people from one job to the next. I urge my colleagues to join me in signing this discharge petition.

MEDIA NOT GIVING BALANCED ACCOUNTING

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

Mr. SMITH of Texas. Mr. Speaker, if Americans do not get the facts from the media objectively reported, they do not have a basis on which to make good decisions. For example, a few days ago The Washington Post ran a six-column page 2 story about the redistricting process that the Texas legislature completed earlier this month. The writer quoted eight Democratic Members of Congress but not one Republican official. This was obviously a one-sided report that did not give their readers a balanced accounting.

A recent Gallup Poll showed that 45 percent of Americans believe the news media in this country are too liberal, while only 14 percent say the news media are too conservative. Ultimately, it is a matter of trust, whether the media trusts the American people with the unvarnished facts. They should. Let the people make up their own minds, not be told what to think.

SUCH A DEAL

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

Mr. EMANUEL. Mr. Speaker, in the last 3 years, 3 million Americans have lost their jobs; 42 million Americans are without health insurance of which 22 million Americans work full time; a trillion dollars worth of corporate assets have been foreclosed on; and 3 million more Americans have walked out of the middle class to poverty.

In that same period of time, we have added $3 trillion to the Nation's debt.

Mr. Speaker, $3 trillion added to the Nation's debt; 3 million Americans have lost their jobs. As my great aunt would say, ''Such a deal.''

We need to do better for the American people. Just last week we passed an economic program for Iraq's future. I voted for it. It included investments in jobs, health care, education, housing, and infrastructure. The promise we make to Iraq and the values we hold for Iraq must be the promise we hold for the American people. We must now invest in our economic growth so we can stimulate our job market with the same kind of attitude and investment that we have had in the stock market. We have a health care crisis and a job crisis in this country. We must invest in America's economic future with the same commitment we have done for Iraq.

CALIFORNIA FIRES DEVASTATE LANDSCAPE

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

Mr. CUNNINGHAM. Mr. Speaker, Governor-elect Schwarzenegger just addressed the Republican Conference, and he is meeting with leaders on both sides of the aisle. What he is asking for is help for the State of California. When I left San Diego, it literally looked like an atomic bomb went off. Going from Los Angeles to San Diego, it looks like a moonscape. Governor-elect Schwarzenegger is meeting with the leadership from the Democratic side and our side, and he said that we need to work together on this.

Mr. Speaker, I do not know if most people understand the devastation. I have seen what B–52 raids do to a city. It fails in comparison to what is happening in San Diego. We ask Members of Congress on both sides of the aisle to work with us in California's desperate time.

RELIEF FOR UNEMPLOYED WORKERS

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

Mr. MICHAUD. Mr. Speaker, I just signed a discharge petition to extend unemployment benefits for dislocated workers across our Nation, and I am here to urge my colleagues to do the same. Let me just share some of the numbers from the State of Maine. For the past 3 years, Maine has lost 22 percent of its manufacturing jobs, 15,500 jobs in total, the highest in the Nation.

Mr. Speaker, where is relief for these workers and their families? Too many Mainers are approaching today, tomorrow and the coming days without a job, without health care coverage, without adequate food and medicine, and without the ability to make ends meet. We cannot turn our backs on these workers and their families. We must extend unemployment insurance for the people who have exhausted their benefits. Our most important job is to help those who cannot find a job.

WHERE IS THE ACCOUNTABILITY?

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I too ask my colleagues to sign onto a very important discharge petition that will help 4.6 million of our dislocated workers. I rise to say that, but I also rise to ask the question that Robert Kennedy asked, some people will ask why, and I ask, as he did, why not?

President Bush yesterday in essence said that we should stay the course, and I would argue that even as we make a commitment to ensure that we rebuild Iraq, it is imperative that there is accountability, accountability for the lost lives of our young brave men and women, accountability for the tragedies of 40 deaths in the last 48 hours, accountability for a nonexit plan, and no strategy to rebuild Iraq.

Mr. Speaker, I ask for the resignation of CIA Director George Tenet, accountability by Secretary Rumsfeld, Paul Wolfowitz, and I would ask that they be held accountable. There are too many lives being lost, there is too much to be done for us to stand idly by. Some ask, why; I ask, why not?

TWO MORE SOLDIERS KILLED

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

Mr. MCDERMOTT. Mr. Speaker, yesterday we listened to the President have a press conference. We discovered it is 1984, war is peace, that chaos is democracy, and that everything is fine. Yesterday two more soldiers were killed in Iraq. Nothing has changed in the Department of War. We have the same Secretary, we have the same Assistant Secretary, we have the same people in the White House saying that we are doing just fine. They have not changed anything. They just want more money out of us.

I suggest that we have a moment of silence for those who died yesterday.

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

GENERAL LEAVE

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion to go to conference on H.R. 2989, and that I may include tabular and extraneous material.

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

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2989, TRANSPORTATION, TREASURY AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OLVER

Mr. OLVER. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. OLVER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2989, be instructed to insist on the Senate position with respect to Transit New Starts and Job Access and Reverse Commute funding, and be further instructed to insist on the House position with respect to National Archives and Records Administration's Electronic Records Archives and National Historical Publications and Records Commission grants.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. OLVER) will be recognized for 30 minutes and the gentleman from Oklahoma (Mr. ISTOOK) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. OLVER).

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

Mr. Speaker, the House and Senate versions of the Transportation-Treasury bill have substantial differences on a wide range of issues that we will have to reconcile in our conference negotiations, and some of those reconciliations will not be easy. Many of these, such as the differences in funding level for Amtrak and election reform are widely publicized and well known.

The two versions of the Transportation-Treasury bill contain a number of issues that have not been as widely noted, but will have nevertheless a significant impact on people's lives.

The motion to instruct that is at the desk and has been read this morning highlights just a few of those issues that I believe and we believe on this side deserve the attention of the conferees.

First, the motion insists upon the Senate's funding level for Transit New Starts projects. The House bill provided $1.21 billion, more than $100 million below the Senate level of $1.32 billion, and even the Senate bill is in turn more than $200 million below the President's request.

Under the House funding level, the Members on both sides of the aisle were not able to secure funding for many of the light rail projects in their districts. Several of the projects that did receive funding are well below the actual needs of the project in fiscal year 2004.

The New Starts program which covers heavy and light rail, commuter rail, and rapid bus systems has helped create or extend hundreds of transit fixed guideway systems across the country. These investments in turn provided greater mobility for many millions of urban and suburban Americans. They have helped to reduce congestion and improve air quality in areas that they serve, and they have fostered the development of safer and more livable communities.

Mr. Speaker, I remind Members that the President's budget request sought $1.51 billion, which is $300 million more than is provided in the House bill, and that this motion supports $100 million of that difference. President Bush's request and the Senate's funding level acknowledge the need for additional major investment in transit light rail projects. We need to pass this motion to ensure that the conferees share this priority.

Second, Mr. Speaker, today's motion to instruct insists upon the Senate level of funding of $125 million for the Job Access and Reverse Commute funding.

□ 1030

This program is designed to assist welfare reform efforts by providing better transportation services for low-income individuals, persons who often cannot afford automobiles in this society, including former welfare recipients who are traveling to jobs or training centers. The House-passed bill is $40 million below the Senate funding level and $64 million below the fiscal year 2003 enacted level, which was $149 million for that program.

The Senate funding is already 15 percent below last year's enacted level, but the House bill provides something more than a 40 percent cut in last year's enacted funding level for that program. Reducing funding for those trying to get to work or for those trying to get training to reenter the workforce seems to be the wrong priority under the current circumstances.

Since 2001, the economy has lost over 3 million private sector jobs and 2.6 million jobs overall. The unemployment rate is hovering near 6 percent with little sign of improvement. For those who see improvement in the economy, there is a general acknowledgment that this has been thus far a ''jobless recovery.'' Given this economy, I would suggest that we should not want to reduce the funding aimed squarely at getting people back to work.

Thirdly, Mr. Speaker, the motion insists upon the House funding levels for the National Archives electronic records archives initiative and for the National Historic Publications and Records Commission grants. These two programs, administered by the National Archives and Records Administration, are both critical for properly

maintaining our Nation's history. The House bill fully funds the budget request of $35.9 million for the electronic records initiative and this funding will help build the infrastructure necessary for properly maintaining the Federal Government's electronic records. It also serves as a standard for States and municipalities as they deal with issues involving electronic records archiving.

Unfortunately, the other body neglected to provide the necessary resources for these vital programs. Without funding at the House level, hundreds of thousands of electronic records and historic records will not be maintained as they should be.

Mr. Speaker, I urge support for the motion to instruct conferees.

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

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

Mr. Speaker, the motion to instruct conferees, of course, is not binding upon the conferees. It is intended, I know, by the gentleman from Massachusetts as an expression of intent. Although I would not pretend to agree with all the priorities that he seeks to express in it or to bind us, but in the spirit of advancing this issue through the House, the bill, in the spirit of comity, I am willing to accept the amendment. Then we will do the best we can on that and other priorities in conference.

I should point out, of course, that if we do as the gentleman from Massachusetts suggests and guarantee that there be over $100 million additional for new starts, that money might come out of highways. I do not know how we are going to work through these things, but I do believe that it is best, rather than fight over things on the floor, to accept the amendment and let the conferees do the best they can in working on this and on the other priorities.

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

Mr. OLVER. Mr. Speaker, I thank the gentleman for his willingness to accept the motion. I have just one or two speakers that I would like to allow time for. Then we will go on to other things.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the distinguished ranking member for yielding me this time, and I thank the chairman of the subcommittee as well.

Mr. Speaker, I rise enthusiastically to support the Olver motion to instruct the conferees, the transportation appropriations conferees for, I think, a very well-thought-out instruction that emphasizes the direction that is crucial for this country. To maintain or support the Senate level for the new starts, I believe, is absolutely crucial.

As I look at the Nation's needs as a member of the Select Committee on Homeland Security, one of the issues that we have spoken about is to ensure the safety of the Nation's byways, highways, freeways and certainly to reassess the needs for improved and increased regional mobility, clean, secure, efficient regional mobility opportunities. These new-start moneys will assist in light rail, it will assist in guideways, it will assist in helping urban and suburban areas, and it will assist in rapid buses and commuter systems.

It is interesting that, as we debate this question, we in Houston are in the throes of moving forward on our light rail projects; and certainly a city that is the fourth largest city in the Nation clearly would have a very ready opportunity, if you will, on its plan to be able to secure Federal funds. We do know that in the appropriations process now, there are about 30 cities with others standing in line. I believe in the 21st century this is no time to turn around on our commitment to transit issues. It helps us improve the quality of life, and it helps us in particular to improve the opportunity for air quality and for the ability of our citizenry to move about. Clearly, the Senate level for the job access and reverse commute grants is imperative. Right now we know we have totally about 4.6 million in dislocated workers around the Nation. In Texas we have over 131,000 unemployed individuals and growing. Therefore, this question of being able to access your job without necessarily having a car and also to access training is crucial, particularly in States that have been hard hit by unemployment.

I would hope that my colleagues would see the reason of this motion to instruct and know that this is no time to shortchange the opportunities of growth in mobility that we have before this Congress. Local communities look to the Congress to be bipartisan, to be embracing, to be smart, and to move forward on transportation issues where they cannot. All over our country they are looking to improve many of their systems. Let it be known that regional mobility is not singular. It is rapid buses. It is guideways. It is light rail. In some instances it may be expansion of our roadways. But whatever it is, those Federal funds are imperative for us to have. I would ask my colleagues to enthusiastically support the decision that this Congress needs to make.

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

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

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Massachusetts (Mr. OLVER).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. ISTOOK, WOLF, LEWIS of California, ROGERS of Kentucky, TIAHRT, Mrs. NORTHUP, Messrs. ADERHOLT, SWEENEY, CULBERSON, YOUNG of Florida, HOYER, OLVER, PASTOR, Ms. KILPATRICK, and Messrs. CLYBURN, ROTHMAN and OBEY.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.J. RES. 75, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 417 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 417

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 75) making further continuing appropriations for the fiscal year 2004, and for other purposes. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

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

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), 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, H. Res. 417 is a closed rule that provides for the consideration of H.J. Res. 75, a continuing resolution that will ensure further appropriations for the fiscal year 2004. The rule provides for 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the joint resolution and provides for one motion to recommit.

Mr. Speaker, we passed the first continuing resolution, H.J. Res. 69, during the final days of September and it became Public Law 108–84. The provisions of H.J. Res. 69 are scheduled to expire this Friday, October 31. Therefore, under the joint resolution that this rule makes in order, the provisions of that first continuing resolution will be extended until November 7, 2003. In brief, for the fiscal year 2004 appropriations bills that have been enacted into law, the continuing resolution provides an additional week of funding for government agencies.

Mr. Speaker, we did pass a continuing resolution last week that conjoined the six fiscal year 2004 appropriations bills that have been passed by

the House, but the other body clearly needs additional time to complete the funding work for the coming year. The House has passed each of the 13 regular appropriations bills. However, to ensure that essential government services continue to operate, this rule makes in order another continuing resolution to give us the additional time to complete the appropriations process in an orderly manner.

This rule was approved by the Committee on Rules yesterday. I urge my colleagues to support it. I know all of us in the House wait with great anticipation the completion of the appropriations work by the Members of the other body. Until that time, this resolution will provide a continuation of funding for government agencies until these important issues are resolved.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. I thank my good friend, the gentleman from Georgia (Mr. LINDER), for yielding me the time. I oppose this closed rule and the underlying legislation.

Mr. Speaker, I wondered to myself last night as the Committee on Rules majority Republicans passed yet another closed rule which stifles debate and shuts off meaningful contributions from all of the Members of this Chamber, what is the problem? Congress has only had since January 3 of this year to complete work on the 13 annual appropriations bills, the so-called ''must pass'' bills that Congress works on every year. In case anyone is unclear, so far Congress has passed three of the 13 appropriations bills that must pass before September 30. Defense appropriations, done. Homeland security, done. And, of course, the bill which funds this very institution, Congress, done. Everything else, military construction; veterans affairs; labor, health and human services; commerce, judiciary; education, all just kind of out there somewhere in this vacuous air inside the Beltway.

And the sad part? No one to blame but the party in control. Despite the fact that just yesterday I heard a Member of the other body blame former President Clinton, I do not think the American people are buying that. The fact is the last time there was single-party control of Congress at the beginning of President Clinton's administration, control of Congress and the White House, all 13 appropriations bills were passed by September 30.

□ 1045

We had a balanced budget, and, oh, yes, we had budget surpluses as far as the eye could see.

My, how times have changed. Well, thank you, Mr. President. Thank you, my good friends, the Republican Congress. Now, we have debt in our Nation as far as the eye can see, and, in many respects, disdain from a large portion of the rest of the world.

In my view, the majority is the modern day reincarnation of Nero. The majority fiddles while the Nation burns, or, to put it another way, we are drowning in a sea of red ink.

It will surprise no one, then, that I think we should not pass this rule. We should not pass the underlying legislation. We should stop working 2-day workweeks like we did last week, and we should stay here and finish our work; yes, work maybe even 7 days a week, until we do what the people have elected us to do. What a crazy suggestion.

Enough already. Let us get to work.

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

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

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged at this time to yield 3 minutes to my good friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for yielding me time and for his leadership on many of these issues.

Mr. Speaker, I rose just a few minutes ago to support the movement of the conference of the Committee on Appropriations Subcommittee on Transportation, Treasury, and Independent Agencies and hope that this body would support the idea of going with the Senate numbers on certain aspects of that appropriations process.

The distinguished gentleman from Florida is absolutely right: This Congress is in the hands of the other party, and any delay that is now going on that requires us, again, to implement another CR, as we have done in sessions past when this body, both this House and the other body, have been dominated and controlled by the Republicans, is because we have this aggravation and tension about who should be provided for first, the domestic needs of this Nation, or whether or not we should be continuing to throw good money after bad in areas where we cannot point to the success of that investment.

It is clear that the struggle in HHS is about funding our children's educational needs, and, because the Republicans are not interested in doing that, then we have gridlock. It is clear that in instances where we are trying to provide extra resources for investment in the Nation's troubled transportation systems we have gridlock, because the other body, the other party, is not interested in compromise. So I believe it is crucial that we have a CR that has the opportunity for an open rule to provide insight and amendments on these very issues.

I would hope that my colleagues would see the folly of a continuing CR that does not in fact have the teeth to address the concerns that we have, address the concerns of the $20 million billion that we have now begun to move forward on the rebuild of Iraq.

The President said yesterday we had about $13 billion from our friends and allies. I believe that with a little more time we could get more money, have more stakeholders in the rebuild, and that we should insist that the President collaborate with our NATO allies before we give one cent. I believe if we do give the $20 billion, it should be in the context of a $10 billion loan, as opposed to a total $20 billion giveaway.

None of us are against the rebuilding of Iraq or investing in democracy. We are against the continued loss of life of our young men and women on the front lines. We are against a haphazard policy as relates to Iraq. We were against a preemptive attack. And we certainly were against the lack of finding of weapons of mass destruction.

All of this ties into, ultimately, how this Congress spends its money and how it invests in spending its money. I believe the CR is misdirected, it should be an open rule, and I believe the American people expect more from this Congress and we should be held accountable.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), my good friend and colleague on the Committee on Rules.

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

Mr. Speaker, I have a list here from the NFL of the top punters in the NFL. The top 3 punters are Shane Lechler from Oakland, Brian Moorman from Buffalo, and Scott Player from Arizona. And as talented and experienced and skilled as these punters are, they have nowhere near the ability that the Republican leadership in this House has when it comes to punting, because that is what we are doing today. We are punting once again, because the Republicans in this House cannot get along with the Republicans in the other body, and they cannot get their work done.

The main job that the leadership of this House has is to pass 13 appropriations bills, work with the other body to get them passed and get them on the President's desk by September 30. This leadership has failed in doing that. They cannot do their job.

The Republicans cannot get along with Republicans. They cannot blame a Democratic Senate because they have a Republican Senate. They cannot blame a Democrat in the White House because they have a Republican in the White House. They control the House, they control the Senate, they control the White House, they even control the courts, and they still cannot get their job done.

So it is important for all of my colleagues to understand at this critical moment that we are here because the leadership in this House cannot get their work done. They cannot coordinate with Members of their own party. They cannot do the work that they are supposed to do.

I would just hope, and I say this especially to those who are watching this, that they understand, that these are the people who said give us the power and we will impress you with our ability and our skill and our efficiency.

Well, they have the power. Again, they have the power because they control the House, they control the Senate, they control the White House, and they cannot get their work done.

So we are going to punt until November 7, but I want to make a prediction right now, we are going to punt again. And it is kind of sad, because they are not doing the work they are supposed to do. They are not getting the job done.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the points that have been made are echoed all throughout this Chamber.

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

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

The previous question was ordered.

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

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

Mr. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on the question will be postponed.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2691, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 418 ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 418

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2691) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

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

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), 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, House Resolution 418 is a rule providing for the consideration of H.R. 2691, the Department of Interior and Related Agencies Appropriations Act of 2004. The rule waives all points of order against the conference report and against its consideration. The rule further provides that the conference report shall be considered as read.

Mr. Speaker, the Interior conference report that the House shall consider, following adoption of this rule, provides for $19.8 billion in budget authority for fiscal year 2004, which is $300 million above the level requested by the administration.

Specifically, the bill provides increased levels of funding for the National Park Service, for our system of National Wildlife Refuges, for the Indian Health Service, the Forest Service and the Bureau of Land Management, among others.

As a Member from the West, I am particularly pleased that the conference agreement provides for $227.5 million for payment in lieu of taxes, or PILT, which is greatly needed to reimburse local communities in Western States whose tax rolls are limited by extensive Federal land holdings in their areas. This bill funds PILT at a level of $7.5 million above the current year and $22.5 million above the level requested by the administration.

The bill also provides $212 million for Indian Trust reform to ensure that Indian Tribes receive full value for oil, gas and other mineral resources Federal agencies permit to be produced on their lands. By law, the Interior Department serves as trustee for Indian lands and resources, and Congress is committed to taking the steps necessary to see that the Department carries out those trust responsibilities to their fullest.

Finally, Mr. Speaker, the conferees are to be commended for their efforts to fund a wide range of forest, health and wildfire safety initiatives. The tragic wildfires now raging in California have focused the public's attention on the importance of reducing the threat of massive fires that endanger both lives and property in their affected areas. This year, the Congress has provided historic levels of resources for Federal fire fighting assistance, including in this conference report a total of $2.9 billion, one of the largest one-time fire fighting allocations in our history.

The bill includes $2.5 billion for the national fire plan, as well as additional $400 million to repay wildfire suppression expenses of last year. These funds emphasize providing fire fighting resources and personnel to keep fires small, reducing wildfire risks by reducing the buildup of hazardous fuels, increasing State, volunteer and community assistance, and stepped up research and development, performance monitoring and accountability.

Specifically, the conference agreement increases wildfire suppression by $289 million over the current year, wildfire preparedness by $65 million, hazardous fuels reduction by $11 million, and forest health and rehabilitation activities by $35 million over the current year.

Mr. Speaker, the gentleman from North Carolina (Chairman TAYLOR) and his fellow House conferees have done an excellent job under challenging circumstances. They have negotiated an agreement which protects the House positions on provisions far too numerous to mention, and they have reported a balanced bill that meets the most pressing needs of Interior Department and related agencies.

Accordingly, Mr. Speaker, I urge my colleagues to support both the rule and the conference agreement.

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

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

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

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Washington for yielding me the customary 30 minutes.

Mr. Speaker, again the Committee on Rules has trampled on the rights of the minority and the voices of millions of Americans. Last night, the Committee held an emergency meeting to consider a rule for the Interior appropriations conference report. The Democrats had only an hour to skim the contents of the lengthy report before a quick hearing was held and the rules hastily approved along party lines. Now, this morning, the entire membership of the House is expected to consider the Interior appropriations conference report, even though Members had only a few late-night hours to scan the report.

It is almost November, and we are well into the new fiscal year, with only three of the 13 appropriations bills enacted into law. But inefficiency does not justify our hurriedly passing a bill appropriating almost $20 billion. The American people expect their elected Representatives will have more than a handful of dark hours in the late night to consider vital legislation.

Mr. Speaker, in the few hours I have had to read this conference report, I saw several problems with the bill. Back in 1992, the funding for the National Endowment for the Humanities and the National Endowment for the Arts reached its funding zenith, $176 million for each agency. Over the years, the NEA and NEH budgets have been slashed again and again, but for the last 2 years this body has voted to increase the funding for the arts and humanities.

□ 1100

In July, the House adopted the Slaughter-Dicks amendment in increasing the funding for NEA by $10 billion and funding for NEH by $5 million. However, the $10 million budget increase for NEA has been reduced by $4.5 million and the funding for NEA has been reduced by $5 million from the levels that the body endorsed.

Investing in the arts, Mr. Speaker, is a smart business. The $232 million the Federal Government invested in the NEA and NEH last year had an economic impact of $132 billion and billions in Federal, State, and local tax revenues. Every dollar the NEA invests in local theater groups, orchestras, or exhibitions generates $7 for the arts organization by attracting other grants and private donations and ticket sales.

Investing in the arts is also smart for our children. Over and over arts education has proven to increase academic performance, regardless of socioeconomic background. The NEA provides the grants for local arts activities in every State and in every congressional district. In Buffalo, New York, the NEA provided a small $10,000 grant to a community arts group to support a program to offer weekend classes in visual arts and jazz music for the African American children in Buffalo's low-income, inner city east side. Another small community grant to a group in Buffalo provided weekly workshops in media literacy and digital arts for girls age 9 to 15. And in the district of my colleague, the gentleman from Washington (Mr. HASTINGS), an 8-week summer residency program that provided psychiatrically and emotionally impaired children with instruction in creative writing, mask-making, and theatrical improvisation received a community arts grant from the NEA.

Yesterday, the Wall Street Journal told that story of an NEA arts program to bring professional theater companies to perform Shakespeare's plays in hundreds of small and midsize towns. The Chicago Shakespeare Theatre recently brought a live-action ''Romeo and Juliet'' to Paducah, Kentucky. After the performance, the audience stood up to cheer. The article ends by saying, ''Shakespeare played well on stage is a wondrously different thing from Shakespeare stammered through in a classroom.''

The National Endowment for the Humanities is at the forefront in preserving our American culture and history. Democracy suffocates without an understanding of its past. The NEH and NEA provide the air that our democracy needs to survive and to thrive. Bruce Cole, the chairman of the National Endowment for the Humanities, warns us that ''we face a serious challenge to our country that lies within our borders and even within our schools: the threat of American amnesia. We are in danger of having our view of the future obscured by our ignorance of the past. We cannot see clearly ahead if we are blind to history, and a nation that does not know why it exists or what it stands for cannot be expected to long endure.''

The bill fails to adequately fund programs that protect some of the Nation's most valuable treasures: our natural resources. Again, I repeat the admonition of former President Theodore Roosevelt, one of the fathers of American conservation: ''In utilizing and conserving the natural resources of the Nation, the one characteristic more essential than any other is foresight.'' We are caretakers of the Nation's natural resources and parks. We are entrusted with the duty to preserve them for generations yet to come, and we should not hand over management and protection of the natural treasures of our parks to the lowest bidders.

Going against the bill as passed by this body, the conference report has added funding for studies about privatizing jobs in the National Park Service and the United States Forest Service. The $8 million for these feasibility studies should be spent more wisely on finding ways to protect our natural resources, not finding ways to eliminate jobs. The report abandons the conservation trust agreement reached and enacted into law in response to the 315 Members of the House who voted for the Conservation Reinvestment Act.

For over a century, the Federal Government has acted as the trustee of monies belonging to native Americans. Seeking a complete accounting of these funds held in trust, our native Americans have sued the Department of the Interior, charging the Department with gross mismanagement of the trust fund. The conference report contains new language added to the report that directly interferes with their continuing litigation by limiting the Department's ability to comply with the judge's orders.

Many tribes from across the Nation are strongly opposed to this intrusion and have written to the gentleman from California (Chairman DREIER) and the gentleman from Texas (Ranking Member FROST), and I will insert for the RECORD at the end of my remarks three of those letters. The Seneca Nation called my office yesterday seeking help to protect their lawsuit from congressional meddling. Like any trustee, the Federal Government owes the tribes a complete accounting of the money. The new provision is a heavy-handed interference in an ongoing case in a co-equal branch of our government. We should show more respect for our Native Americans and our Federal courts.

MANDAN, HIDATSA, & ARIKARA, NATION,
New Town, ND, October 28, 2003.

Hon. DAVID DREIER,
Chariman, Committee on Rules, House of Representatives, Washington, DC.

Hon. MARTIN FROST,
Ranking Member, Committee on Rules, House of Representatives, Washington, DC.

DEAR CHAIRMAN DREIER AND RANKING MEMBER FROST: The House and Senate conferees have included language in the Interior and Related Agencies conference report which will halt further efforts by the Interior Department to conduct a historical accounting of the errors in Indian trust fund accounts, as directed by a federal court.

The so-called ''trust reform'' rider language violates Rule 21, clause 2 of the Rules of the House of Representatives and constitutes legislating on an appropriations bill. The provision also violates the scope rule, House rule 22, clause 9, since the provision was not in either the house or senate bill before conference. Thus, for procedural and substantive reasons set forth below, I ask the Committee to issue a Rule to Recommit the Interior and Related Agencies conference report back to conference with directions to eliminate the offending language.

This provision was drafted without any consultation with the Committee on Resources or with any of the affected class action plaintiffs, or with any Native American tribes. Furthermore, this provision will delay the resolution of the Indian trust fund accounting problem and the court case for years. Native Americans have waited for over 100 years for an accounting. Now is not the time for delay. In fact, many of the Cobell beneficiaries, whose main income depends on a proper accounting, are dying. If the Interior Department is allowed to delay, those older beneficiaries may never be repaid.

There is no question that the Cobell Plaintiffs are likely to win. The Interior Department knows this and that is the reason they are asking for a delay. It simply is not in keeping with American justice to delay the likely meritorious legal claims of hundreds of litigants because the losing party does not like the result. Finally, there are serious constitutional questions of due process and takings that are at stake.

Thus, I reiterate my opposition to the language in the trust reform rider and ask the Committee to issue a Rule to Recommit to Conference.

Sincerely,

TEX G. HALL,
Chairman,
Mandan, Hidatsa & Arikara Nation.

NATIONAL CONGRESS OF AMERICAN INDIANS,
Washington, DC, October 28, 2003.

Hon. DAVID DREIER,
Chairman, Committee on Rules.

Hon. MARTIN FROST,
Ranking Member, Committee on Rules.

DEAR MEMBERS: It has come to our attention that language in the FY2004 Interior Appropriations bill would allow the Department of Interior to ignore the Cobell v. Norton court ordered historical accounting for one year. This language, if adopted in the Conference Report, would be an unconstitutional violation of Article III powers and would constitute takings in violation of the Fifth Amendment. Additionally, and most importantly, it would be unfair to those parties that have waited out this litigation and are finally seeing a resolution to this historical injustice.

We hereby request that the language be ruled out of order. In the alternative, we respectfully request that the Committee allow a point of order by the authorizing committee Chairman. It is not our desire to ask the committee members to take the unusual step of asking for a motion to recommit in both the House and Senate.

Please note that the authorizing committee has already taken action on this issue. Just last week, the House Resources Committee held a field hearing in Billings, Montana to gather input on developing a process to settle the trust funds lawsuit. Additionally, the Resources Committee will beholding another field hearing this Saturday

at the Salt River-Pima Maricopa Community in Arizona to gather more input on this pressing issue. Finally, Senator Campbell, joined by Senators Inouye and Domenici, has introduced Senate bill 1770 to address concerns raised with the ongoing trust fund litigation, and will hold a hearing on the measure tomorrow.

Thank you for your consideration on this very important and time sensitive matter. If you have any questions regarding this concern, please do not hesitate to contact NCAI at 202.466.7767.

Sincerely,

TEX G. HALL,
President.

NATIVE AMERICAN RIGHTS FUND,
Washington, DC, October 28, 2003.

Hon. DAVID DREIER,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

Hon. MARTIN FROST,
Ranking Member, Committee on Rules, House of Representatives, Washington, DC.

DEAR CHAIRMAN DREIER AND RANKING MEMBER FROST: The Native American Rights Fund represents 500,000 individual Indians in the Cobell v. Norton Indian Trust Funds lawsuit. We have won every merits phase of this case and the right to have a full accounting of our multi-billion dollar Individual Indian Trust—which contains the proceeds from our own land. The House and Senate conferees have included language in the Interior and Related Agencies conference report which will halt further efforts by the Interior Department to conduct the historical accounting of all the assets of the Individual Indian Trust, as directed by a federal trial and appellate courts.

The so-called ''trust reform'' rider language violates Rule XXI, clause 2 of the rules of the House of Representatives and constitutes legislating on an appropriations bill. The provision also violates the scope rule, House rule XXII, clause 9, since the provision was not in either the house or senate bill before conference. Thus, for procedural and substantive reasons set forth below, we urge the Committee to issue a Rule to Recommit the Interior and Related Agencies conference report back to conference with directions to eliminate the offending language.

This provision was drafted without any consultation with the Committee on Resources or with any of the affected class action plaintiffs, or with any American Indian tribes. Furthermore, this hostile provision will delay the resolution of the Indian trust fund accounting for years. Native Americans have waited for over 100 years for an accounting. They have played by the rules and litigated this matter in federal court. Now on the brink of justice, this bill would further delay the relief these individual Indians deserve. Justice delayed is justice denied. Many of the Cobell beneficiaries—whose main income depends on these monies and who have not had the benefit of this proper accounting they are owed—are dying. If the Interior Department is permitted to further delay, the unconscionable result will be that those older beneficiaries may never be repaid their own trust money.

Furthermore, the trust funds rider is plainly unconstitutional. By directing the Court how to ''construe'' existing law, the appropriations rider violates the Constitutional Separation of Powers Doctrine. Indeed, as initially held in Marbury v. Madison, 1 U.S. (Cranch) 137, 177 (1803), ''It is emphatically the province and duty of the judicial department to say what the law is.'' Congress can therefore not tell a Court how to ''construe'' the law—that interpretive function is the Judiciary's.

There is no question that the Cobell Plaintiffs will continue to prevail. The Interior Department knows this and that is the reason they are asking for further delay. It simply is not in keeping with American justice to delay the decidedly meritorious legal claims of hundreds of litigants because the losing party does not like the result. Finally, there are serious constitutional questions of due process and takings that are at stake.

Thus, I reiterate my opposition to the language in the trust reform rider and ask the Committee to issue a Rule to Recommit to Conference.

Best regards,

JOHN ECHOHAWK,
Executive Director.

Mr. Speaker, I am happy to yield 6 minutes to the gentleman from Washington (Mr. DICKS).

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

Mr. DICKS. Mr. Speaker, I rise in support of the rule providing for consideration of the Interior Appropriations Act for fiscal year 2004. Although there are certainly things that I would have done differently, I am generally pleased with the process this year and am glad that we have the opportunity to bring this bill to the floor as a free-standing measure.

I supported the conference agreement and am particularly pleased it included the additional $400 million added by the other body for emergency wildland fire costs. The House voted overwhelmingly to have the money included in the final conference report, and we were successful in providing it.

Other levels in the bill are far lower than I would have hoped, particularly levels for conservation spending. Under the Conservation Trust Fund law established in 2000, this bill should have funded conservation programs at $1.56 billion for the Interior part of the bill. Unfortunately, this bill falls roughly $500 million short of that level. The impact of this cut will be felt nationwide. Funding is reduced for State and Federal land and water conservation fund, historic preservation, park and refuge construction, endangered species work, and forest legacy project. It means projects all over the country will not be done this year.

The agreement does provide small increases for other important programs that I am extremely pleased about. The National Endowment for the Arts receives a $5 million increase over last year, and that was a direct result of the Slaughter-Dicks amendment that added $10 million for the National Endowment for the Arts and $5 million for the National Endowment for the Humanities that was voted on overwhelmingly by the House. And the Tribal College Program receives an additional $10 million. My colleague from the other body, the ranking Democratic member, Mr. DORGAN, is to be given a pat on the back for his efforts on this matter.

The agreement also addresses the issue of competitive outsourcing with a compromise that I think is responsible. I want to again thank the gentleman from North Carolina (Chairman TAYLOR) and his staff for their work on this bill, his first, and urge my colleagues to support both the rule for the conference report and the conference report itself.

I want to go back on the issue of funding for firefighting just for a moment. I am deeply concerned about the process that we have today, the way we fund the efforts to deal with forest fires in our country. What we do is we in essence appropriate some of the money, but then give the agencies the ability, the Forest Service and the BLM, to borrow money from other accounts in order to fund all of the money that is necessary for fighting the fires. And then we do not replenish the amount of money necessary. In 2003, I think we were short a couple of hundred million dollars in terms of replenishing the money necessary to make up the funding that was borrowed.

Now, with FEMA, we do not do it that way. We just give FEMA the money, and they draw it down and then we replenish it; and this is what I think we should do. We have got to come up with a new way of funding firefighting in this country. It is not acceptable.

The other problem we have is we have old, antiquated equipment. We have a whole group of airplanes that are 40-plus years old that we are using for firefighting. And according to the staff on the Subcommittee on Interior Appropriations, we are losing lives because we are using this old equipment.

So I would urge that next year we make this a priority, that we have a committee investigation. I am going to talk to the gentleman from California (Chairman LEWIS) on the Subcommittee on Defense and the gentleman from North Carolina (Chairman TAYLOR) on the Subcommittee on Interior. We have to get some new equipment for these firefighters. It is outrageous that we are sending them out with these old airplanes and not replacing them. The planes that we use now are, I think, C–130s that are in some cases over 40 years old. I just had a chance to fly in a few of these over in Iraq; and I want my colleagues to know, I would not want to be fighting fires in these old planes.

So we have a lot of work to do, and I hope even in this supplemental, because of the situation in California. I understand the chairman of the Interior Appropriations Committee in the other body is considering an amendment to add money for additional funds for firefighting for the Forest Service and for the BLM. That should be done. We should not go in and start this year and start borrowing immediately on the 2004 money in order to fund these fires in California.

Now, I understand that $500 million was added in FEMA; and definitely, there is a requirement here for $100 million-plus for the Forest Service and the BLM.

So, Mr. Speaker, this is a good bill, and I am going to vote for this bill; but we have additional things that need to be done in the supplemental or in the omnibus.

So this is an important matter. I know there is a lot of controversy on the agreement on how we are going to deal with these trust accounts, and I just want to say, I am concerned about the potential liability here to the country and to the Congress if we do not come up with a settlement here. The authorizing committees have promised us over and over again that they are going to deal with this issue. Well, they have had one hearing. The pace of their activity is not what I would call brisk. They need to get busy here. They made commitments to the gentleman from North Carolina (Chairman TAYLOR) and myself that they were going to get busy on this issue. Well, they need to do it. That is not just in the House; it is also in the other body. They have to get busy, because this is a crisis that is affecting the Department of the Interior, and it is going to affect tribal programs and mean less funding for our tribes because of this if we do not come up with an answer. So we have some work to do.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the comments of my colleague, the gentleman from Washington (Mr. DICKS). I think much of this bill reflects positively on his leadership and hard work over the years on this committee. I appreciate that there are some things in here that deal with the notion of how we are going to protect the national Mall, issues of protecting the employees in the Department of the Interior, although I would have rather preferred the House-passed ban on contracting out their positions.

But I must come to the floor in deep disappointment, Mr. Speaker, dealing with the way that we have treated the conservation trust fund. I was one of the people that supported the landmark legislation that was advanced by the gentleman from Alaska (Chairman YOUNG) and the gentleman from California (Mr. GEORGE MILLER) that had huge, bipartisan support to address a serious failure on the part of Congress to fund our conservation programs. There are vast, unmet needs across the country.

We came together, passed the legislation in the House. It was held up in the other body, but there was a reasonable alternative that was brokered in no small measure due to the hard efforts of my colleague, again, the gentleman from Washington (Mr. DICKS). We went along with CARA Light as it was called, with the assurance that we had a trust fund in place. And I am sad to say that the commitment that was made to a bipartisan majority of this Chamber has been violated. This will would almost cut in half the program this year. The traditional acquisition programs are funded at $272 million, a little over half of what they received last year. I am deeply, deeply concerned.

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

Mr. BLUMENAUER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to point out, and the gentleman, I think, mentioned this, this was a bipartisan agreement, by the way. This was not something that was just done by myself and the gentleman from Wisconsin (Mr. OBEY). This was something that the gentleman from Ohio (Mr. REGULA) was involved in and Mr. BYRD was involved in. So it had both House and the other body working together on this alternative, and so this was a bipartisan agreement. That is why it hurts me deeply that we have not been able to keep this up.

□ 1115

But budget levels have been so ridiculously low for the Interior, our allocation, that it has been almost impossible. The committee has made some very difficult choices, but I am completely in concurrence. I think their commitment was made. We should stay with it. We should get back to it, and, hopefully, we will at some point in the future.

But I have to concur with the gentleman that we are $500 million below where we were supposed to be under the agreement.

Mr. BLUMENAUER. Mr. Speaker, reclaiming my time, I appreciate the comments of the gentleman from Washington (Mr. DICKS), and I thank him for his hard work. In part, it is true that this underfunding is the result of the allocations that were given to the subcommittee. And I do not envy the gentleman from Washington (Mr. DICKS) or his colleague in terms of trying to fight this through. But the fact is, that this problem is part of the consequence of the decision of people who are running the show here in the House to systematically shortchange fundamental needs of the American public by moving forward with massive tax cuts.

There are also issues that I have deep concerns about in terms of misallocation of funds while we deal with the important issue of rebuilding Iraq and dealing with Afghanistan.

The point is there was a fundamental commitment made on a bipartisan basis by the leadership in this Chamber and in the other body in order to forestall mandatory spending under the Land and Water Conservation Fund, with the enactment of CARA.

There are other things in this bill that give me great pause that have nothing to do with finances. There are egregious riders dealing with the Tongass and Montana forests that are a real set back for the environment. The bill does not include House-passed language that prevented the construction of new roads through our national parks, wildlife refuges, and national monuments under the guise of the obscure 1866 mining law known as RS 2477 that is a path to destruction through national treasures.

There is a lot here to be concerned about, and, unfortunately, the way that the rule is structured and brought before us, the House is not going to be able to address them.

So in conclusion, Mr. Speaker, I would just say I appreciate the difficulty that the subcommittee had in some regards, and I appreciate the commitment of the gentleman from Washington (Mr. DICKS) to helping follow through on this agreement that was reached to be able to protect the environment. I hope we can do better. But I would think that we ought to start by rejecting the rule, rejecting the bill before us and make sure that we do right by the important agreements that we have for our environment and not approve destructive riders.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, I rise in strong opposition to the rule because of a provision included in the Interior conference report that would limit the Federal Government's accountability to over a half million American Indian Trust beneficiaries by preventing the Department of Interior from conducting a complete historical accounting of individual Indian Trusts, as directed by a Federal court last month in Cobell versus Norton litigation.

Last year, the House voted overwhelmingly to strike a similar provision in the fiscal year 2003 Interior appropriations bill. And in July of this year, the gentleman from North Carolina (Chairman TAYLOR) graciously agreed to drop a similar provision from the fiscal year 2004 Interior funding bill before it was considered on the House floor.

Despite these actions, the provision in the conference report, once again, serves to delay justice to the Indian beneficiaries who have waited for over 100 years for an accounting while opening up the government to new legal claims.

The Congressional Native American Caucus opposes this provision. The chairman and ranking Democrat of the Committee on Resources, the authorizing committee, oppose this provision. As a matter of fact, just a few minutes ago, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL), during the markup over in the Committee on Resources, asked that if this rule is approved to vote against the Interior appropriations bill.

In addition, this provision was drafted without the input of the authorizing committee or any of the Indian Trust beneficiaries or Indian tribes.

Mr. Speaker, this provision violates the House rule against legislating on the appropriations bill. It may also violate the House scope rule since the provision was included in the conference report without having first been included in either the House or the Senate bills. It violates, I believe, the U.S. Constitution separation-of-powers doctrine since the provision dictates how a

Federal law relating to Indian Trust management reform should be interpreted. That interpretive function is the responsibility of the courts.

The House Committee on Resources held two hearings on Indian Trust funds this year, and it plans to hold more hearings. These hearings in the authorizing committee will produce the proper framework for settlement negotiations to resolve the Cobell case. Let us give the authorizing committee the opportunity to complete its job.

Mr. Speaker, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) are seriously committed to this. That is why they asked just a few minutes ago that if this rule is passed and the bill does come for a vote, the conference report, that we vote ''no'' on that conference report.

So I urge my colleagues, Mr. Speaker, to oppose the rule and to vote against the conference report.

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

Mr. HASTINGS of Washington. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

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

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

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

The yeas and nays were ordered.

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

RECESS

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

Accordingly (at 11 o'clock and 22 minutes a.m.), the House stood in recess until approximately noon.

□ 1205

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHIMKUS) at 12 o'clock and 5 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on adoption of those resolutions on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

House Resolution 417, by the yeas and nays; and

House Resolution 418, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

PROVIDING FOR CONSIDERATION OF H.J. RES. 75, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

The SPEAKER pro tempore. The pending business is the question of agreeing to the resolution, House Resolution 417, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

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

The vote was taken by electronic device, and there were—yeas 311, nays 112, not voting 11, as follows:

[Roll No. 574]

YEAS—311

Abercrombie
Ackerman
Aderholt
Alexander
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Engel
English
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCotter
McCrery
McHugh
McInnis
McKeon
McNulty
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—112

Allen
Andrews
Baird
Baldwin
Ballance
Becerra
Berman
Berry
Brown (OH)
Brown, Corrine
Capps
Capuano
Carson (IN)
Conyers
Cooper
Costello
Cummings
Davis (AL)
Davis (IL)
DeFazio
DeGette
Delahunt
Deutsch
Dingell
Doggett
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Filner
Ford
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Hastings (FL)
Hinchey
Hinojosa
Holt
Honda
Hooley (OR)
Inslee
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kaptur
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Markey
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meehan
Meeks (NY)
Michaud
Miller, George
Moran (VA)
Nadler
Neal (MA)
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Rangel
Rodriguez
Ryan (OH)
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Serrano
Sherman
Slaughter
Snyder
Spratt
Stark
Strickland
Tauscher
Thompson (CA)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—11

Akin
Cannon
Clay
Dooley (CA)
Fletcher
Gephardt
Gutierrez
Houghton
Lampson
Pitts
Stupak

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1229

Messrs. DEUTSCH, RANGEL, JEFFERSON, Mrs. CAPPS, Ms. CORRINE BROWN of Florida, Ms. MCCARTHY of

Missouri, Ms. SCHAKOWSKY, and Ms. LINDA T. SÁNCHEZ of California changed their vote from ''yea'' to ''nay.''

Messrs. BLUMENAUER, CARDOZA, RUSH, Mrs. NAPOLITANO, and Mrs. JONES of Ohio changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. AKIN. Mr. Speaker, on Wednesday, the 29th of October, I was involved in a briefing with the Central Intelligence Agency. As a consequence, I was unavoidably detained and could not cast a vote for H. Res. 417. Had I been present at the time of the vote, I would have voted in the affirmative.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2691, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. The pending business is the question of agreeing to the resolution, House Resolution 418, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

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

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 289, nays 136, not voting 9, as follows:

[Roll No. 575]

YEAS—289

Aderholt	Cannon	Feeney	Israel	Moran (KS)	Schiff
Akin	Cantor	Ferguson	Issa	Murphy	Schrock
Alexander	Capito	Flake	Istook	Murtha	Scott (GA)
Baca	Cardin	Foley	Jackson-Lee (TX)	Musgrave	Scott (VA)
Bachus	Cardoza	Forbes	Janklow	Myrick	Sensenbrenner
Baker	Carter	Fossella	Jenkins	Nethercutt	Sessions
Ballenger	Case	Franks (AZ)	John	Neugebauer	Shadegg
Barrett (SC)	Castle	Frelinghuysen	Johnson (CT)	Ney	Shaw
Bartlett (MD)	Chabot	Gallegly	Johnson (IL)	Northup	Shays
Barton (TX)	Chocola	Garrett (NJ)	Johnson, Sam	Norwood	Sherwood
Bass	Coble	Gerlach	Jones (NC)	Nunes	Shimkus
Beauprez	Cole	Gibbons	Kanjorski	Nussle	Shuster
Bereuter	Collins	Gilchrest	Keller	Oberstar	Simmons
Berkley	Cox	Gillmor	Kelly	Olver	Simpson
Berry	Cramer	Gingrey	Kennedy (MN)	Osborne	Skelton
Biggert	Crane	Goode	King (IA)	Ose	Smith (MI)
Bilirakis	Crenshaw	Goodlatte	King (NY)	Otter	Smith (NJ)
Bishop (GA)	Crowley	Gordon	Kingston	Oxley	Smith (TX)
Bishop (UT)	Cubin	Goss	Kirk	Pastor	Snyder
Blackburn	Culberson	Granger	Kline	Paul	Souder
Blunt	Cunningham	Graves	Knollenberg	Pearce	Spratt
Boehlert	Davis (AL)	Green (TX)	Kolbe	Pence	Stearns
Boehner	Davis (CA)	Green (WI)	LaHood	Peterson (MN)	Stenholm
Bonilla	Davis (FL)	Greenwood	Larsen (WA)	Peterson (PA)	Sullivan
Bonner	Davis (TN)	Gutknecht	Larson (CT)	Petri	Sweeney
Bono	Davis, Jo Ann	Hall	Latham	Pickering	Tancredo
Boozman	Davis, Tom	Harris	LaTourette	Pitts	Tauzin
Boucher	Deal (GA)	Hart	Leach	Platts	Taylor (NC)
Boyd	DeLay	Hastings (WA)	Lewis (CA)	Pombo	Terry
Bradley (NH)	DeMint	Hayes	Lewis (KY)	Pomeroy	Thomas
Brady (PA)	Diaz-Balart, L.	Hayworth	Linder	Porter	Thornberry
Brady (TX)	Diaz-Balart, M.	Hefley	LoBiondo	Portman	Tiahrt
Brown (SC)	Dicks	Hensarling	Lowey	Pryce (OH)	Tiberi
Brown, Corrine	Doolittle	Herger	Lucas (KY)	Putnam	Toomey
Brown-Waite, Ginny	Doyle	Hobson	Lucas (OK)	Quinn	Turner (OH)
Burgess	Dreier	Hoeffel	Majette	Radanovich	Turner (TX)
Burns	Duncan	Hoekstra	Manzullo	Ramstad	Udall (NM)
Burr	Dunn	Holden	Marshall	Regula	Upton
Burton (IN)	Ehlers	Hostettler	McCarthy (NY)	Rehberg	Visclosky
Buyer	Emerson	Hulshof	McCotter	Renzi	Vitter
Calvert	English	Hunter	McCrery	Reynolds	Walden (OR)
Camp	Everett	Hyde	McHugh	Rogers (AL)	Walsh
	Fattah	Isakson	McInnis	Rogers (KY)	Wamp
			McKeon	Rogers (MI)	Weldon (FL)
			Meehan	Rohrabacher	Weldon (PA)
			Meek (FL)	Ros-Lehtinen	Weller
			Mica	Rothman	Whitfield
			Miller (FL)	Royce	Wicker
			Miller (MI)	Ruppersberger	Wilson (NM)
			Miller (NC)	Ryan (WI)	Wilson (SC)
			Miller, Gary	Ryun (KS)	Wolf
			Mollohan	Sabo	Wynn
			Moore	Sandlin	Young (AK)
				Saxton	Young (FL)

NAYS—136

Abercrombie	Harman	Millender-McDonald	Van Hollen
Ackerman	Hastings (FL)	Miller, George	Velazquez
Allen	Hill	Moran (VA)	Waters
Andrews	Hinchey	Nadler	Watson
Baird	Hinojosa	Napolitano	Watt
Baldwin	Holt	Neal (MA)	Waxman
Ballance	Honda	Obey	Weiner
Becerra	Hooley (OR)	Ortiz	Wexler
Bell	Hoyer	Owens	Woolsey
Berman	Inslee	Pallone	Wu
Bishop (NY)	Jackson (IL)	Pascrell	
Blumenauer	Jefferson	Payne	
Boswell	Johnson, E. B.	Pelosi	
Brown (OH)	Jones (OH)	Price (NC)	
Capps	Kaptur	Rahall	
Capuano	Kennedy (RI)	Rangel	
Carson (IN)	Kildee	Reyes	
Carson (OK)	Kilpatrick	Rodriguez	
Clay	Kind	Ross	
Clyburn	Kleczka	Roybal-Allard	
Cooper	Kucinich	Rush	
Costello	Langevin	Ryan (OH)	
Cummings	Lantos	Sanchez, Linda T.	
Davis (IL)	Lee	Sanchez, Loretta	
DeFazio	Levin	Sanders	
DeGette	Lewis (GA)	Schakowsky	
DeLauro	Lipinski	Serrano	
Deutsch	Lofgren	Sherman	
Dingell	Lynch	Slaughter	
Doggett	Maloney	Smith (WA)	
Edwards	Markey	Solis	
Emanuel	Matheson	Stark	
Engel	Matsui	Strickland	
Eshoo	McCarthy (MO)	Tanner	
Etheridge	McCollum	Tauscher	
Evans	McDermott	Taylor (MS)	
Farr	McGovern	Thompson (CA)	
Filner	McIntyre	Thompson (MS)	
Ford	McNulty	Tierney	
Frank (MA)	Meeks (NY)	Towns	
Frost	Menendez	Udall (CO)	
Gonzalez	Michaud		
Grijalva			

NOT VOTING—9

Conyers	Fletcher	Houghton
Delahunt	Gephardt	Lampson
Dooley (CA)	Gutierrez	Stupak

□ 1236

Mr. MORAN of Virginia and Mr. EDWARDS changed their vote from ''yea'' to ''nay.''

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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules.

VETERANS HEALTH CARE FACILITIES CAPITAL IMPROVEMENT ACT

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1720) to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, establishing, and updating patient care facilities at the Department of Veterans Affairs medical centers, as amended.

The Clerk read as follows:

H.R. 1720

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans Health Care Facilities Capital Improvement Act''.

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

SEC. 2. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS FOR PATIENT CARE IMPROVEMENTS.

(a) IN GENERAL.—(1) Subject to paragraph (3), the Secretary of Veterans Affairs is authorized to carry out major medical facility projects in accordance with this section, using funds appropriated for fiscal year 2004 or 2005 pursuant to subsection (e). The cost of any such project may not exceed—

(A) $100,000,000 in fiscal year 2004; and

(B) $125,000,000 in fiscal year 2005.

(2) Projects carried out under this section are not subject to section 8104(a)(2) of title 38, United States Code.

(3) The Secretary may not award a contract by reason of the authorization provided by paragraph (1) until after the Secretary has awarded a contract for each construction project authorized by section 3(a) and a contract for each lease authorized by section 3(d).

(b) TYPE OF PROJECTS.—A project carried out under subsection (a) may be carried out only at a Department of Veterans Affairs medical center and only for the purpose of one or more of the following:

(1) Improving a patient care facility.

(2) Replacing a patient care facility.

(3) Renovating a patient care facility.

(4) Updating a patient care facility to contemporary standards.

(5) Establishing a new patient care facility at a location where no Department patient care facility exists.

(6) Improving, replacing, or renovating a research facility or updating such a facility to contemporary standards.

(c) PURPOSE OF PROJECTS.—In selecting medical centers for projects under subsection (a), the Secretary shall select projects to improve, replace, renovate, update, or establish facilities to achieve one or more of the following:

(1) Seismic protection improvements related to patient safety (or, in the case of a research facility, patient or employee safety).

(2) Fire safety improvements.

(3) Improvements to utility systems and ancillary patient care facilities (including such systems and facilities that may be exclusively associated with research facilities).

(4) Improved accommodation for persons with disabilities, including barrier-free access.

(5) Improvements at patient care facilities to specialized programs of the Department, including the following:

(A) Blind rehabilitation centers.

(B) Inpatient and residential programs for seriously mentally ill veterans, including mental illness research, education, and clinical centers.

(C) Residential and rehabilitation programs for veterans with substance-use disorders.

(D) Physical medicine and rehabilitation activities.

(E) Long-term care, including geriatric research, education, and clinical centers, adult day care centers, and nursing home care facilities.

(F) Amputation care, including facilities for prosthetics, orthotics programs, and sensory aids.

(G) Spinal cord injury centers.

(H) Traumatic brain injury programs.

(I) Women veterans' health programs (including particularly programs involving privacy and accommodation for female patients).

(J) Facilities for hospice and palliative care programs.

(d) REVIEW PROCESS.—(1) The Secretary shall provide that, before a project is submitted to the Secretary with a recommendation that it be approved as a project to be carried out under the authority of this section, the project shall be reviewed by a board within the Department of Veterans Affairs that is independent of the Veterans Health Administration and that is constituted by the Secretary to evaluate capital investment projects. The board shall review such project to determine the project's relevance to the medical care mission of the Department and whether the project improves, renovates, repairs, establishes, or updates facilities of the Department in accordance with this section.

(2) In selecting projects to be carried out under the authority provided by this section, the Secretary shall consider the recommendations of the board under paragraph (1). In any case in which the Secretary approves a project to be carried out under this section that was not recommended for such approval by the board under paragraph (1), the Secretary shall include in the report of the Secretary under subsection (g)(2) notice of such approval and the Secretary's reasons for not following the recommendation of the board with respect to that project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs for the Construction, Major Projects, account for projects under this section—

(1) $167,900,000 for fiscal year 2004; and

(2) $600,000,000 for fiscal year 2005.

(f) LIMITATION.—Projects may be carried out under this section only using funds appropriated pursuant to the authorization of appropriations in subsection (e), except that funds appropriated for advance planning may be used for the purposes for which appropriated in connection with such projects.

(g) REPORTS.—(1) Not later than April 1, 2005, the Comptroller General shall submit to the Committees on Veterans' Affairs and on Appropriations of the Senate and House of Representatives a report evaluating the advantages and disadvantages of congressional authorization for projects of the type described in subsection (b) through general authorization as provided by subsection (a), rather than through specific authorization as would otherwise be applicable under section 8104(a)(2) of title 38, United States Code. Such report shall include a description of the actions of the Secretary of Veterans Affairs during fiscal year 2004 to select and carry out projects under this section.

(2) Not later than 120 days after the date on which the site for the final project under this section for each such fiscal year is selected, the Secretary shall submit to the committees referred to in paragraph (1) a report on the authorization process under this section. The Secretary shall include in each such report the following:

(A) A listing by project of each such project selected by the Secretary under that section, together with a prospectus description of the purposes of the project, the estimated cost of the project, and a statement attesting to the review of the project under subsection (c), and, if that project was not recommended by the board, the Secretary's justification under subsection (d) for not following the recommendation of the board.

(B) An assessment of the utility to the Department of Veterans Affairs of that authorization process.

(C) Such recommendations as the Secretary considers appropriate for future congressional policy for authorizations of major and minor medical facility construction projects for the Department of Veterans Affairs.

(D) Any other matter that the Secretary considers to be appropriate with respect to oversight by Congress of capital facilities projects of the Department of Veterans Affairs.

SEC. 3. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS AND LEASES.

(a) PROJECT AUTHORIZATIONS.—The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Construction of a new bed tower to consolidate two inpatient sites of care in inner city Chicago at the West Side Division of the Department of Veterans Affairs health care system in Chicago, Illinois, in an amount not to exceed $98,500,000.

(2) Seismic corrections to strengthen Medical Center Building 1 of the Department of Veterans Affairs health care system in San Diego, California, in an amount not to exceed $48,600,000.

(3) A project for (A) renovation of all inpatient care wards at the West Haven, Connecticut, facility of the Department of Veterans Affairs health system in Connecticut to improve the environment of care and enhance safety, privacy, and accessibility, and (B) establishment of a consolidated medical research facility at that facility, in an amount not to exceed $50,000,000.

(4) Construction of a medical facility on available Federal land at the Defense Supply Center, Columbus, Ohio, in an amount not to exceed $90,000,000.

(5) Construction of a Department of Veterans Affairs-Department of Navy joint venture, comprehensive outpatient medical care facility to be built on the grounds of the Pensacola Naval Air Station, Pensacola, Florida, in an amount not to exceed $45,000,000.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2004 for the Construction, Major Projects, account $332,100,000 for the projects authorized in subsection (a).

(c) LIMITATION.—The projects authorized in subsection (a) may only be carried out using—

(1) funds appropriated for fiscal year 2004 pursuant to the authorization of appropriations in subsection (b);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2004 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2004 for a category of activity not specific to a project.

(d) AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.—The Secretary of Veterans Affairs may enter into leases as follows:

(1) For an outpatient clinic in Charlotte, North Carolina, in an amount not to exceed $3,000,000.

(2) For facilities for a multi-specialty outpatient clinic for the Veterans Health Administration and a satellite office for the Veterans Benefits Administration in Clark County, Nevada, at an annual lease amount not to exceed $6,500,000.

(3) For facilities authorized in section 4 at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado, in an amount not to exceed $30,000,000.

SEC. 4. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS, FORMER FITZSIMONS ARMY MEDICAL CENTER, AURORA, COLORADO.

(a) AUTHORIZATION.—The Secretary of Veterans Affairs may carry out major medical facility projects under section 8104 of title 38, United States Code, at the site of the former

Fitzsimons Army Medical Center, Aurora, Colorado. Projects to be carried out at such site shall be selected by the Secretary and may include inpatient and outpatient facilities providing acute, sub-acute, primary, and long-term care services. The cost of projects under this section shall be limited to—

(1) an amount not to exceed a total of $300,000,000 if either direct construction or a combination of direct construction and leasing is selected by the Secretary under subsection (b); and

(2) no more than $30,000,000 per year in leasing costs if a leasing option is selected by the Secretary as the sole option under subsection (b).

(b) SELECTION OF OPTION.—The Secretary of Veterans shall select the option to carry out the authority provided in subsection (a) of either—

(1) direct construction by the Department of Veterans Affairs or a combination of direct construction and leasing; or

(2) leasing alone.

(c) CONSULTATION WITH SECRETARY OF DEFENSE.—The Secretary of Veterans Affairs shall consult with the Secretary of Defense in carrying out this section. Such consultation shall include consideration of establishing a Department of Veterans Affairs-Department of Defense joint health-care venture at the site of the project or projects under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal years 2004, 2005, and 2006 for ''Construction, Major Projects'' for the purposes authorized in subsection (a).

(e) LIMITATION.—The projects authorized in subsection (a) may only be carried out using—

(1) funds appropriated for fiscal year 2004, 2005, or 2006 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2004 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2004, 2005, or 2006 for a category of activity not specific to a project.

(f) REPORT TO CONGRESSIONAL COMMITTEES.—After complying with applicable provisions of the National Environmental Policy Act of 1969, but not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committees on Appropriations and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on this section. The report shall include the following:

(1) Notice of the option selected by the Secretary pursuant to subsection (b) to carry out the authority provided by subsection (a).

(2) Information on any further planning required to carry out the authority provided in subsection (a).

(3) Other information of assistance to the committees with respect to such authority.

SEC. 5. LIMITATION ON DISPOSAL OF LAKESIDE DIVISION, DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITIES, CHICAGO, ILLINOIS.

(a) LIMITATION.—The Secretary of Veterans Affairs may not make a final disposal under section 8162 of title 38, United States Code, of the Lakeside Division facility of the Department of Veterans Affairs medical facilities in Chicago, Illinois, until the Secretary has entered into a contract for the construction project authorized by section 3(a)(1).

(b) DEFINITION.—For purposes of this section, the term ''disposal'', with respect to the Lakeside Division facility, includes entering into a long-term lease or sharing agreement under which a party other than the Secretary has operational control of the facility.

SEC. 6. PLANS FOR FACILITIES IN SOUTHERN NEW JERSEY AND FAR SOUTH TEXAS.

(a) PLAN.—(1) The Secretary of Veterans Affairs shall develop—

(A) a plan to establish an inpatient facility to meet hospital care needs of veterans who reside in southern New Jersey; and

(B) a plan for hospital care needs of veterans who reside in far south Texas.

(2) In developing the plans under paragraph (1), the Secretary shall, at a minimum, consider options using the existing authorities of section 8111 and 8153 of title 38, United States Code—

(A) to establish a hospital staffed and managed by employees of the Department, either in private or public facilities, including Federal facilities; or

(B) to enter into contracts with existing private facilities and private providers for that care.

(b) REPORTS.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on each plan under subsection (a) not later than January 31, 2004.

(c) DEFINITIONS.—In this section:

(1) The term ''far south Texas'' means the following counties of the State of Texas: Bee, Calhoun, Crockett, DeWitt, Dimmit, Goliad, Jackson, Victoria, Webb, Aransas, Duval, Jim Wells, Kleberg, Nueces, Refugio, San Patricio, Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Starr, Willacy, and Zapata.

(2) The term ''southern New Jersey'' means the following counties of the State of New Jersey: Ocean, Burlington, Camden, Gloucester, Salem, Cumberland, Atlantic, and Cape May.

SEC. 7. INCREASE IN MAJOR MEDICAL FACILITY CONSTRUCTION COST THRESHOLD.

Section 8104(a)(3)(A) of title 38, United States Code, is amended by striking ''$4,000,000'' and inserting ''$6,000,000''.

SEC. 8. STUDY AND REPORT ON FEASIBILITY OF COORDINATION OF VETERANS HEALTH CARE SERVICES IN SOUTH CAROLINA WITH NEW UNIVERSITY MEDICAL CENTER.

(a) STUDY REQUIRED.—The Secretary of Veterans Affairs shall conduct a study to examine the feasibility of coordination by the Department of Veterans Affairs of its needs for inpatient hospital, medical care, and long-term care services for veterans with the pending construction of a new university medical center at the Medical University of South Carolina, Charleston, South Carolina.

(b) MATTERS TO BE INCLUDED IN STUDY.—(1) As part of the study under subsection (a), the Secretary shall consider the following:

(A) Integration with the Medical University of South Carolina of some or all of the services referred to in subsection (a) through contribution to the construction of that university's new medical facility or by becoming a tenant provider in that new facility.

(B) Construction by the Department of Veterans Affairs of a new independent inpatient or outpatient facility alongside or nearby the university's new facility.

(2) In carrying out paragraph (1), the Secretary shall consider the degree to which the Department of Veterans Affairs and the university medical center would be able to share expensive technologies and scarce specialty services that would affect any such plans of the Secretary or the university.

(3) In carrying out the study, the Secretary shall especially consider the applicability of the authorities under section 8153 of title 38, United States Code (relating to sharing of health care resources between the Department and community provider organizations) to govern future arrangements and relationship between the Department and the Medical University of South Carolina.

(c) CONSULTATION WITH SECRETARY OF DEFENSE.—The Secretary of Veterans Affairs shall consult with the Secretary of Defense in carrying out the study under this section. Such consultation shall include consideration of establishing a Department of Veterans Affairs-Department of Defense joint health-care venture at the site referred to in subsection (a).

(d) REPORT.—Not later than March 31, 2004, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study. The report shall include the Secretary's recommendations with respect to coordination described in subsection (a), including recommendations with respect to each of the matters referred to in subsection (b).

SEC. 9. NAME OF DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITY, CHICAGO, ILLINOIS.

The Department of Veterans Affairs health care facility located at 820 South Damen Avenue in Chicago, Illinois, shall after the date of the enactment of this Act be known and designated as the ''Jesse Brown Department of Veterans Affairs Medical Center''. Any reference to such facility in any law, map, regulation, document, paper, or other record of the United States shall be considered to be a reference to the Jesse Brown Department of Veterans Affairs Medical Center.

SEC. 10. NAME OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, NEW LONDON, CONNECTICUT.

The Department of Veterans Affairs outpatient clinic located in New London, Connecticut, shall after the date of the enactment of this Act be known and designated as the ''John J. McGuirk Department of Veterans Affairs Outpatient Clinic''. Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the John J. McGuirk Department of Veterans Affairs Outpatient Clinic.

SEC. 11. OFFICE OF RESEARCH OVERSIGHT IN VETERANS HEALTH ADMINISTRATION.

(a) STATUTORY CHARTER.—(1) Chapter 73 of title 38, United States Code, is amended by inserting after section 7306 the following new section:

''§ 7307. Office of Research Oversight

''(a) REQUIREMENT FOR OFFICE.—(1) There is in the Veterans Health Administration an Office of Research Oversight (hereinafter in this section referred to as the 'Office'). The Office shall advise the Under Secretary for Health on matters of compliance and assurance in human subjects protections, animal welfare, research safety, and research impropriety and misconduct. The Office shall function independently of entities within the Veterans Health Administration with responsibility for the conduct of medical research programs.

''(2) The Office shall—

''(A) monitor, review, and investigate matters of medical research compliance and assurance in the Department with respect to human subjects protections and animal welfare; and

''(B) monitor, review, and investigate matters relating to the protection and safety of human subjects, research animals, and Department employees participating in medical research in Department programs.

''(b) DIRECTOR.—(1) The head of the Office shall be a Director, who shall report directly to the Under Secretary for Health (without delegation).

''(2) Any person appointed as Director shall be—

''(A) an established expert in the field of medical research, administration of medical research programs, or similar fields; and

''(B) qualified to carry out the duties of the Office based on demonstrated experience and expertise.

''(c) FUNCTIONS.—(1) The Director shall report to the Under Secretary for Health on matters relating to protections of human subjects and laboratory animals under any applicable Federal law and regulation, the safety of employees involved in Department medical research programs, and suspected misconduct and impropriety in such programs. In carrying out the preceding sentence, the Director shall consult with employees of the Veterans Health Administration who are responsible for management and conduct of Department medical research programs.

''(2) The matters to be reported by the Director to the Under Secretary under paragraph (1) include the following:

''(A) Lack of required integrity of content, validity of approach, and ethical conduct of employees in Department medical research programs.

''(B) Allegations of research impropriety and misconduct by employees engaged in medical research programs of the Department.

''(3)(A) When the Director determines that such a recommendation is warranted, the Director may recommend to the Under Secretary that a Department research activity be terminated, suspended, or restricted, in whole or in part.

''(B) In a case in which the Director reasonably believes that activities of a medical research project of the Department place human subjects' lives or health at imminent risk, the Director shall direct that activities under that project be immediately suspended or, as appropriate and specified by the Director, be limited.

''(d) GENERAL FUNCTIONS.—(1) The Director shall conduct periodic inspections and reviews, as the Director determines appropriate, of medical research programs of the Department. Such inspections and reviews shall include review of required documented assurances.

''(2) The Director shall observe external accreditation activities conducted for accreditation of medical research programs conducted in facilities of the Department.

''(3) The Director shall investigate allegations of research impropriety and misconduct in medical research projects of the Department.

''(4) The Director shall submit to the Under Secretary for Health, the Secretary, and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on any suspected lapse, from whatever cause or causes, in protecting safety of human subjects and others, including employees, in medical research programs.

''(5) The Director shall carry out such other duties as the Under Secretary for Health may require.

''(e) SOURCE OF FUNDS.—Amounts for the activities of the Office, including its regional offices, shall be derived from amounts appropriated for the Veterans Health Administration for Medical Care.

''(f) ANNUAL REPORT.—Not later than March 15 each year, the Director of the Office shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Office during the preceding calendar year. Each such report shall include, with respect to that year, the following:

''(1) A summary of reviews of individual medical research programs of the Department completed by the Office.

''(2) Directives and other communications issued by the Office to field activities of the Department.

''(3) Results of any investigations undertaken by the Office during the reporting period consonant with the purposes of this section.

''(4) Other information that would be of interest to those committees in oversight of the Department medical research program.

''(g) MEDICAL RESEARCH.—For purposes of this section, the term 'medical research' has the meaning given such term in section 7303(a)(2) of this title.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7306 the following new item:

''7307. Office of Research Oversight.''.

(b) CONFORMING AMENDMENT.—Section 7303 of title 38, United States Code, is amended by striking subsection (e).

(c) COMPTROLLER GENERAL REPORT.—(1) The Comptroller General shall conduct a study to assess—

(A) the effects of the establishment by law of the Office of Research Oversight in section 7307 of title 38, United States Code, as added by subsection (a);

(B) the effects of the specification by law of the functions of that Office; and

(C) improvements in the conduct of ethical medical research in the Veterans Health Administration.

(2) Not later than January 1, 2006, the Comptroller General shall submit to the Committees on Veterans' Affairs of the House and Senate a report on the study conducted under paragraph (1). The Comptroller General shall include in the report such recommendations for legislation and administrative action as the Comptroller General considers appropriate.

(d) REPORT BY SECRETARY OF VETERANS AFFAIRS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans Affairs' of the Senate and House of Representatives a report setting forth the results of the implementation of section 7307 of title 38, United States Code, as added by subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentlewoman from Nevada (Ms. BERKLEY) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that the House is today considering H.R. 1720, as amended, the Veterans Health Care Facilities Capital Improvement Act. Enactment of this measure would be a significant step in addressing the problem of crumbling and substandard health care facilities for our Nation's veterans.

I want to just say at the outset how very delighted and pleased I am that the gentleman from Connecticut (Mr. SIMMONS) is here. As the chairman of the Subcommittee on Health and the prime sponsor of this bill, he has worked many, many hours in crafting this legislation. I want to really pay him the highest compliment for the extraordinarily good work he did in writing this legislation. I thank the gentleman for his leadership on this. I would also like to thank my friends on the other side of the aisle for their good, hard work. This is a bipartisan bill that we present to the House today, and I hope it will get the full support and assent of this body.

Mr. Speaker, most VA hospitals, clinics, nursing homes, and research facilities have ongoing needs for maintenance, repair, and modernization to promote patient and employee safety and provide a higher standard of care for our Nation's veterans. For example, hundreds of millions of dollars are needed to address problems at many VA facilities that could suffer severe damage in the event of an earthquake. However, projects to address these and other deficiencies have been put on the shelf while VA contemplates and completes its CARES process.

The Department of Veterans Affairs is currently undertaking, as I think many Members know, a market-based national assessment to determine whether its present health care facilities meet current and future veterans' health care needs. The VA's process for achieving this goal, called the Capital Asset Realignment for Enhanced Services, or CARES, is intended to produce a national plan which the Secretary will then approve or disapprove by the end of the year. Members, I am sure, or at least some Members, are aware that while the VA has an aggressive schedule for completing the planning process, the implementation of this plan will take many years to complete. In the meantime, a number of pressing construction needs have been identified.

The committee has been vigilant to avoid authorizing projects at facilities that might not be needed to serve the future needs of our veterans. All of the projects authorized by our committee in recent authorization measures would serve veterans for many years after they have been completed. Similarly, the projects authorized in this bill would improve health care for veterans for 20 years or more and are a wise and, we believe, worthy investment for this Nation to make on behalf of our veterans.

Let me just say, Mr. Speaker, there are a number of additions to this bill that were made precisely because Members came to us and made very persuasive argument as to why they need to be included. The gentleman from Colorado (Mr. HEFLEY) and the gentleman from Colorado (Mr. BEAUPREZ), a member of the committee, really pushed hard on the Fitzsimons project. That is included in here. The gentleman from New Jersey (Mr. LOBIONDO) from my own State made a very strong estimate and gave us documentation for a study. That is included in here. There are others that came to us, again made their cases, cogent cases that they were; and those have been included in this authorization measure.

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The Department of Veterans Affairs is currently undertaking a market-based national assessment to determine whether its present health care facilities meet current and future veterans' health care needs. The VA's process for achieving this goal, called Capital Asset Realignment for Enhanced Services, or CARES, is intended to produce a national plan which the Secretary will then approve or disapprove by the end of this year. While VA has an aggressive schedule for completing the planning process, the implementation of this plan will take many years to complete. In the meantime, a number of pressing construction needs have been identified.

The VA Committee has been vigilant to avoid authorizing projects at facilities that might not be needed to serve the future needs of veterans. All of the projects authorized by our committee in recent authorization measures would serve veterans for many years after they have been completed. Similarly, the projects authorized in this bill would improve health care for veterans for 20 years or more, and are a wise and worthy investment for this Nation to make on behalf of veterans.

Mr. Speaker, we are coming to a crossroads in the pattern of funding for VA health care facilities. A consultant's report in June 1998 concluded that VA should be spending (at a minimum) from 2 percent to 4 percent of its ''plant replacement value'' on upkeep and replacement of its health care facilities. The value of VA facilities was estimated to be $35 billion in 1998; thus, VA should be spending from $700 million to $1.4 billion each year to keep pace with its capital needs. Sadly, VA only received $213 million in VA construction funding for fiscal year 2003 and only requested $421 million for fiscal year 2004.

When the Undersecretary for Health submitted his admittedly incomplete CARES plan to the Secretary's CARES commission earlier this year, it called for a minimum of $3.5 billion in new construction over the next 5 years. I say the plan was incomplete because it excluded funding for projects that would enhance VA's ability to provide veterans with long-term care. The VA Committee has called on the CARES Commission to address this serious shortcoming. Nevertheless, a plan to spend $3.5 to $4 billion over the next 5 years means that Congress will need to appropriate $700 to $800 million every year during that period. Mr. Speaker, even though the deficit outlook for the next several years is not good, this is an obligation that has been put off long enough. The failure to begin addressing this huge backlog in renovation and modernization projects can only lead to inefficiency and inferior care for veterans in the future.

Mr. Speaker, H.R. 1720, as amended, would authorize the Department of Veterans Affairs to improve, establish, restore or replace VA health care facilities where necessary. The Committee decided in the last Congress that there is a demonstrable need to provide a more flexible and responsive authorization process to address the overwhelming backlog of construction projects, and this bill continues with that approach.

Under this bill, the Secretary would be authorized to approve individual facility projects, based on the decisions of a capital investments board that must carefully and objectively consider each proposed construction project. The bill provides criteria to be used by the board that would place a premium on projects to protect patient safety and privacy, improve seismic protection, and provide barrier-free accommodations. It would also emphasize improving VA patient care facilities areas of particular concern, such as specialized care programs, in order to meet the contemporary standard of care veterans deserve and need.

H.R. 1720 would require the Secretary to report his actions on construction to this Committee and to the Committee on Appropriations, and would mandate a review of the delegated-project approach by the General Accounting Office, to ensure this is an effective mechanism to advance VA medical construction during and after the CARES process.

The bill also would authorize construction of a specific set of urgent major medical projects as follows: Clark County, NV—the lease of a multi-specialty outpatient clinic and Veterans Benefits Administration satellite office at an annual rent not to exceed $6,500,000; Columbus, OH—$90,000,000 to construct a new VA medical center; West Haven, CT—$50,000,000 to renovate inpatient wards and research facilities at the Wet Haven VA medical center; Chicago, IL—$98,500,000 to consolidate inpatient care in a new bed tower at the West Side Division; San Diego, CA—$48,600,000 for seismic corrections to Building 1 at the San Diego VA medical center; and Pensacola, FL—$45,000,000 to construct a joint-venture outpatient clinic at the Pensacola Naval Air Station. The bill would require the Secretary to move forward on these projects first before awarding construction contracts under the general construction delegation provided by the bill.

Mr. Speaker, this bill would authorize appropriations of $500 million in fiscal year 2004 and $600 million in fiscal year 2005 to accommodate construction projects under the various authorities provided. Additionally, the bill would authorize the appropriation of $300 million over 3 years for the replacement VA medical center near Denver CO, at the former Fitzsimons site.

Mr. Speaker, as I mentioned, H.R. 1720, as amended, includes the provisions of H.R. 116, a bill to authorize a joint VA–Air Force health care facility to be located on the grounds of the ''New Fitzsimons'' campus of the University of Colorado Health Sciences Center, in Aurora, CO. The bill would require the Secretary, after consulting with the Secretary of Defense, to decide how to replace the 57-year-old Denver medical center with a new Federal Regional Medical Center in Aurora. There is a unique opportunity at this location to enhance VA–DOD sharing by jointly constructing or leasing a premier health treatment facility as a joint venture of the VA, the Department of the Air Force, and the University. We certainly expect that both the Air Force and the VA will find a way to execute this plan in a manner that advances the interests of the American taxpayer and the beneficiaries served by the two Departments.

I want to commend Chairman JOEL HEFLEY and Representative BOB BEAUPREZ, a Member of the VA Committee, for spurring this project forward. We would not be considering this measure on the floor of the House today without their hard work and individual efforts to help make this project a reality.

H.R. 1720 would also require VA to conduct a study and report on the feasibility of constructing a new medical center for veterans in Charleston, SC, and a study for meeting the inpatient hospitalization needs of southern New Jersey veterans. The Committee appreciates the work of Mr. BROWN, the chairman of our Subcommittee on Benefits, and Mr. LOBIONDO, the distinguished chairman of the Subcommittee on Coast Guard and Maritime Transportation, for their insight in crafting these two provisions.

The final measures in the bill, Mr. Speaker, would designate the Department of Veterans Affairs Outpatient Clinic in New London, CT, as the John J. McGuirk Department of Veterans Affairs Outpatient Clinic, and the VA Medical Center at 820 S. Damon Street in Chicago, IL, the Jesse Brown Veterans Affairs Medical Center.

Our bipartisan bill would also honor the late Jesse Brown, former Secretary of Veterans Affairs, for his exemplary service to his country as a combat-wounded U.S. Marine Corps veteran of the Vietnam war and dedicated leader of the Department of Veterans. Mr. Brown enlisted in the Marine Corps in 1963 and was seriously wounded in Vietnam. Mr. Brown's career in veterans' advocacy spanned his entire remaining life. He served with distinction in the Clinton administration as the third Secretary of Veterans Affairs, and is buried at Arlington National Cemetery.

Naming the West Side VA Medical Center after Jesse Brown would appropriately memorialize his accomplishments and commitment to improving the quality of life of all veterans.

The final provision in this bill adds a new degree of accountability to the VA medical research program. The provision is the result of efforts by two of the Committee's Subcommittee chairmen, Mr. BUYER and Mr. SIMMONS. Their proposal is supported by Ms. HOOLEY and Mr. RODRIGUEZ, their respective ranking members.

The language of section 11, which is taken from H.R. 1585 as revised by our Subcommittee on Health requires VA to maintain a permanent and independent research compliance and assurance office. While establishment of this office may not provide a complete shield against possible future abuses, it does send a clear message that the Congress expects compliance with rules already in place to assure protection of human subjects who participate in research sponsored by VA.

Finally, I want to thank the Committee's ranking member, LANE EVANS, for his support of this legislation, and for the work of the chairman and ranking member of the Health Subcommittee, ROB SIMMONS and CIRO RODRIGUEZ, respectively, for considering this bill in a timely fashion.

Mr. Speaker, I urge my colleagues to support H.R. 1720, as amended.

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

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

Mr. Speaker, I rise in support of H.R. 1720. I would like to thank VA Committee Chairman SMITH and Health Subcommittee Chairman SIMMONS for working closely with all of us on this side of the aisle on this important issue. I also want to thank our ranking member, the gentleman from Illinois (Mr. EVANS), for his steadfast support and hard work on this legislation. I also want to thank Chairman SMITH and the entire staff for working with us to bring this measure before the House for consideration today.

This bill contains authorizations for many worthwhile, major medical construction projects.

□ 1245

Congress has put a virtual stop to appropriations for major medical construction projects over the last 4 years since the General Accounting Office released a report that suggested the VA was spending too much money maintaining buildings that were not being used to serve veterans.

Since fiscal year 2000, Congress has appropriated $121 million for major medical projects. That is about $6 million less than experts recommend for maintaining and enhancing capital assets. But while spending for major medical construction projects has declined, the number of veterans moving into States like my own, the State of Nevada, continues to explode, and the need for expanded facilities is not being met.

Southern Nevada's veterans population is one of the fastest glowing in the Nation, and is getting larger every day. The VA predicts that the number of annual visits by veterans in the Las Vegas Valley to their primary health care clinic will rise from 200,000 to more than half a million by 2010, that is a mere 7 years from now, and the number of hospital beds needed to serve the veterans in my community will increase by over 50 percent.

The VA is already struggling to address and meet the current demands of the VA health care structure in the Las Vegas Valley. Last year, 1,500 southern Nevada veterans were sent to neighboring States because they could not provide the needed services locally. This is an unfair burden on these veterans and their families. They should not have to travel hundreds much miles away for care.

In addition, due to the decrepit conditions and structural deficiencies, the VA evacuated the Guy Clinic, only 5 years old, forcing veterans to rely on a string of temporary clinics scattered across the Las Vegas Valley. Imagine, if you will, what it is like for an 80-year-old veteran waiting in the desert heat, sometimes up to 110 degrees, to be shuttled from clinic to clinic to receive the health care he needs.

For example, a veteran who needs a CT scan may have to shuttle from a temporary site which houses the CT scan technology to then another site to obtain a prescription for a controlled narcotic that he needs, and then to a third site for mental health services.

Female veterans who need mammograms have to shuttle to different clinics just for that one particular service.

As one 81-year-old World War II veteran described the situation, ''You are going from one place to another and it gets confusing. Don't our veterans deserve a permanent facility to meet all their health care needs?''

In short, southern Nevada is facing a veterans health care crisis. At the time H.R. 1720 was introduced and passed by the Committee on Veterans' Affairs, the VA recognized Las Vegas was in need of a new, multispecialty outpatient clinic. H.R. 1720 authorized $6.5 million for annual leases for that clinic. However, in the time since the legislation has been acted on by the committee, the Department of Veterans Affairs released the CARES document which proposed $4.6 billion worth of construction, reflecting only a portion of the growing backlog and veterans growing demand for services.

The VA's average healthcare facility is about 52 years old, so updates are essential. The failure to make investments has put the VA way behind in addressing such urgent needs as seismic corrections, renovations to address patient safety, and privacy concerns and problems that threaten VA's accreditation by outside quality assurance agencies.

To address the concern about underutilized buildings, the VA embarked upon a process to identify veterans needs for health care for the next 20 years. The CARES plan calls for the construction of a full-scale medical facility in Las Vegas, including a full-service patient care hospital, an outpatient clinic and a comprehensive long-term care nursing facility in Las Vegas.

In light of the VA's new plan for a veterans health care facility, I ask the committee to continue to work with me to update the authorization level to reflect the demands in southern Nevada and to allocate funds for a full-service VA medical complex.

America's veterans served our Nation, and now we must honor our commitment to those brave men and women. Providing high-quality health care is part of keeping our promise to these heroes and sends an important message to our troops now deployed at home and abroad in defense of our Nation. These future veterans, many of whom will soon call Nevada home, will also one day be eligible for VA care. Investing now will ensure that we will be able to serve the health care needs of our veterans, today and in the future.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Indiana (Mr. BUYER), who wrote section 11 dealing with human research protection.

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

Mr. BUYER. Mr. Speaker, I rise in support of this bill and thank the chairman for including my bill to ensure human subject protection in research.

Mr. Speaker, today we are considering H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act, legislation designed to authorize the Secretary of Veterans Affairs to carry out major facilities construction projects to improve, renovate, replace, update, and establish care facilities across the Department of Veterans Affairs.

One provision I would like to draw your attention to is section 11 of the bill. Section 11 guarantees that there is an independent oversight body within the Veterans Health Administration, Department of Veterans Affairs to oversee research compliance and assurance.

This provision addresses the important issue of human subjects protection in VA medical research. Since 1999 several hearings have been held by the House Veterans' Affairs Subcommittee on Oversight and Investigations. I compliment the work of then Subcommittee Chairman Terry Everett of Alabama, who also worked to ensure that necessary actions are taken to assure that our Nation's most vulnerable veterans are protected and not subjected to harm.

This provision is the final language that was worked out by my Subcommittee on Oversight and Investigations and Subcommittee Chairman Simmons of the Health Subcommittee and it reflects the original intent of H.R. 1585, a bill I introduced because I wanted to ensure that our Nation's most vulnerable veterans are protected and not in any way harmed by the very system whose mission it is to safeguard their safety and well being.

In particular, this bill does the following:

Establishes an independent office to oversee research compliance and assurance;

Provides that the new office counsels the Under Secretary for Health on all matters related to the protection of human research subjects, research misconduct and impropriety, laboratory animal welfare; ethical conduct of research; and research safety;

That the office shall investigate allegations of research misconduct and impropriety; suspend or restrict research to ensure the safety, and ethical treatment of human subjects; preserve the integrity and validity of research; prevent mistreatment of laboratory animals used in research; and assure compliance in the conduct of research;

The director of the office shall conduct periodic inspections at research facilities; observe external accreditation site visits; investigate allegations of research misconduct and improprieties;

It requires the immediate notification of the Under Secretary for Health when endangerment of human research subjects is evident or suspected and requires that Congress be notified when research misconduct or impropriety has been discovered;

This bill provides that funding for the new office would be independent from the Office of Research and Development; and

Finally, this bill mandates that the Comptroller General of the United States conduct a study of the effectiveness of the new office

and submit a report to Congress by January 1, 2006.

This legislation has strong bipartisan support. I would like to thank all the cosponsors of the original bill. In particular, I would like to thank Chairman CHRIS SMITH and Ranking Member LANE EVANS and the Ranking Member of my Subcommittee, DARLENE HOOLEY for their cosponsorship and support. I ask my colleagues to support H.R. 1720 and strengthen VA research programs so our veterans are never placed in a harmful environment.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Connecticut (Mr. SIMMONS), the prime sponsor of this legislation and the chairman of our Subcommittee on Health.

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

Mr. SIMMONS. Mr. Speaker, I thank the chairman and the ranking members of the Committee on Veterans' Affairs for all of their hard work on this legislation. I also thank my ranking member on the Health Subcommittee, the gentleman from Texas (Mr. RODRIGUEZ), for all of his work. This legislation constitutes a bipartisan effort to fund medical health care facilities for our Nation's veterans.

When I first assumed the chair of the Committee on Veterans' Affairs Subcommittee on Health, I was committed to providing the resources necessary to improve these health care facilities for our veterans, and this has been a bipartisan enterprise for the past 9 months. This legislation is the fruit of that work, and I think this legislation speaks very well for the bipartisan effort that we made on the subcommittee and the committee.

Among other things, this legislation would authorize specific construction projects, such as in Clark County, Nevada, where we just heard about the multispecialty outpatient clinic; in Columbus, Ohio, a new VA medical center; and in West Haven, Connecticut, renovations of a facility that was first built in 1917.

Mr. Speaker, I am proud of the fact that the State of Connecticut built this facility in 1917 as a tuberculosis and a neuropsychiatric hospital, and I am proud of the fact it is affiliated with Yale University's School of Medicine, which is one of the premier schools of medicine in the United States. But the question we have to address to ourselves, not only with this facility but these other facilities, is how efficient are they in today's day and age? How is the morale of VA employees, when they work in facilities that are almost 100 years old? How can we clean them and maintain the standards of sanitation that we want as we treat our veterans population? How can old hospital wards become more user-friendly and accommodate the new technologies for dealing with our veterans? And is there enough renovated space for these purposes?

That is why we are moving forward to authorize certain construction projects, such as in Chicago, Illinois, consolidating inpatient care in a new bed tower in the West Side Division; or in San Diego, California, doing almost $50 million worth of seismic corrections to Building I at the VA medical center; or in Pensacola, Florida, a joint-venture outpatient clinic at the Pensacola Naval Air Station where the Veterans Administration and the Department of Defense are sharing resources and sharing technologies to come up with a joint facility, something that saves our taxpayers a tremendous amount of money.

In the aggregate, Mr. Speaker, this bill would authorize appropriations of $500 million in fiscal year 2004 and $600 million in fiscal year 2005 to accommodate the construction projects under the various authorities provided.

One of these major construction projects, and you will hear from some of our other Members shortly, is the ''New Fitzsimons'' Campus of the University of Colorado Health Sciences Center. What the bill would require is that the Secretary of Defense and the Veterans Administration work together to create a new medical center in that area to serve our veterans population.

We have also authorized a joint project in Charleston, South Carolina, where we will do a feasibility study for a new medical center, I commend my colleague, the gentleman from South Carolina (Mr. BROWN) for his work on that project. And also an inpatient hospitalization needs study for southern New Jersey, something that my colleague, the gentleman from New Jersey (Mr. LOBIONDO), has been involved with.

So as we work our way through the details of this legislation, Mr. Speaker, it should become clear that this is a joint effort and a joint product by all members of the Committee on Veterans' Affairs and the Subcommittee on Health to come up with a hospital authorization bill that serves the needs of all of our veterans, north and south, east and west, nationwide.

Mr. Speaker, this legislation we are voting on today will help us improve, upgrade and even replace VA facilities in specialized areas of concern, such as spinal cord injury care, hemodialysis, long term care and medical research. Our bill also gives the VA Secretary flexibility to move forward on both high priority projects and the CARES process together. So this is a compromise bill and one that all Members can support.

This bill would also improve protection and safety of VA medical research programs. VA research is internationally recognized and has made important contributions in virtually every area of medicine and health. But it still needs watchful oversight. I thank the gentleman from Indiana, Mr. BUYER, for his leadership in crafting these provisions as part of this legislation, which I strongly support, and I thank our Full Committee Chairman for agreeing to move this measure forward as a part of our construction bill.

Mr. Speaker, this legislation would also designate the Department of Veterans Affairs Outpatient Clinic in New London, Connecticut, the ''John J. McGuirk Department of Veterans Affairs Outpatient Clinic''.

I am very pleased that our bill would memorialize the life and work of Mr. John J. McGuirk of Connecticut. John was active in promoting improved care and more available VA clinics in his beloved State of Connecticut. He was a role model to many of us in the veterans' community, and was particularly committed to working on behalf of disabled and elderly veterans—those with the greatest need for ready access to VA health care. His death in 1999 was a loss to all the veterans of my State.

John J. McGuirk, a native of the Constitution State, enlisted in the United States Navy in World War II. He served as an enlisted man in the dangerous occupation of salvage diver. Hazarding death and injury every day of his Navy service, Mr. McGuirk worked across the South Pacific from Pearl Harbor to Manila, Philippines. He served aboard the salvage ship, USS *Laysan Island*, in clearing war devastation in Manila Bay. John McGuirk was decorated with the Philippines Liberation Medal, the American Theatre Medal, the Asiatic Pacific Theatre Medal and the World War II Victory Medal.

When Mr. McGuirk's obligation to the United States Navy was discharged at the war's end, his personal obligation to his country and fellow veterans endured and became his lifelong commitment.

Mr. McGuirk's advocacy resulted in VA activating a system of community-based clinics across the State, providing primary care to thousands of veterans. John McGuirk played an instrumental role in VA's opening of the community clinic on the grounds of the U.S. Coast Guard Academy in New London.

John actively served in Post Number Nine of the American Legion of Connecticut for the entirety of his adult life, including two stints as Post Commander, as well as Finance Officer and Service Officer. He was also a member of the Disabled Veterans of America and of U.S. Submarine Veterans, Inc.

I am proud to promote this effort to memorialize the name of a good man, a war veteran and a man of peace, John J. McGuirk of Connecticut. This gesture is but a token of the esteem and affection we hold for him and his lasting contribution to our State and his service to our veterans.

Mr. Speaker, I strongly urge my colleagues to support this bill.

Ms. BERKLEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. EVANS), the ranking member of the Committee on Veterans' Affairs.

Mr. EVANS. Mr. Speaker, I rise in strong support of H.R. 1720, as amended. I want to thank the gentleman from New Jersey (Chairman SMITH), our Subcommittee on Health chairman, the gentleman from Connecticut (Mr. SIMMONS), and the ranking member, the gentleman from Texas (Mr. RODRIGUEZ), for allowing me the time to speak on this bill.

One provision that I am particularly pleased that the bill includes language that would rename the West Side division of VA Chicago after the Honorable Jesse Brown. The late Honorable Jesse

Brown served as Secretary for Veterans Affairs and was a strong advocate in our budgetary battles at that time in the Clinton Administration. As Secretary, Jesse made good on his promise of putting veterans first. Sadly, he left us much too soon after a struggle with Lou Gehrig's disease. It is fitting that we rename the West Side division of VA Chicago in his name.

This bill would also give Congress and the VA an opportunity to reinvigorate VA's flagging major medical construction programs. VA is at a critical juncture, where it must make billions of dollars worth of improvements to ensure its ability to provide modern, high-quality and efficient health care services.

Mr. Speaker, this is a good bill. I thank the chairman of the full committee for getting it through, and, again, for the way we work together.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 1 minute to my good friend and colleague, the gentleman from Nevada (Mr. GIBBONS), and thank him for his work on behalf of the $6.5 million lease for the outpatient clinic in his area.

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

Mr. GIBBONS. Mr. Speaker, I want to thank the chairman of the committee for yielding me time.

No doubt all of us in this Chamber realize and recognize the fact that our veterans risk their lives for our great Nation, and especially for the freedoms we all enjoy. We owe them much. Today, we take yet another step toward providing them with the health care services they deserve.

For example, H.R. 1720 authorizes funding for a Veterans Administration medical clinic in Clark County, Nevada, allowing the VA to lease space and provide desperately needed health care services to one of the fastest growing veterans populations in the country.

While this authorization best serves the short-term needs of Nevada's veterans, the long-term needs recognized by myself and Veterans Administration Secretary, Anthony Principi, call for the construction of a permanent, full-service veterans hospital in southern Nevada. Until this long-term goal is realized, the establishment of a medical clinic in Clark County will provide critical health care services to those veterans in southern Nevada.

I applaud my colleagues for bringing this bill to the floor, and remain committed to providing our veterans with the best health care services we can afford.

Ms. BERKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentlewoman, sometimes not so gentle, for yielding me time.

In fact, I thank the not-so-gentle woman for fighting for these facilities in her district. She has fought long and hard, and this is just one of the fruits. She has done a tremendous job.

I want to thank the chairman of the full committee and chairman of the Subcommittee on Health, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Connecticut (Mr. SIMMONS) for creating the environment on our committee that we could talk about these issues and work towards solving them without partisan rancor. I sincerely appreciate the efforts by the majority side on these bills.

I too rise in support of H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act. I think it goes without saying that if the VA is to provide excellent health care, it must have excellent health facilities. We simply cannot allow our veterans and our VA employees to work and be treated in buildings that are unsafe.

Another such building on the list that you have heard is the Medical Center Building Number 1 in the VA health care system in San Diego, the medical facility used by veterans in all of San Diego and in my congressional district.

This building is in desperate need of seismic corrections, including new exterior bracing enhancements to the existing seismic structures, with an estimated cost of almost $50 million. Not an insignificant sum—but the cost of not doing this project would be much higher in real human lives. The VA has identified more than 60 projects that require seismic fortification.

□ 1300

We cannot continue to turn our heads away while VA patients and employees are in harm's way.

So I compliment all of those who have worked on this, and I urge my colleagues to support H.R. 1720.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to my good friend and colleague, the gentleman from Florida (Mr. MILLER), and thank him because he was very instrumental in helping us work on the language that provides $45 million for an outpatient clinic in Pensacola. I want to thank him for that outstanding work he did.

Mr. MILLER of Florida. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I do rise today in full support of H.R. 1720, as amended, and thank our full committee chairman, the gentleman from New Jersey (Mr. SMITH) and our Subcommittee on Health chairman, the gentleman from Connecticut (Mr. SIMMONS), whom we have already heard from today, for their leadership and their efforts to bring this bill to authorize major medical construction to final passage today. This is a good bill, Mr. Speaker, truly a bipartisan compromise, as we have already heard, and one that deserves the full support of each and every Member on the House floor.

Mr. Speaker, I represent the first district of Florida, an area of record growth and a high concentration of active duty servicemembers, military retired families, and veterans. This bill, as amended, provides a critical and important first step to providing veterans and the military communities that I serve in northwest Florida with state-of-the-art health care in a new, combined Navy-VA clinic in Pensacola.

In VA's budget submission for the fiscal year 2004, the Pensacola facility is described as ''obsolete'' and ''less than half the required space for the current and future workload.'' This description does not paint the true picture of a crowded and totally inadequate facility. The time to move forward on a new, combined facility is now. Our bill sets the stage for that progress on behalf of veterans in my district.

I wish to acknowledge the effort of Julie Catellier, the director of the VA Biloxi and Pensacola facilities, and Captain Richard Buck of the Pensacola Naval Hospital for their creative and tenacious work and cooperation to provide a state-of-the-art VA facility and improve the quality of care for our veterans and military families.

A year ago, the director of the VA Gulf Coast Health Care System and the commanding officer of the naval hospital in Pensacola coauthored an innovative DOD–VA joint business plan. The essential groundwork has been laid; and H.R. 1720, as amended, would authorize a $45 million health care facility as a joint venture between DOD and VA.

Mr. Speaker, I urge strongly that my colleagues support this important legislation for not only the veterans in my district, but for others across the Nation.

Ms. BERKLEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentlewoman from Nevada for yielding me this time.

I rise in support of H.R. 1720, the Veterans Health Care Improvement Act. Incorporated in this legislation is a bill to rename the health care facility of the Department of Veterans Affairs located at 820 South Damen Avenue in Chicago, Illinois, as the ''Jesse Brown Department of Veterans Affairs Medical Center.''

I am pleased to have introduced this legislation with the ranking member of the Committee on Veterans' Affairs, the gentleman from Illinois (Mr. EVANS.) This legislation is supported by the veterans community and all of my colleagues in the Illinois delegation.

The late Honorable Jesse Brown was sworn in by President Clinton as the Secretary of Veterans Affairs on January 22, 1993. Secretary Brown directed the Federal Government's second largest Department, responsible for a nationwide system of health care services, benefits, programs, and national cemeteries for America's more than 26 million veterans. Under Secretary Brown's leadership, the VA expanded

benefits for veterans who were prisoners of war or were exposed to agent orange, radiation, or mustard gas. He successfully worked for the enactment of laws authorizing the VA to pay compensation for those with undiagnosed illnesses from the Persian Gulf War. His vision and commitment led to improved technology and redesigned work processes in an effort to reduce the backlog of veterans benefit claims. His leadership led to the first national summit meeting on homeless veterans. Out of the summit, the VA began to award grants to groups that aid the homeless and added homeless programs to medical centers.

Secretary Brown understood the plight of veterans as well as anyone because he was a veteran. He was a Marine who was wounded in combat in 1965 while patrolling in Vietnam. He was a true patriot, giving his best on behalf of his country. His work as executive director of the Disabled American Veterans prepared him for the challenges that he would confront at the VA. And let me add that his education at Chicago City College, Roosevelt University in Chicago, and Catholic University in Washington, D.C. helped to prepare him for his later success in life.

Perhaps Secretary Brown's greatest accomplishments would be that he was a family man, a man of integrity, and a father. The honor that we bestow on him by renaming the VA facility after him is symbolic in nature, but substantive in reality for the lives of the people he touched. He gave the best of himself in service to others. Now we say thank you.

Finally, Mr. Speaker, I want to thank the members of the Committee on Veterans' Affairs for moving this legislation. I personally happen to know several members of Secretary Brown's family, a professor from Roosevelt University, his mother, his sister and brother-in-law, the recently retired superintendent of police in Chicago, Terry Hilliard; and I know that they are all proud of his accomplishments and appreciate this recognition and would want to extend their thanks to the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. HOBSON) and thank him for his work on the medical center, a $90 million authorization that he worked so hard to procure.

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

Mr. HOBSON. Mr. Speaker, I first want to thank the distinguished chairman and the distinguished subcommittee chairman and ranking member for inclusion of this provision in the bill. This was a bill initially sponsored by me and the gentleman from Texas (Mr. ORTIZ), and we have included his facility. I also should note that it was sponsored by the other two members of the Ohio delegation from Columbus, Ohio, the gentleman from Ohio (Mr. TIBERI) and the gentlewoman from Ohio (Ms. PRYCE).

Mr. Speaker, I rise in strong support of H.R. 1720, which authorizes the Secretary of Veterans Affairs to carry out major medical facility construction projects. I rise not only as a veteran, but as a member of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations that helps determine the funding priorities of the Department of Veterans Affairs.

However, no matter which hat I am wearing, I can see clearly that something needs to be done for the ever-increasing veteran population in central Ohio. One provision contained in this very important act will help central Ohio take a huge step toward alleviating serious problems by authorizing construction of a new VA medical facility in Columbus, Ohio. Actually, it is in White Hall, Ohio, which is in my district.

The current Chalmers P. Wylie VA Outpatient Clinic in White Hall, or actually it is in Columbus; the new one will be in White Hall, has a high-quality professional medical staff, but the facility is woefully inadequate for the needs of the area's veterans. Originally, this clinic was to handle 135,000 annual visits; but last year, it saw more than 192,000, fully 42 percent more than intended in the original design, and we do not own the ground, and the lease is up in 10 years.

Over the years, far too many veterans have had to travel up to 3 hours to receive treatment at larger VA medical centers in either Cleveland, Cincinnati, or elsewhere because of the limited medical services offered by the current clinic. The cost to transfer these veterans has reached several million dollars per year.

This bill includes the authority to build a new 260,000 square foot facility on the Defense Supply Center on the White Hall, Ohio, campus, which will house a wide variety of new and expanded services that are not currently offered at the Chalmers P. Wylie facility.

In conclusion, Mr. Speaker, it is vitally important that we move forward with this legislation and subsequently on the new facility in White Hall. I am grateful to the members of the Committee on Veterans' Affairs and this subcommittee, once again, for their expeditious movement of this bill. I urge everyone to support this bill.

Ms. BERKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ORTIZ).

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

Mr. ORTIZ. Mr. Speaker, let me begin by thanking members of the Committee on Veterans' Affairs, the subcommittee, the ranking member and the chairman, and especially the gentleman from New Jersey (Mr. SMITH), and the ranking member, the gentleman from Illinois (Mr. EVANS), and my colleague, the gentleman from Texas (Mr. RODRIGUEZ). I also want to thank my good friend, the gentleman from Ohio (Mr. HOBSON), who has been a champion for our veterans and their interests, both in Ohio and south Texas and the rest of the Nation.

Finding a way to get inpatient health care services for our veterans in south Texas has been a long journey, and it is a labor of love for all involved. We first began this journey 21 years ago.

We know the debt we owe our veterans today. The soldiers we send forth in today's war on terrorism are tomorrow's veterans. As liberty must be defended, the population of veterans in the United States and south Texas will continue to grow.

I have worked with the Department of Veterans Affairs for a long time to bring improved services to the long-ignored population of veterans living in the tip of Texas. The VA has responded with their approach through the CARES program. It is long overdue for the VA to look seriously at the long-term needs and service delivery for the population they serve. Can my colleagues imagine, those who served the military from the Second World War, the Korean War, and the Vietnam War, they have to travel all the way to San Antonio, a journey of about anywhere from 2½ to 7 hours. Some of them are bedridden. There is no ambulance service. We are working on that. But thanks to the support that the VA has given me and the other Members who have needs in their districts, we really thank them for all the help that they have given us.

There are presently no inpatient services in this market, other than a limited contract in the Lower Rio Grande Valley, and limited access to specialty care patients. Patients must now travel a long, long journey. Opportunities exist to reduce this gap by working with DOD in Corpus Christi, as well as the University of Texas Regional Health Care Academic Center in Harlingen. Two submarkets were identified: Coastal Bend, Corpus Christi and surrounding area, and Rio Grande Valley, including Brownsville, Harlingen and surrounding areas, because transportation between these areas is difficult, involving secondary roads which take considerable travel time. It was an area that we had no interstate highways, no freeways until the last 10, 12 years. So to travel to get to the facility was long and hard.

So I want to thank again the subcommittee and the full committee for addressing this need and for working with us. Again, I thank my good friend, the gentleman from Ohio (Mr. HOBSON), so much for the help he gave me on this bill.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Colorado (Mr. HEFLEY), who is the author of H.R. 116, which is included as section 4 of this bill, which authorizes a $300 million Fitzsimons Hospital System, along

with the gentleman from Colorado (Mr. BEAUPREZ), who is the chief cosponsor.

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

Mr. HEFLEY. Mr. Speaker, I appreciate the gentleman yielding me this time.

I rise today in complete support of H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act, which is a 2-year authorization bill that will authorize the Secretary of Veterans Affairs to carry out major medical facility construction projects to improve, renovate, replace, and update our established patient care facilities within the Department of Veterans Affairs.

Certainly it is not before it is needed. If my colleagues have visited many of these facilities, as our chairman has, they would know how badly this updating and renovation is needed. I want to thank the chairman particularly. No one could have been more gracious and helpful than he has been to me in my particular part of this bill, and I appreciate that so much. The gentleman is so dedicated to better health care for veterans. The gentleman is the expert in the House of Representatives, and I look to him for guidance on these subjects. He has been just great with this. As a matter of fact, I appreciate the gentleman's whole committee, both Democrats and Republicans. They are trying to get a job done for the veterans, and they are doing an excellent job of it.

Again, I appreciate the gentleman from Colorado (Mr. BEAUPREZ), who is on the committee and is one of my dear friends and colleagues from the State of Colorado and who has been absolutely dedicated to this project as well.

As the gentleman indicated, in addition to authorizing $168 million for fiscal year 2004 and $600 million for fiscal year 2005 for construction of undesignated major projects, H.R. 1720 also authorizes the Secretary of Veterans Affairs to carry out a major medical facility project at the former Fitzsimons Army Medical Center site in Aurora, Colorado. H.R. 1720 would authorize this project to be carried out, using a total of approximately $300 million.

The Veterans Medical Center in Denver and the University of Colorado hospitals have been in a partnership, a next-door partnership since the Second World War. They have shared expensive and specialized medical equipment and facilities, such as surgical suites and imaging equipment and expensive specialty diagnostics and medical treatments; but due to the lack of space and the landlockness of the hospitals there, when the University of Colorado needed to modernize and build on a new site, they went out to the Fitzsimons Army Medical Center and began building in 1995.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Colorado (Mr. HEFLEY), who is the author of H.R. 116, which is included as section 4 of this bill, which authorizes a $300 million Fitzsimons Hospital System, along with the gentleman from Colorado (Mr. BEAUPREZ), who is the chief cosponsor.

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

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And the university's move will create a state-of-the-art medical campus which, in turn, will develop many of the very best services of in the United States. The Anschutz Cancer Pavilion, which is already open, is among the best institutions in the Nation for all types of cancer treatment and research.

The University of Colorado Health Science Center is well known throughout the country for its organ transplant programs, for instance. Unfortunately, the University's move created an 8-mile separation between the University of Colorado and the old veterans hospital that had been so close before.

This 8-mile separation creates a very real and significant barrier to quality care for veterans who have been working in cooperation all these years, the two hospitals.

A study commissioned by the Veterans Integrated Service Network indicated that high demand for medical services by veterans at the Denver Veterans Medical Center will continue unabated for at least the next 20 years. The cost of maintaining the current Denver Veterans Medical Center, to satisfy minimal accreditation levels until 2020, has been estimated to be $233 million, and estimates to rebuild the facility in 2020 are $377 million in today's dollars.

So if we put this $233 million into it, at the end of this period, this 20-year period, we still have an old facility, and we have put almost as much into it as it would take to build a new facility.

Planning studies have shown that a move of the Denver Veterans Medical Center to the Fitzsimons campus is the most cost-effective of the reasonably accepted alternatives.

The Denver Veterans Medical Center relocation to the Fitzsimons campus will solve aging facilities issues, cap new facilities cost, enhance quality of medical care, increase flexibility and reduce operational costs. Veterans who have highly specialized medical needs must have easy access to the best diagnostic and treatment programs that America provides.

In a medical school environment, doctors tend to be better informed of the latest treatment procedures and protocols. They are closer to the cutting edge of modern medicine. Quality of medical care for veterans is enhanced in a medical school teaching hospital. University physicians and special residency programs provide a significant amount of care in the Denver veterans medical center. To date, some 90 percent of the physicians that work at the VA Medical Center also work at the University of Colorado Health Science Center. And most VA doctors have faculty appointments in the medical school.

Colocating the University of Colorado hospital in the Denver Veterans Medical Center will allow university doctors to continue their close relationship in treating veterans.

Mr. Speaker, let me just summarize real quickly. This is an opportunity that you do not get very often, to have a medical campus which is, in essence, right in the middle of a metropolitan area like Denver, Colorado. If it was not for the closing of Fitzsimons Hospital, which we all hated at the time, this would never have come about. But right here, in the middle of this metropolitan area, you will have the one of the finest, state-of-the-art, cutting edge health medical facilities in the whole United States. It is going to mean cutting edge, quality care for veterans. The gentleman from New Jersey (Mr. SMITH) can take a lot of credit when this comes about.

The new VA Medical Center at Fitzsimons site will be veteran-friendly and will provide a practicable alternative to the Denver Veterans Medical Center remaining at its current, outdated facility.

The new Veterans Medical Center at Fitzsimons will be a free-standing ambulatory and impatient care federal tower building for veterans, clearly identified as the Veterans Administration Medical Center.

New veterans research facilities will be constructed and there will be a new veterans long-term care unit located next to the new 180-bed State veterans nursing home currently being constructed at the site.

Given the rising demand for veterans health care, and the significant challenges of an aging and increasingly less-efficient Denver Veterans Medical Center facility, my interest and my efforts are aimed at continuing the collaboration between the Denver Veterans Medical Center, University of Colorado Health Sciences Center and University of Colorado Hospital.

I believe that the opportunity to co-locate the Denver Veterans Medical Center with the University of Colorado Health Sciences Center and the University of Colorado Hospital at the Fitzsimons campus will meet the demand for veteran care in this area through 2020 and beyond; provide significant savings in both capital and operational costs for the Department of Veterans Affairs and the taxpayer; continue to meet the Denver Veterans Medical Center commitment to education and research; and potentially create a national model for the future of veterans' care dealing with both a new concept for facilities and collaboration with long-established partners. More importantly, this move will retain veteran ''identity'' while also providing optimum patient care.

To date, over 45 local, state and national Veterans' Service Organizations and the American Federation of Government Employees, Local 2241, have expressed their support for this proposal.

I believe that co-locating the Denver Vetrans' Medical Cebter with the University of Colorado Hospital will achieve the goals of providing the up-most modern, comprehensive

and cost-efficient medical care that we as a nation owe our veterans.

Congress has a duty to provide the best medical care it can to our nation's veterans and we must always strive for the very best health care services it can by utilizing the most cost-effective measures available.

The fact is, aging facilities, lack of funds, and the growing demands on the veterans health system are proving to be daunting obstacles in meeting Congress' responsibilities to our nation's veterans.

However, the possibility for the Denver Veterans Medical Center to move to Fitzsimons and co-locate with University of Colorado Health Sciences Center and University of Colorado Hospital is a unique opportunity to provide solid and constructive solutions to these challenges.

Mr. SMITH of New Jersey. Mr. Speaker, I want to thank the gentleman from Colorado (Mr. HEFLEY) again, Mr. Speaker, for the outstanding work that he has done. He has been indefatigable in promoting this project along with the gentleman from Colorado (Mr. BEAUPREZ). And we are very, very grateful on the committee to have that kind of advocacy coming our way on behalf of the veterans.

Mr. Speaker, I would inquire as to our remaining time and ask if the gentlewoman from Nevada (Ms. BERKLEY) might yield some of her time. We have an additional speaker, the gentleman from Colorado (Mr. BEAUPREZ).

The SPEAKER pro tempore (Mr. TERRY). The gentleman from New Jersey (Mr. SMITH) has 30 seconds. The gentlewoman (Ms. BERKLEY) from Nevada has 5 minutes.

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

Mr. Speaker, I would be delighted to yield to the gentleman the balance of our time so that all of his members can speak on behalf of this legislation. If I could take 30 seconds to sum up.

Mr. Speaker, the gentleman from California (Mr. FILNER) in his remarks referred to me as the not-so-gentlelady from Nevada. I take great pride in that characterization. I do not think any of us should be gentle when it comes to issues that affect the health care of our veterans.

We owe these veterans, men and women, a tremendous debt of gratitude. We are going to have far more veterans once our war against terrorism is over. I applaud my colleagues on both sides of the aisle for being steadfast on this piece of legislation. We should not rest. And none of us should be able to go back to our districts and look our veterans in the face if we do not deliver for them now.

Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentlewoman from Nevada (Ms. BERKLEY) for her gracious yielding.

Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. BEAUPREZ). He has been a very strong supporter of this legislation in general, but particularly for Fitzsimons.

Mr. BEAUPREZ. Mr. Speaker, I also am proud to speak today in strong support of H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act. Many facilities in the VA health care system are run-down, decrepit buildings that are not conducive to providing quality health care to our veterans.

The Denver Veterans Medical Center in Colorado was constructed approximately 50 years ago to provide fairly low-volume inpatient care to our veteran population. In Colorado today, as my distinguished colleague, the gentleman from Colorado (Mr. HEFLEY) just outlined, we have an opportunity to provide health care in a much more efficient manner.

The Denver Veterans Medical Center is in decaying state. It is faced with two main alternatives with regard to this facility. The first alternative is to invest in renovation of this facility and make it capable of handling the medical needs of our current veteran population and the changing needs of that population over the next 20 or so years. After such a renovation, not only would the VA still be left with a 50-year-old building, but as the gentleman from Colorado (Mr. HEFLEY) pointed out, it would also be an orphaned medical center.

The second alternative is to relocate the building to the new Fitzsimons campus. Such a relocation would allow for a modern facility to deliver modern health care on a state-of-the-art medical campus, one that we think will be a standard for the whole Nation.

The VA would be able to take advantage of the University of Colorado partnership which will provide numerous operational efficiencies, as well as access to an extensive staff of doctors, technicians, and specialists.

This legislation would also authorize this critical relocation. The cost to restore the Denver facility far outweighs the cost of constructing a new hospital. It is estimated that the savings in operational efficiencies at Fitzsimons itself will pay for construction of the new hospital. Regardless of where our veterans happen to live, they deserve the best care possible.

Mr. Speaker, I want to compliment the gentleman from New Jersey (Mr. SMITH), the gentleman from Connecticut (Mr. SIMMONS), the gentleman from Colorado (Mr. HEFLEY), my colleague, for bringing this important legislation to the floor.

Again, Mr. Speaker, we believe that the Fitzsimons Veterans Hospital will become a standard for delivering better health care to our veterans for years and years to come.

Mr. Speaker, I am proud to speak today in support of H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act. During my time serving on the Veterans Affairs Committee I have learned first hand the difficulties and challenges the VA faces in order to provide healthcare to our nations veterans. It is my belief H.R. 1720 is one of many steps we in Congress can take to address the challenges of the VA by authorizing major medical construction for certain VA facilities.

Many facilities in the VA healthcare system are run-down, decrepit buildings that are not conducive to providing quality healthcare to our veterans. It is inconceivable to think the VA system should be expected to handle an increased amount of patients without the proper medical facilities in which to do so. We must remember that before we place increased demands on the VA we must provide the system with the tools to succeed in their mission of quality, timely healthcare.

As military operations continue to be carried out by the United States overseas, we will be creating a new generation of veterans in need of medical services from the VA. As medical costs continue to rise in the United States, many people, unable to afford private medical care will enroll for medical care with the VA. Also, as described by Deputy Secretary Leo Mackay, ''the VA's record of achievement in medical care has been so dramatic that we are now confronted with unprecedented demand for our services.'' The population dynamics that have been taking place in terms of VA enrollment are staggering. We have record levels of enrollment for VA Health Care today. In many parts of the country, those numbers will be leveling off, and slowly decreasing in the years to come. In my home state of Colorado, the enrollment numbers will only continue to rise.

The history of the VA is a unique one, especially when it comes to the medical care of our Nation's veterans. The Denver Veterans Medical Center in Colorado was constructed primarily to provide low-volume inpatient care to our veteran population. Over time, the VA has worked to adapt this center to the ways of modern medicine, and to provide primarily high-volume outpatient care to our veterans. Unfortunately, the costs associated with the necessary renovations are extremely high, and this building is finding little potential for further renovation to address current medical needs with modern medical equipment.

The issues faced by this center are not unique, and are exactly the types of issues that prompted the CARES process to be initiated. In 1999, the General Accounting Office reported that the ''VA could enhance veterans' health care benefits if it reduced the level of resources spent on underused or inefficient buildings, and used these resources instead. To provide health care more efficiently.'' In Colorado today, we have just such an opportunity to provide health care in a much more efficient manner.

Since the construction of this medical center fifty years ago, the VA has established a partnership with the University of Colorado-Health Science Center to enhance the quality of care provided here. I am told that approximately 90 percent of the doctors providing care here are University doctors. Most research initiatives carried out in this hospital are carried out with the help of University researchers. Cutting edge medical procedures are carried out at this hospital through collaboration between the VA, and the University of Colorado. After the University's decision to relocate to Fitzsimons was made a few years ago, the 50-year partnership between CU and the VA has begun to erode. The VA is losing access to the fine medical staff from CU that they have relied upon for such a long time.

The University saw the potential to create numerous operational efficiencies in their

move to Fitzsimons, and they acted on it. Today, the VA has the potential to benefit from many of these same efficiencies by moving to Fitzsimons, and create other ones through an extended collaboration with the University and the Department of Defense. Congress, through H.R. 1720, should authorize the VA to act on this opportunity in much the same way the University did. This House has already begun the process of action by approving four million dollars in the DoD appropriation, and an additional nine million dollars in the VA/HUD appropriation this year.

The Denver Veterans Medical Center is faced with two main alternatives with regard to their facility. The first alternative is to invest in the renovation of this facility to make it capable of handling the medical needs of our current veteran population, and the changing needs of that population over the next 20 years. After such a renovation, not only would the VA still be left with a 50-year old building, but it would also be an orphaned medical center. The second alternative is to relocate to the new Fitzsimons campus. Such relocation would allow for a modern facility to deliver modern health care in a preferred location. The VA would once again be able to take advantage of the University partnership, which will provide numerous operational efficiencies as well as access to an extensive staff of doctors, technicians, and specialists.

It is my belief that the savings in operational efficiencies of Fitzsimons in itself will pay for the construction of the new hospital. Of greater importance, the quality of care that could be provided to our veterans will be much higher at Fitzsimons.

Construction of a new hospital at Fitzsimons also allows for the ability to build a much needed Spinal Cord Injury center. Such a center is highly desired not only by the veterans in our district, but it would also be well suited for ideal research opportunities with the university. Currently, the closest Spinal Cord Injury center to our region is a great distance away in Albuquerque, New Mexico.

One final reason construction of a new VA hospital at Fitzsimons is a better option, lies in the hospital's potential for cutting-edge enhancements in veteran health care through collaborative research with the university.

As you know, the Department of Defense has recently expressed an interest in joining in the collaborative arrangement already espoused by the University and the VA. The benefits of this arrangement for our active duty and their families currently stationed at Buckley Air Force Base would be profound. Aside from having access to a full spectrum of medical services not available on base, these soldiers and their family will not have to worry about the potential loss in medical care caused by deployments of those who serve in the medical corps. The benefits to the base doctors will also increase significantly, allowing them to experience medical situations not typically found in a military community, while also having quick access to some of the greatest medical resources, references, and research in the country.

Regardless of where our veterans happen to live, they deserve the best care possible. As the House votes on this measure today, I ask that we all keep in mind the long-term planning mission of the VA: ''to improve access to, and the quality and cost effectiveness of, veterans health care.'' This message cannot be forgotten when addressing the needs of our veterans living in rural and outlying network areas.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Colorado (Mr. BEAUPREZ), a good friend, for his statement and for his fine work.

Mr. Speaker, I remind my colleagues we are at a crossroads. We have not done our due diligence in ensuring that sufficient funds were available to renovate, to update, to modernize our aging infrastructure of VA health care and other facilities within the VA, that is to say, those dealing with research and development.

There was a consultants' report as far as back as June of 1998 that suggested we spend 2 to 4 percent on plant replacement value to upkeep these vital facilities. We have not done that. We need to now do some hurry-up-and-catch-up baseball here. This legislation is certainly a step in the right direction. I hope it has the full support of our colleagues.

Mr. TIBERI. Mr. Speaker, I rise today to express my support for H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act. I am pleased that the House of Representatives acted today to approve this important bill.

H.R. 1720 includes language originally included in legislation introduced by my colleague, Congressman DAVID HOBSON, that authorizes the construction of an expanded VA medical facility on the campus of the Defense Supply Center in Columbus, OH.

I have been deeply and personally committed to improving health care for veterans for nearly 20 years, going back to my days as a congressional staffer handling veteran's casework. I know first hand the difficulties our veterans have had receiving the level of care they earned through their service to our country.

Columbus is the 15th largest city in America. Central Ohio, a metropolitan area of 1.2 million people, has over 135,000 veterans who reside here. Yet we have never had a VA hospital, and our clinic has always been too small to provide the services needed for our veterans. As one of the fastest growing areas in the country, we continue to see the number of veterans in central Ohio increase each year.

On the day it opened in 1995, our existing clinic was already too small to meet all the health care needs of our veterans. It was designed to handle 135,000 annual visits. Last year there were 192,000 visits, and this year the clinic is handling 823 visits per day, which will total approximately 205,000 visits in 2003. Furthermore, the current veterans population projection data does not account for veterans of Operation Enduring Freedom, Noble Eagle or Iraqi Freedom. In Ohio alone we have mobilized over 6,000 National Guard and Reserve Forces who are now eligible for health care, as well as the hundreds of thousands of Active Duty soldiers of those operations who will be returning home in the near future. These new veterans will dramatically swell the rolls at our local facilities.

While our local VA officials do the best they can with the resources they have been given, the existing facility is simply too small to meet our current needs, much less the growing needs of the future.

A continued piecemeal approach to veterans' needs both wastes taxpayer dollars, and provides substandard care to the central Ohio men and women who have given so much to our country. The VA spends nearly $3 million a year shipping our veterans around the State, admitting emergency cases to a local hospital, and paying for outpatient specialty care because they lack adequate facilities. Additionally, the current facility is leased, and the lease will expire in just over 10 years. I believe it is not a good use of taxpayer money to invest dollars in a facility the VA will not control over the long term.

I want to tell you about a veteran I know who lives in Pataskala, OH. Mr. Stanley Folk is 78 years old, and is a 60 percent service connected World War II veteran who is forced to travel to the Cincinnati VA hospital twice a month. He gets up at 4:30 a.m. to catch a shuttle down to Cincinnati to get the treatment he needs. He is forced to stay there all day until the shuttle returns him to Columbus. He does not get home until well after 7 p.m. The strain of this trip makes him so tired and ill that he is in bed for several days after to recover. This would be a hardship on anyone, but is doubly so for the elderly and disabled. It is unconscionable that veterans must go through this to get the care they deserve. The sad part is Mr. Folk is not alone. I could go on and on with stories of veterans who have faced similar hardship.

Furthermore, there are many veterans who will not seek emergency care at night and on weekends, because the VAOPC is closed, and they are afraid to go to private hospitals with no prior guarantee the VA will pay the private hospital expense. These veterans have no health insurance and they are afraid they will be stuck with a large bill they cannot pay, so they delay treatment at risk to their health.

I believe the facts clearly show that these facilities and services are desperately needed to meet the health care needs of veterans in central Ohio. I would like to thank Chairman SMITH and Ranking Member EVANS, as well as Subcommittee Chairman SIMMONS and Ranking Member RODRIGUEZ for their hard work on this legislation. My colleagues in the central Ohio delegation, Congressman DAVID HOBSON and Congresswoman DEBORAH PRYCE, as well as Ohio Senators MIKE DEWINE and GEORGE VOINOVICH, also deserve a great deal of credit for their hard work on this issue and steadfast support for the interests of central Ohio's veterans.

Mr. BROWN of South Carolina. Mr. Speaker, Chairman SIMMONS has done a fine job of explaining the bill under consideration. I would like to thank him, Full Committee Chairman SMITH, and my colleagues on the Veterans Affairs Committee for their excellent bipartisan work on this legislation.

We all understand the significant needs of our VA medical facilities across this great Nation. Many Members of this Congress have a VA building in their district that is old and in need of renovation, maintenance, and repair. The practice of medicine requires constant modernization of equipment and facilities, and we need to do our best to ensure that our veterans continue to receive the quality of care that they deserve. Although there are never enough resources for our veterans and their medical centers, this bill will authorize much needed help for those areas most in need.

In addition to the projects authorized in this bill, I think we can all agree that more needs to be done to encourage VA to coordinate with the Defense Department, the academic community, and maybe even the private sector

when medical facilities are constructed or renovated. During the consideration of this bill in full committee, I offered an amendment that was adopted without objection. It would require the Secretary of Veterans Affairs to conduct a study to examine the feasibility of coordination by the Department of Veterans Affairs with the Department of Defense's Naval Hospital Charleston and the pending construction of a new university medical center at the Medical University of South Carolina in Charleston, SC.

Our VA Hospital, located in downtown Charleston, was built in 1966. It was a good facility for its time, and the staff there does a great job, but it definitely needs a major facelift. The building is located right next to the Medical University of South Carolina (MUSC), a modern and growing facility that is in the process of a large expansion project. MUSC and the VA work well together in many areas, especially in providing outstanding patient care.

On the old Naval Base, which was closed as a result of the last BRAC, the Naval Hospital Charleston remains a few miles away. The Navy has considerably downsized this facility, which mainly serves military retirees now. It is my understanding that the building may shut down in the future and move to a new, consolidated clinic location at the Naval Weapons Station Charleston. The proposed site would be a single 156,000-square-foot facility valued at greater than $30 million, but there are no plans that I am aware of to coordinate with the VA. It is clear that there is a tremendous opportunity for the VA, DOD and MUSC to work together for the good of our veterans and American taxpayers. I am certain that there are other similar examples throughout the United States.

I feel very strongly that this is the right thing to do for our active military personnel, retirees, and veterans. Earlier this year, we held a hearing on the Presidential Task Force Report, which focused heavily on VA–DOD resource sharing efforts. Both Undersecretaries McKay and Chu acknowledged that more could be done in this area, and Charleston was cited as one of many examples. The VA cannot afford to always go it alone in the future when planning and constructing new medical facilities.

For the sake of our veterans and the men and women who serve them in VA medical facilities, I urge my colleagues to support this bill.

Mr. KIRK. Mr. Speaker, I rise in strong support of the Veterans Health Care Facilities Capital Improvement Act of 2003. Every American knows that the face of health care has changed dramatically over the past decades. This is no less true for military and veterans' health care. This legislation is vital because it will improve, renovate, and update patient care facilities at Department of Veterans Affairs medical centers. More important, this legislation demonstrates the continued support of Congress for our nation's veterans by providing the best health service facilities possible.

My district is home to the North Chicago VA Medical Center. On June 19, 2001, the VA released its Capital Asset Realignment for Enhanced Services (CARES) study. The CARES study developed four options to improve veterans' heath care in the Chicago area, each of which recommended the preservation of services offered at North Chicago. The CARES study also recommended increasing the level the cooperation between North Chicago VA and the Navy's Great Lakes Naval Hospital.

H.R. 1720 will assist the VA in cases where the department enters into resource sharing agreements with the DoD. H.R. 1720 is critical to this mission because the legislation includes a modest adjustment of the definition of what constitutes a ''major'' construction project. This legislation will raise the threshold for ''major'' construction projects to $6 million, and thus allow cooperative sharing agreements between the VA and DoD continue moving forward with minor projects without being subjected to burdensome bureaucratic time tables. Avoiding delays and moving forward with capital improvements to VA health care facilities will save valuable resources and time, which will continue the quality of services offered our Nation's active and veteran population.

In the case of the North Chicago VA Medical Center and Great Lakes Naval Hospital, integration of the two medical facilities is practical and urgent. These facilities both sit underutilized and less than a mile away from each other. Combining these two facilities, state of the art, Federal health care center will maximize the use of tax dollars, enhance the training opportunities for young naval medical corps personnel, and, most important, bring the health care we promised our service men and veteran population into the 21st century. Changing the definition of ''major'' construction may allow the VA to move forward with plans to redesign and construct operating rooms and the emergency room at North Chicago.

I would like to thank the chief sponsor of this bill Representative ROB SIMMONS, and Chairman CHRIS SMITH of the VA Committee for their work and dedication to America's veterans.

Mr. Speaker, H.R. 1720 will allow the VA to continue moving forward by providing our Nation's veterans, and in some cases our active duty personnel, with new improved health care facilities. I urge my colleagues to support this legislation.

Mrs. SUSAN DAVIS of California. Mr. Speaker, I rise today in strong support of H.R. 1720, legislation to provide funding for a project crucial to the veterans' community in the San Diego region.

The Veterans' Affairs Medical Center in La Jolla, California serves one of the largest veterans communities in the nation. Nearly 240,000 retired military personnel in the San Diego area receive treatment from at the La Jolla hospital and nearby VA medical facilities.

I can't stress enough how important it is to ensure these facilities can provide veterans with the treatment they need even at times of disaster.

Just this week, the dedicated medical staff at area VA medical facilities worked hard to care for our veterans—despite the poor air quality and other dangers caused by the horrible wildfires burning in Southern California. It is crucial that they have the resources to continue their important work during such difficult times.

H.R. 1720 will help the VA prepare in case another type of disaster strikes. This legislation provides 50 million dollars to make necessary seismic corrections to the La Jolla VA medical center.

Mr. Speaker, this project will help ensure that both our veterans and the medical staff will be safe if a large earthquake strikes. And it will ensure that the hospital can continue treating our veterans in the aftermath.

I encourage my colleagues to join me in supporting this legislation on behalf of our veterans' community and dedicated VA medical personnel in San Diego.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 1720, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1720, as amended.

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

There was no objection.

CONFERENCE REPORT ON H.R. 2115, VISION 100–CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. MICA submitted the following conference report and statement on the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes:

CONFERENCE REPORT (H. REPT. 108–334)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2115), to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Vision 100—Century of Aviation Reauthorization Act''.

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

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. APPLICABILITY.

Except as otherwise specifically provided, this Act and the amendments made by this Act shall apply only to fiscal years beginning after September 30, 2003.

SEC. 4. FINDINGS.

Congress finds the following:

(1) The United States has revolutionized the way people travel, developing new technologies and aircraft to move people more efficiently and more safely.

(2) Past Federal investment in aeronautics research and development has benefited the economy and national security of the United States and the quality of life of its citizens.

(3) The total impact of civil aviation on the United States economy exceeds $900,000,000,000 annually and accounts for 9 percent of the gross national product and 11,000,000 jobs in the national workforce. Civil aviation products and services generate a significant surplus for United States trade accounts, and amount to significant numbers of the Nation's highly skilled, technologically qualified work force.

(4) Aerospace technologies, products, and services underpin the advanced capabilities of our men and women in uniform and those charged with homeland security.

(5) Future growth in civil aviation increasingly will be constrained by concerns related to aviation system safety and security, aviation system capabilities, aircraft noise, emissions, and fuel consumption.

(6) Revitalization and coordination of the United States efforts to maintain its leadership in aviation and aeronautics are critical and must begin now.

(7) A recent report by the Commission on the Future of the United States Aerospace Industry outlined the scope of the problems confronting the aerospace and aviation industries in the United States and found that—

(A) aerospace will be at the core of the Nation's leadership and strength throughout the 21st century;

(B) aerospace will play an integral role in the Nation's economy, security, and mobility; and

(C) global leadership in aerospace is a national imperative.

(8) Despite the downturn in the global economy, projections of the Federal Aviation Administration indicate that upwards of 1,000,000,000 people will fly annually by 2013. Efforts must begin now to prepare for future growth in the number of airline passengers.

(9) The United States must increase its investment in research and development to revitalize the aviation and aerospace industries, to create jobs, and to provide educational assistance and training to prepare workers in those industries for the future.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Funding of FAA Programs

SEC. 101. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) AUTHORIZATION.—Section 48103 is amended—

(1) by striking ''September 30, 1998'' and inserting ''September 30, 2003''; and

(2) by striking paragraphs (1) through (5) and inserting the following:

''(1) $3,400,000,000 for fiscal year 2004;
''(2) $3,500,000,000 for fiscal year 2005;
''(3) $3,600,000,000 for fiscal year 2006; and
''(4) $3,700,000,000 for fiscal year 2007.''.

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2007''.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101 is amended—

(1) in subsection (a) by striking paragraphs (1) through (5) and inserting the following:

''(1) $3,138,000,000 for fiscal year 2004;
''(2) $2,993,000,000 for fiscal year 2005;
''(3) $3,053,000,000 for fiscal year 2006; and
''(4) $3,110,000,000 for fiscal year 2007.'';

(2) by striking subsections (b), (d), and (e) and redesignating subsection (c) as subsection (b);

(3) by inserting after subsection (b) (as so redesignated) the following:

''(c) ENHANCED SAFETY AND SECURITY FOR AIRCRAFT OPERATIONS IN THE GULF OF MEXICO.—Of amounts appropriated under subsection (a), such sums as may be necessary for fiscal years 2004 through 2007 may be used to expand and improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather services in the Gulf of Mexico.

''(d) OPERATIONAL BENEFITS OF WAKE VORTEX ADVISORY SYSTEM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used for the development and analysis of wake vortex advisory systems.

''(e) GROUND-BASED PRECISION NAVIGATIONAL AIDS.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 to 2007 may be used to establish a program for the installation of a precision approach aid designed to improve aircraft accessibility at mountainous airports with limited land if the approach aid is able to provide curved and segmented approach guidance for noise abatement purposes and other such approach aids and is certified or approved by the Administrator.'';

(4) in subsection (f)—

(A) by striking ''for fiscal years beginning after September 30, 2000''; and

(B) by inserting ''may be used'' after ''necessary''; and

(5) by adding at the end the following:

''(h) STANDBY POWER EFFICIENCY PROGRAM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used by the Secretary of Transportation, in cooperation with the Secretary of Energy and, where applicable, the Secretary of Defense, to establish a program to improve the efficiency, cost effectiveness, and environmental performance of standby power systems at Federal Aviation Administration sites, including the implementation of fuel cell technology.

''(i) PILOT PROGRAM TO PROVIDE INCENTIVES FOR DEVELOPMENT OF NEW TECHNOLOGIES.—Of amounts appropriated under subsection (a), $500,000 for fiscal year 2004 may be used for the conduct of a pilot program to provide operating incentives to users of the airspace for the deployment of new technologies, including technologies to facilitate expedited flight routing and sequencing of takeoffs and landings.''.

SEC. 103. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) IN GENERAL.—Section 106(k)(1) is amended to read as follows:

''(1) SALARIES, OPERATIONS, AND MAINTENANCE.—There is authorized to be appropriated to the Secretary of Transportation for salaries, operations, and maintenance of the Administration—

''(A) $7,591,000,000 for fiscal year 2004;
''(B) $7,732,000,000 for fiscal year 2005;
''(C) $7,889,000,000 for fiscal year 2006; and
''(D) $8,064,000,000 for fiscal year 2007.

Such sums shall remain available until expended.''.

(b) AUTHORIZED EXPENDITURES.—Section 106(k)(2) is amended—

(1) by striking subparagraphs (A) and (B) and subparagraphs (F) through (I);

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C), respectively;

(3) in subparagraphs (A), (B), and (C) (as so redesignated) by striking ''fiscal years 2000 through 2003'' and inserting ''fiscal years 2004 through 2007''; and

(4) by adding after subparagraph (C) (as so redesignated) the following:

''(D) Such sums as may be necessary for fiscal years 2004 through 2007 for the Center for Management Development of the Federal Aviation Administration to operate training courses and to support associated student travel for both residential and field courses.

''(E) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out and expand the Air Traffic Control Collegiate Training Initiative.

''(F) Such sums as may be necessary for fiscal years 2004 through 2007 for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska's main aviation corridors.

''(G) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out the Aviation Safety Reporting System.''.

(c) AIRLINE DATA AND ANALYSIS.—There is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $3,971,000 for fiscal year 2004, $4,045,000 for fiscal year 2005, $4,127,000 for fiscal year 2006, and $4,219,000 for fiscal year 2007 to gather aviation data and conduct analyses of such data in the Bureau of Transportation Statistics of the Department of Transportation.

SEC. 104. FUNDING FOR AVIATION PROGRAMS.

(a) IN GENERAL.—Chapter 481 is further amended by adding at the end the following:

''§ 48114. Funding for aviation programs

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—

''(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2007 pursuant to sections 48101, 48102, 48103, and 106(k) of title 49, United States Code, shall be equal to the level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year. Such amounts may be used only for aviation investment programs listed in subsection (b).

''(B) GUARANTEE.—No funds may be appropriated or limited for aviation investment programs listed in subsection (b) unless the amount described in subparagraph (A) has been provided.

''(2) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—In any fiscal year through fiscal year 2007, if the amount described in paragraph (1) is appropriated, there is further authorized to be appropriated from the general fund of the Treasury such sums as may be necessary for the Federal Aviation Administration Operations account.

''(b) DEFINITIONS.—In this section, the following definitions apply:

''(1) TOTAL BUDGET RESOURCES.—The term 'total budget resources' means the total amount

made available from the Airport and Airway Trust Fund for the sum of obligation limitations and budget authority made available for a fiscal year for the following budget accounts that are subject to the obligation limitation on contract authority provided in this title and for which appropriations are provided pursuant to authorizations contained in this title:

''(A) 69–8106–0–7–402 (Grants in Aid for Airports).

''(B) 69–8107–0–7–402 (Facilities and Equipment).

''(C) 69–8108–0–7–402 (Research and Development).

''(D) 69–8104–0–7–402 (Trust Fund Share of Operations).

''(2) LEVEL OF RECEIPTS PLUS INTEREST.—The term 'level of receipts plus interest' means the level of excise taxes and interest credited to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President's budget baseline projection as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) (Treasury identification code 20–8103–0–7–402) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

''(c) ENFORCEMENT OF GUARANTEES.—

''(1) TOTAL AIRPORT AND AIRWAY TRUST FUND FUNDING.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause total budget resources in a fiscal year for aviation investment programs described in subsection (b) to be less than the amount required by subsection (a)(1)(A) for such fiscal year.

''(2) CAPITAL PRIORITY.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that provides an appropriation (or any amendment thereto) for any fiscal year through fiscal year 2007 for Research and Development or Operations if the sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in-Aid for Airports and for Facilities and Equipment for such fiscal year.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 481 is amended by adding at the end the following:

''48114. Funding for aviation programs.''.

(c) REPEAL.—Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 48101 note) and the item relating to such section in the table of contenets in section 1(b) of such Act are repealed.

SEC. 105. AGREEMENTS FOR OPERATION OF AIRPORT FACILITIES.

Section 47124 is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GOVERNMENT RELIEF FROM LIABILITY.—The Secretary of Transportation shall ensure that an agreement under this subchapter with a qualified entity (as determined by the Secretary), State, or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport facility relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the entity, State, or subdivision in operating the airport facility.'';

(2) by striking subsection (b)(2) and inserting the following:

''(2) The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.'';

(3) in subsection (b)(3)—

(A) in the paragraph heading by striking ''PILOT'';

(B) by striking ''pilot'' each place it appears; and

(C) in subparagraph (E) by striking ''$6,000,000 per fiscal year'' and inserting ''$6,500,000 for fiscal 2004, $7,000,000 for fiscal year 2005, $7,500,000 for fiscal year 2006, and $8,000,000 for fiscal year 2007''; and

(4) in subsection (b)(4)(C) by striking ''$1,100,000.'' and inserting ''$1,500,000.''.

SEC. 106. INSURANCE.

(a) AIRCRAFT MANUFACTURERS.—

(1) IN GENERAL.—Section 44302 is amended by adding at the end the following:

''(g) AIRCRAFT MANUFACTURERS.—

''(1) IN GENERAL.—The Secretary may provide to an aircraft manufacturer insurance for loss or damage resulting from operation of an aircraft by an air carrier and involving war or terrorism.

''(2) AMOUNT.—Insurance provided by the Secretary under this subsection shall be for loss or damage in excess of the greater of the amount of available primary insurance or $50,000,000.

''(3) TERMS AND CONDITIONS.—Insurance provided by the Secretary under this subsection shall be subject to the terms and conditions set forth in this chapter and such other terms and conditions as the Secretary may prescribe.''.

(2) DEFINITION OF AIRCRAFT MANUFACTURER.—Section 44301 is amended—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(B) by inserting before paragraph (2) (as so redesignated) the following:

''(1) 'aircraft manufacturer' means any company or other business entity, the majority ownership and control of which is by United States citizens, that manufactures aircraft or aircraft engines.''.

(3) COVERAGE.—Section 44303(a) is amended—

(A) in the subsection heading by striking ''IN GENERAL'' and inserting ''IN GENERAL''; and

(B) by adding at the end the following:

''(6) loss or damage of an aircraft manufacturer resulting from operation of an aircraft by an air carrier and involving war or terrorism.''.

(b) AIRCRAFT MANUFACTURER LIABILITY FOR THIRD-PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—Section 44303(b) is amended by adding at the end the following: ''The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved.''.

(c) PREMIUMS AND LIMITATIONS ON COVERAGE AND CLAIMS.—Section 44306(b) is amended by striking ''air'' and inserting ''insurance''.

(d) ENDING EFFECTIVE DATE.—Section 44310 is amended by striking ''December 31, 2004'' and inserting ''March 30, 2008''.

(e) TECHNICAL CORRECTION.—Effective November 19, 2001, section 124(b) of the Aviation and Transportation Security Act (115 Stat. 631) is amended by striking ''to carry out foreign policy'' and inserting ''to carry out the foreign policy''.

Subtitle B—Passenger Facility Fees

SEC. 121. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT.

(a) IN GENERAL.—Section 40117(a)(3) is amended by inserting at the end the following:

''(G) A project for converting vehicles and ground support equipment used at a commercial service airport to low-emission technology (as defined in section 47102) or to use cleaner burning conventional fuels, retrofitting of any such vehicles or equipment that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology or use cleaner burning fuels if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139.''.

(b) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—Section 40117(b) is amended by adding at the end the following:

''(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility fee under this section for a project described in subsection (a)(3)(G) with respect to a vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.''.

(c) GROUND SUPPORT EQUIPMENT DEFINED.—Section 40117(a) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following:

''(4) GROUND SUPPORT EQUIPMENT.—The term 'ground support equipment' means service and maintenance equipment used at an airport to support aeronautical operations and related activities.''.

(d) GUIDANCE.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance determining eligibility of projects, and how benefits to air quality must be demonstrated, under the amendments made by this section.

SEC. 122. USE OF FEES TO PAY DEBT SERVICE.

Sections 40117(b) is further amended by adding at the end the following:

''(6) DEBT SERVICE FOR CERTAIN PROJECTS.—In addition to the uses specified in paragraphs (1) and (4), the Secretary may authorize a passenger facility fee imposed under paragraph (1) or (4) to be used for making payments for debt service on indebtedness incurred to carry out at the airport a project that is not an eligible airport-related project if the Secretary determines that such use is necessary due to the financial need of the airport.''.

SEC. 123. STREAMLINING OF THE PASSENGER FACILITY FEE PROGRAM.

(a) APPLICATION REQUIREMENTS.—Section 40117(c) is amended—

(1) by adding at the end of paragraph (2) the following:

''(E) The agency must include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).

''(F) For the purpose of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term 'significant business interest' means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.'';

(2) by redesignating paragraph (3) as paragraph (4);

(3) by inserting after paragraph (2) the following:

''(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

''(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies that may be affected. The public notice may include—

''(i) publication in local newspapers of general circulation;

''(ii) publication in other local media; and

''(iii) posting the notice on the agency's Internet website.

''(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

''(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B).''; and

(4) in the first sentence of paragraph (4) (as redesignated by paragraph (2) of this subsection) by striking ''shall'' and inserting ''may''.

(b) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—Section 40117 is amended by adding at the end the following:

''(l) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—

''(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility fees. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility fee under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

''(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

''(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee under this subsection. The notice shall include—

''(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility fee is sought;

''(B) the amount of revenue from passenger facility fees that is proposed to be collected for each project; and

''(C) the level of the passenger facility fee that is proposed.

''(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

''(5) AUTHORITY TO IMPOSE FEE.—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice under this subsection.

''(6) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

''(7) SUNSET.—This subsection shall cease to be effective beginning on the date that is 3 years after the date of issuance of regulations to carry out this subsection.

''(8) ACKNOWLEDGEMENT NOT AN ORDER.—An acknowledgement issued under paragraph (4) shall not be considered an order issued by the Secretary for purposes of section 46110.''.

(c) CLARIFICATION OF APPLICABILITY OF PFC'S TO MILITARY CHARTERS.—Section 40117(e)(2) is amended—

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

(2) by striking ''and'' at the end of subparagraph (D);

(3) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(4) by adding after subparagraph (E) the following:

''(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense.''.

(d) TECHNICAL AMENDMENTS.—Section 40117(a)(3)(C) is amended—

(1) by striking ''for costs'' and inserting ''A project for costs''; and

(2) by striking the semicolon and inserting a period.

(e) ELIGIBILITY OF AIRPORT GROUND ACCESS TRANSPORTATION PROJECTS.—Not later than 60 days after the enactment of this Act, the Administrator of the Federal Aviation Administration shall publish in the Federal Register the current policy of the Administration, consistent with current law, with respect to the eligibility of airport ground access transportation projects for the use of passenger facility fees under section 40117 of title 49, United States Code.

SEC. 124. FINANCIAL MANAGEMENT OF PASSENGER FACILITY FEES.

Section 40117 is further amended by adding at the end the following:

''(m) FINANCIAL MANAGEMENT OF FEES.—

''(1) HANDLING OF FEES.—A covered air carrier shall segregate in a separate account passenger facility revenue equal to the average monthly liability for fees collected under this section by such carrier or any of its agents for the benefit of the eligible agencies entitled to such revenue.

''(2) TRUST FUND STATUS.—If a covered air carrier or its agent fails to segregate passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

''(3) PROHIBITION.—A covered air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

''(4) COMPENSATION TO ELIGIBLE ENTITIES.—A covered air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

''(5) INTEREST ON AMOUNTS.—A covered air carrier that collects passenger facility fees is entitled to receive the interest on passenger facility fee accounts if the accounts are established and maintained in compliance with this subsection.

''(6) EXISTING REGULATIONS.—The provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility fees with other air carrier revenue shall not apply to a covered air carrier.

''(7) COVERED AIR CARRIER DEFINED.—In this section, the term 'covered air carrier' means an air carrier that files for chapter 7 or chapter 11 of title 11 bankruptcy protection, or has an involuntary chapter 7 of title 11 bankruptcy proceeding commenced against it, after the date of enactment of this subsection.''.

Subtitle C—AIP Modifications

SEC. 141. AIRFIELD PAVEMENT.

Section 47102(3)(H) is amended by inserting ''nonhub airports and'' before ''airports that are not primary airports''.

SEC. 142. REPLACEMENT OF BAGGAGE CONVEYOR SYSTEMS.

Section 47102(3)(B)(x) is amended by striking the period at the end and inserting the following: ''; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114.''.

SEC. 143. AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES.

Section 308 of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 44901 note; 110 Stat. 3253), and the item relating to such section in the table of contents contained in section 1(b) of that Act, are repealed.

SEC. 144. GRANT ASSURANCES.

(a) STATUTE OF LIMITATIONS..—Section 47107(l)(5)(A) is amended by inserting ''or any other governmental entity'' after ''sponsor''.

(b) AUDIT CERTIFICATION.—Section 47107(m) is amended—

(1) in paragraph (1) by striking ''promulgate regulations that'' and inserting ''include a provision in the compliance supplement provisions to'';

(2) in paragraph (1) by striking ''and opinion of the review''; and

(3) by striking paragraph (3).

SEC. 145. CLARIFICATION OF ALLOWABLE PROJECT COSTS.

Section 47110(b)(1) is amended by inserting before the semicolon at the end ''and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type''.

SEC. 146. APPORTIONMENTS TO PRIMARY AIRPORTS.

(a) IN GENERAL.—Section 47114(c)(1) is amended by adding at the end the following:

''(F) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal years 2004 and 2005 to the sponsor of the airport an amount equal to the amount apportioned to that sponsor in fiscal year 2002 or 2003, whichever amount is greater, if the Secretary finds that—

''(i) the passenger boardings at the airport were below 10,000 in calendar year 2002 or 2003;

''(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

''(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001.''.

(b) SPECIAL RULE FOR TRANSITIONING AIRPORTS.—Section 47114(f)(3) is amended—

(1) in the paragraph heading by striking ''AIRORTS'' and inserting ''AIRPORTS''; and

(2) in subparagraph (B) by striking ''fiscal years 2000 through 2003'' and inserting ''fiscal year 2004''.

SEC. 147. CARGO AIRPORTS.

Section 47114(c)(2) is amended—

(1) in the paragraph heading by striking ''ONLY''; and

(2) in subparagraph (A) by striking ''3 percent'' and inserting ''3.5 percent''.

SEC. 148. CONSIDERATIONS IN MAKING DISCRETIONARY GRANTS.

Section 47115(d) is amended to read as follows:

''(d) CONSIDERATIONS.—

''(1) FOR CAPACITY ENHANCEMENT PROJECTS.—In selecting a project for a grant to preserve and improve capacity funded in whole or in part from the fund, the Secretary shall consider—

''(A) the effect that the project will have on overall national transportation system capacity;

''(B) the benefit and cost of the project, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

''(C) the financial commitment from non-United States Government sources to preserve or improve airport capacity;

''(D) the airport improvement priorities of the States to the extent such priorities are not in conflict with subparagraphs (A) and (B);

''(E) the projected growth in the number of passengers or aircraft that will be using the airport at which the project will be carried out; and

''(F) the ability of the project to foster United States competitiveness in securing global air cargo activity at a United States airport.

''(2) FOR ALL PROJECTS.—In selecting a project for a grant under this section, the Secretary shall consider among other factors whether—

''(A) funding has been provided for all other projects qualifying for funding during the fiscal year under this chapter that have attained a higher score under the numerical priority system employed by the Secretary in administering the fund; and

''(B) the sponsor will be able to commence the work identified in the project application in the fiscal year in which the grant is made or within 6 months after the grant is made, whichever is later.''.

SEC. 149. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT APPORTIONMENTS.

(a) PROJECT GRANT AGREEMENTS.—Section 47108(a) is amended by inserting ''or 47114(d)(3)(A)'' after ''under section 47114(c)''.

(b) ALLOWABLE PROJECT COSTS.—Section 47110 is amended—

(1) in subsection (b)(2)(C) by striking ''of this title'' and inserting ''or section 47114(d)(3)(A)'';

(2) in subsection (g)—

(A) by inserting ''or section 47114(d)(3)(A)'' after ''of section 47114(c)''; and

(B) by striking ''of project'' and inserting ''of the project''; and

(3) by adding at the end the following:

''(h) NONPRIMARY AIRPORTS.—The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.''.

(c) WAIVER.—Section 47117(c)(2) is amended to read as follows:

''(2) WAIVER.—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under sections 47114(c) and 47114(d)(3)(A) if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.''.

(d) TERMINAL DEVELOPMENT COSTS.—Section 47119(b) is amended—

(1) by striking ''or'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; or''; and

(3) by adding at the end the following:

''(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under section 47110(d).''.

SEC. 150. USE OF APPORTIONED AMOUNTS.

The first sentence of section 47117(b) is amended by striking ''primary airport'' and all that follows through ''calendar year'' and inserting ''nonhub airport or any airport that is not a commercial service airport''.

SEC. 151. INCREASE IN APPORTIONMENT FOR, AND FLEXIBILITY OF, NOISE COMPATIBILITY PLANNING PROGRAMS.

Section 47117(e)(1)(A) is amended—

(1) by striking ''At least 34 percent'' and inserting ''At least 35 percent'';

(2) by striking ''of this title and'' and inserting a comma;

(3) by striking ''of this title.'' and inserting '', for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, and for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.).''; and

(4) by striking ''34 percent requirement'' and inserting ''35 percent requirement''.

SEC. 152. PILOT PROGRAM FOR PURCHASE OF AIRPORT DEVELOPMENT RIGHTS.

(a) IN GENERAL.—Subchapter I of chapter 471 is amended by adding at the end the following:

''§ 47138. Pilot program for purchase of airport development rights

''(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly affecting the use of, privately owned public use airports located in that State. Under the program, the Secretary may make a grant to a State or political subdivision of a State from funds apportioned under section 47114 for the purchase of such rights.

''(b) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the grant is made—

''(A) to enable the State or political subdivision to purchase development rights in order to ensure that the airport property will continue to be available for use as a public airport; and

''(B) subject to a requirement that the State or political subdivision acquire an easement or other appropriate covenant requiring that the airport shall remain a public use airport in perpetuity.

''(2) MATCHING REQUIREMENT.—The amount of a grant under the program may not exceed 90 percent of the costs of acquiring the development rights.

''(c) GRANT STANDARDS.—The Secretary shall prescribe standards for grants under subsection (a), including—

''(1) grant application and approval procedures; and

''(2) requirements for the content of the instrument recording the purchase of the development rights.

''(d) RELEASE OF PURCHASED RIGHTS AND COVENANT.—Any development rights purchased under the program shall remain the property of the State or political subdivision unless the Secretary approves the transfer or disposal of the development rights after making a determination that the transfer or disposal of that right is in the public interest.

''(e) LIMITATION.—The Secretary may not make a grant under the pilot program for the purchase of development rights at more than 10 airports.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 is amended by inserting after the item relating to section 47137 the following:

''47138. Pilot program for purchase of airport development rights.''.

SEC. 153. MILITARY AIRPORT PROGRAM.

Section 47118 is amended—

(1) in subsection (e) by striking ''Not more than $7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available'' and inserting ''From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004 and 2005, and $7,000,000 for each fiscal year thereafter, is available'';

(2) in subsection (f) by striking ''Not more than a total of $7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for fiscal years beginning after September 30, 1992, is available'' and inserting the following:

''(1) CONSTRUCTION.—From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004 and 2005, and $7,000,000 for each fiscal year thereafter, is available''; and

(3) by adding at the end of subsection (f) the following:

''(2) REIMBURSEMENT.—Upon approval of the Secretary, the sponsor of a current or former military airport the Secretary designates under this section may use an amount apportioned under section 47114, or made available under section 47115 or 47117(e)(1)(B), to the airport for reimbursement of costs incurred by the airport in fiscal years 2003 and 2004 for construction, improvement, or repair described in paragraph (1).''.

SEC. 154. AIRPORT SAFETY DATA COLLECTION.

Section 47130 is amended to read as follows:

''§ 47130. Airport safety data collection

''Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. In the event that a grant is provided under this section, the United States Government's share of the cost of the data collection shall be 100 percent.''.

SEC. 155. AIRPORT PRIVATIZATION PILOT PROGRAM.

(a) IN GENERAL.—Section 47134(b)(1) is amended—

(1) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

''(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

''(ii) in the case of a nonprimary airport, by the Secretary after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.'';

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

''(B) OBJECTION TO EXEMPTION.—An air carrier shall be deemed to have approved a sponsor's application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor's application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall not affect any application submitted before the date of enactment of this Act.

SEC. 156. INNOVATIVE FINANCING TECHNIQUES.

The first sentence of section 47135(a) is amended by inserting after ''approve'' the following: '', after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act,''.

SEC. 157. AIRPORT SECURITY PROGRAM.

Section 47137 is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

''(e) ADMINISTRATION.—The Secretary, in cooperation with the Secretary of Homeland Security, shall administer the program authorized by this section.''.

SEC. 158. EMISSION CREDITS FOR AIR QUALITY PROJECTS.

(a) EMISSIONS CREDIT.—Subchapter I of chapter 471 is further amended by adding at the end the following:

''§ 47139. Emission credits for air quality projects

''(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall issue guidance on how to ensure that airport sponsors receive appropriate emission reduction credits for carrying out projects described in sections 40117(a)(3)(G), 47102(3)(F), 47102(3)(K), and 47102(3)(L). Such guidance shall include, at a minimum, the following conditions:

''(1) The provision of credits is consistent with the Clean Air Act (42 U.S.C. 7402 et seq.).

''(2) Credits generated by the emissions reductions are kept by the airport sponsor and may only be used for purposes of any current or future general conformity determination under the Clean Air Act or as offsets under the Environmental Protection Agency's new source review program for projects on the airport or associated with the airport.

''(3) Credits are calculated and provided to airports on a consistent basis nationwide.

''(4) Credits are provided to airport sponsors in a timely manner.

''(5) The establishment of a method to assure the Secretary that, for any specific airport project for which funding is being requested, the appropriate credits will be granted.

''(b) ASSURANCE OF RECEIPT OF CREDITS.—As a condition for making a grant for a project described in section 47102(3)(F), 47102(3)(K), 47102(3)(L), or 47140 or as a condition for granting approval to collect or use a passenger facility fee for a project described in section 40117(a)(3)(G), 47103(3)(F), 47102(3)(K), 47102(3)(L), or 47140, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.

''(c) PREVIOUSLY APPROVED PROJECTS.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall determine how to provide appropriate emissions credits to airport projects previously approved under section 47136 consistent with the guidance and conditions specified in subsection (a).

''(d) STATE AUTHORITY UNDER CAA.—Nothing in this section shall be construed as overriding existing State law or regulation pursuant to section 116 of the Clean Air Act (42 U.S.C. 7416).''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 is further amended by inserting after the item relating to section 47138 the following:

''47139. Emission credits for air quality projects.''.

SEC. 159. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE.

(a) AIRPORT GROUND SUPPORT EQUIPMENT EMISSIONS RETROFIT PILOT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

''§ 47140. Airport ground support equipment emissions retrofit pilot program

''(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount made available under section 48103 to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

''(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.—A commercial service airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a).

''(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

''(d) MAXIMUM AMOUNT.—Not more than $500,000 may be expended under the pilot program at any single commercial service airport.

''(e) GUIDELINES.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under the pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

''(f) ELIGIBLE EQUIPMENT DEFINED.—In this section, the term 'eligible equipment' means ground service or maintenance equipment that is located at the airport, is used to support aeronautical and related activities at the airport, and will remain in operation at the airport for the life or useful life of the equipment, whichever is earlier.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 471 is further amended by inserting after the item relating to section 47139 the following:

''47140. Airport ground support equipment emissions retrofit pilot program.''.

(b) ACTIVITIES ADDED TO DEFINITION OF AIRPORT DEVELOPMENT.—

(1) IN GENERAL.—Section 47102(3) is amended—

(A) by striking subparagraphs (J), (K), and (L) and redesignating subparagraph (M) as subparagraph (J); and

(B) by adding at the end the following:

''(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a) and if such project will result in an airport receiving appropriate emission credits, as described in section 47139.

''(L) a project for the acquisition or conversion of vehicles and ground support equipment, owned by a commercial service airport, to low-emission technology, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139.''.

(2) GUIDANCE.—

(A) ELIGIBLE LOW-EMISSION MODIFICATIONS AND IMPROVEMENTS.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission modifications and improvements, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(K) of title 49, United States Code, as added by this subsection.

(B) ELIGIBLE LOW-EMISSION VEHICLE TECHNOLOGY.—The Secretary, in consultation with the Administrator, shall issue guidance describing eligible low-emission vehicle technology, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(L) of title 49, United States Code, as added by this subsection.

(c) ALLOWABLE PROJECT COST.—Section 47110(b) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(3) by adding at the end the following:

''(6) if the cost is for a project not described in section 47102(3) for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that include low-emission technology, but only to the extent of the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary.''.

(d) LOW-EMISSION TECHNOLOGY EQUIPMENT.—Section 47102 (as amended by section 801 of this Act) is further amended by inserting after paragraph (10) the following:

''(11) 'low-emission technology' means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially nonpetroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.''.

SEC. 160. COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

''§ 47141. Compatible land use planning and projects by State and local governments

''(a) IN GENERAL.—The Secretary of Transportation may make grants, from amounts set aside under section 47117(e)(1)(A), to States and units of local government for development and implementation of land use compatibility plans and implementation of land use compatibility projects resulting from those plans for the purposes of making the use of land areas around large hub airports and medium hub airports compatible with aircraft operations. The Secretary may make a grant under this section for a land use compatibility plan or a project resulting from such plan only if—

''(1) the airport operator has not submitted a noise compatibility program to the Secretary under section 47504 or has not updated such program within the preceding 10 years; and

''(2) the land use plan or project meets the requirements of this section.

''(b) ELIGIBILITY.—In order to receive a grant under this section, a State or unit of local government must—

''(1) have the authority to plan and adopt land use control measures, including zoning, in the planning area in and around a large or medium hub airport;

''(2) enter into an agreement with the airport owner or operator that the development of the land use compatibility plan will be done cooperatively; and

''(3) provide written assurance to the Secretary that it will achieve, to the maximum extent possible, compatible land uses consistent with Federal land use compatibility criteria under section 47502(3) and that those compatible land uses will be maintained.

''(c) ASSURANCES.—The Secretary shall require a State or unit of local government to which a grant may be made under this section for a land use plan or a project resulting from such plan to provide—

''(1) assurances satisfactory to the Secretary that the plan—

''(A) is reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses;

''(B) addresses ways to achieve and maintain compatible land uses, including zoning, building codes, and any other land use compatibility measures under section 47504(a)(2) that are within the authority of the State or unit of local government to implement;

''(C) uses noise contours provided by the airport operator that are consistent with the airport operation and planning, including any

noise abatement measures adopted by the airport operator as part of its own noise mitigation efforts;

''(D) does not duplicate, and is not inconsistent with, the airport operator's noise compatibility measures for the same area; and

''(E) has been approved jointly by the airport owner or operator and the State or unit of local government; and

''(2) such other assurances as the Secretary determines to be necessary to carry out this section.

''(d) GUIDELINES.—The Secretary shall establish guidelines to administer this section in accordance with the purposes and conditions described in this section. The Secretary may require a State or unit of local government to which a grant may be made under this section to provide progress reports and other information as the Secretary determines to be necessary to carry out this section.

''(e) ELIGIBLE PROJECTS.—The Secretary may approve a grant under this section to a State or unit of local government for a project resulting from a land use compatibility plan only if the Secretary is satisfied that the project is consistent with the guidelines established by the Secretary under this section, the State or unit of local government has provided the assurances required by this section, the State or unit of local government has implemented (or has made provision to implement) those elements of the plan that are not eligible for Federal financial assistance, and that the project is not inconsistent with applicable Federal Aviation Administration standards.

''(f) SUNSET.—This section shall not be in effect after September 30, 2007.''.

(b) CONFORMING AMENDMENT.—The analysis of subchapter I of chapter 471 is further amended by adding at the end the following:

''47141. Compatible land use planning and projects by State and local governments.''.

SEC. 161. TEMPORARY INCREASE IN GOVERNMENT SHARE OF CERTAIN AIP PROJECT COSTS.

Notwithstanding section 47109(a) of title 49, United States Code, the Government's share of allowable project costs for a grant made in each of fiscal years 2004 through 2007 under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.

SEC. 162. SHARE OF AIRPORT PROJECT COSTS.

(a) IN GENERAL.—Section 47109 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) GRANDFATHER RULE.—

''(1) IN GENERAL.—In the case of any project approved after September 30, 2003, at a small hub airport or nonhub airport that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, the Government's share of allowable costs of the project shall be increased by the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979. This subsection shall apply only if—

''(A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and

''(B) the application under subsection (b), does not increase the Government's share of allowable costs of the project.

''(2) LIMITATION.—The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b).''.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 47109 is amended by striking ''Except as provided in subsection (b)'' and inserting ''Except as provided in subsection (b) or subsection (c)''.

SEC. 163. FEDERAL SHARE FOR PRIVATE OWNERSHIP OF AIRPORTS.

Section 47109(a)(4) is amended by striking ''40 percent'' and inserting ''70 percent''.

SEC. 164. DISPOSITION OF LAND ACQUIRED FOR NOISE COMPATIBILITY PURPOSES.

Section 47107(c)(2)(A)(iii) is amended by inserting before the semicolon at the end the following: '', including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program''.

SEC. 165. HANGAR CONSTRUCTION GRANT ASSURANCE.

Section 47107(a) is amended—

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

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

(3) by adding at the end the following:

''(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.''.

SEC. 166. TERMINAL DEVELOPMENT COSTS.

Section 47119(a) is amended to read as follows:

''(a) REPAYING BORROWED MONEY.—

''(1) TERMINAL DEVELOPMENT COSTS INCURRED AFTER JUNE 30, 1970, AND BEFORE JULY 12, 1976.—An amount apportioned under section 47114 and made available to the sponsor of a commercial service airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d) if they had been incurred after September 3, 1982.

''(2) TERMINAL DEVELOPMENT COSTS INCURRED BETWEEN JANUARY 1, 1992, AND OCTOBER 31, 1992.—An amount apportioned under section 47114 and made available to the sponsor of a nonhub airport at which terminal development was carried out between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

''(3) TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

''(A) that was a nonhub airport in the most recent year used to calculate apportionments under section 47114;

''(B) that is a designated airport under section 47118 in fiscal year 2003; and

''(C) at which terminal development is carried out between January 2003 and August 2004,

is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

''(4) CONDITIONS FOR GRANT.—An amount is available for a grant under this subsection only if—

''(A) the sponsor submits the certification required under section 47110(d);

''(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

''(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 1 year beginning on the date the grant is used to repay the borrowed money.

''(5) APPLICABILITY OF CERTAIN LIMITATIONS.—A grant under this subsection shall be subject to the limitations in subsection (b)(1) and (2).''.

Subtitle D—Miscellaneous

SEC. 181. DESIGN-BUILD CONTRACTING.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

''§47142. Design-build contracting

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if—

''(1) the Administrator approves the application using criteria established by the Administrator;

''(2) the design-build contract is in a form that is approved by the Administrator;

''(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

''(4) use of a design-build contract will be cost effective and expedite the project;

''(5) the Administrator is satisfied that there will be no conflict of interest; and

''(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least 3 or more bids will be submitted for each project under the selection process.

''(b) REIMBURSEMENT OF COSTS.—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under this chapter if the project were carried out after a grant agreement had been executed.

''(c) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term 'design-build contract' means an agreement that provides for both design and construction of a project by a contractor.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 is further amended by inserting after the item relating to section 47141 the following:

''47142. Design-build contracting.''.

SEC. 182. PILOT PROGRAM FOR INNOVATIVE FINANCING OF AIR TRAFFIC CONTROL EQUIPMENT.

(a) IN GENERAL.—In order to test the cost effectiveness and feasibility of long-term financing of modernization of major air traffic control systems, the Administrator of the Federal Aviation Administration may establish a pilot program to test innovative financing techniques through amending, subject to section 1341 of title 31, United States Code, a contract for more than one, but not more than 20, fiscal years to purchase and install air traffic control equipment for the Administration. Such amendments may be for more than one, but not more than 10, fiscal years.

(b) CANCELLATION.—A contract described in subsection (a) may include a cancellation provision if the Administrator determines that such a provision is necessary and in the best interest of the United States. Any such provision shall include a cancellation liability schedule that covers reasonable and allocable costs incurred by

the contractor through the date of cancellation plus reasonable profit, if any, on those costs. Any such provision shall not apply if the contract is terminated by default of the contractor.

(c) CONTRACT PROVISIONS.—If feasible and practicable for the pilot program, the Administrator may make an advance contract provision to achieve economic-lot purchases and more efficient production rates.

(d) LIMITATION.—The Administrator may not amend a contract under this section until the program for the terminal automation replacement systems has been rebaselined in accordance with the acquisition management system of the Administration.

(e) ANNUAL REPORTS.—At the end of each fiscal year during the term of the pilot program, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on how the Administrator has implemented in such fiscal year the pilot program, the number and types of contracts or contract amendments that are entered into under the program, and the program's cost effectiveness.

(f) FUNDING.—Out of amounts appropriated under section 48101 for fiscal year 2004, such sums as may be necessary shall be available to carry out this section.

SEC. 183. COST SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS.

(a) IN GENERAL.—Chapter 445 is amended by adding at the end the following:

''§ 44517. Program to permit cost sharing of air traffic modernization projects

''(a) IN GENERAL.—Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation's air transportation system by encouraging non-Federal investment in critical air traffic control equipment and software.

''(b) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117.

''(c) LIMITATION ON GRANT AMOUNTS.—No eligible project may receive more than $5,000,000 in Federal funds under the program.

''(d) FUNDING.—The Secretary shall use amounts appropriated under section 48101(a) to carry out the program.

''(e) DEFINITIONS.—In this section, the following definitions apply:

''(1) ELIGIBLE PROJECT.—The term 'eligible project' means a project to purchase equipment or software relating to the Nation's air traffic control system that is certified or approved by the Administrator of the Federal Aviation Administration and that promotes safety, efficiency, or mobility. Such projects may include—

''(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landing systems, weather and wind shear detection equipment, and lighting improvements;

''(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

''(C) equipment and software that enhance airspace control procedures or assist in en route surveillance, including oceanic and offshore flight tracking.

''(2) PROJECT SPONSOR.—The term 'project sponsor' means any major user of the national airspace system, as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more air carriers.

''(f) TRANSFERS OF EQUIPMENT.—Notwithstanding any other provision of law, and upon agreement by the Administrator, a project sponsor may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, or automation tools, the purchase of which was assisted by a grant made under this section, if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

''(g) GUIDELINES.—The Administrator shall issue advisory guidelines on the implementation of the program. The guidelines shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 445 is amended by adding at the end the following:

''44517. Program to permit cost sharing of air traffic modernization projects.''.

SEC. 184. FACILITIES AND EQUIPMENT REPORTS.

(a) BIANNUAL REPORTS.—Beginning 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure every 6 months that describes—

(1) the 10 largest programs funded under section 48101(a) of title 49, United States Code;

(2) any changes in the budget for such programs;

(3) the program schedule; and

(4) technical risks associated with the programs.

(b) SUNSET PROVISION.—This section shall cease to be effective beginning on the date that is 4 years after the date of enactment of this Act.

SEC. 185. CIVIL PENALTY FOR PERMANENT CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

''§ 46319. Permanent closure of an airport without providing sufficient notice

''(a) PROHIBITION.—A public agency (as defined in section 47102) may not permanently close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

''(b) PUBLICATION OF NOTICE.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

''(c) CIVIL PENALTY.—A public agency violating subsection (a) shall be liable for a civil penalty of $10,000 for each day that the airport remains closed without having given the notice required by this section.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 463 is amended by adding at the end the following:

''46319. Permanent closure of an airport without providing sufficient notice.''.

SEC. 186. MIDWAY ISLAND AIRPORT.

(a) FINDINGS.—Congress finds that the continued operation of the Midway Island Airport in accordance with the standards of the Federal Aviation Administration applicable to commercial airports is critical to the safety of commercial, military, and general aviation in the mid-Pacific Ocean region.

(b) MEMORANDUM OF UNDERSTANDING ON SALE OF AIRCRAFT FUEL.—The Secretaries of Transportation, Defense, Interior, and Homeland Security shall enter into a memorandum of understanding to facilitate the sale of aircraft fuel on Midway Island at a price that will generate sufficient revenue to improve the ability of the airport to operate on a self-sustaining basis in accordance with the standards of the Federal Aviation Administration applicable to commercial airports. The memorandum shall also address the long-range potential of promoting tourism as a means to generate revenue to operate the airport.

(c) TRANSFER OF NAVIGATION AIDS AT MIDWAY ISLAND AIRPORT.—The Midway Island Airport may transfer, without consideration, to the Administrator the navigation aids at the airport. The Administrator shall accept the navigation aids and operate and maintain the navigation aids under criteria of the Administrator.

(d) FUNDING TO SECRETARY OF THE INTERIOR FOR MIDWAY ISLAND AIRPORT.—The Secretary of Transportation may enter into a reimbursable agreement with the Secretary of the Interior for the purpose of funding airport development, as defined in section 47102(3) of title 49, United States Code, at Midway Island Airport for fiscal years ending before October 1, 2007, from amounts available in the discretionary fund established by section 47115 of such title. The maximum obligation under the agreement for any such fiscal year shall be $2,500,000.

SEC. 187. INTERMODAL PLANNING.

Section 47106(c)(1)(A) is amended—

(1) by striking ''and'' at the end of clause (i);

(2) by adding ''and'' at the end of clause (ii); and

(3) by adding at the end the following:

''(iii) with respect to an airport development project involving the location of an airport, runway, or major runway extension at a medium or large hub airport, the airport sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted;''.

SEC. 188. MARSHALL ISLANDS, MICRONESIA, AND PALAU.

Section 47115 is amended by adding at the end the following:

''(j) MARSHALL ISLANDS, MICRONESIA, AND PALAU.—For fiscal years 2004 through 2007, the sponsors of airports located in the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau shall be eligible for grants under this section and section 47116.''.

SEC. 189. LIMITATION ON APPROVAL OF CERTAIN PROGRAMS.

Section 47504(b) is amended by adding at the end the following:

''(4) The Secretary shall not approve in fiscal years 2004 through 2007 a program submitted under subsection (a) if the program requires the expenditure of funds made available under section 48103 for mitigation of aircraft noise less than 65 DNL.''.

SEC. 190. CONVEYANCE OF AIRPORT.

(a) OFFER OF CONVEYANCE.—Subject to the requirements of this section, the Chaluka Corporation is hereby offered ownership of the surface estate in the former Nikolski Radio Relay Site on Umnak Island, Alaska, and the Aleut Corporation is hereby offered the subsurface estate of that Site, in exchange for relinquishment by the Chaluka Corporation and the Aleut Corporation of Lot 1, Section 14, Township 81 South, Range 133 West, Seward Meridian, Alaska.

(b) ACCEPTANCE AND RELINQUISHMENT.—

(1) IN GENERAL.—The Secretary of the Interior shall convey the land as provided in subsection (c) if the Chaluka Corporation and the Aleut Corporation take the actions specified in paragraphs (2) and (3), respectively.

(2) CHALUKA CORPORATION.—As a condition for conveyance under subsection (c), the Chaluka Corporation shall notify the Secretary of the Interior within 180 days after the date of enactment of this Act that, by means of a legally binding resolution of the Board of Directors, the Chaluka Corporation—

(A) accepts the offer under subsection (a);

(B) confirms that the area surveyed by the Bureau of Land Management for the purpose of

fulfilling the Chaluka Corporation's final entitlements under sections 12(a) and 12(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a) and (b)), identified as Group Survey Number 773, accurately represents the Chaluka Corporation's final, irrevocable Alaska Native Claims Settlement Act priorities and entitlements unless any tract in Group Survey Number 773 is ultimately not conveyed as the result of an appeal; and

(C) relinquishes Lot 1, Section 14, Township 81 South, Range 133 West, Seward Meridian, Alaska, which will be charged against the Chaluka Corporation's final entitlement under section 12(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(b)).

(3) ALEUT CORPORATION.—As a condition for the conveyance under subsection (c), the Aleut Corporation shall notify the Secretary of the Interior within 180 days after the date of enactment of this Act that, by means of a legally binding resolution of the Board of Directors, accompanied by the written legal opinion of counsel as to the legal sufficiency of the Board of Directors' action, the Aleut Corporation—

(A) accepts the offer under subsection (a); and

(B) relinquishes all rights to Lot 1, Section 14, Township 81 South, Range 133 West, Seward Meridian, Alaska.

(c) REQUIREMENT TO CONVEY.—

(1) CONVEYANCE.—Notwithstanding the existence of Public Land Order 2374, upon receipt from the Chaluka Corporation and from the Aleut Corporation of their acceptances made in accordance with the requirements of subsections (b)(2) and (b)(3), respectively, of the offer under subsection (a), the Secretary of the Interior shall convey to the Chaluka Corporation the surface estate, and to the Aleut Corporation the subsurface estate, of—

(A) Phase I lands as soon as practicable; and

(B) each parcel of Phase II lands upon completion of environmental restoration of Phase II lands in accordance with applicable law.

(2) PHASE I LIABILITY LIMIT.—Notwithstanding section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), neither the Chaluka Corporation nor the Aleut Corporation shall be subject to any liability for—

(A) the presence or release of a hazardous substance, as that term is defined by section 101(14) of that Act (16 U.S.C. 9601(14)), on Phase I lands or the presence of solid waste on Phase I lands, which predates conveyance of those lands to the Chaluka Corporation and the Aleut Corporation pursuant to this section; or

(B) any release, from any of the hazardous substances or solid wastes referred to in subparagraph (A), following conveyance of Phase I lands under this section, so long as the presence of or releases from those hazardous substances or solid wastes are not the result of actions by the Chaluka Corporation or the Aleut Corporation.

(3) CONTINUED ACCESS OVER HILL AND BEACH STREETS.—The surface estate conveyed under paragraph (1) shall be subject to the public's right of access over Hill and Beach Streets, located on Tract B of United States Survey 4904.

(d) TREATMENT AS ANCSA LANDS.—Conveyances made under subsection (c) shall be considered to be conveyances under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), and are subject to the provisions of that Act except sections 14(c)(3), 14(c)(4), and 17(b)(3) (43 U.S.C. 1613(c)(3), 1613(c)(4), and 1616(b)(3)).

(e) AUTHORITY TO CONVEY CERTAIN OTHER LANDS.—The Secretary of the Interior shall at no cost to the recipient convey ownership of—

(1) an estate in fee simple in—

(A) each of Lots 1, 2, 5, 6, and 9 of Tract B of Amended United States Survey 4904 that is the subject of an Aleutian Housing Authority mutual help occupancy agreement, to the Aleutian Housing Authority; and

(B) the remainder of such Lots to the current occupants; and

(2) an estate in fee simple in the Nikolski powerhouse land, to—

(A) the Indian Reorganization Act Tribal Government for the Native Village of Nikolski, upon completion of the environmental restoration described in subsection (f), if after the restoration the powerhouse continues to be located on the Nikolski powerhouse land; or

(B) the surface estate to the Chaluka Corporation and the subsurface estate to the Aleut Corporation, if after the restoration, the Nikolski powerhouse is no longer located on the Nikolski powerhouse land.

(f) RESTORATION OF POWERHOUSE LAND.—The Denali Commission, in consultation with the appropriate agency of the State of Alaska, is authorized to arrange for environmental restoration, in accordance with applicable law, of the areas on, beneath, and adjacent to the Nikolski powerhouse land that are contaminated as a result of powerhouse operations and activities.

(g) ACCESS.—As a condition of the conveyance of land under subsection (c), the Chaluka Corporation shall permit the United States Government, and its agents, employees, and contractors, to have unrestricted access to the airfield at Nikolski in perpetuity for site investigation, restoration, remediation, and environmental monitoring of the former Nikolski Radio Relay Site and reasonable access to that airfield, and to other land conveyed under this section, for any activity associated with management of lands owned by the United States and for other governmental purposes without cost to the Government.

(h) SURVEY REQUIREMENTS.—

(1) BLM SURVEYS.—The Bureau of Land Management is not required to conduct additional on-the-ground surveys as a result of conveyances under this section. The patent to the Chaluka Corporation may be based on protracted section lines and lotting where relinquishment under subsection (b)(2)(C) results in a change to the Chaluka Corporation's final boundaries.

(2) MONUMENTATION.—No additional monumentation is required to complete those final boundaries.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) FEDERAL AGENCIES.—There is authorized to be appropriated to the Department of the Interior and other appropriate agencies such sums as are necessary to carry out the provisions of this section.

(2) POWERHOUSE LAND RESTORATION.—There is authorized to be appropriated $1,500,000 to reimburse the appropriate State of Alaska agency for costs required for environmental restoration of the Nikolski powerhouse land, in accordance with applicable law.

(j) TERMINATION.—This section shall cease to be effective if either the Chaluka Corporation or the Aleut Corporation affirmatively rejects the offer under subsection (a) or if after 180 days following the date of enactment of this Act either corporation has not taken the actions specified in subsection (b)(2) or (b)(3), respectively.

(k) DEFINITIONS.—In this section, the following definitions apply:

(1) The term ''Aleut Corporation'' means the regional corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for the region in which the Native Village of Nikolski, Alaska, is located.

(2) The term ''Chaluka Corporation'' means the village corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for the Native Village of Nikolski, Alaska.

(3) The term ''former Nikolski Radio Relay Site'' means the portions of Tracts A, B, and C of Public Land Order 2374 that are surveyed as Tracts 37, 37A, 38, 39, and 39A of Township 83 South, Range 136 West, Seward Meridian, Alaska, and Tract B of United States Survey 4904, Alaska, except—

(A) Lots 1, 2, 5, 6, and 9 of Tract B of Amended United States Survey 4904; and

(B) the Nikolski powerhouse land.

(4) The term ''Nikolski powerhouse land'' means the parcel of land upon which is located the power generation building for supplying power to the Native Village of Nikolski, the boundaries of which are described generally as follows: Beginning at the point at which the southerly boundary of Tract 39 of Township 83 South, Range 136 West, Seward Meridian, Alaska, intersects the easterly boundary of the road that connects the Native Village of Nikolski and the airfield at Nikolski; then meandering in a northeasterly direction along the easterly boundary of that road until the road intersects the westerly boundary of the road that connects Umnak Lake and the airfield; then meandering in a southerly direction along the western boundary of that Umnak Lake road until that western boundary intersects the southern boundary of such Tract 39; then proceeding eastward along the southern boundary of such Tract 39 to the beginning point.

(5) The term ''Phase I lands'' means Tract 39 of Township 83 South, Range 136 West, Seward Meridian, excluding the Nikolski powerhouse land.

(6) The term ''Phase II lands'' means the portion of the former Nikolski Radio Relay Site not conveyed as Phase I lands.

TITLE II—FAA ORGANIZATION

Subtitle A—FAA Reform

SEC. 201. MANAGEMENT ADVISORY COMMITTEE MEMBERS.

Section 106(p) is amended—

(1) in the subsection heading by inserting ''AND AIR TRAFFIC SERVICES BOARD'' after ''COUNCIL''; and

(2) in paragraph (2)—

(A) by striking ''consist of'' and all that follows through ''members, who'' and inserting ''consist of 13 members, who'';

(B) by inserting after ''Senate'' in subparagraph (C)(i) '', except that initial appointments made after May 1, 2003, shall be made by the Secretary of Transportation'';

(C) by striking the semicolon at the end of subparagraph (C)(ii) and inserting ''; and''; and

(D) by striking ''employees, by—'' in subparagraph (D) and all that follows through the period at the end of subparagraph (E) and inserting ''employees, by the Secretary of Transportation.''.

SEC. 202. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE.

Section 106(p) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) QUALIFICATIONS.—No officer or employee of the United States Government may be appointed to the Council under paragraph (2)(C) or to the Air Traffic Services Committee.'';

(2) in paragraph (4)(C) by inserting ''or Air Traffic Services Committee'' after ''Council'' each place it appears;

(3) in paragraph (5) by inserting '', the Air Traffic Services Committee,'' after ''Council'';

(4) in paragraph (6)(C)—

(A) by striking ''SUBCOMMITTEE'' in the subparagraph heading and inserting ''COMMITTEE'';

(B) by striking ''member'' and inserting ''members'';

(C) by striking ''under paragraph (2)(E)'' the first place it appears and inserting ''to the Air Traffic Services Committee''; and

(D) by striking ''of the members first'' and all that follows through the period at the end and inserting ''the first members of the Committee shall be the members of the Air Traffic Services Subcommittee of the Council on the day before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act who shall serve in an advisory capacity until such time as the President appoints the members of the Committee under paragraph (7).'';

(5) in paragraph (6)(D) by striking ''under paragraph (2)(E)'' and inserting ''to the Committee'';

(6) in paragraph (6)(E) by inserting ''or Committee'' after ''Council'';

(7) in paragraph (6)(F) by inserting ''of the Council or Committee'' after ''member'';

(8) in the second sentence of subparagraph (6)(G)—

(A) by striking ''Council'' and inserting ''Committee''; and

(B) by striking ''appointed under paragraph (2)(E)'';

(9) in paragraph (6)(H)—

(A) by striking ''SUBCOMMITTEE'' in the subparagraph heading and inserting ''COMMITTEE'';

(B) by striking ''under paragraph (2)(E)'' in clause (i) and inserting ''to the Committee''; and

(C) by striking ''Air Traffic Services Subcommittee'' and inserting ''Committee'';

(10) in paragraph (6)(I)(i)—

(A) by striking ''appointed under paragraph (2)(E) is'' and inserting ''is serving as''; and

(B) by striking ''Subcommittee'' and inserting ''Committee'';

(11) in paragraph (6)(I)(ii)—

(A) by striking ''appointed under paragraph (2)(E)'' and inserting ''who is a member of the Committee''; and

(B) by striking ''Subcommittee'' and inserting ''Committee'';

(12) in paragraph (6)(K) by inserting ''or Committee'' after ''Council'';

(13) in paragraph (6)(L) by inserting ''or Committee'' after ''Council'' each place it appears; and

(14) in paragraph (7)—

(A) by striking ''SUBCOMMITTEE'' in the paragraph heading and inserting ''COMMITTEE'';

(B) by striking subparagraph (A) and inserting the following:

''(A) ESTABLISHMENT.—The Administrator shall establish a committee that is independent of the Council by converting the Air Traffic Services Subcommittee of the Council, as in effect on the day before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, into such committee. The committee shall be known as the Air Traffic Services Committee (in this subsection referred to as the 'Committee').'';

(C) by redesignating subparagraphs (B) through (F) as subparagraphs (D) through (H), respectively;

(D) by inserting after subparagraph (A) the following:

''(B) MEMBERSHIP AND QUALIFICATIONS.—Subject to paragraph (6)(C), the Committee shall consist of five members, one of whom shall be the Administrator and shall serve as chairperson. The remaining members shall be appointed by the President with the advice and consent of the Senate and—

''(i) shall have a fiduciary responsibility to represent the public interest;

''(ii) shall be citizens of the United States; and

''(iii) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in all of the following areas:

''(I) Management of large service organizations.

''(II) Customer service.

''(III) Management of large procurements.

''(IV) Information and communications technology.

''(V) Organizational development.

''(VI) Labor relations.

''(C) PROHIBITIONS ON MEMBERS OF COMMITTEE.—No member of the Committee may—

''(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

''(ii) engage in another business related to aviation or aeronautics; or

''(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.'';

(E) by striking ''Subcommittee'' each place it appears in subparagraphs (D) and (E) (as redesignated by subparagraph (C) of this paragraph) and inserting ''Committee'';

(F) by striking ''approve'' in subparagraph (E)(v)(I) (as so redesignated) and inserting ''make recommendations on'';

(G) by striking ''request'' in subparagraph (E)(v)(II) (as so redesignated) and inserting ''recommendations'';

(H) by striking ''ensure that the budget request supports'' in subparagraph (E)(v)(III) (as so redesignated) and inserting ''base such budget recommendations on'';

(I) by striking ''The Secretary shall submit'' in subparagraph (E) (as so redesignated) and all that follows through the period at the end of such subparagraph (E);

(J) by striking subparagraph (F) (as so redesignated) and inserting the following:

''(F) COMMITTEE PERSONNEL MATTERS AND EXPENSES.—

''(i) PERSONNEL MATTERS.—The Committee may appoint and terminate for purposes of employment by the Committee any personnel that may be necessary to enable the Committee to perform its duties, and may procure temporary and intermittent services under section 40122.

''(ii) TRAVEL EXPENSES.—Each member of the Committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.'';

(K) in subparagraph (G) (as so redesignated)—

(i) by striking clause (i);

(ii) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

(iii) by striking ''Subcommittee'' each place it appears in clauses (i), (ii), and (iii) (as so redesignated) and inserting ''Committee'';

(L) in subparagraph (H) (as so redesignated)—

(i) by striking ''Subcommittee'' each place it appears and inserting ''Committee'';

(ii) by striking ''Administrator, the Council'' each place it appears in clauses (i) and (ii) and inserting ''Secretary''; and

(iii) in clause (ii) by striking ''(B)(i)'' and inserting ''(D)(i)''; and

(M) by adding at the end the following:

''(I) AUTHORIZATION.—There are authorized to be appropriated to the Committee such sums as may be necessary for the Committee to carry out its activities.''.

SEC. 203. CLARIFICATION OF THE RESPONSIBILITIES OF THE CHIEF OPERATING OFFICER.

Section 106(r) is amended—

(1) in each of paragraphs (1)(A) and (2)(A) by striking ''Air Traffic Services Subcommittee of the Aviation Management Advisory Council'' and inserting ''Air Traffic Services Committee'';

(2) in paragraph (2)(B) by inserting ''in'' before ''paragraph (3).'';

(3) in paragraph (3) by striking ''Air Traffic Control Subcommittee of the Aviation Management Advisory Committee'' and inserting ''Air Traffic Services Committee'';

(4) in paragraph (4) by striking ''Transportation and Congress'' and inserting ''Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate'';

(5) in paragraph (5)(A)—

(A) by striking ''develop a'' and inserting ''implement the''; and

(B) by striking '', including the establishment of'' and inserting ''in order to further'';

(6) in paragraph (5)(B)—

(A) by striking ''review'' and all that follows through ''Administration,'' and inserting ''oversee the day-to-day operational functions of the Administration for air traffic control,'';

(B) by striking ''and'' at the end of clause (ii);

(C) by striking the period at the end of clause (iii) and inserting ''; and''; and

(D) by adding at the end the following:

''(iv) the management of cost-reimbursable contracts.'';

(7) in paragraph (5)(C)(i) by striking ''prepared by the Administrator'';

(8) in paragraph (5)(C)(ii) by striking ''and the Secretary of Transportation'' and inserting ''and the Committee''; and

(9) in paragraph (5)(C)(iii)—

(A) by inserting ''agency's'' before ''annual''; and

(B) by striking ''developed under subparagraph (A) of this subsection.'' and inserting ''for air traffic control services.''.

SEC. 204. DEPUTY ADMINISTRATOR.

Section 106(d) is amended—

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

(2) by inserting after paragraph (1) the following:

''(2) The annual rate of basic pay of the Deputy Administrator shall be set by the Secretary but shall not exceed the annual rate of basic pay payable to the Administrator of the Federal Aviation Administration.''.

Subtitle B—Miscellaneous

SEC. 221. CONTROLLER STAFFING.

(a) ANNUAL REPORT.—Beginning with the submission of the Budget of the United States to the Congress for fiscal year 2005, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that describes the overall air traffic controller staffing plan, including strategies to address anticipated retirement and replacement of air traffic controllers.

(b) HUMAN CAPITAL WORKFORCE STRATEGY.—

(1) DEVELOPMENT.—The Administrator shall develop a comprehensive human capital workforce strategy to determine the most effective method for addressing the need for more air traffic controllers that is identified in the June 2002 report of the General Accounting Office.

(2) COMPLETION DATE.—Not later than 1 year after the date of enactment of this Act, the Administrator shall complete development of the strategy.

(3) REPORT.—Not later than 30 days after the date on which the strategy is completed, the Administrator shall transmit to Congress a report describing the strategy.

SEC. 222. WHISTLEBLOWER PROTECTION UNDER ACQUISITION MANAGEMENT SYSTEM.

Section 40110(d)(2)(C) is amended by striking ''355).'' and inserting ''355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system, the term 'executive agency' is deemed to refer to the Federal Aviation Administration.''.

SEC. 223. FAA PURCHASE CARDS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall take appropriate actions to implement the recommendations contained in the report of the General Accounting Office entitled ''FAA Purchase Cards: Weak Controls Resulted in Instances of Improper and Wasteful Purchases and Missing Assets'', numbered GAO–03–405 and dated March 21, 2003.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to Congress a report containing a description of the actions taken by the Administrator under this section.

SEC. 224. PROCUREMENT.

(a) DUTIES AND POWERS.—Section 40110(c) is amended—

(1) by striking ''Administration—'' and all that follows through ''(2) may—'' and inserting ''Administration may—'';

(2) by striking subparagraph (D);

(3) by redesignating subparagraphs (A), (B), (C), (E), and (F) as paragraphs (1), (2), (3), (4), and (5), respectively; and

(4) by moving such paragraphs (1) through (5) 2 ems to the left.

(b) ACQUISITION MANAGEMENT SYSTEM.—Section 40110(d) is amended—

(1) in paragraph (1)—

(A) by striking '', not later than January 1, 1996,''; and

(B) by striking ''provides for more timely and cost-effective acquisitions of equipment and materials.'' and inserting the following:

''provides for—

''(A) more timely and cost-effective acquisitions of equipment, services, property, and materials; and

''(B) the resolution of bid protests and contract disputes related thereto, using consensual alternative dispute resolution techniques to the maximum extent practicable.''; and

(2) by striking paragraph (4), relating to the effective date, and inserting the following:

''(4) ADJUDICATION OF CERTAIN BID PROTESTS AND CONTRACT DISPUTES.—A bid protest or contract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to sections 46102, 46104, 46105, 46106 and 46107 and shall be subject to judicial review under section 46110 and to section 504 of title 5.''.

(c) AUTHORITY OF ADMINISTRATOR TO ACQUIRE SERVICES.—Section 106(f)(2)(A)(ii) is amended by inserting '', services,'' after ''property''.

SEC. 225. DEFINITIONS.

(a) IN GENERAL.—Section 40102(a) is amended—

(1) by redesignating paragraphs (38) through (42) as paragraphs (43) through (47), respectively;

(2) by inserting after paragraph (37) the following:

''(42) 'small hub airport' means a commercial service airport (as defined in section 47102) that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.'';

(3) by redesignating paragraphs (33) through (37) as paragraphs (37) through (41) respectively;

(4) by inserting after paragraph (32) the following:

''(36) 'passenger boardings'—

''(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

''(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.'';

(5) by redesignating paragraph (32) as paragraph (35);

(6) by inserting after paragraph (31) the following:

''(34) 'nonhub airport' means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.'';

(7) by redesignating paragraphs (30) and (31) as paragraphs (32) and (33), respectively;

(8) by inserting after paragraph (29) the following:

''(31) 'medium hub airport' means a commercial service airport (as defined in section 47102) that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.'';

(9) by redesignating paragraph (29) as paragraph (30); and

(10) by inserting after paragraph (28) the following:

''(29) 'large hub airport' means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.''.

(b) CONFORMING AMENDMENTS.—

(1) AIR SERVICE TERMINATION NOTICE.—Section 41719(d) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) SMALL COMMUNITY AIR SERVICE.—Section 41731(a) is amended by striking paragraphs (3) through (5).

(3) AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—Section 41743 is amended—

(A) in subsection (c)(1) by striking ''(as that term is defined in section 41731(a)(5))''; and

(B) in subsection (f) by striking ''(as defined in section 41731(a)(3))''.

(4) PRESERVATION OF BASIC ESSENTIAL AIR SERVICE AT SINGLE CARRIER DOMINATED HUB AIRPORTS.—Section 41744(b) is amended by striking ''(as defined in section 41731)''.

(5) REGIONAL AIR SERVICE INCENTIVE PROGRAM.—Section 41762 is amended—

(A) by striking paragraphs (11) and (15); and

(B) by redesignating paragraphs (12), (13), (14), and (16) as paragraphs (11), (12), (13), and (14), respectively.

SEC. 226. AIR TRAFFIC CONTROLLER RETIREMENT.

(a) AIR TRAFFIC CONTROLLER DEFINED.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331 of title 5, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (27);

(B) by striking the period at the end of paragraph (28) and inserting ''; and''; and

(C) by adding at the end the following:

''(29) the term 'air traffic controller' or 'controller' means—

''(A) a controller within the meaning of section 2109(1); and

''(B) a civilian employee of the Department of Transportation or the Department of Defense who is the immediate supervisor of a person described in section 2109(1)(B).''.

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8401 of title 5, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (33);

(B) by striking the period at the end of paragraph (34) and inserting ''; and''; and

(C) by adding at the end the following:

''(35) the term 'air traffic controller' or 'controller' means—

''(A) a controller within the meaning of section 2109(1); and

''(B) a civilian employee of the Department of Transportation or the Department of Defense who is the immediate supervisor of a person described in section 2109(1)(B).''.

(3) MANDATORY SEPARATION TREATMENT NOT AFFECTED.—

(A) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(a) of title 5, United States Code, is amended by adding at the end the following: ''For purposes of this subsection, the term 'air traffic controller' or 'controller' has the meaning given to it under section 8331(29)(A).''.

(B) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8425(a) of title 5, United States Code, is amended by adding at the end the following: ''For purposes of this subsection, the term 'air traffic controller' or 'controller' has the meaning given to it under section 8401(35)(A).''.

(b) MODIFIED ANNUITY COMPUTATION RULE FOR CERTAIN AIR TRAFFIC CONTROLLERS UNDER FERS.—

(1) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(A) by redesignating subsections (e) through (j) as subsections (f) through (k), respectively, and by redesignating the second subsection (i) as subsection (l); and

(B) by inserting after subsection (d) the following:

''(e) The annuity of an air traffic controller or former air traffic controller retiring under section 8412(a) is computed under subsection (a), except that if the individual has had at least 5 years of service as an air traffic controller as defined by section 2109(1)(A)(i), so much of the annuity as is computed with respect to such type of service shall be computed by multiplying 1 7/10 percent of the individual's average pay by the years of such service.''.

(2) CONFORMING AMENDMENTS.—(A) Section 8422(d)(2) of title 5, United States Code, is amended by striking ''8415(i)'' and inserting ''8415(j)''.

(B) Section 8452(d)(1) of such title is amended by striking ''subsection (f)'' and inserting ''subsection (g)''.

(C) Section 8468(b)(1)(A) of such title is amended by striking ''through (g)'' and inserting ''through (h)''.

(D) Section 302(a) of the Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8331 note) is amended—

(i) in paragraph (1)(D)(VI), by striking ''subsection (g)'' and inserting ''subsection (h)'';

(ii) in paragraph (9), by striking ''8415(f)'' and inserting ''8415(g)''; and

(iii) in paragraph (12)(B)(ii), by striking ''through (f)'' and inserting ''through (g)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section—

(A) shall take effect on the 60th day after the date of enactment of this Act; and

(B) shall apply with respect to—

(i) any annuity entitlement to which is based on an individual's separation from service occurring on or after the effective date of this section; and

(ii) any service performed by any such individual before, on, or after the effective date of this section, subject to paragraph (2).

(2) SPECIAL RULE.—

(A) DEPOSIT REQUIREMENT.—For purposes of determining eligibility for immediate retirement under section 8412(e) of title 5, United States Code, the amendment made by subsection (a)(2) shall, with respect to any service described in subparagraph (B), be disregarded unless there is deposited into the Civil Service Retirement and Disability Fund, with respect to such service, in such time, form, and manner as the Office of Personnel Management by regulation requires, an amount equal to the amount by which—

(i) the deductions from pay which would have been required for such service if the amendments made by subsection (a)(2) had been in effect when such service was performed, exceeds

(ii) the unrefunded deductions or deposits actually made under subchapter II of chapter 84 of such title with respect to such service. An amount under this subparagraph shall include interest, computed under paragraphs (2) and (3) of section 8334(e) of such title 5.

(B) PRIOR SERVICE DESCRIBED.—This paragraph applies with respect to any service performed by an individual before the effective date of this section as an employee described in section 8401(35)(B) of title 5, United States Code (as amended by subsection (a)(2)).

SEC. 227. DESIGN ORGANIZATION CERTIFICATES.

(a) GENERAL AUTHORITY TO ISSUE CERTIFICATES.—Effective on the last day of the 7-year period beginning on the date of enactment of this Act, section 44702(a) is amended by inserting ''design organization certificates,'' after ''airman certificates,''.

(b) DESIGN ORGANIZATION CERTIFICATES.—

(1) PLAN.—Not later than 4 years after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for the

development and oversight of a system for certification of design organizations to certify compliance with the requirements and minimum standards prescribed under section 44701(a) of title 49, United States Code, for the type certification of aircraft, aircraft engines, propellers, or appliances.

(2) ISSUANCE OF CERTIFICATES.—Section 44704 is amended by adding at the end the following:

''(e) DESIGN ORGANIZATION CERTIFICATES.—

''(1) ISSUANCE.—Beginning 7 years after the date of enactment of this subsection, the Administrator may issue a design organization certificate to a design organization to authorize the organization to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

''(2) APPLICATIONS.—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to determine whether the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a).

''(3) ISSUANCE OF TYPE CERTIFICATES BASED ON DESIGN ORGANIZATION CERTIFICATION.—The Administrator may rely on certifications of compliance by a design organization when making a finding under subsection (a).

''(4) PUBLIC SAFETY.—The Administrator shall include in a design organization certificate issued under this subsection terms required in the interest of safety.

''(5) NO EFFECT ON POWER OF REVOCATION.—Nothing in this subsection affects the authority of the Secretary of Transportation to revoke a certificate.''.

(c) REINSPECTION AND REEXAMINATION.—Section 44709(a) is amended by inserting ''design organization, production certificate holder,'' after ''appliance,''.

(d) PROHIBITIONS.—Section 44711(a)(7) is amended by striking ''agency'' and inserting ''agency, design organization certificate, ''.

(e) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—Section 44704 is amended by striking the section designation and heading and inserting the following:

''§ 44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates''.

(2) CHAPTER ANALYSIS.—The analysis for chapter 447 is amended by striking the item relating to section 44704 and inserting the following:

''44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates.''.

SEC. 228. JUDICIAL REVIEW.

The first sentence of section 46110(a) is amended—

(1) by striking ''safety''; and

(2) by striking ''under this part'' and inserting ''in whole or in part under this part, part B, or subsection (l) or (s) of section 114''.

SEC. 229. OVERFLIGHT FEES.

(a) ADOPTION AND LEGALIZATION OF CERTAIN RULES.—

(1) APPLICABILITY AND EFFECT OF CERTAIN LAW.—Notwithstanding section 141(d)(1) of the Aviation and Transportation Security Act (49 U.S.C. 44901 note), section 45301(b)(1)(B) of title 49, United States Code, is deemed to apply to and to have effect with respect to the authority of the Administrator of the Federal Aviation Administration with respect to the interim final rule and final rule, relating to overflight fees, issued by the Administrator on May 30, 2000, and August 13, 2001, respectively.

(2) ADOPTION AND LEGALIZATION.—The interim final rule and final rule referred to in subsection (a), including the fees issued pursuant to those rules, are adopted, legalized, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically adopted, authorized, and directed as of the date those rules were originally issued.

(3) FEES TO WHICH APPLICABLE.—This subsection applies to fees assessed after November 19, 2001, and before April 8, 2003, and fees collected after the requirements of subsection (b) have been met.

(b) DEFERRED COLLECTION OF FEES.—The Administrator shall defer collecting fees under section 45301(a)(1) of title 49, United States Code, until the Administrator (1) reports to Congress responding to the issues raised by the court in Air Transport Association of Canada v. Federal Aviation Administration and Administrator, FAA, decided on April 8, 2003, and (2) consults with users and other interested parties regarding the consistency of the fees established under such section with the international obligations of the United States.

(c) ENFORCEMENT.—The Administrator shall take an appropriate enforcement action under subtitle VII of title 49, United States Code, against any user that does not pay a fee under section 45301(a)(1) of such title.

TITLE III—ENVIRONMENTAL PROCESS

Subtitle A—Aviation Development Streamlining

SEC. 301. SHORT TITLE.

This title may be cited as ''Aviation Streamlining Approval Process Act of 2003''.

SEC. 302. FINDINGS.

Congress finds that—

(1) airports play a major role in interstate and foreign commerce;

(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.

SEC. 303. AIRPORT CAPACITY ENHANCEMENT.

Section 40104 is amended by adding at the end the following:

''(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47176.''.

SEC. 304. AVIATION PROJECT STREAMLINING.

(a) IN GENERAL.—Chapter 471 is amended by inserting after subchapter II the following:

''SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING

''§ 47171. Expedited, coordinated environmental review process

''(a) AVIATION PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement an expedited and coordinated environmental review process for airport capacity enhancement projects at congested airports, aviation safety projects, and aviation security projects that—

''(1) provides for better coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(2) provides that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for such a project will be conducted concurrently, to the maximum extent practicable; and

''(3) provides that any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal agency or airport sponsor for such a project will be completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (d) with respect to the project.

''(b) AVIATION PROJECTS SUBJECT TO A STREAMLINED ENVIRONMENTAL REVIEW PROCESS.—

''(1) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—An airport capacity enhancement project at a congested airport shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

''(2) AVIATION SAFETY AND AVIATION SECURITY PROJECTS.—

''(A) IN GENERAL.—The Administrator of the Federal Aviation Administration may designate an aviation safety project or aviation security project for priority environmental review. The Administrator may not delegate this designation authority. A designated project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

''(B) PROJECT DESIGNATION CRITERIA.—The Administrator shall establish guidelines for the designation of an aviation safety project or aviation security project for priority environmental review. Such guidelines shall provide for consideration of—

''(i) the importance or urgency of the project;

''(ii) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(iii) the need for cooperation and concurrent reviews by other Federal or State agencies;

''(iv) the prospect for undue delay if the project is not designated for priority review; and

''(v) for aviation security projects, the views of the Department of Homeland Security.

''(c) HIGH PRIORITY OF AND AGENCY PARTICIPATION IN COORDINATED REVIEWS.—

''(1) HIGH PRIORITY FOR ENVIRONMENTAL REVIEWS.—Each Federal agency with jurisdiction over an environmental review, analysis, opinion, permit, license, or approval shall accord any such review, analysis, opinion, permit, license, or approval involving an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2) the highest possible priority and conduct the review, analysis, opinion, permit, license, or approval expeditiously.

''(2) AGENCY PARTICIPATION.—Each Federal agency described in subsection (d) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to participate in the coordinated environmental review process under this section and to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in subsection (a) in a timely and environmentally responsible manner.

''(d) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to each airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2), the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters

that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

''(e) STATE AUTHORITY.—Under a coordinated review process being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the Governor of the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

''(f) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (d) with respect to the project and, if applicable, the airport sponsor.

''(g) USE OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAMS.—

''(1) IN GENERAL.—The Secretary may utilize an interagency environmental impact statement team to expedite and coordinate the coordinated environmental review process for a project under this section. When utilizing an interagency environmental impact statement team, the Secretary shall invite Federal, State and Tribal agencies with jurisdiction by law, and may invite such agencies with special expertise, to participate on an interagency environmental impact statement team.

''(2) RESPONSIBILITY OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAM.—Under a coordinated environmental review process being implemented under this section, the interagency environmental impact statement team shall assist the Federal Aviation Administration in the preparation of the environmental impact statement. To facilitate timely and efficient environmental review, the team shall agree on agency or Tribal points of contact, protocols for communication among agencies, and deadlines for necessary actions by each individual agency (including the review of environmental analyses, the conduct of required consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals). The members of the team may formalize their agreement in a written memorandum.

''(h) LEAD AGENCY RESPONSIBILITY.—The Federal Aviation Administration shall be the lead agency for projects designated under subsection (b)(2) and airport capacity enhancement projects at congested airports and shall be responsible for defining the scope and content of the environmental impact statement, consistent with regulations issued by the Council on Environmental Quality. Any other Federal agency or State agency that is participating in a coordinated environmental review process under this section shall give substantial deference, to the extent consistent with applicable law and policy, to the aviation expertise of the Federal Aviation Administration.

''(i) EFFECT OF FAILURE TO MEET DEADLINE.—

''(1) NOTIFICATION OF CONGRESS AND CEQ.—If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (a)(3) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

''(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

''(j) PURPOSE AND NEED.—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

''(k) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2). Any other Federal agency, or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

''(l) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (j) and (k), the Secretary shall solicit and consider comments from interested persons and governmental entities in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.).

''(m) MONITORING BY TASK FORCE.—The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section.

''§47172. Air traffic procedures for airport capacity enhancement projects at congested airports

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of an airport capacity enhancement project at a congested airport that involves the construction of new runways or the reconfiguration of existing runways during the environmental planning process for the project. If the Administrator determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, the Administrator may commit, at the request of the airport sponsor and in a manner consistent with applicable Federal law, to prescribing such procedures in any record of decision approving the project.

''(b) MODIFICATION.—Notwithstanding any commitment by the Administrator under subsection (a), the Administrator may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

''§47173. Airport funding of FAA staff

''(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.

''(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

''(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

''(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

''(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

''(3) shall remain available until expended.

''(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002 (excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862)) for the activities described in subsection (a).

''§47174. Authorization of appropriations

''In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $4,200,000 for fiscal year 2004 and for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

''§47175. Definitions

''In this subchapter, the following definitions apply:

''(1) AIRPORT SPONSOR.—The term 'airport sponsor' has the meaning given the term 'sponsor' under section 47102.

''(2) CONGESTED AIRPORT.—The term 'congested airport' means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report 2001.

''(3) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term 'airport capacity enhancement project' means—

''(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

''(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.

''(4) AVIATION SAFETY PROJECT.—The term 'aviation safety project' means an aviation project that—

''(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator; and

''(B)(i) is needed to respond to a recommendation from the National Transportation Safety Board, as determined by the Administrator; or

''(ii) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

''(5) AVIATION SECURITY PROJECT.—The term 'aviation security project' means a security project at an airport required by the Department of Homeland Security.

''(6) FEDERAL AGENCY.—The term 'Federal agency' means a department or agency of the United States Government.''.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

SEC. 305. ELIMINATION OF DUPLICATIVE REQUIREMENTS.

Section 47106(c) is amended—

(1) by inserting ''and'' after the semicolon at the end of paragraph (1)(A)(iii) (as added by this Act);

(2) by striking subparagraph (B) of paragraph (1);

(3) by redesignating subparagraph (C) of paragraph (1) as subparagraph (B);

(4) in paragraph (2)(A) by striking ''stage 2'' and inserting ''stage 3'';

(5) by striking paragraph (4);

(6) by redesignating paragraph (5) as paragraph (4); and

(7) in paragraph (4) (as so redesignated) by striking ''(1)(C)'' and inserting ''(1)(B)''.

SEC. 306. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY PROJECTS.

Section 47504(c)(2) is amended—

(1) by moving subparagraphs (C) and (D) 2 ems to the right;

(2) by striking ''and'' at the end of subparagraph (C);

(3) by striking the period at the end of subparagraph (D) and inserting ''; and''; and

(4) by adding at the end the following:

''(E) to an airport operator of a congested airport (as defined in section 47175) and a unit of local government referred to in paragraph (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47175) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations.''.

SEC. 307. ISSUANCE OF ORDERS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall publish the final Federal Aviation Administration Order 1050.1E, Environmental Impacts: Policies and Procedures. Not later than 180 days after the date of publication of such final order, the Secretary shall publish for public comment the revised Federal Aviation Administration Order 5050.4B, Airport Environmental Handbook.

SEC. 308. LIMITATIONS.

Nothing in this subtitle, including any amendment made by this title, shall preempt or interfere with—

(1) any practice of seeking public comment;

(2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and

(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.) and the regulations issued by the Council on Environmental Quality to carry out such Act.

SEC. 309. RELATIONSHIP TO OTHER REQUIREMENTS.

The coordinated review process required under the amendments made by this subtitle shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews).

Subtitle B—Miscellaneous

SEC. 321. REPORT ON LONG-TERM ENVIRONMENTAL IMPROVEMENTS.

(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator of the National Aeronautics and Space Administration, shall conduct a study of ways to reduce aircraft noise and emissions and to increase aircraft fuel efficiency. The study shall—

(1) explore new operational procedures for aircraft to achieve those goals;

(2) identify both near-term and long-term options to achieve those goals;

(3) identify infrastructure changes that would contribute to attainment of those goals;

(4) identify emerging technologies that might contribute to attainment of those goals;

(5) develop a research plan for application of such emerging technologies, including new combustor and engine design concepts and methodologies for designing high bypass ratio turbofan engines so as to minimize the effects on climate change per unit of production of thrust and flight speed; and

(6) develop an implementation plan for exploiting such emerging technologies to attain those goals.

(b) REPORT.—The Secretary shall transmit a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $500,000 for fiscal year 2004 to carry out this section.

SEC. 322. NOISE DISCLOSURE.

(a) NOISE DISCLOSURE SYSTEM IMPLEMENTATION STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine the feasibility of developing a program under which prospective home buyers of property located in the vicinity of an airport could be notified of information derived from noise exposure maps that may affect the use and enjoyment of the property. The study shall assess the scope, administration, usefulness, and burdensomeness of any such program, the costs and benefits of such a program, and whether participation in such a program should be voluntary or mandatory.

(b) PUBLIC AVAILABILITY OF NOISE EXPOSURE MAPS.—The Administrator shall make noise exposure and land use information from noise exposure maps available to the public via the Internet on its website in an appropriate format.

(c) NOISE EXPOSURE MAP.—In this section, the term ''noise exposure map'' means a noise exposure map prepared under section 47503 of title 49, United States Code.

SEC. 323. OVERFLIGHTS OF NATIONAL PARKS.

(a) IN GENERAL.—Section 40128 is amended—

(1) in subsection (a)(1) by inserting '', as defined by this section,'' after ''lands'' the first place it appears;

(2) in subsections (b)(3)(A) and (b)(3)(B) by inserting ''over a national park'' after ''operations'';

(3) in subsection (b)(3)(C) by inserting ''over a national park that are also'' after ''operations'';

(4) in subsection (b)(3)(D) by striking ''at the park'' and inserting ''over a national park'';

(5) in subsection (b)(3)(E) by inserting ''over a national park'' after ''operations'' the first place it appears;

(6) in subsections (c)(2)(A)(i) and (c)(2)(B) by inserting ''over a national park'' after ''operations'';

(7) in subsection (f)(1) by inserting ''over a national park'' after ''operation'';

(8) in subsection (f)(4)(A)—

(A) by striking ''commercial air tour operation'' and inserting ''commercial air tour operation over a national park''; and

(B) by striking ''park, or over tribal lands,'' and inserting ''park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park),'';

(9) in subsection (f)(4)(B) by inserting ''over a national park'' after ''operation''; and

(10) in the heading for paragraph (4) of subsection (f) by inserting ''OVER A NATIONAL PARK'' after ''OPERATION''.

(b) QUIET TECHNOLOGY RULEMAKING FOR AIR TOURS OVER GRAND CANYON NATIONAL PARK.—

(1) DEADLINE FOR RULE.—No later than January 2005, the Secretary of Transportation shall issue a final rule to establish standards for quiet technology that are reasonably achievable at Grand Canyon National Park, based on the Supplemental Notice of Proposed Rulemaking on Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park, published in the Federal Register on March 24, 2003.

(2) RESOLUTION OF DISPUTES.—Subject to applicable administrative law and procedures, if the Secretary determines that a dispute among interested parties (including outside groups) or government agencies cannot be resolved within a reasonable time frame and could delay finalizing the rulemaking described in subsection (a), or implementation of final standards under such rule, due to controversy over adoption of quiet technology routes, establishment of incentives to encourage adoption of such routes, establishment of incentives to encourage adoption of quite technology, or other measures to achieve substantial restoration of natural quiet, the Secretary shall refer such dispute to a recognized center for environmental conflict resolution.

SEC. 324. NOISE EXPOSURE MAPS.

Section 47503 is amended—

(1) in subsection (a) by striking ''1985,'' and inserting ''a forecast period that is at least 5 years in the future''; and

(2) by striking subsection (b) and inserting the following:

''(b) REVISED MAPS.—If, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the Federal Aviation Administration, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction.''.

SEC. 325. IMPLEMENTATION OF CHAPTER 4 NOISE STANDARDS.

Not later than April 1, 2005, the Secretary of Transportation shall issue final regulations to implement Chapter 4 noise standards, consistent with the recommendations adopted by the International Civil Aviation Organization.

SEC. 326. REDUCTION OF NOISE AND EMISSIONS FROM CIVILIAN AIRCRAFT.

(a) ESTABLISHMENT OF RESEARCH PROGRAM.—From amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to reducing community exposure to civilian aircraft noise or emissions through grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies. The program shall include participation by educational and research institutions that have existing facilities for developing and testing noise reduction engine technology.

(b) DESIGNATION OF INSTITUTE AS A CENTER OF EXCELLENCE.—The Administrator of the Federal Aviation Administration shall designate an institution described in subsection (a) as a Center of Excellence for Noise and Emission Research.

SEC. 327. SPECIAL RULE FOR AIRPORT IN ILLINOIS.

(a) IN GENERAL.—Nothing in this title shall be construed to preclude the application of any provision of this Act to the State of Illinois or any other sponsor of a new airport proposed to be constructed in the State of Illinois.

(b) AUTHORITY OF THE GOVERNOR.—Nothing in this title shall be construed to preempt the authority of the Governor of the State of Illinois as of August 1, 2001, to approve or disapprove airport development projects.

TITLE IV—AIRLINE SERVICE IMPROVEMENTS

Subtitle A—Small Community Air Service

SEC. 401. EXEMPTION FROM HOLD-IN REQUIREMENTS.

Section 41734 is amended by adding at the end the following:

''(i) EXEMPTION FROM HOLD-IN REQUIREMENTS.—If, after the date of enactment of this subsection, an air carrier commences air transportation to an eligible place that is not receiving scheduled passenger air service as a result of the failure of the eligible place to meet requirements contained in an appropriations Act, the air carrier shall not be subject to the requirements of subsections (b) and (c) with respect to such air transportation.''.

SEC. 402. ADJUSTMENTS TO ACCOUNT FOR SIGNIFICANTLY INCREASED COSTS.

(a) IN GENERAL.—Section 41737 is amended by adding at the end the following:

''(e) ADJUSTMENTS TO ACCOUNT FOR SIGNIFICANTLY INCREASED COSTS.—

''(1) IN GENERAL.—If the Secretary determines that air carriers are experiencing significantly increased costs in providing air service or air transportation for which compensation is being paid under this subchapter, the Secretary may increase the rates of compensation payable under this subchapter without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

''(2) READJUSTMENT IF COSTS SUBSEQUENTLY DECLINE.—If an adjustment is made under paragraph (1), and total unit costs subsequently decrease to at least the total unit cost reflected in the compensation rate, then the Secretary may reverse the adjustment previously made under paragraph (1) without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

''(3) SIGNIFICANTLY INCREASED COSTS DEFINED.—In this subsection, the term 'significantly increased costs' means a total unit cost increase (but not increases in individual unit costs) of 10 percent or more in relation to the total unit cost reflected in the compensation rate, based on the carrier's internal audit of its financial statements if such cost increase is incurred for a period of at least 2 consecutive months.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

SEC. 403. JOINT PROPOSALS.

Section 41740 is amended by inserting '', including joint fares,'' after ''joint proposals''.

SEC. 404. ESSENTIAL AIR SERVICE AUTHORIZATION.

Section 41742 is amended—

(1) in subsection (a)(2)—

(A) by striking ''$15,000,000'' and inserting ''$77,000,000''; and

(B) by inserting before the period at the end ''of which not more than $12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance'';

(2) by adding at the end of subsection (a) the following:

''(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.—In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program.''; and

(3) by striking subsection (c).

SEC. 405. COMMUNITY AND REGIONAL CHOICE PROGRAMS.

Subchapter II of chapter 417 is amended by adding at the end the following:

''§ 41745. Community and regional choice programs

''(a) ALTERNATE ESSENTIAL AIR SERVICE PILOT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

''(2) ASSISTANCE TO ELIGIBLE PLACES.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place, may provide assistance directly to a unit of local government having jurisdiction over the eligible place or a State within the boundaries of which the eligible place is located.

''(3) USE OF ASSISTANCE.—A unit of local government or State receiving assistance for an eligible place under the program may use the assistance for any of the following purposes:

''(A) To provide assistance to air carriers that will use smaller equipment to provide the service and to consider increasing the frequency of service using such smaller equipment if the Secretary determines that passenger safety would not be compromised by the use of such smaller equipment and if the State or unit of local government waives the minimum service requirements under section 41732(b).

''(B) To provide assistance to an air carrier to provide on-demand air taxi service to and from the eligible place.

''(C) To provide assistance to a person to provide scheduled or on-demand surface transportation to and from the eligible place and an airport in another place.

''(D) In combination with other units of local government in the same region, to provide transportation services to and from all the eligible places in that region at an airport or other transportation center that can serve all the eligible places in that region.

''(E) To purchase aircraft to provide transportation to and from the eligible place or to purchase a fractional share in an aircraft to provide such transportation after the effective date of a rule the Secretary issues relating to fractional ownership.

''(F) To pay for other transportation or related services that the Secretary may permit.

''(b) COMMUNITY FLEXIBILITY PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a pilot program for not more than 10 eligible places or consortia of units of local government.

''(2) ELECTION.—Under the program, the sponsor of an airport serving an eligible place may elect to forego any essential air service for which compensation is being provided under this subchapter for a 10-year period in exchange for a grant from the Secretary equal in value to twice the compensation paid to provide such service in the most recent 12-month period.

''(3) GRANT.—Notwithstanding any other provision of law, the Secretary shall make a grant to each airport sponsor participating in the program for use on any project that—

''(A) is eligible for assistance under chapter 471 and complies with the requirements of that chapter;

''(B) is located on the airport property; or

''(C) will improve airport facilities in a way that would make such facilities more usable for general aviation.

''(c) FRACTIONALLY OWNED AIRCRAFT.—After the effective date of the rule referred to in subsection (a)(3)(E), only those operating rules that relate to an aircraft that is fractionally owned apply when an aircraft described in subsection (a)(3)(E) is used to provide transportation described in subsection (a)(3)(E).

''(d) APPLICATIONS.—

''(1) IN GENERAL.—An entity seeking to participate in a program under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

''(2) REQUIRED INFORMATION.—At a minimum, the application shall include—

''(A) a statement of the amount of compensation or assistance required; and

''(B) a description of how the compensation or assistance will be used.

''(e) PARTICIPATION REQUIREMENTS.—An eligible place for which compensation or assistance is provided under this section in a fiscal year shall not be eligible in that fiscal year for the essential air service that it would otherwise be entitled to under this subchapter.

''(f) SUBSEQUENT PARTICIPATION.—A unit of local government participating in the program under this subsection (a) in a fiscal year shall not be prohibited from participating in the basic essential air service program under this subchapter in a subsequent fiscal year if such unit is otherwise eligible to participate in such program.

''(g) FUNDING.—Amounts appropriated or otherwise made available to carry out the essential air service program under this subchapter shall be available to carry out this section.''.

SEC. 406. CODE-SHARING PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which the Secretary may require air carriers providing service with compensation under subchapter II of chapter 417 of title 49, United States Code, and major air carriers (as defined in section 41716(a)(2) of such title) serving large hub airports (as defined in section 40102 of such title) to participate in multiple code-share arrangements consistent with normal industry practice whenever and wherever the Secretary determines that such multiple code-sharing arrangements would improve air transportation services.

(b) LIMITATION.—The Secretary may not require air carriers to participate in the pilot program under this section for more than 10 communities receiving service under subchapter II of chapter 417 of title 49, United States Code.

SEC. 407. TRACKING SERVICE.

Subchapter II of chapter 417 is further amended by adding at the end the following:

''§ 41746. Tracking service

''The Secretary of Transportation shall require a carrier that provides essential air service to an eligible place and that receives compensation for such service under this subchapter to report not less than semiannually—

''(1) the percentage of flights to and from the place that arrive on time as defined by the Secretary; and

''(2) such other information as the Secretary considers necessary to evaluate service provided to passengers traveling to and from such place.''.

SEC. 408. EAS LOCAL PARTICIPATION PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 is further amended by adding at the end the following:

''§ 41747. EAS local participation program

''(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which not more than 10 designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air service subsidy costs for a 4-year period.

''(b) DESIGNATION OF COMMUNITIES.—

''(1) IN GENERAL.—The Secretary may not designate any community under this section unless it is located within 100 miles by road of a hub airport and is not located in a noncontiguous State. In making the designation, the Secretary may take into consideration the total traveltime between a community and the nearest hub airport, taking into account terrain, traffic, weather, road conditions, and other relevant factors.

''(2) ONE COMMUNITY PER STATE.—The Secretary may not designate—

''(A) more than 1 community per State under this section; or

''(B) a community in a State in which another community that is eligible to participate in the essential air service program has elected not to participate in the essential air service program as part of a pilot program under section 41745.

''(c) APPEAL OF DESIGNATION.—A community may appeal its designation under this section. The Secretary may withdraw the designation of a community under this section based on—

''(1) the airport sponsor's ability to pay; or

''(2) the relative lack of financial resources in a community, based on a comparison of the median income of the community with other communities in the State.

''(d) NON-FEDERAL SHARE.—

''(1) NON-FEDERAL AMOUNTS.—For purposes of this section, the non-Federal portion of the essential air service subsidy may be derived from contributions in kind, or through reduction in the amount of the essential air service subsidy through reduction of air carrier costs, increased ridership, prepurchase of tickets, or other means. The Secretary shall provide assistance to designated communities in identifying potential means of reducing the amount of the subsidy without adversely affecting air transportation service to the community.

''(2) APPLICATION WITH OTHER MATCHING REQUIREMENTS.—This section shall apply to the Federal share of essential air service provided this subchapter, after the application of any other non-Federal share matching requirements imposed by law.

''(e) ELIGIBILITY FOR OTHER PROGRAMS NOT AFFECTED.—Nothing in this section affects the eligibility of a community or consortium of communities, an airport sponsor, or any other person to participate in any program authorized by this subchapter. A community designated under this section may participate in any program (including pilot programs) authorized by this subchapter for which it is otherwise eligible—

''(1) without regard to any limitation on the number of communities that may participate in that program; and

''(2) without reducing the number of other communities that may participate in that program.

''(f) SECRETARY TO REPORT TO CONGRESS ON IMPACT.—The Secretary shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on—

''(1) the economic condition of communities designated under this section before their designation;

''(2) the impact of designation under this section on such communities at the end of each of the 3 years following their designation; and

''(3) the impact of designation on air traffic patterns affecting air transportation to and from communities designated under this section.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter II of chapter 417 is amended by adding at the end the following:

''41745. Community and regional choice programs.
''41746. Tracking service.
''41747. EAS local participation program.''.

SEC. 409. MEASUREMENT OF HIGHWAY MILES FOR PURPOSES OF DETERMINING ELIGIBILITY OF ESSENTIAL AIR SERVICE SUBSIDIES.

(a) REQUEST FOR SECRETARIAL REVIEW.—An eligible place (as defined in section 41731 of title 49, United States Code) with respect to which the Secretary has, in the 2-year period ending on the date of enactment of this Act, eliminated (or tentatively eliminated) compensation for essential air service to such place, or terminated (or tentatively terminated) the compensation eligibility of such place for essential air service, under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note), section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note), or any prior law of similar effect based on the highway mileage of such place from the nearest hub airport (as defined in section 40102 of such title), may request the Secretary to review such action.

(b) DETERMINATION OF MILEAGE.—In reviewing an action under subsection (a), the highway mileage between an eligible place and the nearest medium hub airport or large hub airport is the highway mileage of the most commonly used route between the place and the medium hub airport or large hub airport. In identifying such route, the Secretary shall identify the most commonly used route for a community by—

(1) consulting with the Governor of a State or the Governor's designee; and

(2) considering the certification of the Governor of a State or the Governor's designee as to the most commonly used route.

(c) ELIGIBILITY DETERMINATION.—Not later than 60 days after receiving a request under subsection (a), the Secretary shall—

(1) determine whether the eligible place would have been subject to an elimination of compensation eligibility for essential air service, or termination of the eligibility of such place for essential air service, under the provisions of law referred to in subsection (a) based on the determination of the highway mileage of such place from the nearest medium hub airport or large hub airport under subsection (b); and

(2) issue a final order with respect to the eligibility of such place for essential air service compensation under subchapter II of chapter 417 of title 49, United States Code.

(d) LIMITATION ON PERIOD OF FINAL ORDER.—A final order issued under subsection (c) shall terminate on September 30, 2007.

SEC. 410. INCENTIVE PROGRAM.

(a) PURPOSES.—The purposes of this section are—

(1) to enable essential air service communities to increase boardings and the level of passenger usage of airport facilities at an eligible place by providing technical, financial, and other marketing assistance to such communities and to States;

(2) to reduce subsidy costs under subchapter II of this chapter as a consequence of such increased usage; and

(3) to provide such communities with opportunities to obtain, retain, and improve transportation services.

(b) MARKETING PROGRAM.—Subchapter II of chapter 417 is further amended by adding at the end the following:

''§ 41748. Marketing program

''(a) IN GENERAL.—The Secretary of Transportation shall establish a marketing incentive program for eligible places that receive subsidized service by an air carrier under section 41733. Under the program, the sponsor of the airport serving such an eligible place may receive a grant of not more than $50,000 in a fiscal year to develop and implement a marketing plan to increase passenger boardings and the level of passenger usage of its airport facilities.

''(b) MATCHING REQUIREMENT; SUCCESS BONUSES—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), not less than 25 percent of the publicly financed costs associated with a marketing plan to be developed and implemented under this section shall come from non-Federal sources. For purposes of this section—

''(A) the non-Federal portion of the publicly financed costs may be derived from contributions in kind; and

''(B) matching contributions from a State or unit of local government may not be derived, directly or indirectly, from Federal funds, but the use by the State or unit of local government of proceeds from the sale of bonds to provide the matching contribution is not considered to be a contribution derived directly or indirectly from Federal funds, without regard to the Federal income tax treatment of interest paid on those bonds or the Federal income tax treatment of those bonds.

''(2) BONUS FOR 25-PERCENT INCREASE IN USAGE.—Except as provided in paragraph (3), if, after any 12-month period during which a marketing plan has been in effect under this section with respect to an eligible place, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport serving the eligible place, by 25 percent or more, then only 10 percent of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources under this subsection for the following 12-month period.

''(3) BONUS FOR 50-PERCENT INCREASE IN USAGE.—If, after any 12-month period during which a marketing plan has been in effect under this section with respect to an eligible place, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport serving the eligible place, by 50 percent or more, then no portion of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources under this subsection for the following 12-month period.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter II of chapter 417 is further amended by adding at the end the following:

''41748. Marketing program.''.

SEC. 411. NATIONAL COMMISSION ON SMALL COMMUNITY AIR SERVICE.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''National Commission on Small Community Air Service'' (in this section referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of nine members of whom—

(A) three members shall be appointed by the Secretary;

(B) two members shall be appointed by the majority leader of the Senate;

(C) one member shall be appointed by the minority leader of the Senate;

(D) two members shall be appointed by the Speaker of the House of Representatives; and

(E) one member shall be appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Of the members appointed by the Secretary under paragraph (1)(A)—

(A) one member shall be a representative of a regional airline;

(B) one member shall be a representative of a small hub airport or nonhub airport (as such terms are defined in section 40102 of title 49, United States Code); and

(C) one member shall be a representative of a State aviation agency.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(c) CHAIRPERSON.—The Secretary shall designate, from among the individuals appointed under subsection (b)(1), an individual to serve as chairperson of the Commission.

(d) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) the challenges faced by small communities in the United States with respect to retaining and enhancing their scheduled commercial air service; and

(B) whether the existing Federal programs charged with helping small communities are

adequate for them to retain and enhance their existing air service.

(2) ESSENTIAL AIR SERVICE COMMUNITIES.—In conducting the study, the Commission shall pay particular attention to the state of scheduled commercial air service in communities currently served by the essential air service program.

(e) RECOMMENDATIONS.—Based on the results of the study under subsection (d), the Commission shall make such recommendations as it considers necessary to—

(1) improve the state of scheduled commercial air service at small communities in the United States, especially communities described in subsection (d)(2); and

(2) improve the ability of small communities to retain and enhance their existing air service.

(f) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (e).

(g) COMMISSION PANELS.—The chairperson of the Commission shall establish such panels consisting of members of the Commission as the chairperson determines appropriate to carry out the functions of the Commission.

(h) COMMISSION PERSONNEL MATTERS.—

(1) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(2) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(3) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the chairperson of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (f).

(k) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $250,000 to be used to fund the Commission.

SEC. 412. SMALL COMMUNITY AIR SERVICE.

Section 41743 is amended—

(1) in the heading of subsection (a) by striking ''PILOT'';

(2) in subsection (a) by striking ''pilot'';

(3) in subsection (c)—

(A) by striking paragraph (3) and inserting the following:

''(3) STATE LIMIT.—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.'';

(B) by adding at the end of paragraph (4) the following: ''No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.''; and

(C) in paragraph (5)—

(i) by striking ''and'' at the end of subparagraph (C);

(ii) by striking the period at the end of subparagraph (D) and inserting ''; and''; and

(iii) by adding at the end the following:

''(E) the assistance will be used in a timely fashion.'';

(4) in subsection (e)(2)—

(A) by striking ''and'' the first place it appears and inserting a comma; and

(B) by inserting after ''2003'' the following '', and $35,000,000 for each of fiscal years 2004 through 2008''; and

(5) in subsection (f) by striking ''pilot''.

Subtitle B—Miscellaneous

SEC. 421. DATA ON INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.

Section 329 is amended by adding at the end the following:

''(e) INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.—

''(1) PUBLICATION OF DATA.—The Secretary of Transportation shall publish data on incidents and complaints involving passenger and baggage security screening in a manner comparable to other consumer complaint and incident data.

''(2) MONTHLY REPORTS FROM SECRETARY OF HOMELAND SECURITY.—To assist in the publication of data under paragraph (1), the Secretary of Transportation may request the Secretary of Homeland Security to periodically report on the number of complaints about security screening received by the Secretary of Homeland Security.''.

SEC. 422. DELAY REDUCTION ACTIONS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following new section:

''§ 41722. Delay reduction actions

''(a) SCHEDULING REDUCTION MEETINGS.—The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during hours of peak operation if—

''(1) the Administrator determines that it is necessary to convene such a meeting; and

''(2) the Secretary determines that the meeting is necessary to meet a serious transportation need or achieve an important public benefit.

''(b) MEETING CONDITIONS.—Any meeting under subsection (a)—

''(1) shall be chaired by the Administrator;

''(2) shall be open to all scheduled air carriers; and

''(3) shall be limited to discussions involving the airports and time periods described in the Administrator's determination.

''(c) FLIGHT REDUCTION TARGETS.—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

''(d) DELAY REDUCTION OFFERS.—An air carrier attending the meeting shall make any offer to meet a flight reduction target to the Administrator rather than to another carrier.

''(e) TRANSCRIPT.—The Administrator shall ensure that a transcript of the meeting is kept and made available to the public not later than 3 business days after the conclusion of the meeting.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by striking the item relating to section 41721 and inserting the following:

''41721. Reports by carriers on incidents involving animals during air transport.
''41722. Delay reduction actions.''.

SEC. 423. COLLABORATIVE DECISIONMAKING PILOT PROGRAM.

(a) IN GENERAL.—Chapter 401 is amended by adding at the end the following:

''§ 40129. Collaborative decisionmaking pilot program

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a collaborative decisionmaking pilot program in accordance with this section.

''(b) DURATION.—Except as provided in subsection (k), the pilot program shall be in effect for a period of 2 years.

''(c) GUIDELINES.—

''(1) ISSUANCE.—The Administrator, with the concurrence of the Attorney General, shall issue guidelines concerning the pilot program. Such guidelines, at a minimum, shall—

''(A) define a capacity reduction event;

''(B) establish the criteria and process for determining when a capacity reduction event exists that warrants the use of collaborative decisionmaking among carriers at airports participating in the pilot program; and

''(C) prescribe the methods of communication to be implemented among carriers during such an event.

''(2) VIEWS.—The Administrator may obtain the views of interested parties in issuing the guidelines.

''(d) EFFECT OF DETERMINATION OF EXISTENCE OF CAPACITY REDUCTION EVENT.—Upon a determination by the Administrator that a capacity reduction event exists, the Administrator may authorize air carriers and foreign air carriers operating at an airport participating in the pilot program to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The Administration shall facilitate and monitor such communication. The Attorney General, or the Attorney General's designee, may monitor such communication.

''(e) SELECTION OF PARTICIPATING AIRPORTS.—Not later than 30 days after the date on which the Administrator establishes the pilot program, the Administrator shall select 2 airports to participate in the pilot program from among the most capacity-constrained airports in the Nation based on the Administration's Airport Capacity Benchmark Report 2001 or more recent data on airport capacity that is available to the Administrator. The Administrator shall select an airport for participation in the pilot program if the Administrator determines that collaborative decisionmaking among air carriers and foreign air carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

''(f) ELIGIBILITY OF AIR CARRIERS.—An air carrier or foreign air carrier operating at an airport selected to participate in the pilot program is eligible to participate in the pilot program if the Administrator determines that the carrier has the operational and communications capability to participate in the pilot program.

''(g) MODIFICATION OR TERMINATION OF PILOT PROGRAM AT AN AIRPORT.—The Administrator, with the concurrence of the Attorney General, may modify or end the pilot program at an airport before the term of the pilot program has expired, or may ban an air carrier or foreign air carrier from participating in the program, if the Administrator determines that the purpose of the pilot program is not being furthered by participation of the airport or air carrier or if the Secretary of Transportation, with the concurrence of the Attorney General, finds that the pilot program or the participation of an air carrier or foreign air carrier in the pilot program has had, or is having, an adverse effect on competition among carriers.

''(h) ANTITRUST IMMUNITY.—

''(1) IN GENERAL.—Unless, within 5 days after receiving notice from the Secretary of the Secretary's intention to exercise authority under this subsection, the Attorney General submits to the Secretary a written objection to such action, including reasons for such objection, the Secretary may exempt an air carrier's or foreign air carrier's activities that are necessary to participate in the pilot program under this section from the antitrust laws for the sole purpose of participating in the pilot program. Such exemption shall not extend to any discussions, agreements, or activities outside the scope of the pilot program.

''(2) ANTITRUST LAWS DEFINED.—In this section, the term 'antitrust laws' has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

''(i) CONSULTATION WITH ATTORNEY GENERAL.—The Secretary shall consult with the Attorney General regarding the design and implementation of the pilot program, including determining whether a limit should be set on the number of occasions collaborative decisionmaking could be employed during the initial 2-year period of the pilot program.

''(j) EVALUATION.—

''(1) IN GENERAL.—Before the expiration of the 2-year period for which the pilot program is authorized under subsection (b), the Administrator shall determine whether the pilot program has facilitated more effective use of air traffic capacity and the Secretary, with the concurrence of the Attorney General, shall determine whether the pilot program has had an adverse effect on airline competition or the availability of air services to communities. The Administrator shall also examine whether capacity benefits resulting from the participation in the pilot program of an airport resulted in capacity benefits to other parts of the national airspace system.

''(2) OBTAINING NECESSARY DATA.—The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program's impact.

''(k) EXTENSION OF PILOT PROGRAM.—At the end of the 2-year period for which the pilot program is authorized, the Administrator, with the concurrence of the Attorney General, may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (j) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary, with the concurrence of the Attorney General, determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 401 is amended by adding at the end the following:

''40129. Collaborative decisionmaking pilot program.''.

SEC. 424. COMPETITION DISCLOSURE REQUIREMENT FOR LARGE AND MEDIUM HUB AIRPORTS.

Section 47107 is amended by adding at the end the following:

''(s) COMPETITION DISCLOSURE REQUIREMENT.—

''(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a large hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.

''(2) COMPETITIVE ACCESS.—On February 1 and August 1 of each year, an airport that during the previous 6-month period has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport shall transmit a report to the Secretary that—

''(A) describes the requests;

''(B) provides an explanation as to why the requests could not be accommodated; and

''(C) provides a time frame within which, if any, the airport will be able to accommodate the requests.

''(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning October 1, 2008.''.

SEC. 425. SLOT EXEMPTIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) BEYOND-PERIMETER EXEMPTIONS.—Section 41718(a) is amended by striking ''12'' and inserting ''24''.

(b) WITHIN-PERIMETER EXEMPTIONS.—Section 41718(b) is amended—

(1) by striking ''12'' and inserting ''20''; and

(2) by striking ''that were designated as medium hub or smaller airports''.

(c) LIMITATIONS.—

(1) GENERAL EXEMPTIONS.—Section 41718(c)(2) is amended by striking ''two'' and inserting ''3''.

(2) ALLOCATION OF WITHIN-PERIMETER EXEMPTIONS.—Section 41718(c)(3) is amended—

(A) in subparagraph (A)—

(i) by striking ''four'' and inserting ''without regard to the criteria contained in subsection (b)(1), six''; and

(ii) by striking ''and'' at the end;

(B) in subparagraph (B)—

(i) by striking ''eight'' and inserting ''ten''; and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) four shall be for air transportation to airports without regard to their size.''.

(d) APPLICATION PROCEDURES.—Section 41718(d) is amended to read as follows:

''(d) APPLICATION PROCEDURES.—The Secretary shall establish procedures to ensure that all requests for exemptions under this section are granted or denied within 90 days after the date on which the request is made.''.

SEC. 426. DEFINITION OF COMMUTER AIRCRAFT.

(a) IN GENERAL.—Section 41718 is amended by adding at the end the following:

''(f) COMMUTERS DEFINED.—For purposes of aircraft operations at Ronald Reagan Washington National Airport under subpart K of part 93 of title 14, Code of Federal Regulations, the term 'commuters' means aircraft operations using aircraft having a certificated maximum seating capacity of 76 or less.''.

(b) REGULATIONS.—The Administrator of the Federal Aviation Administration shall revise regulations to take into account the amendment made by subsection (a).

SEC. 427. AIRFARES FOR MEMBERS OF THE ARMED FORCES.

(a) FINDINGS.—Congress finds that—

(1) the Armed Forces is comprised of approximately 1,400,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each United States air carrier should—

(1) establish for all members of the Armed Forces on active duty reduced air fares that are comparable to the lowest airfare for ticketed flights; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, and penalties.

SEC. 428. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE.

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking ''more than'' and all that follows through ''after'' and inserting ''more than 36 months after''.

TITLE V—AVIATION SAFETY

SEC. 501. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS.

Section 44726(a)(1) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following:

''(B) whose certificate is revoked under subsection (b); or''; and

(4) in subparagraph (C) (as redesignated by paragraph (2) of this section) by striking ''convicted of such a violation.'' and inserting ''described in subparagraph (A) or (B).''.

SEC. 502. RUNWAY SAFETY STANDARDS.

(a) IN GENERAL.—Chapter 447 is amended by adding at the end the following:

''§ 44727. Runway safety areas

''(a) AIRPORTS IN ALASKA.—An airport owner or operator in the State of Alaska shall not be required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet standards of the Federal Aviation Administration applicable to runway safety areas.

''(b) STUDY.—

''(1) IN GENERAL.—The Secretary shall conduct a study of runways at airports in States other than Alaska to determine which airports are affected by standards of the Federal Aviation Administration applicable to runway safety areas and to assess how operations at those airports would be affected if the owner or operator of the airport is required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet such standards.

''(2) REPORT.—Not later than 9 months after the date of enactment of this section, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of the study.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 is amended by adding at the end the following:

''44727. Runway safety areas.''.

SEC. 503. CIVIL PENALTIES.

(a) INCREASE IN MAXIMUM CIVIL PENALTY.—Section 46301(a) is amended—

(1) by striking ''$1,000'' in paragraph (1) and inserting ''$25,000 (or $1,100 if the person is an individual or small business concern)'';

(2) by striking ''or'' the last place it appears in paragraph (1)(A);

(3) by striking ''section)'' in paragraph (1)(A) and inserting ''section), or section 47133'';

(4) by striking paragraphs (2), (3), (6), and (7) and redesignating paragraphs (4), (5), and (8) as paragraphs (2), (3), and (4), respectively;

(5) by striking ''41715'' each place it appears in paragraph (2), as redesignated, and inserting ''41719'';

(6) by striking ''paragraphs (1) and (2)'' in paragraph (4), as redesignated, and inserting ''paragraph (1)''; and

(7) by adding at the end the following:

''(5) PENALTIES APPLICABLE TO INDIVIDUALS AND SMALL BUSINESS CONCERNS.—

''(A) An individual (except an airman serving as an airman) or small business concern is liable to the Government for a civil penalty of not more than $10,000 for violating—

''(i) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), section 44502 (b) or (c), chapter 447 (except sections 44717–44723), or chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909) of this title; or

''(ii) a regulation prescribed or order issued under any provision to which clause (i) applies.

''(B) A civil penalty of not more than $10,000 may be imposed for each violation under paragraph (1) committed by an individual or small business concern related to—

''(i) the transportation of hazardous material;

''(ii) the registration or recordation under chapter 441 of an aircraft not used to provide air transportation;

''(iii) a violation of section 44718(d), relating to the limitation on construction or establishment of landfills;

''(iv) a violation of section 44725, relating to the safe disposal of life-limited aircraft parts; or

''(v) a violation of section 40127 or section 41705, relating to discrimination.

''(C) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 41719 committed by an individual or small business concern shall be $5,000 instead of $1,000.

''(D) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 41712 (including a regulation prescribed or order issued under such section) or any other regulation prescribed by the Secretary by an individual or small business concern that is intended to afford consumer protection to commercial air transportation passengers shall be $2,500 for each violation.''.

(b) INCREASE IN LIMIT ON ADMINISTRATIVE AUTHORITY AND CIVIL PENALTY.—Section 46301(d) is amended—

(1) by striking ''more than $50,000;'' in paragraph (4)(A) and inserting ''more than—

''(i) $50,000 if the violation was committed by any person before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act;

''(ii) $400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or

''(iii) $50,000 if the violation was committed by an individual or small business concern on or after that date;''; and

(2) by striking ''is $50,000.'' in paragraph (8) and inserting ''is—

''(A) $50,000 if the violation was committed by any person before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act;

''(B) $400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or

''(C) $50,000 if the violation was committed by an individual or small business concern on or after that date.''.

(c) SMALL BUSINESS CONCERN DEFINED.—Section 46301 is amended by adding at the end the following:

''(i) SMALL BUSINESS CONCERN DEFINED.—In this section, the term 'small business concern' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).''.

(d) CONFORMING AMENDMENTS.—Title 49 is amended—

(1) in section 41705(b) by striking ''46301(a)(3)(E)'' and inserting ''46301''; and

(2) in section 46304(a) by striking '', (2), or (3)''.

SEC. 504. IMPROVEMENT OF CURRICULUM STANDARDS FOR AVIATION MAINTENANCE TECHNICIANS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall ensure that the training standards for airframe and powerplant mechanics under part 65 of title 14, Code of Federal Regulations, are updated and revised in accordance with this section. The Administrator may update and revise the training standards through the initiation of a formal rulemaking or by issuing an advisory circular or other agency guidance.

(b) ELEMENTS FOR CONSIDERATION.—The updated and revised standards required under subsection (a) shall include those curriculum adjustments that are necessary to more accurately reflect current technology and maintenance practices.

(c) CERTIFICATION.—Any adjustment or modification of current curriculum standards made pursuant to this section shall be reflected in the certification examinations of airframe and powerplant mechanics.

(d) COMPLETION.—The revised and updated training standards required by subsection (a) shall be completed not later than 12 months after the date of enactment of this Act.

(e) PERIODIC REVIEWS AND UPDATES.—The Administrator shall review the content of the curriculum standards for training airframe and powerplant mechanics referred to in subsection (a) every 3 years after completion of the revised and updated training standards required under subsection (a) as necessary to reflect current technology and maintenance practices.

SEC. 505. ASSESSMENT OF WAKE TURBULENCE RESEARCH AND DEVELOPMENT PROGRAM.

(a) ASSESSMENT.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Research Council for an assessment of the Federal Aviation Administration's proposed wake turbulence research and development program. The assessment shall include—

(1) an evaluation of the research and development goals and objectives of the program;

(2) a listing of any additional research and development objectives that should be included in the program;

(3) any modifications that will be necessary for the program to achieve the program's goals and objectives on schedule and within the proposed level of resources; and

(4) an evaluation of the roles, if any, that should be played by other Federal agencies, such as the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, in wake turbulence research and development, and how those efforts could be coordinated.

(b) REPORT.—A report containing the results of the assessment shall be provided to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator of the Federal Aviation Administration $500,000 for fiscal year 2004 to carry out this section.

SEC. 506. FAA INSPECTOR TRAINING.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the training of the aviation safety inspectors of the Federal Aviation Administration (in this section referred to as ''FAA inspectors'').

(2) CONTENTS.—The study shall include—

(A) an analysis of the type of training provided to FAA inspectors;

(B) actions that the Federal Aviation Administration has undertaken to ensure that FAA inspectors receive up-to-date training on the latest technologies;

(C) the extent of FAA inspector training provided by the aviation industry and whether such training is provided without charge or on a quid pro quo basis; and

(D) the amount of travel that is required of FAA inspectors in receiving training.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(b) SENSE OF THE HOUSE.—It is the sense of the House of Representatives that—

(1) FAA inspectors should be encouraged to take the most up-to-date initial and recurrent training on the latest aviation technologies;

(2) FAA inspector training should have a direct relation to an individual's job requirements; and

(3) if possible, a FAA inspector should be allowed to take training at the location most convenient for the inspector.

(c) WORKLOAD OF INSPECTORS.—

(1) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing standards for FAA inspectors to ensure proper oversight over the aviation industry, including the designee program.

(2) CONTENTS.—The study shall include the following:

(A) A suggested method of modifying FAA inspectors staffing models for application to current local conditions or applying some other approach to developing an objective staffing standard.

(B) The approximate cost and length of time for developing such models.

(3) REPORT.—Not later than 12 months after the initiation of the arrangements under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study.

SEC. 507. AIR TRANSPORTATION OVERSIGHT SYSTEM PLAN.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan containing an implementation schedule for addressing problems with the air transportation oversight system that have been identified in reports by the Comptroller General and the Inspector General of the Department of Transportation.

(b) PLAN REQUIREMENTS.—The plan transmitted by the Administrator under subsection (a) shall set forth the action the Administration will take under the plan—

(1) to develop specific, clear, and meaningful inspection guidance for the use by Administration aviation safety inspectors and analysts;

(2) to provide adequate training to Administration aviation safety inspectors in system safety concepts, risk analysis, and auditing;

(3) to ensure that aviation safety inspectors with the necessary qualifications and experience are physically located where they can satisfy the most important needs;

(4) to establish strong national leadership for the air transportation oversight system and to ensure that the system is implemented consistently across Administration field offices; and

(5) to extend the air transportation oversight system beyond the 10 largest air carriers, so it governs oversight of smaller air carriers as well.

TITLE VI—AVIATION SECURITY

SEC. 601. CERTIFICATE ACTIONS IN RESPONSE TO A SECURITY THREAT.

(a) IN GENERAL.—Chapter 461 is amended by adding at the end the following:

''§ 46111. Certificate actions in response to a security threat

''(a) ORDERS.—The Administrator of Federal Aviation Administration shall issue an order amending, modifying, suspending, or revoking any part of a certificate issued under this title if the Administrator is notified by the Under Secretary for Border and Transportation Security of the Department of Homeland Security that the holder of the certificate poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. If requested by the Under Secretary, the order shall be effective immediately.

''(b) HEARINGS FOR CITIZENS.—An individual who is a citizen of the United States who is adversely affected by an order of the Administrator under subsection (a) is entitled to a hearing on the record.

''(c) HEARINGS.—When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Administrator or the Under Secretary.

''(d) APPEALS.—An appeal from a decision of an administrative law judge as the result of a hearing under subsection (b) shall be made to the Transportation Security Oversight Board established by section 115. The Board shall establish a panel to review the decision. The members of this panel (1) shall not be employees of the Transportation Security Administration, (2) shall have the level of security clearance needed to review the determination made under this section, and (3) shall be given access to all relevant documents that support that determination. The panel may affirm, modify, or reverse the decision.

''(e) REVIEW.—A person substantially affected by an action of a panel under subsection (d), or the Under Secretary when the Under Secretary decides that the action of the panel under this section will have a significant adverse impact on carrying out this part, may obtain review of the order under section 46110. The Under Secretary and the Administrator shall be made a party to the review proceedings. Findings of fact of the panel are conclusive if supported by substantial evidence.

''(f) EXPLANATION OF DECISIONS.—An individual who commences an appeal under this section shall receive a written explanation of the basis for the determination or decision and all relevant documents that support that determination to the maximum extent that the national security interests of the United States and other applicable laws permit.

''(g) CLASSIFIED EVIDENCE.—

''(1) IN GENERAL.—The Under Secretary, in consultation with the Administrator and the Director of Central Intelligence, shall issue regulations to establish procedures by which the Under Secretary, as part of a hearing conducted under this section, may provide an unclassified summary of classified evidence upon which the order of the Administrator was based to the individual adversely affected by the order.

''(2) REVIEW OF CLASSIFIED EVIDENCE BY ADMINISTRATIVE LAW JUDGE.—

''(A) REVIEW.—As part of a hearing conducted under this section, if the order of the Administrator issued under subsection (a) is based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.), such information may be submitted by the Under Secretary to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge ex parte and in camera.

''(B) SECURITY CLEARANCES.—Pursuant to existing procedures and requirements, the Under Secretary shall, in coordination, as necessary, with the heads of other affected departments or agencies, ensure that administrative law judges reviewing orders of the Administrator under this section possess security clearances appropriate for their work under this section.

''(3) UNCLASSIFIED SUMMARIES OF CLASSIFIED EVIDENCE.—As part of a hearing conducted under this section and upon the request of the individual adversely affected by an order of the Administrator under subsection (a), the Under Secretary shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under paragraph (1), an unclassified summary of any classified information upon which the order of the Administrator is based.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 461 is amended by adding at the end the following:

''46111. Certificate actions in response to a security threat.''.

SEC. 602. JUSTIFICATION FOR AIR DEFENSE IDENTIFICATION ZONE.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration establishes an Air Defense Identification Zone (in this section referred as an ''ADIZ''), the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, not later than 60 days after the date of establishing the ADIZ, a report containing an explanation of the need for the ADIZ. The Administrator also shall transmit to the Committees updates of the report every 60 days until the ADIZ is rescinded. The reports and updates shall be transmitted in classified form.

(b) EXISTING ADIZ.—If an ADIZ is in effect on the date of enactment of this Act, the Administrator shall transmit an initial report under subsection (a) not later than 30 days after such date of enactment.

(c) DESCRIPTION OF CHANGES TO IMPROVE OPERATIONS.—A report transmitted by the Administrator under this section shall include a description of any changes in procedures or requirements that could improve operational efficiency or minimize operational impacts of the ADIZ on pilots and controllers. This portion of the report may be transmitted in classified or unclassified form.

(d) DEFINITION.—In this section, the terms ''Air Defense Identification Zone'' and ''ADIZ'' each mean a zone established by the Administrator with respect to airspace under 18,000 feet in approximately a 15- to 38-mile radius around Washington, District of Columbia, for which security measures are extended beyond the existing 15-mile no-fly zone around Washington and in which general aviation aircraft are required to adhere to certain procedures issued by the Administrator.

SEC. 603. CREW TRAINING.

Section 44918 is amended to read as follows:

''§ 44918. Crew training

''(a) BASIC SECURITY TRAINING.—

''(1) IN GENERAL.—Each air carrier providing scheduled passenger air transportation shall carry out a training program for flight and cabin crew members to prepare the crew members for potential threat conditions.

''(2) PROGRAM ELEMENTS.—An air carrier training program under this subsection shall include, at a minimum, elements that address each of the following:

''(A) Recognizing suspicious activities and determining the seriousness of any occurrence.

''(B) Crew communication and coordination.

''(C) The proper commands to give passengers and attackers.

''(D) Appropriate responses to defend oneself.

''(E) Use of protective devices assigned to crew members (to the extent such devices are required by the Administrator of the Federal Aviation Administration or the Under Secretary for Border and Transportation Security of the Department of Homeland Security).

''(F) Psychology of terrorists to cope with hijacker behavior and passenger responses.

''(G) Situational training exercises regarding various threat conditions.

''(H) Flight deck procedures or aircraft maneuvers to defend the aircraft and cabin crew responses to such procedures and maneuvers.

''(I) The proper conduct of a cabin search, including explosive device recognition.

''(J) Any other subject matter considered appropriate by the Under Secretary.

''(3) APPROVAL.—An air carrier training program under this subsection shall be subject to approval by the Under Secretary.

''(4) MINIMUM STANDARDS.—Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the Under Secretary may establish minimum standards for the training provided under this subsection and for recurrent training.

''(5) EXISTING PROGRAMS.—Notwithstanding paragraphs (3) and (4), any training program of an air carrier to prepare flight and cabin crew members for potential threat conditions that was approved by the Administrator or the Under Secretary before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act may continue in effect until disapproved or ordered modified by the Under Secretary.

''(6) MONITORING.—The Under Secretary, in consultation with the Administrator, shall monitor air carrier training programs under this subsection and periodically shall review an air carrier's training program to ensure that the program is adequately preparing crew members for potential threat conditions. In determining when an air carrier's training program should be reviewed under this paragraph, the Under Secretary shall consider complaints from crew members. The Under Secretary shall ensure that employees responsible for monitoring the training programs have the necessary resources and knowledge.

''(7) UPDATES.—The Under Secretary, in consultation with the Administrator, shall order air carriers to modify training programs under this subsection to reflect new or different security threats.

''(b) ADVANCED SELF-DEFENSE TRAINING.—

''(1) IN GENERAL.—Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the Under Secretary shall develop and provide a voluntary training program for flight and cabin crew members of air carriers providing scheduled passenger air transportation.

''(2) PROGRAM ELEMENTS.—The training program under this subsection shall include both classroom and effective hands-on training in the following elements of self-defense:

''(A) Deterring a passenger who might present a threat.

''(B) Advanced control, striking, and restraint techniques.

''(C) Training to defend oneself against edged or contact weapons.

''(D) Methods to subdue and restrain an attacker.

''(E) Use of available items aboard the aircraft for self-defense.

''(F) Appropriate and effective responses to defend oneself, including the use of force against an attacker.

''(G) Any other element of training that the Under Secretary considers appropriate.

''(3) PARTICIPATION NOT REQUIRED.—A crew member shall not be required to participate in the training program under this subsection.

''(4) COMPENSATION.—Neither the Federal Government nor an air carrier shall be required to compensate a crew member for participating in the training program under this subsection.

''(5) FEES.—A crew member shall not be required to pay a fee for the training program under this subsection.

''(6) CONSULTATION.—In developing the training program under this subsection, the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, representatives of air carriers, the director of

self-defense training in the Federal Air Marshals Service, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

''(7) DESIGNATION OF TSA OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for implementing the training program under this subsection. The official shall consult with air carriers and labor organizations representing crew members before implementing the program to ensure that it is appropriate for situations that may arise on board an aircraft during a flight.

''(c) LIMITATION.—Actions by crew members under this section shall be subject to the provisions of section 44903(k).''.

SEC. 604. STUDY OF EFFECTIVENESS OF TRANSPORTATION SECURITY SYSTEM.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with representatives of the aviation community, shall study the effectiveness of the aviation security system, including the air marshal program, hardening of cockpit doors, and security screening of passengers, checked baggage, and cargo.

(b) REPORT.—The Secretary shall transmit a report of the Secretary's findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving the effectiveness of aviation security to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act. In the report the Secretary shall also describe any redeployment of Transportation Security Administration resources based on those findings and conclusions. The Secretary may submit the report to the Committees in classified and redacted form. The Secretary shall submit the report in lieu of the annual report required under section 44938(a) of title 49, United States Code, that is due March 31, 2004.

SEC. 605. AIRPORT SECURITY IMPROVEMENT PROJECTS.

(a) IN GENERAL.—Subchapter I of chapter 449 is amended by adding at the end the following:

''§ 44923. Airport security improvement projects

''(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Under Secretary for Border and Transportation Security of the Department of Homeland Security may make grants to airport sponsors—

''(1) for projects to replace baggage conveyer systems related to aviation security;

''(2) for projects to reconfigure terminal baggage areas as needed to install explosive detection systems;

''(3) for projects to enable the Under Secretary to deploy explosive detection systems behind the ticket counter, in the baggage sorting area, or in line with the baggage handling system; and

''(4) for other airport security capital improvement projects.

''(b) APPLICATIONS.—A sponsor seeking a grant under this section shall submit to the Under Secretary an application in such form and containing such information as the Under Secretary prescribes.

''(c) APPROVAL.—The Under Secretary, after consultation with the Secretary of Transportation, may approve an application of a sponsor for a grant under this section only if the Under Secretary determines that the project will improve security at an airport or improve the efficiency of the airport without lessening security.

''(d) LETTERS OF INTENT.—

''(1) ISSUANCE.—The Under Secretary may issue a letter of intent to a sponsor committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an airport security improvement project (including interest costs and costs of formulating the project).

''(2) SCHEDULE.—A letter of intent under this subsection shall establish a schedule under which the Under Secretary will reimburse the sponsor for the Government's share of the project's costs, as amounts become available, if the sponsor, after the Under Secretary issues the letter, carries out the project without receiving amounts under this section.

''(3) NOTICE TO UNDER SECRETARY.—A sponsor that has been issued a letter of intent under this subsection shall notify the Under Secretary of the sponsor's intent to carry out a project before the project begins.

''(4) NOTICE TO CONGRESS.—The Under Secretary shall transmit to the Committees on Appropriations and Transportation and Infrastructure of the House of Representatives and the Committees on Appropriations and Commerce, Science and Transportation of the Senate a written notification at least 3 days before the issuance of a letter of intent under this section.

''(5) LIMITATIONS.—A letter of intent issued under this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

''(6) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

''(e) FEDERAL SHARE.—

''(1) IN GENERAL.—The Government's share of the cost of a project under this section shall be 90 percent for a project at a medium or large hub airport and 95 percent for a project at any other airport.

''(2) EXISTING LETTERS OF INTENT.—The Under Secretary shall revise letters of intent issued before the date of enactment of this section to reflect the cost share established in this subsection with respect to grants made after September 30, 2003.

''(f) SPONSOR DEFINED.—In this section, the term 'sponsor' has the meaning given that term in section 47102.

''(g) APPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements that apply to grants and letters of intent issued under chapter 471 (other than section 47102(3)) shall apply to grants and letters of intent issued under this section.

''(h) AVIATION SECURITY CAPITAL FUND.—

''(1) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Aviation Security Capital Fund. The first $250,000,000 derived from fees received under section 44940(a)(1) in each of fiscal years 2004 through 2007 shall be available to be deposited in the Fund. The Under Secretary shall impose the fee authorized by section 44940(a)(1) so as to collect at least $250,000,000 in each of such fiscal years for deposit into the Fund. Amounts in the Fund shall be available to the Under Secretary to make grants under this section.

''(2) ALLOCATIONS.—Of the amount made available under paragraph (1) for a fiscal year, $125,000,000 shall be allocated in such a manner that—

''(A) 40 percent shall be made available for large hub airports;

''(B) 20 percent shall be made available for medium hub airports;

''(C) 15 percent shall be made available for small hub airports and nonhub airports; and

''(D) 25 percent shall be distributed by the Secretary to any airport on the basis of aviation security risks.

''(3) DISCRETIONARY GRANTS.—Of the amount made available under paragraph (1) for a fiscal year, $125,000,000 shall be used to make discretionary grants, with priority given to fulfilling intentions to obligate under letters of intent issued under subsection (d).

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—In addition to amounts made available under subsection (h), there is authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 2004 through 2007. Such sums shall remain available until expended.

''(2) ALLOCATIONS.—50 percent of amounts appropriated pursuant to this subsection for a fiscal year shall be used for making allocations under subsection (h)(2) and 50 percent of such amounts shall be used for making discretionary grants under subsection (h)(3).''.

(b) CONFORMING AMENDMENTS.—

(1) USE OF PASSENGER FEE FUNDS.—Section 44940(a)(1) is amended by inserting after subparagraph (G) the following:

''(H) The costs of security-related capital improvements at airports.

''(I) The costs of training pilots and flight attendants under sections 44918 and 44921.''.

(2) LIMITATION ON COLLECTION.—Section 44940(d)(4) is amended by striking ''Act.'' and inserting ''Act or in section 44923.''.

(3) CHAPTER ANALYSIS.—The analysis for subchapter I of chapter 449 is amended by adding at the end the following:

''44923. Airport security improvement projects.''.

SEC. 606. CHARTER SECURITY.

(a) IN GENERAL.—Section 44903 is amended by adding at the end the following:

''(l) AIR CHARTER PROGRAM.—

''(1) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall implement an aviation security program for charter air carriers (as defined in section 40102(a)) with a maximum certificated takeoff weight of more than 12,500 pounds.

''(2) EXEMPTION FOR ARMED FORCES CHARTERS.—

''(A) IN GENERAL.—Paragraph (1) and the other requirements of this chapter do not apply to passengers and property carried by aircraft when employed to provide charter transportation to members of the armed forces.

''(B) SECURITY PROCEDURES.—The Secretary of Defense, in consultation with the Secretary of Homeland Security and the Secretary of Transportation, shall establish security procedures relating to the operation of aircraft when employed to provide charter transportation to members of the armed forces to or from an airport described in section 44903(c).

''(C) ARMED FORCES DEFINED.—In this paragraph, the term 'armed forces' has the meaning given that term by section 101(a)(4) of title 10.''.

(b) REPEAL.—Section 132 of the Aviation and Transportation Security Act (49 U.S.C. 44944 note) is repealed.

SEC. 607. CAPPS2.

(a) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall not implement, on other than a test basis, the computer assisted passenger prescreening system (commonly known as and in this section referred to as ''CAPPS2'') until the Under Secretary provides to Congress a certification that—

(1) a procedure is established enabling airline passengers, who are delayed or prohibited from boarding a flight because CAPPS2 determined that they might pose a security threat, to appeal such determination and correct information contained in CAPPS2;

(2) the error rate of the Government and private data bases that will be used to both establish identity and assign a risk level to a passenger under CAPPS2 will not produce a large number of false positives that will result in a significant number of passengers being mistaken as a security threat;

(3) the Under Secretary has demonstrated the efficacy and accuracy of all search tools in CAPPS2 and has demonstrated that CAPPS2 can make an accurate predictive assessment of those passengers who would constitute a security threat;

(4) the Secretary of Homeland Security has established an internal oversight board to oversee and monitor the manner in which CAPPS2 is being implemented;

(5) the Under Secretary has built in sufficient operational safeguards to reduce the opportunities for abuse;

(6) substantial security measures are in place to protect CAPPS2 from –unauthorized access by hackers or other intruders;

(7) the Under Secretary has adopted policies establishing effective oversight of the use and operation of the system; and

(8) there are no specific privacy concerns with the technological architecture of the system.

(b) GAO REPORT.—Not later than 90 days after the date on which certification is provided under subsection (a), the Comptroller General shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate that assesses the impact of CAPPS2 on the issues listed in subsection (a) and on privacy and civil liberties. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effect of CAPPS2 on privacy, discrimination, and other civil liberties.

SEC. 608. REPORT ON PASSENGER PRESCREENING PROGRAM.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Attorney General, shall submit a report in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the potential impact of the Transportation Security Administration's proposed Computer Assisted Passenger Prescreening system, commonly known as CAPPS2, on the privacy and civil liberties of United States citizens.

(b) SPECIFIC ISSUES TO BE ADDRESSED.—The report shall address the following:

(1) Whether and for what period of time data gathered on individual travelers will be retained, who will have access to such data, and who will make decisions concerning access to such data.

(2) How the Transportation Security Administration will treat the scores assigned to individual travelers to measure the likelihood they may pose a security threat, including how long such scores will be retained and whether and under what circumstances they may be shared with other governmental, nongovernmental, or commercial entities.

(3) The role airlines and outside vendors or contractors will have in implementing and operating the system, and to what extent will they have access, or the means to obtain access, to data, scores, or other information generated by the system.

(4) The safeguards that will be implemented to ensure that data, scores, or other information generated by the system will be used only as officially intended.

(5) The procedures that will be implemented to mitigate the effect of any errors, and what procedural recourse will be available to passengers who believe the system has wrongly barred them from taking flights.

(6) The oversight procedures that will be implemented to ensure that, on an ongoing basis, privacy and civil liberties issues will continue to be considered and addressed with high priority as the system is installed, operated, and updated.

SEC. 609. ARMING CARGO PILOTS AGAINST TERRORISM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that members of a flight deck crew of a cargo aircraft should be armed with a firearm or taser to defend the cargo aircraft against an attack by terrorists that could result in the use of the aircraft as a weapon of mass destruction or for other terrorist purposes.

(b) ARMING CARGO PILOTS AGAINST TERRORISM.—Section 44921 is amended—

(1) in subsection (a) by striking ''passenger'' each place that it appears;

(2) in subsection (k)(2) by striking ''or,'' and all that follows before the period at the end and inserting ''or any other flight deck crew member''; and

(3) by adding at the end of subsection (k) the following:

''(3) ALL-CARGO AIR TRANSPORTATION.—In this section, the term 'air transportation' includes all-cargo air transportation.''.

(c) TIME FOR IMPLEMENTATION.—In carrying out the amendments made by subsection (d), the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall ensure that passenger and cargo pilots are treated equitably in receiving access to training as Federal flight deck officers.

(d) EFFECT ON OTHER LAWS.—The requirements of subsection (e) shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

SEC. 610. REMOVAL OF CAP ON TSA STAFFING LEVEL.

The matter appearing under the heading ''AVIATION SECURITY'' in the appropriations for the Transportation Security Administration in the Transportation and Related Agencies Appropriation Act, 2003 (Public Law 108–7; 117 Stat. 386) is amended by striking the fifth proviso.

SEC. 611. FOREIGN REPAIR STATIONS.

(a) OVERSIGHT PLAN.—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan containing an implementation schedule to strengthen oversight of domestic and foreign repair stations and ensure that foreign repair stations that are certified by the Administrator under part 145 of title 14, Code of Federal Regulations, are subject to an equivalent level of safety, oversight, and quality control as those located in the United States.

(b) REPAIR STATION SECURITY.—

(1) IN GENERAL.—Subchapter I of chapter 449 is further amended by adding at the end the following:

''§ 44924. Repair station security

''(a) SECURITY REVIEW AND AUDIT.—To ensure the security of maintenance and repair work conducted on air carrier aircraft and components at foreign repair stations, the Under Secretary for Border and Transportation Security of the Department of Homeland Security, in consultation with the Administrator of the Federal Aviation Administration, shall complete a security review and audit of foreign repair stations that are certified by the Administrator under part 145 of title 14, Code of Federal Regulations, and that work on air carrier aircraft and components. The review shall be completed not later than 18 months after the date on which the Under Secretary issues regulations under subsection (f).

''(b) ADDRESSING SECURITY CONCERNS.—The Under Secretary shall require a foreign repair station to address the security issues and vulnerabilities identified in a security audit conducted under subsection (a) within 90 days of providing notice to the repair station of the security issues and vulnerabilities so identified and shall notify the Administrator that a deficiency was identified in the security audit.

''(c) SUSPENSIONS AND REVOCATIONS OF CERTIFICATES.—

''(1) FAILURE TO CARRY OUT EFFECTIVE SECURITY MEASURES.—If, after the 90th day on which a notice is provided to a foreign repair station under subsection (b), the Under Secretary determines that the foreign repair station does not maintain and carry out effective security measures, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall suspend the certification of the repair station until such time as the Under Secretary determines that the repair station maintains and carries out effective security measures and transmits the determination to the Administrator.

''(2) IMMEDIATE SECURITY RISK.—If the Under Secretary determines that a foreign repair station poses an immediate security risk, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall revoke the certification of the repair station.

''(3) PROCEDURES FOR APPEALS.—The Under Secretary, in consultation with the Administrator, shall establish procedures for appealing a revocation of a certificate under this subsection.

''(d) FAILURE TO MEET AUDIT DEADLINE.—If the security audits required by subsection (a) are not completed on or before the date that is 18 months after the date on which the Under Secretary issues regulations under subsection (f), the Administrator shall be barred from certifying any foreign repair station until such audits are completed for existing stations.

''(e) PRIORITY FOR AUDITS.—In conducting the audits described in subsection (a), the Under Secretary and the Administrator shall give priority to foreign repair stations located in countries identified by the Government as posing the most significant security risks.

''(f) REGULATIONS.—Not later than 240 days after the date of enactment of this section, the Under Secretary, in consultation with the Administrator, shall issue final regulations to ensure the security of foreign and domestic aircraft repair stations.

''(g) REPORT TO CONGRESS.—If the Under Secretary does not issue final regulations before the deadline specified in subsection (f), the Under Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an explanation as to why the deadline was not met and a schedule for issuing the final regulations.''.

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 449 is further amended by adding at the end the following:

''44924. Repair station security.''.

SEC. 612. FLIGHT TRAINING.

(a) IN GENERAL.—Section 44939 is amended to read as follows:

''§ 44939. Training to operate certain aircraft

''(a) WAITING PERIOD.—A person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of more than 12,500 pounds to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if—

''(1) that person has first notified the Secretary that the alien or individual has requested such training and submitted to the Secretary, in such form as the Secretary may prescribe, the following information about the alien or individual:

''(A) full name, including any aliases used by the applicant or variations in spelling of the applicant's name;

''(B) passport and visa information;

''(C) country of citizenship;

''(D) date of birth;

''(E) dates of training; and

''(F) fingerprints collected by, or under the supervision of, a Federal, State, or local law enforcement agency or by another entity approved by the Federal Bureau of Investigation or the Secretary of Homeland Security, including fingerprints taken by United States Government personnel at a United States embassy or consulate; and

''(2) the Secretary has not directed, within 30 days after being notified under paragraph (1), that person not to provide the requested training because the Secretary has determined that the individual presents a risk to aviation or national security.

''(b) INTERRUPTION OF TRAINING.—If the Secretary of Homeland Security, more than 30 days after receiving notification under subsection (a) from a person providing training described in subsection (a), determines that the individual presents a risk to aviation or national security, the Secretary shall immediately notify the person providing the training of the determination and that person shall immediately terminate the training.

''(c) NOTIFICATION.—A person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of 12,500 pounds or less to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if that person has notified the Secretary that the individual has requested such training and furnished the Secretary with that individual's identification in such form as the Secretary may require.

''(d) EXPEDITED PROCESSING.—Not later than 60 days after the date of enactment of this section, the Secretary shall establish a process to ensure that the waiting period under subsection (a) shall not exceed 5 days for an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) who—

''(1) holds an airman's certification of a foreign country that is recognized by an agency of the United States, including a military agency, that permits an individual to operate a multiengine aircraft that has a certificated takeoff weight of more than 12,500 pounds;

''(2) is employed by a foreign air carrier that is certified under part 129 of title 14, Code of Federal Regulations, and that has a security program approved under section 1546 of title 49, Code of Federal Regulations;

''(3) is an individual that has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii); or

''(4) is an individual that is part of a class of individuals that the Secretary has determined that providing aviation training to presents minimal risk to aviation or national security because of the aviation training already possessed by such class of individuals.

''(e) TRAINING.—In subsection (a), the term 'training' means training received from an instructor in an aircraft or aircraft simulator and does not include recurrent training, ground training, or demonstration flights for marketing purposes.

''(f) NONAPPLICABILITY TO CERTAIN FOREIGN MILITARY PILOTS.—The procedures and processes required by subsections (a) through (d) shall not apply to a foreign military pilot endorsed by the Department of Defense for flight training in the United States and seeking training described in subsection (e) in the United States.

''(g) FEE.—

''(1) IN GENERAL.—The Secretary of Homeland Security may assess a fee for an investigation under this section, which may not exceed $100 per individual (exclusive of the cost of transmitting fingerprints collected at overseas facilities) during fiscal years 2003 and 2004. For fiscal year 2005 and thereafter, the Secretary may adjust the maximum amount of the fee to reflect the costs of such an investigation.

''(2) OFFSET.—Notwithstanding section 3302 of title 31, any fee collected under this section—

''(A) shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Secretary for those expenses; and

''(B) shall remain available until expended.

''(h) INTERAGENCY COOPERATION.—The Attorney General, the Director of Central Intelligence, and the Administrator of the Federal Aviation Administration shall cooperate with the Secretary in implementing this section.

''(i) SECURITY AWARENESS TRAINING FOR EMPLOYEES.—The Secretary shall require flight schools to conduct a security awareness program for flight school employees to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.''.

(b) PROCEDURES.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall promulgate an interim final rule to implement section 44939 of title 49, United States Code, as amended by subsection (a).

(2) USE OF OVERSEAS FACILITIES.—In order to implement section 44939 of title 49, United States Code, as amended by subsection (a), United States Embassies and Consulates that possess appropriate fingerprint collection equipment and personnel certified to capture fingerprints shall provide fingerprint services to aliens covered by that section if the Secretary requires fingerprints in the administration of that section, and shall transmit the fingerprints to the Secretary or other agency designated by the Secretary. The Attorney General and the Secretary of State shall cooperate with the Secretary of Homeland Security in carrying out this paragraph.

(3) USE OF UNITED STATES FACILITIES.—If the Secretary of Homeland Security requires fingerprinting in the administration of section 44939 of title 49, United States Code, the Secretary may designate locations within the United States that will provide fingerprinting services to individuals covered by that section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the effective date of the interim final rule required by subsection (b)(1).

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the effectiveness of the activities carried out under section 44939 of title 49, United States Code, in reducing risks to aviation security and national security.

SEC. 613. DEPLOYMENT OF SCREENERS AT KENAI, HOMER, AND VALDEZ, ALASKA.

Not later than 45 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration shall deploy Federal screeners at Kenai, Homer, and Valdez, Alaska.

TITLE VII—AVIATION RESEARCH

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) is amended—

(1) by striking ''to carry out sections 44504'' and inserting ''for conducting civil aviation research and development under sections 44504'';

(2) by striking ''and'' at the end of paragraph (7);

(3) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

''(9) for fiscal year 2004, $346,317,000, including—

''(A) $65,000,000 for Improving Aviation Safety;

''(B) $24,000,000 for Weather Safety Research;

''(C) $27,500,000 for Human Factors and Aeromedical Research;

''(D) $30,000,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

''(E) $7,000,000 for Research Mission Support;

''(F) $10,000,000 for the Airport Cooperative Research Program;

''(G) $1,500,000 for carrying out subsection (h) of this section;

''(H) $42,800,000 for Advanced Technology Development and Prototyping;

''(I) $30,300,000 for Safe Flight 21;

''(J) $90,800,000 for the Center for Advanced Aviation System Development;

''(K) $9,667,000 for Airports Technology-Safety; and

''(L) $7,750,000 for Airports Technology-Efficiency;

''(10) for fiscal year 2005, $356,192,000, including—

''(A) $65,705,000 for Improving Aviation Safety;

''(B) $24,260,000 for Weather Safety Research;

''(C) $27,800,000 for Human Factors and Aeromedical Research;

''(D) $30,109,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

''(E) $7,076,000 for Research Mission Support;

''(F) $10,000,000 for the Airport Cooperative Research Program;

''(G) $1,650,000 for carrying out subsection (h) of this section;

''(H) $43,300,000 for Advanced Technology Development and Prototyping;

''(I) $31,100,000 for Safe Flight 21;

''(J) $95,400,000 for the Center for Advanced Aviation System Development;

''(K) $2,200,000 for Free Flight Phase 2;

''(L) $9,764,000 for Airports Technology-Safety; and

''(M) $7,828,000 for Airports Technology-Efficiency;

''(11) for fiscal year 2006, $352,157,000, including—

''(A) $66,447,000 for Improving Aviation Safety;

''(B) $24,534,000 for Weather Safety Research;

''(C) $28,114,000 for Human Factors and Aeromedical Research;

''(D) $30,223,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

''(E) $7,156,000 for Research Mission Support;

''(F) $10,000,000 for the Airport Cooperation Research Program;

''(G) $1,815,000 for carrying out subsection (h) of this section;

''(H) $42,200,000 for Advanced Technology Development and Prototyping;

''(I) $23,900,000 for Safe Flight 21;

''(J) $100,000,000 for the Center for Advanced Aviation System Development;

''(K) $9,862,000 for Airports Technology-Safety; and

''(L) $7,906,000 for Airports Technology-Efficiency; and

''(12) for fiscal year 2007, $356,261,000, including—

''(A) $67,244,000 for Improving Aviation Safety;

''(B) $24,828,000 for Weather Safety Research;

''(C) $28,451,000 for Human Factors and Aeromedical Research;

''(D) $30,586,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

''(E) $7,242,000 for Research Mission Support;

''(F) $10,000,000 for the Airport Cooperation Research Program;

''(G) $1,837,000 for carrying out subsection (h) of this section;

''(H) $42,706,000 for Advanced Technology Development and Prototyping;

''(I) $24,187,000 for Safe Flight 21;

''(J) $101,200,000 for the Center for Advanced Aviation System Development;

''(K) $9,980,000 for Airports Technology-Safety; and

''(L) $8,000,000 for Airports Technology-Efficiency.''.

SEC. 702. FEDERAL AVIATION ADMINISTRATION SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.

(a)(1) The Administrator of the Federal Aviation Administration shall establish a Federal Aviation Administration Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Federal Aviation Administration.

(2) Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act.

(3) To carry out the Program the Administrator shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the Federal Aviation Administration, for the period described in subsection (f)(1), in positions needed by the Federal Aviation Administration and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) In order to be eligible to participate in the Program, an individual must—

(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education, as a junior or senior undergraduate or graduate student, in an academic field or discipline described in the list made available under subsection (d);

(2) be a United States citizen or permanent resident; and

(3) at the time of the initial scholarship award, not be an employee (as defined in section 2105 of title 5, United States Code).

(c) An individual seeking a scholarship under this section shall submit an application to the Administrator at such time, in such manner, and containing such information, agreements, or assurances as the Administrator may require.

(d) The Administrator shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized and shall update the list as necessary.

(e)(1) The Administrator may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Administrator, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

(2) An individual may not receive a scholarship under this section for more than 4 academic years, unless the Administrator grants a waiver.

(3) The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Administrator, but shall in no case exceed the cost of attendance.

(4) A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Administrator by regulation.

(5) The Administrator may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(f)(1) The period of service for which an individual shall be obligated to serve as an employee of the Federal Aviation Administration is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

(2)(A) Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) The Administrator may defer the obligation of an individual to provide a period of service under paragraph (1) if the Administrator determines that such a deferral is appropriate. The Administrator shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

(g)(1) Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Administrator by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Administrator when determined to be necessary, as established by regulation.

(2) Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Administrator pursuant to subsection (f)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; plus

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 3.

(h)(1) Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) The Administrator shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(i) For purposes of this section—

(1) the term ''cost of attendance'' has the meaning given that term in section 472 of the Higher Education Act of 1965;

(2) the term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965; and

(3) the term ''Program'' means the Federal Aviation Administration Science and Technology Scholarship Program established under this section.

(j)(1) There is authorized to be appropriated to the Federal Aviation Administration for the Program $10,000,000 for each fiscal year.

(2) Amounts appropriated under this section shall remain available for 2 fiscal years.

(k) The Administrator may provide temporary internships to full-time students enrolled in an undergraduate or post-graduate program leading to an advanced degree in an aerospace-related or aviation safety-related field of endeavor.

SEC. 703. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.

(a)(1) The Administrator of the National Aeronautics and Space Administration shall establish a National Aeronautics and Space Administration Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the National Aeronautics and Space Administration.

(2) Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act.

(3) To carry out the Program the Administrator shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the National Aeronautics and Space Administration, for the period described in subsection (f)(1), in positions needed by the National Aeronautics and Space Administration and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) In order to be eligible to participate in the Program, an individual must—

(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education, as a junior or senior undergraduate or graduate student, in an academic field or discipline described in the list made available under subsection (d);

(2) be a United States citizen or permanent resident; and

(3) at the time of the initial scholarship award, not be an employee (as defined in section 2105 of title 5, United States Code).

(c) An individual seeking a scholarship under this section shall submit an application to the Administrator at such time, in such manner, and containing such information, agreements, or assurances as the Administrator may require.

(d) The Administrator shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized and shall update the list as necessary.

(e)(1) The Administrator may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Administrator, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

(2) An individual may not receive a scholarship under this section for more than 4 academic years, unless the Administrator grants a waiver.

(3) The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Administrator, but shall in no case exceed the cost of attendance.

(4) A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Administrator by regulation.

(5) The Administrator may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(f)(1) The period of service for which an individual shall be obligated to serve as an employee of the National Aeronautics and Space Administration is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

(2)(A) Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) The Administrator may defer the obligation of an individual to provide a period of service under paragraph (1) if the Administrator determines that such a deferral is appropriate. The Administrator shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

(g)(1) Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Administrator by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Administrator when determined to be necessary, as established by regulation.

(2) Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Administrator pursuant to subsection (f)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; plus

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 3.

(h)(1) Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) The Administrator shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(i) For purposes of this section—

(1) the term ''cost of attendance'' has the meaning given that term in section 472 of the Higher Education Act of 1965;

(2) the term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965; and

(3) the term ''Program'' means the National Aeronautics and Space Administration Science and Technology Scholarship Program established under this section.

(j)(1) There is authorized to be appropriated to the National Aeronautics and Space Administration for the Program $10,000,000 for each fiscal year.

(2) Amounts appropriated under this section shall remain available for 2 fiscal years.

(k) The Administrator may provide temporary internships to full-time students enrolled in an undergraduate or post-graduate program leading to an advanced degree in an aerospace-related or aviation safety-related field of endeavor.

SEC. 704. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

(a) CONTINUATION OF PROGRAM.—The Administrator of the Federal Aviation Administration shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of airfield pavements to aid in the development of safer, more cost effective, and more durable airfield pavements.

(b) USE OF GRANTS OR COOPERATIVE AGREEMENTS.—The Administrator may use grants or cooperative agreements in carrying out this section.

(c) STATUTORY CONSTRUCTION.—Nothing in this section requires the Administrator to prioritize an airfield pavement research program above safety, security, Flight 21, environment, or energy research programs.

SEC. 705. ENSURING APPROPRIATE STANDARDS FOR AIRFIELD PAVEMENTS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall review and determine whether the Federal Aviation Administration's standards used to determine the appropriate thickness for asphalt and concrete airfield pavements are in accordance with the Federal Aviation Administration's standard 20-year-life requirement using the most up-to-date available information on the life of airfield pavements. If the Administrator determines that such standards are not in accordance with that requirement, the Administrator shall make appropriate adjustments to the Federal Aviation Administration's standards for airfield pavements.

(b) REPORT.—Within 1 year after the date of enactment of this Act, the Administrator shall report the results of the review conducted under subsection (a) and the adjustments, if any, made on the basis of that review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Science.

SEC. 706. DEVELOPMENT OF ANALYTICAL TOOLS AND CERTIFICATION METHODS.

The Federal Aviation Administration shall conduct research to promote the development of analytical tools to improve existing certification methods and to reduce the overall costs for the certification of new products.

SEC. 707. RESEARCH ON AVIATION TRAINING.

Section 48102(h)(1) of title 49, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; or''; and

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

''(D) research on the impact of new technologies and procedures, particularly those related to aircraft flight deck and air traffic management functions, on training requirements for pilots and air traffic controllers.''.

SEC. 708. FAA CENTER FOR EXCELLENCE FOR APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall develop a Center for Excellence focused on applied research and training on the durability and maintainability of advanced materials in transport airframe structures. The Center shall—

(1) promote and facilitate collaboration among academia, the Federal Aviation Administration's Transportation Division, and the commercial aircraft industry, including manufacturers, commercial air carriers, and suppliers; and

(2) establish goals set to advance technology, improve engineering practices, and facilitate continuing education in relevant areas of study.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $500,000 for fiscal year 2004 to carry out this section.

SEC. 709. AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE.

(a) ESTABLISHMENT.—(1) The Secretary of Transportation shall establish in the Federal Aviation Administration a joint planning and development office to manage work related to the Next Generation Air Transportation System. The office shall be known as the Next Generation Air Transportation System Joint Planning and Development Office (in this section referred to as the ''Office'').

(2) The responsibilities of the Office shall include—

(A) creating and carrying out an integrated plan for a Next Generation Air Transportation System pursuant to subsection (b);

(B) overseeing research and development on that system;

(C) creating a transition plan for the implementation of that system;

(D) coordinating aviation and aeronautics research programs to achieve the goal of more effective and directed programs that will result in applicable research;

(E) coordinating goals and priorities and coordinating research activities within the Federal Government with United States aviation and aeronautical firms;

(F) coordinating the development and utilization of new technologies to ensure that when available, they may be used to their fullest potential in aircraft and in the air traffic control system;

(G) facilitating the transfer of technology from research programs such as the National Aeronautics and Space Administration program and the Department of Defense Advanced Research Projects Agency program to Federal agencies with operational responsibilities and to the private sector; and

(H) reviewing activities relating to noise, emissions, fuel consumption, and safety conducted by Federal agencies, including the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Commerce, and the Department of Defense.

(3) The Office shall operate in conjunction with relevant programs in the Department of Defense, the National Aeronautics and Space Administration, the Department of Commerce and the Department of Homeland Security. The Secretary of Transportation may request assistance from staff from those Departments and other Federal agencies.

(4) In developing and carrying out its plans, the Office shall consult with the public and ensure the participation of experts from the private sector including representatives of commercial aviation, general aviation, aviation labor groups, aviation research and development entities, aircraft and air traffic control suppliers, and the space industry.

(b) INTEGRATED PLAN.—The integrated plan shall be designed to ensure that the Next Generation Air Transportation System meets air transportation safety, security, mobility, efficiency, and capacity needs beyond those currently included in the Federal Aviation Administration's operational evolution plan and accomplishes the goals under subsection (c). The integrated plan shall include—

(1) a national vision statement for an air transportation system capable of meeting potential air traffic demand by 2025;

(2) a description of the demand and the performance characteristics that will be required of

the Nation's future air transportation system, and an explanation of how those characteristics were derived, including the national goals, objectives, and policies the system is designed to further, and the underlying socioeconomic determinants, and associated models and analyses;

(3) a multiagency research and development roadmap for creating the Next Generation Air Transportation System with the characteristics outlined under clause (ii), including—

(A) the most significant technical obstacles and the research and development activities necessary to overcome them, including for each project, the role of each Federal agency, corporations, and universities;

(B) the annual anticipated cost of carrying out the research and development activities; and

(C) the technical milestones that will be used to evaluate the activities; and

(4) a description of the operational concepts to meet the system performance requirements for all system users and a timeline and anticipated expenditures needed to develop and deploy the system to meet the vision for 2025.

(c) GOALS.—The Next Generation Air Transportation System shall—

(1) improve the level of safety, security, efficiency, quality, and affordability of the National Airspace System and aviation services;

(2) take advantage of data from emerging ground-based and space-based communications, navigation, and surveillance technologies;

(3) integrate data streams from multiple agencies and sources to enable situational awareness and seamless global operations for all appropriate users of the system, including users responsible for civil aviation, homeland security, and national security;

(4) leverage investments in civil aviation, homeland security, and national security and build upon current air traffic management and infrastructure initiatives to meet system performance requirements for all system users;

(5) be scalable to accommodate and encourage substantial growth in domestic and international transportation and anticipate and accommodate continuing technology upgrades and advances;

(6) accommodate a wide range of aircraft operations, including airlines, air taxis, helicopters, general aviation, and unmanned aerial vehicles; and

(7) take into consideration, to the greatest extent practicable, design of airport approach and departure flight paths to reduce exposure of noise and emissions pollution on affected residents.

(d) REPORTS.—The Administrator of the Federal Aviation Administration shall transmit to the Committee on Commerce, Science, and Transportation in the Senate and the Committee on Transportation and Infrastructure and the Committee on Science in the House of Representatives—

(1) not later than 1 year after the date of enactment of this Act, the integrated plan required in subsection (b); and

(2) annually at the time of the President's budget request, a report describing the progress in carrying out the plan required under subsection (b) and any changes to that plan.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office $50,000,000 for each of the fiscal years 2004 through 2010.

SEC. 710. NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE.

(a) IN GENERAL.—The Secretary of Transportation shall establish a senior policy committee to work with the Next Generation Air Transportation System Joint Planning and Development Office. The senior policy committee shall be chaired by the Secretary.

(b) MEMBERSHIP.—In addition to the Secretary, the senior policy committee shall be composed of—

(1) the Administrator of the Federal Aviation Administration (or the Administrator's designee);

(2) the Administrator of the National Aeronautics and Space Administration (or the Administrator's designee);

(3) the Secretary of Defense (or the Secretary's designee);

(4) the Secretary of Homeland Security (or the Secretary's designee);

(5) the Secretary of Commerce (or the Secretary's designee);

(6) the Director of the Office of Science and Technology Policy (or the Director's designee); and

(7) designees from other Federal agencies determined by the Secretary of Transportation to have an important interest in, or responsibility for, other aspects of the system.

(c) FUNCTION.—The senior policy committee shall—

(1) advise the Secretary of Transportation regarding the national goals and strategic objectives for the transformation of the Nation's air transportation system to meet its future needs;

(2) provide policy guidance for the integrated plan for the air transportation system to be developed by the Next Generation Air Transportation System Joint Planning and Development Office;

(3) provide ongoing policy review for the transformation of the air transportation system;

(4) identify resource needs and make recommendations to their respective agencies for necessary funding for planning, research, and development activities; and

(5) make legislative recommendations, as appropriate, for the future air transportation system.

(d) CONSULTATION.—In carrying out its functions under this section, the senior policy committee shall consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, aviation labor, and the space industry), members of the public, and other interested parties and may do so through a special advisory committee composed of such representatives.

SEC. 711. ROTORCRAFT RESEARCH AND DEVELOPMENT INITIATIVE.

(a) OBJECTIVE.—The Administrator of the Federal Aviation Administration shall establish a rotorcraft initiative with the objective of developing, and demonstrating in a relevant environment, within 10 years after the date of the enactment of this Act, technologies to enable rotorcraft with the following improvements relative to rotorcraft existing as of the date of the enactment of this Act:

(1) 80 percent reduction in noise levels on takeoff and on approach and landing as perceived by a human observer.

(2) Factor of 10 reduction in vibration.

(3) 30 percent reduction in empty weight.

(4) Predicted accident rate equivalent to that of fixed-wing aircraft in commercial service within 10 years after the date of the enactment of this Act.

(5) Capability for zero-ceiling, zero-visibility operations.

(b) IMPLEMENTATION.—Within 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall provide a plan to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate for the implementation of the initiative described in subsection (a).

SEC. 712. AIRPORT COOPERATIVE RESEARCH PROGRAM.

Section 44511 is amended by adding at the end the following new subsection:

''(f) AIRPORT COOPERATIVE RESEARCH PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a 4-year pilot airport cooperative research program to—

''(A) identify problems that are shared by airport operating agencies and can be solved through applied research but that are not being adequately addressed by existing Federal research programs; and

''(B) fund research to address those problems.

''(2) GOVERNANCE.—The Secretary of Transportation shall appoint an independent governing board for the research program established under this subsection. The governing board shall be appointed from candidates nominated by national associations representing public airport operating agencies, airport executives, State aviation officials, and the scheduled airlines, and shall include representatives of appropriate Federal agencies. Section 14 of the Federal Advisory Committee Act shall not apply to the governing board.

''(3) IMPLEMENTATION.—The Secretary of Transportation shall enter into an arrangement with the National Academy of Sciences to provide staff support to the governing board established under paragraph (2) and to carry out projects proposed by the governing board that the Secretary considers appropriate.

''(4) REPORT.—Not later than 6 months after the expiration of the program under this subsection, the Secretary shall transmit to the Congress a report on the program, including recommendations as to the need for establishing a permanent airport cooperative research program.''.

TITLE VIII—MISCELLANEOUS

SEC. 801. DEFINITIONS.

(a) IN GENERAL.—Section 47102 is amended—

(1) by redesignating paragraphs (19) and (20) as paragraphs (24) and (25), respectively;

(2) by inserting after paragraph (18) the following:

''(23) 'small hub airport' means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.'';

(3) in paragraph (10) by striking subparagraphs (A) and (B) and inserting following:

''(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

''(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.'';

(4) by redesignating paragraphs (10) through (18) as paragraphs (14) through (22), respectively;

(5) by inserting after paragraph (9) the following:

''(10) 'large hub airport' means a commercial service airport that has at least 1.0 percent of the passenger boardings.

''(12) 'medium hub airport' means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

''(13) 'nonhub airport' means a commercial service airport that has less than 0.05 percent of the passenger boardings.''; and

(6) by striking paragraph (6) and inserting the following:

''(6) 'amount made available under section 48103' or 'amount newly made available' means the amount authorized for grants under section 48103 as that amount may be limited in that year by a subsequent law, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).''.

(b) CONFORMING AMENDMENT.—Section 47116(b)(1) is amended by striking ''(as defined in section 41731 of this title)''.

SEC. 802. REPORT ON AVIATION SAFETY REPORTING SYSTEM.

Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to

Congress a report on the long-term goals and objectives of the Aviation Safety Reporting System and how such system interrelates with other safety reporting systems of the Federal Government.

SEC. 803. ANCHORAGE AIR TRAFFIC CONTROL.

(a) IN GENERAL.—Not later than September 30, 2004, the Administrator of the Federal Aviation Administration shall complete a study and transmit a report to the appropriate committees regarding the feasibility of consolidating the Anchorage Terminal Radar Approach Control and the Anchorage Air Route Traffic Control Center at the existing Anchorage Air Route Traffic Control Center facility.

(b) APPROPRIATE COMMITTEES.—In this section, the term ''appropriate committees'' means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 804. EXTENSION OF METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.

Section 49108 is amended by striking ''2004'' and inserting ''2008''.

SEC. 805. IMPROVEMENT OF AVIATION INFORMATION COLLECTION.

(a) IN GENERAL.—Section 329(b)(1) is amended by striking ''except that in no case'' and all that follows through the semicolon at the end and inserting the following: ''except that, if the Secretary requires air carriers to provide flight-specific information, the Secretary—

''(A) shall not disseminate fare information for a specific flight to the general public for a period of at least 9 months following the date of the flight; and

''(B) shall give due consideration to and address confidentiality concerns of carriers, including competitive implications, in any rulemaking prior to adoption of a rule requiring the dissemination to the general public of any flight-specific fare;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the issuance of a final rule to modernize the Origin and Destination Survey of Airline Passenger Traffic, pursuant to the Advance Notice of Proposed Rulemaking published July 15, 1998 (Regulation Identifier Number 2105–AC71), that reduces the reporting burden for air carriers through electronic filing of the survey data collected under section 329(b)(1) of title 49, United States Code.

SEC. 806. GOVERNMENT-FINANCED AIR TRANSPORTATION.

Section 40118(f)(2) is amended by inserting before the period at the end the following: '', except that it shall not include a contract for the transportation by air of passengers''.

SEC. 807. AIR CARRIER CITIZENSHIP.

Section 40102(a)(15)(C) is amended by inserting ''which is under the actual control of citizens of the United States,'' before ''and in which''.

SEC. 808. UNITED STATES PRESENCE IN GLOBAL AIR CARGO INDUSTRY.

Section 41703 is amended by adding at the end the following:

''(e) CARGO IN ALASKA.—

''(1) IN GENERAL.—For the purposes of subsection (c), eligible cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by any combination of 2 or more air carriers or foreign air carriers in either direction between a place in the United States and a place outside the United States shall not be deemed to have broken its international journey in, be taken on in, or be destined for Alaska.

''(2) ELIGIBLE CARGO.—For purposes of paragraph (1), the term 'eligible cargo' means cargo transported between Alaska and any other place in the United States on a foreign air carrier (having been transported from, or thereafter being transported to, a place outside the United States on a different air carrier or foreign air carrier) that is carried—

''(A) under the code of a United States air carrier providing air transportation to Alaska;

''(B) on an air carrier way bill of an air carrier providing air transportation to Alaska;

''(C) under a term arrangement or block space agreement with an air carrier; or

''(D) under the code of a United States air carrier for purposes of transportation within the United States.''.

SEC. 809. AVAILABILITY OF AIRCRAFT ACCIDENT SITE INFORMATION.

(a) DOMESTIC AIR TRANSPORTATION.—Section 41113(b) is amended—

(1) in paragraph (16) by striking ''the air carrier'' the third place it appears; and

(2) by adding at the end the following:

''(17)(A) An assurance that, in the case of an accident that results in significant damage to a manmade structure or other property on the ground that is not government-owned, the air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

''(B) At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by air carrier representatives about compensation by the air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

''(18) An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier's flight if that city is located in the United States.''.

(b) FOREIGN AIR TRANSPORTATION.—Section 41313(c) is amended by adding at the end the following:

''(17) NOTICE CONCERNING LIABILITY FOR MANMADE STRUCTURES.—

''(A) IN GENERAL.—An assurance that, in the case of an accident that results in significant damage to a manmade structure or other property on the ground that is not government-owned, the foreign air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

''(B) MINIMUM CONTENTS.—At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

''(18) SIMULTANEOUS ELECTRONIC TRANSMISSION OF NTSB HEARING.—An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier's flight if that city is located in the United States.''.

(c) UPDATE PLANS.—Air carriers and foreign air carriers shall update their plans under sections 41113 and 41313 of title 49, United States Code, respectively, to reflect the amendments made by subsections (a) and (b) of this section not later than 90 days after the date of enactment of this Act.

SEC. 810. NOTICE CONCERNING AIRCRAFT ASSEMBLY.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following:

''§ 41723. Notice concerning aircraft assembly

''The Secretary of Transportation shall require, beginning after the last day of the 18-month period following the date of enactment of this section, an air carrier using an aircraft to provide scheduled passenger air transportation to display a notice, on an information placard available to each passenger on the aircraft, that informs the passengers of the nation in which the aircraft was finally assembled.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by inserting after the item relating to section 41722 the following:

''41723. Notice concerning aircraft assembly.''.

SEC. 811. TYPE CERTIFICATES.

Section 44704(a) is amended by adding at the end the following:

''(3) If the holder of a type certificate agrees to permit another person to use the certificate to manufacture a new aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. Such other person may manufacture a new aircraft, aircraft engine, propeller, or appliance based on a type certificate only if such other person is the holder of the type certificate or has permission from the holder.''.

SEC. 812. RECIPROCAL AIRWORTHINESS CERTIFICATION.

(a) IN GENERAL.—As part of their bilateral negotiations with foreign nations and their civil aviation counterparts, the Secretary of State and the Administrator of the Federal Aviation Administration shall facilitate the reciprocal airworthiness certification of aviation products.

(b) RECIPROCAL AIRWORTHINESS DEFINED.—In this section, the term ''reciprocal airworthiness certification of aviation products'' means that the regulatory authorities of each nation perform a similar review in certifying or validating the certification of aircraft and aircraft components of other nations.

SEC. 813. INTERNATIONAL ROLE OF THE FAA.

Section 40104(b) is amended to read as follows:

''(b) INTERNATIONAL ROLE OF THE FAA.—The Administrator shall promote and achieve global improvements in the safety, efficiency, and environmental effect of air travel by exercising leadership with the Administrator's foreign counterparts, in the International Civil Aviation Organization and its subsidiary organizations, and other international organizations and fora, and with the private sector.''.

SEC. 814. FLIGHT ATTENDANT CERTIFICATION.

(a) IN GENERAL.—Chapter 447 is further amended by adding at the end the following:

''§ 44728. Flight attendant certification

''(a) CERTIFICATE REQUIRED.—

''(1) IN GENERAL.—No person may serve as a flight attendant aboard an aircraft of an air carrier unless that person holds a certificate of demonstrated proficiency from the Administrator of the Federal Aviation Administration. Upon the request of the Administrator or an authorized representative of the National Transportation Safety Board or another Federal agency, a person who holds such a certificate shall present the certificate for inspection within a reasonable period of time after the date of the request.

''(2) SPECIAL RULE FOR CURRENT FLIGHT ATTENDANTS.—An individual serving as a flight attendant on the effective date of this section may continue to serve aboard an aircraft as a flight attendant until completion by that individual of the required recurrent or requalification training and subsequent certification under this section.

''(3) TREATMENT OF FLIGHT ATTENDANT AFTER NOTIFICATION.—On the date that the Administrator is notified by an air carrier that an individual has the demonstrated proficiency to be a flight attendant, the individual shall be treated for purposes of this section as holding a certificate issued under the section.

''(b) ISSUANCE OF CERTIFICATE.—The Administrator shall issue a certificate of demonstrated proficiency under this section to an individual after the Administrator is notified by the air carrier that the individual has successfully completed all the training requirements for flight attendants approved by the Administrator.

''(c) DESIGNATION OF PERSON TO DETERMINE SUCCESSFUL COMPLETION OF TRAINING.—In accordance with part 183 of chapter 14, Code of Federal Regulation, the director of operations of an air carrier is designated to determine that an individual has successfully completed the training requirements approved by the Administrator for such individual to serve as a flight attendant.

''(d) SPECIFICATIONS RELATING TO CERTIFICATES.—Each certificate issued under this section shall—

''(1) be numbered and recorded by the Administrator;

''(2) contain the name, address, and description of the individual to whom the certificate is issued;

''(3) is similar in size and appearance to certificates issued to airmen;

''(4) contain the airplane group for which the certificate is issued; and

''(5) be issued not later than 120 days after the Administrator receives notification from the air carrier of demonstrated proficiency and, in the case of an individual serving as flight attendant on the effective date of this section, not later than 1 year after such effective date.

''(e) APPROVAL OF TRAINING PROGRAMS.—Air carrier flight attendant training programs shall be subject to approval by the Administrator. All flight attendant training programs approved by the Administrator in the 1-year period ending on the date of enactment of this section shall be treated as providing a demonstrated proficiency for purposes of meeting the certification requirements of this section.

''(f) FLIGHT ATTENDANT DEFINED.—In this section, the term 'flight attendant' means an individual working as a flight attendant in the cabin of an aircraft that has 20 or more seats and is being used by an air carrier to provide air transportation.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 is further amended by adding at the end the following:

''44728. Flight attendant certification.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the 365th day following the date of enactment of this Act.

SEC. 815. AIR QUALITY IN AIRCRAFT CABINS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled ''The Airliner Cabin Environment and the Health of Passengers and Crew''.

(b) REQUIRED ACTIVITIES.—In carrying out this section, the Administrator, at a minimum, shall—

(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

(2) collect pesticide exposure data to determine exposures of passengers and crew;

(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the contaminants to which passengers and crew were exposed;

(4) analyze and study cabin air pressure and altitude; and

(5) establish an air quality incident reporting system.

(c) REPORT.—Not later than 30 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.

SEC. 816. RECOMMENDATIONS CONCERNING TRAVEL AGENTS.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on—

(1) the travel agent arbiter program; and

(2) the special box on tickets for agents to include their service fee charges.

(b) CONSULTATION.—In preparing this report, the Secretary shall consult with representatives from the airline and travel agent industry.

SEC. 817. REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES.

(a) IN GENERAL.—The Secretary of Transportation may make grants to reimburse the following general aviation entities for the security costs incurred and revenue foregone as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001:

(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act and general aviation entities operating at those airports.

(3) General aviation entities affected by implementation of section 44939 of title 49, United States Code.

(4) General aviation entities that were affected by Federal Aviation Administration Notices to Airmen FDC 2/1099 and 3/1862 or section 352 of the Department of Transportation and Related Agencies Appropriations Act, 2003 (Public Law 108–7, division I), or both.

(5) Sightseeing operations that were not authorized to resume in enhanced class B air space under Federal Aviation Administration notice to airmen 1/1225.

(b) DOCUMENTATION.—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

(c) GENERAL AVIATION ENTITY DEFINED.—In this section, the term ''general aviation entity'' means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

(2) manufactures nonmilitary aircraft with a maximum seating capacity of fewer than 20 passengers or aircraft parts to be used in such aircraft;

(3) provides services necessary for nonmilitary operations under such part 91; or

(4) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—

(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such term includes fixed based operators, flight schools, manufacturers of general aviation aircraft and products, persons engaged in nonscheduled aviation enterprises, and general aviation independent contractors.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000. Such sums shall remain available until expended.

SEC. 818. INTERNATIONAL AIR SHOW.

If the Secretary of Defense conducts activities necessary to enable the United States to host a major international air show in the United States, the Secretary of Defense shall coordinate such activities with the Secretary of Transportation and the Secretary of Commerce.

SEC. 819. REPORT ON CERTAIN MARKET DEVELOPMENTS AND GOVERNMENT POLICIES.

Within 6 months after the date of enactment of this Act, the Department of Commerce, in consultation with the Department of Transportation and other appropriate Federal agencies, shall submit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Committee on Transportation and Infrastructure a report about market developments and government policies influencing the competitiveness of the United States jet transport aircraft industry that—

(1) describes the structural characteristics of the United States and the European Union jet transport industries, and the markets for these industries;

(2) examines the global market factors affecting the jet transport industries in the United States and the European Union, such as passenger and freight airline purchasing patterns, the rise of low-cost carriers and point-to-point service, the evolution of new market niches, and direct and indirect operating cost trends;

(3) reviews government regulations in the United States and the European Union that have altered the competitive landscape for jet transport aircraft, such as airline deregulation, certification and safety regulations, noise and emissions regulations, government research and development programs, advances in air traffic control and other infrastructure issues, corporate and air travel tax issues, and industry consolidation strategies;

(4) analyzes how changes in the global market and government regulations have affected the competitive position of the United States aerospace and aviation industry vis-a-vis the European Union aerospace and aviation industry; and

(5) describes any other significant developments that affect the market for jet transport aircraft.

SEC. 820. INTERNATIONAL AIR TRANSPORTATION.

It is the sense of Congress that, in an effort to modernize its regulations, the Department of Transportation should formally define ''Fifth Freedom'' and ''Seventh Freedom'' consistently for both scheduled and charter passenger and cargo traffic.

SEC. 821. REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES.

The Secretary of Homeland Security, subject to the availability of funds (other than amounts in the Aviation Trust Fund) provided for this purpose, shall reimburse air carriers and airports for—

(1) the screening of catering supplies; and

(2) checking documents at security checkpoints.

SEC. 822. CHARTER AIRLINES.

(a) IN GENERAL.—Section 41104(b)(1) is amended—

(1) by striking ''paragraph (3)'' and inserting ''paragraphs (3) and (4)'';

(2) by inserting a comma after ''regularly scheduled charter air transportation''; and

(3) by striking ''flight unless such air transportation'' and all that follows through the period at the end and inserting the following: ''flight, to or from an airport that—

''(A) does not have an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation); or

''(B) has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation) if the airport—

''(i) is a reliever airport (as defined in section 47102) and is designated as such in the national plan of integrated airports maintained under section 47103; and

''(ii) is located within 20 nautical miles (22 statute miles) of 3 or more airports that each annually account for at least 1 percent of the total United States passenger enplanements and at least 2 of which are operated by the sponsor of the reliever airport.''.

(b) WAIVERS.—Section 41104(b) is amended by adding at the end the following:

''(4) WAIVERS.—The Secretary may waive the application of paragraph (1)(B) in cases in which the Secretary determines that the public interest so requires.''.

SEC. 823. GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) SECURITY PLAN.—The Secretary of Homeland Security shall develop and implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport.

(b) LANDINGS AND TAKEOFFS.—The Administrator of the Federal Aviation Administration shall allow general aviation aircraft that comply with the requirements of the security plan to land and take off at the Airport except during any period that the President suspends the plan developed under subsection (a) due to national security concerns.

(c) REPORT.—If the President suspends the security plan developed under subsection (a), the President shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the reasons for the suspension not later than 30 days following the first day of the suspension. The report may be submitted in classified form.

SEC. 824. REVIEW OF AIR CARRIER COMPENSATION.

Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the criteria and procedures used by the Secretary of Transportation under the Air Transportation Safety and System Stabilization Act (Public Law 107–42) to compensate air carriers after the terrorist attack of September 11, 2001, with a particular focus on whether it is appropriate—

(1) to compensate air carriers for the decrease in value of their aircraft after September 11, 2001; and

(2) to ensure that comparable air carriers receive comparable percentages of the maximum compensation payable under section 103(b)(2) of such Act (49 U.S.C. 40101 note).

SEC. 825. NOISE CONTROL PLAN FOR CERTAIN AIRPORTS.

(a) IN GENERAL.—Notwithstanding chapter 475 of title 49, United States Code, or any other provision of law or regulation, a sponsor of a commercial service airport that does not own the airport land and is a party to a long-term lease agreement with a Federal agency (other than the Department of Defense or the Department of Transportation) may impose restrictions on, or prohibit, the operation of Stage 2 aircraft weighing less than 75,000 pounds, in order to help meet the noise control plan contained within the lease agreement. A use restriction imposed pursuant to this section must contain reasonable exemptions for public health and safety.

(b) PUBLIC NOTICE AND COMMENT.—Prior to imposing restrictions on, or prohibiting, the operation of Stage 2 aircraft weighing less than 75,000 pounds, the airport sponsor must provide reasonable notice and the opportunity to comment on the proposed airport use restriction limited to no more than 90 days.

(c) DEFINITIONS.—In this section, the terms ''Stage 2 aircraft'' and ''Stage 3 aircraft'' have the same meaning as those terms have in chapter 475 of title 49, United States Code.

SEC. 826. GAO REPORT ON AIRLINES' ACTIONS TO IMPROVE FINANCES AND ON EXECUTIVE COMPENSATION.

(a) FINDING.—Congress finds that the United States Government has by law provided substantial financial assistance to United States commercial airlines in the form of war risk insurance and reinsurance and other economic benefits and has imposed substantial economic and regulatory burdens on those airlines. In order to determine the economic viability of the domestic commercial airline industry and to evaluate the need for additional measures or the modification of existing laws, Congress needs more frequent information and independently verified information about the financial condition of these airlines.

(b) GAO REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall prepare a report for Congress analyzing the financial condition of the United States airline industry in its efforts to reduce the costs, improve the earnings and profits and balances of each individual air carrier. The report shall recommend steps that the industry should take to become financially self-sufficient.

(c) GAO AUTHORITY.—In order to compile the report required by subsection (b), the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, documents, papers, and records of such air carriers that relate to the information required to compile the report. The Comptroller General shall submit with the report a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(d) REPORTS TO CONGRESS.—The Comptroller General shall transmit the report required by subsection (b) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 827. PRIVATE AIR CARRIAGE IN ALASKA.

(a) IN GENERAL.—Due to the demands of conducting business within and from the State of Alaska, the Secretary of Transportation shall permit, under the operating rules of part 91 of title 14 of the Code of Federal Regulations where common carriage is not involved, a company, located in the State of Alaska, to organize a subsidiary where the only enterprise of the subsidiary is to provide air carriage of officials, employees, guests, and property of the company, or its affiliate, when the carriage—

(1) originates or terminates in the State of Alaska;

(2) is by an aircraft with no more than 20 seats;

(3) is within the scope of, and incidental to, the business of the company or its affiliate; and

(4) no charge, assessment, or fee is made for the carriage in excess of the cost of owning, operating, and maintaining the airplane.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as prohibiting a company from making intermediate stops in providing air carriage under this section.

SEC. 828. REPORT ON WAIVERS OF PREFERENCE FOR BUYING GOODS PRODUCED IN THE UNITED STATES.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the waiver contained in section 50101(b) of title 49, United States Code (relating to buying goods produced in the United States). The report shall, at a minimum, include—

(1) a list of all waivers granted pursuant to that section during the 2-year period ending on the date of enactment of that section; and

(2) for each such waiver—

(A) the specific authority under such section 50101(b) for granting the waiver; and

(B) the rationale for granting the waiver.

SEC. 829. NAVIGATION FEES.

(a) IN GENERAL.—Section 4(b) of the Rivers and Harbors Appropriation Act of July 5, 1884 (33 U.S.C. 5(b); 116 Stat. 2133), is amended—

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

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

(3) by adding at the end the following:

''(3) property taxes on vessels or watercraft, other than vessels or watercraft that are primarily engaged in foreign commerce if those taxes are permissible under the United States Constitution.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) is effective on and after November 25, 2002.

TITLE IX—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 901. EXTENSION OF EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking ''October 1, 2003'' and inserting ''October 1, 2007'', and

(2) by inserting before the semicolon at the end of subparagraph (A) the following: ''or the Vision 100—Century of Aviation Reauthorization Act''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(f) of the Internal Revenue Code of 1986 is amended by striking ''October 1, 2003'' and inserting ''October 1, 2007''.

SEC. 902. TECHNICAL CORRECTION TO FLIGHT SEGMENT.

(a) SPECIAL RULE.—Section 4261(e)(4) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR AMOUNTS PAID FOR DOMESTIC SEGMENTS BEGINNING AFTER 2002.—If an amount is paid during a calendar year for a domestic segment beginning in a later calendar year, then the rate of tax under subsection (b) on such amount shall be the rate in effect for the calendar year in which such amount is paid.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

And the Senate agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

DON YOUNG,
JOHN MICA,
VERNON J. EHLERS,
ROBIN HAYES,
DENNY REHBERG,
JOHNNY ISAKSON,

From the Committee on Energy and Commerce, for consideration of sec. 521 of the House bill and sec. 508 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
JOE BARTON,

From the Committee on Government Reform, for consideration of secs 404 and 438 of

the House bill and sec. 108 of the Senate amendment, and modifications committed to conference:

TOM DAVIS,
CHRISTOPHER SHAYS,

From the Committee on the Judiciary, for consideration of secs. 106, 301, 405, 505, and 507 of the Senate amendment, and modifications committed to conference:

JAMES SENSENBRENNER, JR.,
HOWARD COBLE,

From the Committee on Resources, for consideration of secs. 204, and 409 of the House bill and sec. 201 of the Senate amendment, and modifications committed to conference:

RICHARD POMBO,
JIM GIBBONS,

Provided that Mr. Renzi is appointed in lieu of Mr. Pombo for consideration of section 409 of the House bill, and modifications committed to conference:

RICK RENZI,

From the Committee on Science, for consideration of sec. 102 of the House bill and secs. 102, 104, 621, 622, 641, 642, 661, 662, 663, 667, and 669 of the Senate amendment, and modifications committed to conference:

SHERWOOD BOEHLERT,
DANA ROHRABACHER,

From the Committee on Ways and Means, for consideration of title VI of the House bill and title VII of the Senate amendment, and modifications committed to conference:

BILL THOMAS,
DAVE CAMP,
Managers on the Part of the House.

JOHN MCCAIN,
TED STEVENS,
CONRAD BURNS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2115), to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. SHORT TITLE

House bill

''Flight 100—Century of Aviation Reauthorization Act''.

Senate amendment

''Aviation Investment and Revitalization Vision Act''.

Conference substitute

''Vision 100—Century of Aviation Reauthorization Act''.

2. LENGTH OF AUTHORIZATION

House bill

4 years.

Senate amendment

3 years.

Conference substitute

House bill.

3. FINDINGS

House bill

No provision.

Senate amendment

Contains findings about the importance of aviation and the need to invest more into it.

Conference substitute

Contains some of the findings in the Senate amendment.

4. FAA OPERATIONS

House bill

Authorizes $7.591 billion in 2004, $7.732 billion in 2005, $7.889 billion in 2006, and $8,064 billion in 2007 for the operating costs of the FAA.

Senate amendment

Authorizes same amount for first 3 years. No authorization for 2007.

Conference substitute

House bill.

5. FAA TRAINING FACILITY

House bill

Authorizes some of this money to be used to fully utilize the FAA's Palm Coast management training facility.

Senate amendment

No provision.

Conference substitute

House bill funded out of the Operations account. Authorize funding for the FAA Center for Management Development to operate training courses and to support associated student travel for both residential and field courses.

6. AEROSPACE AND AVIATION LIAISON

House bill

Directs the President to establish a task force to look for ways to ensure that technology developed for military aircraft is more quickly and easily transferred to applications for improving and modernizing the fleet of civilian aircraft.

Senate amendment

Section 621. Establishes an office in DOT to coordinate research, development of new technologies, transfer of technology from research done by NASA and DOD to the private sector, review activities related to noise and emissions. One time and annual report required. $2 million is authorized over 2 years.

Conference substitute

Assigns the newly established Air Transportation System Joint Planning and Development Office responsibility to facilitate the transfer of technology from research programs such as those managed by the National Aeronautics and Space Administration and the Department of Defense Advanced Research Projects Agency to Federal agencies with operational responsibilities, and to the private sector.

7. COMPETITIVENESS OF U.S. JET TRANSPORTATION INDUSTRY

House bill

No provision.

Senate amendment

Section 623. Within 6 months the office established above shall report on the market developments and government policies influencing U.S. competitiveness.

Conference substitute

Section 819. Senate Amendment with modifications.

8. NEXT GENERATION AIR TRAFFIC CONTROL OFFICE

House bill

Authorizes funds to be used to establish an office in the FAA to develop and plan for the implementation of the next generation air traffic control system.

Senate amendment

Similar provision but sets forth in greater detail the duties of the office. Authorizes $300 million over 7 years. Head of office reports directly to the Administrator.

Conference substitute

Establishes a Next Generation Air Transportation System Joint Planning and Development Office. Requires the office to produce an integrated research and development plan to meet air transportation needs in the year 2025. Requires the plan to be transmitted to Congress within one year after the date of enactment, and an annual update describing the progress in carrying out the plan. Authorizes $50 million a year through FY 2010.

9. TASK FORCE ON FUTURE OF AIR TRANSPORTATION SYSTEM

House bill

Implements the recommendation of the National Commission on the Future of the Aerospace Industry and requires the President to establish a Task Force to develop an integrated plan to transform the Nation's air traffic control and air transportation system to meet its future needs.

Senate amendment

No provision.

Conference substitute

Requires the Secretary of Transportation to establish a Next Generation Air Transportation Senior Policy Committee to work with the Joint Planning and Development Office. Members shall be the Administrator or designee from NASA and FAA, the Secretary of Defense, Secretary of Homeland Security, Secretary of Commerce, Director of the Office of Science and Technology Policy, and designees from Federal agencies determined by the Secretary of Transportation to have an important role. The Senior Policy Committee shall advise the Secretary and provide policy guidance on the integrated plan for the air transportation system to be developed by the Next Generation Air Transportation System Joint Planning and Development Office.

10. APPROACH PROCEDURES

House bill

Section 101, (a) authorizes use of some of the FAA operations money to establish approach and departure procedures using GPS and ADS–B in order to meet the needs of air ambulance services.

Senate amendment

No provision.

Conference substitute

In lieu of the House provision, section 103(b) changes the expiration date of the current authorizations in paragraphs (C), (D), and (E) of section 106(k)(2) to conform to the 4-year authorization in this bill. These authorizations encourage the Federal Aviation Administration to establish helicopter and tiltrotor approach and departure procedures using advanced technologies, such as the Global Positioning System and automated dependent surveillance, to permit operations in adverse weather conditions to meet the needs of general aviation, new tiltrotor technology, and air ambulance services.

11. AIR TRAFFIC CONTROLLERS

House bill

Paragraph (k)(5) in section 101 authorizes some of this money to be used to hire additional air traffic controllers in order to accommodate the growth in air traffic and address the expected increase in retirement of experienced controllers. Subsection (c) of section 101 directs the FAA to develop a human capital workforce strategy to address

the need for more air traffic controllers as called for by the General Accounting Office.

Senate amendment

Section 103(b). Requires FAA beginning in FY 2004 budget submission and thereafter to include description of controller staffing plan including strategies for addressing anticipated retirements.

Conference substitute

Section 221 (a) includes Senate section 103(b) but starts with 2005 budget submission.

Section 221(b) adopts subsection (c) of House bill.

12. ALASKAN AVIATION CORRIDORS

House bill

Authorizes funds to be used to complete the mapping of Alaska's main aviation corridors.

Senate amendment

No provision.

Conference substitute

House bill.

13. AVIATION SAFETY REPORTING SYSTEM

House bill

Authorizes $3.4 million to be used for the Aviation Safety Reporting System. Calls for a report on the Aviation Safety Reporting System.

Senate amendment

No provision.

Conference substitute

House bill.

14. BUREAU OF TRANSPORTATION STATISTICS

House bill

Authorizes $3.971 million in 04, $4.045 million in 05, $4.127 million in 06, and $4.219 million in 05 from the Trust Fund for the Bureau of Transportation Statistics' activities collecting and analyzing aviation data.

Senate amendment

No provision.

Conference substitute

House bill.

15. AIR NAVIGATION FACILITIES AND EQUIPMENT (F&E)

House bill

Authorizes $3.138 billion in 2004, $2.993 billion in 2005, $3.053 billion in 2006, and $3.110 billion in 2007.

Senate amendment

Authorizes $2.196 billion in 2004, $2.971 in 2005, and $3.030 billion for 2006. No authorization for 2007. Requires biannual reports on the changes in budget and schedule, and technical risks, of 10 largest F&E programs.

Conference substitute

House bill with Senate report. The Managers expect that no research and development activities will be funded from the facilities and equipment account.

16. GULF OF MEXICO

House bill

Money is authorized from the F&E account to improve the safety and efficiency of air operations in the Gulf of Mexico.

Senate amendment

Similar provision but worded differently. Money is authorized from general fund.

Conference substitute

House bill.

17. WAKE TURBULENCE

House bill

$20 million per year for 4 years is authorized from F&E for FAA to demonstrate the benefits of a wake vortex advisory system.

Senate amendment

$500,000 is authorized for 1 year from RED for FAA to contract with the National Research Council for an assessment of FAA's wake vortex research program. Report required in 1 year.

Conference substitute

House provision for the life of bill, except the Managers agreed to delete a specific dollar amount and change the wording to allow development and analysis of multiple systems.

18. PRECISION APPROACH LANDING SYSTEMS

House bill

$20 million per year is authorized per year from F&E for precision approach landing systems in mountainous areas contingent on FAA certifying or approving these systems. Maintenance of equipment not included.

Senate amendment

Similar provision but no requirement for FAA approval and no specific sum is authorized. Money comes from general fund. Maintenance of equipment is included.

Conference substitute

House bill but without specifying a dollar amount.

19. STANDBY POWER EFFICIENCY PROGRAM

House bill

No provision.

Senate amendment

Authorizes funding for a program to improve power stations at FAA sites.

Conference substitute

Senate amendment.

20. ANCHORAGE AIR TRAFFIC CONTROL FACILITIES

House bill

No provision.

Senate amendment

Requires a report from FAA on the feasibility of consolidating air traffic control facilities.

Conference substitute

Senate amendment.

21. AIR TRAFFIC CONTROL COLLEGIATE TRAINING INITIATIVE

House bill

No provision.

Senate amendment

Authorizes DOT to expend funds on this initiative.

Conference substitute

Senate amendment but funded from the FAA's operating account (49 U.S.C. 106(k)).

22. RESEARCH

House bill

No provision.

Senate amendment

Authorizes funding for FAA research and development.

Conference substitute

Authorizes all research and development activities for the agency within the R&D section of Title 49. The Managers expect these research and development activities to be funded from the FAA's R,E&D account.

23. AVIATION SAFETY WORKFORCE INITIATIVE

House bill

No provision.

Senate amendment

NASA and FAA shall establish a joint program to make grants to students in aviation fields. Such sums are authorized to NASA and FAA to carry out this program. Report required in 180 days.

Conference substitute

Senate amendment.

24. SCHOLARSHIPS

House bill

No provision.

Senate amendment

NASA and FAA shall develop a student loan program for those studying in an aviation field. Money is authorized and a report is required.

Conference substitute

Establishes a scholarship and internship program for those studying in an aviation field.

25. AIRFIELD PAVEMENT

House bill

No provision.

Senate amendment

Requires FAA to continue the program of awarding grants to foundations to do research on airfield pavement. But this should not get higher priority than other research programs.

FAA shall review its standards for airfield pavement thickness and revise them if needed to meet the 20–year life requirement for such pavement. Report required in 1 year.

Conference substitute

Senate amendment, except Conferees agreed to strike any reference to ''rigid concrete'' and to amend 47102(3)(H) to make nonhubs eligible for AIP grants for pavement maintenance.

26. CERTIFICATION METHODS

House bill

No provision.

Senate amendment

FAA shall conduct research to develop analytical tools to improve existing certification methods and reduce the cost for certification of new products.

Conference substitute

Senate amendment.

27. NEW TECHNOLOGIES

House bill

No provision.

Senate amendment

FAA may conduct a limited pilot program to provide incentives to airlines to use new technologies. $500,000 is authorized from the general fund in 2004 for this program.

Conference substitute

Senate amendment except authorized from Facilities and Equipment.

28. FAA CENTER FOR EXCELLENCE

House bill

No provision.

Senate amendment

FAA shall develop a Center for Excellence focused on research and training on composite materials.

Conference substitute

Senate amendment.

29. REPORT ON ENVIRONMENTAL IMPROVEMENTS

House bill

No provision.

Senate amendment

Requires a study on ways to reduce aircraft noise and emissions. Report required in 1 year. $500,000 is authorized.

Conference substitute

Authorizes $20 million a year for research on enabling technologies to reduce noise and emissions pollution.

30. AIRPORT IMPROVEMENT PROGRAM (AIP)

House bill

$3.4 billion in 2004, increasing by $200 million each of 3 years thereafter. No AIP money for administrative expenses.

Senate amendment

$3.4 billion in 2004, increasing by $100 million in each of 2 years thereafter. Authorizes use of AIP for administrative expenses.

Conference substitute

Senate amendment for the length of the bill (4 years). However, the substitute does not authorize use of AIP for administrative expenses. The Managers believe that AIP money should not be used for research, as that should be done in the research account.

31. CONTRACT TOWER PROGRAM

House bill

Authorizes funding for the contract tower program for 4 years increasing funding by 500,000 each year. Updates the section on the FAA's contract tower program by deleting the 1987 date and increases the maximum Federal share (from $1.1 million to $1.5 million) for the construction of a tower under this program.

Senate amendment

Same provision with respect to funding but for only 3 years. Allows qualified entities to contract for towers. Same provision with respect to the Federal share.

Conference substitute

Senate amendment, but for 4 years.

32. UNDERSERVED AIRPORTS

House bill

Subsection (b) of section 104 authorizes funding for 5 years at $35 million per year for the program established in AIR 21 to improve service at underserved airports.

Subsection (b) of section 415 revises this program by eliminating the per-State limit on the number of communities that can participate and by giving priority to those communities that can use the money in the fiscal year that they receive it.

Senate amendment

Section 302, subsection (a) authorizes funding for 3 years at $27.5 million per year for this program. $275,000 may be used for administrative costs.

Subsection (b) allows communities to participate more than once but not for the same project. Section 354(c) amends section 41734(h) by striking ''an airport'' and inserting ''each airport''.

Conference substitute

House section 104 (b) and Senate section 302 (b). House section 415 (b) but retain per-State limit on a per year basis.

The Managers continue to be concerned about air service to small and medium sized airports. Section 203 of AIR 21 (114 Stat. 92), codified at section 41743 of title 49, included a pilot program to make grants to small communities to help them bolster their air service. This program is only now beginning to get underway. The Managers believe this program will lead to the desired air service improvements and the reported bill reauthorizes it for another 5 years at $35 million per year. In selecting communities for participation in this program, the Managers encourage the Secretary of Transportation to give preference to airports that have demonstrated the ability to sustain service and that have strong support from the local community.

33. REGIONAL JET LOAN GUARANTEES

House bill

Reauthorizes the program to permit loan guarantees to be offered for the purchase of regional jets to serve small airports.

Senate amendment

No provision.

Conference substitute

No provision.

34. TRUST FUND GUARANTEE

House bill

Reauthorizes for 4 years the procedural protections in AIR 21 that ensure that all Trust Fund revenue and interest is fully spent and that the AIP and F&E programs are fully funded at their authorized levels.

Senate amendment

Same provision, worded differently, for 3 years.

Conference substitute

House bill.

35. DESIGN-BUILD

House bill

Continues for another 4 years the provision in existing law permitting contractors to both design and build 7 airport improvement projects.

Senate amendment

Makes existing law permanent and removes the 7–airport project limit.

Conference substitute

Senate amendment. The Committee understands that other alternative qualifications-based methods exist such as job order contracting and construction manager at risk. These alternative qualifications-based methods are acceptable under existing regulations and statute. The term ''job order contracting'' means an agreement that provides for the purchase of indefinite and limited quantities of construction pursuant to specific work orders issued to the contractor. The term ''construction manager at risk'' means an agreement that provides for preconstruction services by a contractor during or after design. Section 181 is intended to cover traditional design-build techniques that are not otherwise permitted.

36. METROPOLITAN WASHINGTON AIRPORTS AUTHORITY (MWAA)

House bill

Reauthorizes MWAA's ability to receive AIP grants until 2007. Section 412(g) repeals the provision requiring this periodic reauthorization.

Senate amendment

Requires MWAA, with DOT, to study the feasibility of housing gates of the two air shuttles in one terminal.

Conference substitute

House bill, however the Managers agreed not to repeal the provision requiring periodic reauthorization and to require MWAA to seek reauthorization in 2008.

37. WAR RISK INSURANCE

House bill

Makes permanent war risk insurance for international flights and for non-premium insurance. War risk insurance for domestic flights would continue to be subject to periodic reauthorizations. Permits DOT to keep in effect after August 31, 2004 the war risk insurance policies that must be in effect until that date. Permits DOT to extend the $100 million cap on liability for third party damages to U.S. aircraft manufacturers until the end of next year. Allows DOT to provide war risk insurance coverage to U.S. aircraft manufacturers and to vendors, agents, and subcontractors of airlines but only to the extent that the loss involved aircraft of a U.S. airline. Makes technical corrections.

Senate amendment

Reauthorizes the program for 3 years. Allows DOT to provide war risk insurance to a U.S. aircraft manufacturer for loss of an aircraft of a U.S. airline in excess of $50,000,000 or in excess of manufacturer's primary insurance. Includes conforming amendments.

Conference substitute

Amends Section 44310 to extend the effective date of the program to March 30, 2008. DOT is allowed to provide war risk insurance to a U.S. aircraft manufacturer for loss of an aircraft of a U.S. airline in excess of $50,000,000 or in excess of the manufacturer's primary insurance.

38. PILOT PROGRAM FOR INNOVATIVE FINANCING FOR TERMINAL AUTOMATION REPLACEMENT SYSTEMS

House bill

Authorizes FAA to conduct a pilot program to test the cost-effectiveness and feasibility of innovative financing techniques to purchase and install terminal automation replacement systems. This proposal is designed to replace existing obsolete air traffic control equipment at FAA TRACONS. This section provides $200,000,000 in FY 2004 from the Facilities and Equipment Account for this pilot program and allows the FAA to make multi-year advance contract provisions to achieve economic-lot purchases and more efficient production rates.

Senate amendment

No provision.

Conference substitute

House bill, however the pilot program is not limited to any particular technology or system.

39. COST SHARING OF ATC MODERNIZATION PROJECTS

House bill

No provision.

Senate amendment

DOT may make 10 grants per year for ATC projects that are certified or approved by FAA and that promote safety, efficiency or mobility. The money shall come from the F&E account. It shall be limited to $5 million per project. The Federal share of the project shall be limited to 33%. The local share shall come from non-Federal sources including PFCs. Facilities and equipment obtained through this program may be transferred to FAA. FAA shall issue guidelines for this program without being subject to the APA.

Conference substitute

Senate amendment but limited to the purchase of equipment and software.

40. PROJECT STREAMLINING

House bill

Provides that the Title may be cited as the ''Airport Streamlining Approval Process Act of 2003''. Makes a number of findings regarding our Nation's major airports and the environmental review process for airport capacity projects at congested airports.

Senate amendment

No provision.

Conference substitute

Subtitle renamed ''Aviation Development Streamlining.'' Provides that the Title may be cited as the ''Aviation Streamlining Approval Process Act of 2003''. Findings are the same as the House bill.

41. PROMOTION OF NEW RUNWAYS—AIRPORT CAPACITY PROJECTS

House bill

Provides that the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports. This is designed to encourage the FAA to take a more proactive approach in encouraging the construction of new runways when it determines that it would be in the national interest.

Senate amendment

Section 47701, takes a different approach by requiring the Secretary to identify airports, among FAA's Airport Capacity Benchmark Report 2001, with delays significantly affecting the national system. This section also requires the Secretary to set up a task force and conduct a capacity enhancement study (CES) from which identified airports would be directed to engage in runway expansion processes. Based on the CES, an airport would be required to complete the planning and environmental review process within 5 years after CES is submitted to DOT. If

an identified airport declines to undertake expansion projects, they will be ineligible for planning and other expansion funding and cannot issue passenger facility fees. The Secretary must make every attempt to expedite funding for airports that do comply.

Section 47702, provides for designation of airport development projects as national capacity projects if they will significantly enhance the capacity of the national air transportation system. The designation is effective for 5 years.

Conference substitute

Adopted the Senate title ''Airport Capacity Enhancement'' and the provisions of the House bill.

42. DOT AS LEAD AGENCY

House bill

Section 47171, subsection (a) requires the Secretary to develop and implement a coordinated airport project review process for airport capacity enhancement projects at congested airports.

Subsection (b) provides for a coordinated review process for all environmental reviews, analyses, opinions, permits, licenses, and approvals to be conducted concurrently and completed within a time period established by the Secretary in cooperation with the agencies involved.

Subsection (c) requires that for each airport capacity enhancement project at a congested airport, the Secretary shall identify all Federal and State agencies that may have jurisdiction over environmental-related matters, may be required by law to conduct an environment review, or may have jurisdiction to determine whether to issue an environmental-related permit, license, or approval for the project.

Subsection (d) allows a State and its associated agencies, consistent with State law, to choose to participate in the coordinated review process for a project at an airport within that State.

Subsection (e) allows the coordinated review process for a project to be incorporated into a Memorandum of Understanding between the Secretary and the heads of other Federal and State agencies identified in subsection (c), and the airport involved.

Subsection (f) sets forth the notification and reporting requirements should the Secretary determine that a Federal agency, State agency, or airport sponsor participating in the coordinated review process has not met a deadline established under subsection (b).

Subsection (g) provides that for any environmental review process or approval issued or made by a Federal or State agency participating in a coordinated review process requiring an analysis of the purpose and need for a project, the agency is bound by the project's purpose and need as defined by the Secretary.

Subsection (h) provides that the Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport and any other Federal or state agency participating in a coordinated review process shall consider only those alternatives to the project that the Secretary has determined are reasonable.

Senate amendment

Section 47703, subsection (a) similarly requires the Secretary to implement an expedited coordinated environmental review process for national capacity projects. Includes a date certain deadline for completing all reviews.

Subsection (b) requires each Federal agency/deptartment to accord the national capacity project environmental review the highest possible priority and to conduct the review expeditiously. If not complying then the Secretary shall notify Congress immediately.

Subsection (c) requires the designation of a Project Coordinator who shall, among other things, coordinate all activities of Federal, State and local agencies involved in the project.

Subsection (c)(1) requires Secretary to designate a project coordinator and establish an environmental impact team for each national capacity project. Subsection (c)(2) sets forth what the project coordinator and the EIS team shall do. Adds 180 days extra time and it is not part of the NEPA process.

Subsection (a) requires FAA to publish an additional notice in the FR for each airport capacity enhancement project at a congested airport requesting comments on reasonable alternatives. Subsection (b) provides, outside of NEPA, that an alternative shall be considered reasonable if certain listed criteria are met.

Subsection (d) provides that the Secretary's determination, not later than 90–days after last day of comment period, is binding on ''all persons, including Federal and State agencies, acting under or applying Federal laws when considering the availability of alternatives to the project.''

Subsection (e) states that the section does not apply to alternatives analysis under NEPA and does not apply if an airport opts out in writing.

Subsections (a) and (c) require comment periods in addition to NEPA. Subsection (a), as indicated above, requires FAA to publish an additional notice requesting comments on reasonable alternatives.

Subsection (c), requires an additional 60–day comment period.

Conference substitute

House bill with Senate Amendment. The Managers intend that the procedures set forth in this section will allow DOT to cut through red tape and eliminate duplication without diminishing existing environmental laws or limiting local input into these critical projects. The Managers believe that the expedited, coordinated environmental review process will ensure that once a community reaches consensus on a critical project, the review process will not unnecessarily delay action. The Department of Transportation is designated as the lead agency for the project review process and the Secretary of Transportation is directed to develop a coordinated review process for major airport capacity projects that will ensure that all environmental reviews by government agencies will be conducted at the same time, whenever possible.

The Managers agreed to combine the streamlined environmental review processes and procedures for airport capacity enhancement projects at congested airports, aviation safety projects, and aviation security projects into one section. Therefore, House bill section 47177 is folded into House bill section 47171. The Managers also adopted the Senate amendment regarding environmental impact statement teams as a way to streamline the environmental review process and achieve a coordinated, expedited environmental review. After proper scoping and public comment processes, the determinations of the Secretary with regard to a proposed project's purpose and need and reasonable alternatives shall be binding on any other Federal or state agency that is participating in a coordinated environmental review process under this section. Participation in a coordinated environmental review process includes the review of environmental analyses, consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals.

The Managers recognize that the Department of Transportation and the Federal Aviation Administration have significant expertise and experience on transportation-related matters. Therefore, in conducting environmental reviews within the jurisdiction of the DOT, the Secretary should play a lead role in determining which analytical methods are reasonable for use in determining the transportation impacts and benefits of project alternatives, particularly in the area of noise impacts. Other agencies should give substantial deference to the aviation expertise of the Federal Aviation Administration with respect to determinations of relevant aviation factors including aircraft and airport operations, airport capacity, and future national air space capacity forecasts. Other agencies have expertise in determining the environmental impacts of transportation projects, and the Secretary should rely on the expertise of these agencies in analyzing these impacts. To the maximum extent possible, all Federal and State agencies participating in the coordinated review process should use a common set of data for their analyses in carrying out their responsibilities to conduct environmental reviews under Federal law.

43. CATEGORICAL EXCLUSIONS

House bill

Section 47172, states that not later than 120 days after the date of enactment of this section, the Secretary shall develop and publish a list of categorical exclusions from the requirement that an environmental assessment or an environment impact statement be prepared for projects at airports.

Senate amendment

Requires FAA to report to Senate, within 30 days, on current CATEXs and on proposed additional CATEXs. Directs Secretary to consider other things outside of NEPA, when determining list of proposed CATEXs.

Conference substitute

In lieu of either the House bill or Senate amendment, the Managers agree that the requirement to develop and publish a list of categorical exclusions is unnecessary given that the FAA already published a list of new categorical exclusions as part of their proposed FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures.'' It would therefore be most helpful if the FAA finalized this Order. The Managers have set a 180–day deadline for the FAA to publish their final FAA Order 1050.1E. In addition, with regard to airport projects, the Managers have set a deadline for the FAA to publish, for public comment, the revised FAA Order 5050.4B, ''Airport Environmental Handbook,'' and urge the FAA to finalize this Order as soon as practicable.

44. ACCESS RESTRICTIONS TO EASE CONSTRUCTION—AIR TRAFFIC PROCEDURES

House bill

Section 47173, provides that at the request of a congested airport, the Secretary may approve a restriction on use of a runway to be constructed at the airport to minimize potentially significant adverse noise impacts from the runway only if the Secretary determines that the imposition of the restriction (1) is necessary to mitigate significant noise impacts and expedite construction of the runway; (2) is the most appropriate and cost-effective measure to mitigate those impacts, taking into consideration any environmental tradeoffs; and (3) would not adversely affect service to small communities, adversely affect safety or efficiency of the national airspace system, unjustly discriminate against any class of user of the airport, or impose an undue burden on interstate or foreign commerce.

Senate amendment

Section 47705 is a similar provision for national capacity projects that involve construction of new runway or reconfiguration

of runway. If the Secretary determines consistent with safe and efficient use of airspace, and consistent with applicable Federal law, then commit to such procedure in ROD for project.

Conference substitute

Senate amendment with minor changes to conform to the use of the terms ''airport capacity enhancement projects at congested airports'' in lieu of the term ''national capacity projects.''

45. AIRPORT REVENUE TO PAY FOR MITIGATION

House bill

Section 47174, subsection (a) states, that the Secretary may allow an airport carrying out a capacity enhancement project at a congested airport to make payments out of revenues generated at the airport for measures to mitigate the environmental impacts of the project if the Secretary finds that (1) the mitigation measures are included as part of, or are consistent with, the preferred alternative for the project in the documentation prepared for NEPA; (2) the use of such revenues will provide a significant incentive for, or remove an impediment to, approval of the project by a State or local government; and (3) the cost of the mitigation measures is reasonable in relation to the mitigation that will be achieved.

Subsection (b) describes what the mitigation measures described in Subsection (a) may include.

Senate amendment

No provision.

Conference substitute

No provision.

46. AIRPORT FUNDING OF FAA STAFF

House bill

Section 47175, subsection (a) provides that FAA may accept funds from an airport to hire additional staff or obtain the services of consultants to facilitate the timely processing, review, and completion of environmental documents associated with an airport development project.

Subsection (b) allows the Administrator, with agreement of the airport, to transfer its entitlement funds to the account used by FAA for activities described in subsection (a).

Subsection (c) states that, notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b) shall (1) be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted; (2) be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and (3) remain available until expended.

Subsection (d) provides that no funds may be accepted pursuant to subsection (a), or transferred under subsection (b), ensures that airport or AIP money is utilized only to provide additional funds for environmental staff, not merely replace funds from the FAA's operating account that would have been provided for this purpose in any event.

Senate amendment

Section 47706, similar provision but provides for a pilot program and establishes a process with much more specific requirements. Also, does not allow airports to use AIP for this purpose.

Conference substitute

House bill and Senate Amendment. This program should be a permanent program and airports should be allowed to use AIP entitlement funds to fund environmental staff. However, this provision is designed to ensure that airport or AIP money is utilized only to provide additional funds for environmental staff, and not merely to replace funds in the FAA's operating account that would have been provided for this purpose in any event.

47. AUTHORIZATION FOR ENVIRONMENTAL REVIEWS

House bill

Section 47176, authorizes funds to be appropriated to the Secretary out of the Airport and Airway Trust Fund, in the amount of $4,200,000 for fiscal year 2004 and for each fiscal year thereafter for the timely processing, review and completion of environmental review activities associated with airport capacity enhancement projects at congested airports

Senate amendment

No provision.

Conference substitute

House bill.

48. STREAMLINING OF SAFETY AND SECURITY PROJECTS

House bill

Section 47177, allows, in subsection (a), the Administrator of the Federal Aviation Administration to designate an aviation safety or aviation security project for priority environmental review. The Administrator is not allowed to delegate this designation authority.

Subsection (b) directs the Administrator to establish guidelines for the designation of an aviation safety or aviation security project for priority environmental review. The guidelines must include consideration of, (1) the importance or urgency of the project; (2) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act; (3) the need for cooperation and concurrent reviews by other Federal or State agencies; and (4) the prospect for undue delay if the project is not designated for priority review.

Subsection (c) sets forth the procedures for coordinated environmental reviews. Paragraph (1) directs the Administrator, in consultation with the heads of affected agencies, to establish specific timelines for coordinated environmental reviews of an aviation safety or aviation security projects. The timelines shall be consistent with timelines established in existing laws and regulations. Also, this subsection directs each Federal agency with responsibility for project environmental reviews, analyses, opinions, permits, licenses, and approvals to accord any such review a high priority and to conduct the review expeditiously and, to the maximum extent possible, concurrently with other such reviews. Paragraph (2) directs each Federal agency identified under subsection (c) to formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of environmental reviews, in a timely and environmentally responsible manner.

Subsection (d) provides for State participation. Paragraph (1) states that if a priority environmental review process is being implemented with respect to a project within the boundaries of a State with State environmental requirements and approvals, the Administrator must invite the State to participate in the process. Paragraph (2) allows that a State invited to participate in a priority environmental review process, consistent with State law, may choose to participate and may direct that all State agencies, which have jurisdiction to conduct an environmental review or analysis of the project, be subject to the coordinated review process.

Subsection (e) sets forth the procedures for when a Federal agency or participating State fail to give priority review. Paragraph (1) provides that if the Secretary of Transportation determines that a Federal agency or a participating State is not complying with the requirements of this section and that the noncompliance is undermining the environmental review process, the Secretary must notify, within 30 days the head of the Federal agency or, with respect to a State agency, the Governor of the State. Paragraph (2) states that when a Federal agency receives such a notification, the Agency must submit a written report to the Secretary within 30 days explaining the reasons for the situation described in the notification and what remedial actions the agency intends to take. Paragraph (3) states that if the Secretary determines that a Federal agency has not satisfactorily addressed the problems within a reasonable period of time allowed under this subsection, the Secretary shall notify the Council on Environmental Quality, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate. Subparagraph (f) cross-references the procedures set forth in subsections (c), (e), (g), (h), and (i) of section 47171 and directs that they shall apply with respect to an aviation safety or aviation security project under this section in the same manner and to the same extent as such procedures apply to an airport capacity enhancement project at a congested airport under section 47171.

Subsection (g) provides a list of definitions of terms used in the section. Section 47178, provides a list of definitions of terms used in the subchapter, including terms ''congested airport'' and ''Airport Capacity Enhancement Project.''

Senate amendment

Section 47707, provides definition of National Capacity Project.

Conference substitute

House bill. The Managers combined House bill section 47177, which includes the procedures for an expedited, coordinated environmental review process for aviation safety and aviation security projects, with House bill section 47171, the procedures for airport capacity enhancement projects at congested airports. The Managers believe that environmental reviews for these types of projects should be streamlined in the same way that airport capacity enhancement projects at congested airports are streamlined. Therefore, all processes and procedures applicable to airport capacity enhancement projects at congested airports apply to designated aviation safety or aviation security projects. The Managers adopted the House bill definitions of terms in both Sections 47177(g) and 47178.

49. GOVERNOR'S CERTIFICATE

House bill

Repeals the requirement in section 47106(c)(1)(B) that the Governor of the state in which the project is located certifies in writing to the Secretary that there is reasonable assurance that the project will be in compliance with applicable air and water quality standards.

Senate amendment

Same as House bill except the Senate strikes ''(1)(c)'' in newly designated 47106(c)(4) and inserts ''(1)(B)'', and does not strike ''Stage 2'' and insert ''Stage 3'' in 7106(c)(2)(A).

Conference substitute

Senate amendment with minor technical changes to reflect revisions contained in House bill. Conference substitute repeals the governor's certificate requirement regarding compliance with applicable air and water quality standards.

50. NOISE MITIGATION NEAR A CONGESTED AIRPORT

House bill

Authorizes the issuance of a grant to an airport operator of a congested airport and a unit of local government to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the FAA for an airport capacity enhancement project.

Senate amendment

No provision.

Conference substitute

House bill.

51. STREAMLINING LIMITATIONS AND RELATIONSHIP TO OTHER REQUIREMENTS

House bill

Section 207 states that nothing in the Act shall preempt or interfere with any practice of seeking public comment; any power, jurisdiction, or authority that a state agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and any obligation under the National Environmental Policy Act and Council on Environmental Quality regulations.

Section 208 provides that the coordinated review process required under this Title for airport capacity enhancement projects at congested airports shall apply whether or not the project is a high-priority transportation infrastructure project under Executive Order 13274.

Senate amendment

No provision.

Conference substitute

House bill.

52. ILLINOIS

House bill

No provision.

Senate amendment

Makes clear that nothing in Title II of the Senate amendment precludes the application of this Act to Illinois or preempts the Illinois Governor from approving or disapproving an airport project.

Conference substitute

Senate amendment.

53. MANAGEMENT ADVISORY COMMITTEE MEMBERS

House bill

This section reduces the FAA's Management Advisory Council (MAC) to 13 members to reflect the removal the Air Traffic Services Subcommittee from the MAC. The DOT Secretary rather than the President would fill any remaining vacancies in the MAC.

Senate amendment

Similar provision.

Conference substitute

House bill, but name changed to Management Advisory Committee.

54. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE

House bill

Establishes the Air Traffic Services Board and moves the members of the Air Traffic Services Subcommittee to this new Board. The FAA Administrator would be the Chairman of this Board. Members are appointed by the President and confirmed by the Senate. Compensation of the Board Members is eliminated. Board makes recommendations on the FAA budget rather than approve it.

Senate amendment

Similar provision but it is called a Committee rather than a Board and members are appointed by the Secretary. Retains $25,000 compensation for members. Continues to require approval of FAA budget. Requires President to submit FAA budget request to Congress without revision.

Conference substitute

House bill and Senate amendment, but without the provision on the budget. The new organization is a committee.

55. CLARIFICATION OF THE RESPONSIBILITIES OF THE CHIEF OPERATING OFFICER

House bill

Revises the functions of the FAA's Chief Operating Officer (COO) to more closely reflect the duties of such a position. The current statutory functions have been criticized for being more appropriate for a CEO than a COO. The COO is given the added responsibility of developing a comprehensive plan with specific performance goals for managing cost-reimbursable contracts as called for in the report of the Inspector General (Report F1–2202–092, May 8, 2002).

Senate amendment

Similar, except there is no provision on cost-reimbursable contracts.

Conference substitute

House bill.

56. SECTION WHISTLEBLOWER PROTECTION

House bill

No provision.

Senate amendment

Provides whistleblower protection for employees of FAA contractors.

Conference substitute

Senate amendment.

57. SMALL BUSINESS OMBUDSMAN

House bill

This section establishes the position of small business ombudsman within FAA to serve as a liaison with small business and provide assistance to those businesses.

Senate amendment

No provision.

Conference substitute

No provision.

58. FAA PURCHASE CARDS

House bill

This section requires FAA to take appropriate actions to implement General Accounting Office recommendations made in a report (GAO–03–405, March 2003) that uncovered abuses of FAA purchase cards. Similar concerns had been raised earlier about practices in Alaska (GAO–02–606, May 2002).

Senate amendment

No provision.

Conference substitute

House bill.

59. IMPROVEMENT OF AVIATION INFORMATION COLLECTION

House bill

This section would repeal the prohibition on collecting information by specific flight effective on the date of issuance of a final rule that reduces the reporting burden for air carriers through electronic filing of the Origin & Destination Survey data.

Senate amendment

No provision.

Conference substitute

House bill with additional language to ensure that data cannot be used for anti-competitive purposes. The additional language requires that, if the Secretary requires air carriers to provide flight-specific information, (1) the Secretary shall not disseminate fare information for a specific flight to the general public for a period of at least nine months following the date of the flight; and (2) shall give due consideration to and address confidentiality concerns of carriers, including competitive implications, in any rulemaking prior to adoption of a rule requiring the dissemination to the general public of any flight-specific fare.

60. DATA ON INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING

House bill

This section requires DOT to publish passenger complaints about screening problems in the same way that it publishes complaints about delays, lost baggage, etc.

Senate amendment

No provision.

Conference substitute

House bill.

61. DEFINITIONS

House bill

This section places the various definitions of ''hub'' in one place in Title 49 rather than scattered throughout the code as they are now. This section includes the various hub definitions in Chapter 471 of title 49. Also defines ''amount made available'' and ''passenger boardings''.

Senate amendment

Adds definitions of ''amount newly made available'' and ''amount subject to apportionment'' in chapter 471. Makes necessary conforming changes. Subsection (b) revises when AIP grants may be made.

Conference substitute

House bill and Senate amendment.

62. CLARIFICATIONS TO PROCUREMENT AUTHORITY

House bill

Subsection (a) deletes paragraph (c)(1) and (c)(2)(D) that no longer apply to the FAA as a result of the procurement reform contained in section 40110(d) of title 49.

Subsection (b) deletes the reference to the deadline for implementing procurement reform and allows bid protests to be resolved by alternate dispute resolution techniques.

Subsection (c) adds the procurement of ''services'' to the list of actions to which the FAA's procurement system applies.

Senate amendment

Subsection (a) is the same provision but it also deletes paragraphs (2)(C) and (E) that require authorization from GSA and limit sole source contracts.

Also deletes the reference to the deadline for implementing procurement reform. Subsection (b) is the same as subsection (c) of the House bill.

Conference substitute

House bill and Senate amendment with additional language at the end of new paragraph (d)(4) stating ''and shall be subject to judicial review under section 46110 of this title, and to the provisions of the Equal Access to Justice Act (5 U.S.C. 504).''

63. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT UNDER THE PFC PROGRAM

House bill

Subsection (a) allows passenger facility charge (PFC) revenue to be used to purchase low-emission vehicles or to convert existing equipment.

Subsection (b) makes clear that PFC revenue can be used only to pay the difference in cost between the low-emission vehicle and a regular vehicle. PFCs can also be used to pay the cost of converting an existing vehicle to a low emission vehicle.

Subsection (c) defines the type of equipment that is eligible.

Senate amendment

Similar provision, but adds requirement that DOT, in consultation with EPA, shall issue guidance.

Conference substitute

House bill and Senate amendment. The Managers adopted the House provision with the Senate requirement that the EPA, in consultation with DOT, shall issue guidance.

64. STREAMLINING OF THE PASSENGER FACILITY FEE PROGRAM

House bill

Subsection (a) is designed to streamline the PFC approval process by requiring that notice and comment is provided before the airport submits its PFC application to FAA and all the certifications are included in that application. The subsection also states that an airport is required to consult with only those airlines operating there that provide scheduled air service or major charter operations.

Subsection (b) provides a 3–year test of expedited procedures for approval of PFC applications at small airports. Such an airport that notifies FAA of its intention to impose a PFC shall be allowed to do so unless FAA objects within 30 days of receiving the notice.

Senate amendment

This is the same provision with some different wording. Also eliminates the requirement that large airports seeking a PFC of more than $3 show that the project will make a significant contribution to safety, security, increased competition, or reducing congestion or noise.

Conference substitute

House bill.

65. PFCs AND MILITARY CHARTERS

House bill

Makes clear that passengers on a military charter are not required to pay a PFC since payment for the flight is made by the Department of Defense rather than by the individual passengers.

Makes technical amendments.

Senate amendment

Subsection (g) of section 507 is the same provision.

Conference substitute

House bill and Senate amendment.

66. USING PFC REVENUE FOR GROUND ACCESS PROJECTS

House bill

Requires FAA to publish in 60 days its current policy for allowing PFCs to be used to pay for ground access projects.

Senate amendment

No provision.

Conference substitute

House bill but add ''consistent with current law.''

67. FINANCIAL MANAGEMENT OF PASSENGER FACILITY FEES

House bill

This section requires airlines to place PFC revenue that they collect in a separate account so that the airport for which the PFC was collected will be assured of receiving its money should the airline go out of business during the interim period between the time that the PFC was collected and the time it is remitted to the airport.

Senate amendment

No provision.

Conference substitute

Section 124. House bill, but limited to air carriers filing for bankruptcy after the date of enactment. These air carriers would only have to segregate PFC money, and would not be required to put that money in an escrow account. This provision is in addition to the requirements already in 49 U.S.C. 40117(g)(4).

68. MAJOR RUNWAY PROJECTS

House bill

No provision.

Senate amendment

Requires quarterly reports on the status of major runway projects undertaken at 40 largest airports.

Conference substitute

No provision.

69. NOISE DISCLOSURE TO HOME BUYERS

House bill

No provision.

Senate amendment

Requires FAA to study the feasibility of developing a program to notify homebuyers of information on noise disclosure maps. Requires FAA to make noise exposure maps available on its Web site.

Conference substitute

Senate amendment. One change was made requiring the Federal Aviation Administration to make noise exposure and land use information from noise exposure maps available to the public via the Internet on its Web site in an appropriate format. The approach was adopted instead of requiring the FAA to publish noise exposure maps on the FAA's Web site alone. It is very important that potential homebuyers should be notified of the likelihood that they would be exposed to aircraft noise.

70. CLARIFICATION OF FLY AMERICA ACT

House bill

Makes clear that the term ''commercial item'' does not include the transportation of people by air. Such transportation must be on U.S. airlines to the extent required by the other provisions of 49 U.S.C. 40118.

Makes clear that a person that has contracted with the military has the same obligation under 49 U.S.C. 41106 to employ U.S. airlines for airlift services as the military.

Senate amendment

No provision.

Conference substitute

The Substitute includes only the House provision that the term ''commercial item'' does not include the transportation of people by air. Such transportation must be on U.S. airlines to the extent required by the other provisions of 49 U.S.C. 40118.

71. AIRLINE CITIZENSHIP

House bill

No provision.

Senate amendment

To qualify as a U.S. airline, it must be under the actual control of citizens of the U.S.

Conference substitute

Senate amendment.

72. AIR CARGO IN ALASKA

House bill

No provision.

Senate amendment

Permits cargo to or from a foreign country to be transferred to another airline in Alaska without being considered to have broken its international journey.

Conference substitute

Senate amendment. This subsection does not apply to transportation of passengers and does not permit the Secretary to authorize a foreign air carrier either to take on for compensation at a place in the United States cargo having both first origin and ultimate destination in the United States, or to engage in service that contravenes any bilateral or multilateral agreement between the United States and any foreign state. Alaska's geographic location and distance from the contiguous 48 States creates special needs, challenges and opportunities. Alaska has a unique geographic location as a technical and refueling stop for all cargo services between Asia, on the one hand, and Europe and North America on the other. A ''term arrangement'' is a cargo relationship between air carrier(s) and foreign air carrier(s) on an ongoing basis, including, for example, preferential rates or joint marketing up to and including a full cargo alliance.

73. OVERFLIGHTS OF NATIONAL PARKS

House bill

States that the requirements and restrictions governing commercial air tour operations, as defined in the Air Tour Management Act of 2000, of national parks apply only to those flights that are over the park, or over an area within 1/2 mile outside the boundary of a national park, and not to those flights that may be near the park, even if they have some impact on the park.

Overrules an FAA regulation that establishes specific times that are considered daylight hours and instead uses the more common approach of defining daylight as the hours between 1 hour after sunrise and 1 hour before sunset.

Senate amendment

No provision.

Conference substitute

Adopts only House bill, subsection (a) regarding the application of the Air Tour Management Act of 2000. The Managers also agreed to add a provision regarding the utilization of quiet technology at Grand Canyon National Park and establish a mediation process if necessary.

The Managers are greatly disappointed with the lack of progress that has been made by the National Park Service (NPS) and the Federal Aviation Administration (FAA) with regard to managing air tour noise impacts in national parks. It is our understanding that the two agencies have not been able to reach agreement on how to set noise standards for national parks, how to measure and model noise impacts in national parks, and how to appropriately regulate air tours over national parks.

In no less than eight places in the Air Tour Management Act of 2000 (ATMA), Congress used the words ''in cooperation'' to describe how the FAA and NPS should work together to develop air tour management plans (ATMPs) for national parks. Congress' intent is clear. The agencies should work collaboratively, cooperatively and in coordination with one another. Neither is in the position to dictate an approach. The Managers expect the two agencies to come to an agreement on a common approach to develop ATMP's, as well as to determine environmental impacts in national parks, including noise impacts. The approach and procedures should be developed expeditiously and in a coordinated and collaborative fashion.

Finally, it is our understanding that the National Park Service has not sought funding authorization or appropriation for the ATMP process. Both agencies should be funding this effort.

74. DELAY REDUCTION MEETINGS

House bill

No provision.

Senate amendment

DOT may ask U.S. airlines to meet with FAA to discuss flight reductions at severely congested airports to reduce over scheduling and flight delays during peak hours if FAA and DOT determine it is necessary. Meetings shall be chaired by FAA, open to all scheduled U.S. airlines, and limited to the airports and time period determined by FAA. FAA shall set flight reduction targets for the meeting. Airlines shall make flight reduction offers to FAA rather than to other airlines. Transcripts of the meetings shall be

made available. Includes an additional provision dealing with delays caused by stormy weather.

Conference substitute

Senate amendment without the ''Stormy Weather'' provisions which are covered by the collaborative decision making pilot program described below.

75. COLLABORATIVE DECISION MAKING PILOT PROGRAM

House bill

Requires a pilot program to be established within 90 days that would authorize airlines to discuss changes in flight schedules in the event of a capacity reduction event.

States that the pilot program will last for 2 years after it is established.

Subsection (c) directs FAA to issue guidelines for the program that, at least, define when a capacity reduction event exists that would warrant the use of collaborative decision making among airlines.

States that when the FAA determines that a capacity reduction event exists at an airport, it may permit airlines to meet and discuss their schedules for up to 24 hours in order to use the available air traffic capacity most effectively. The FAA shall monitor these discussions.

Directs the FAA to choose 3 airports to participate in the program within 30 days after establishing the program. The airports chosen should be those with the most delays where collaborative decision-making could help reduce delays there and throughout the nation.

States which airlines are eligible to participate.

Permits the FAA to modify or cancel the program or prevent an airline from participating if it finds that the purposes of the program are not being furthered or there is an adverse impact on competition.

Requires FAA and DOT to evaluate the impact of the pilot program on the use of air traffic capacity, competition, the amount of air service to communities, and the impact of delays at other airports. Subsection (i) allows the program to be extended for an additional 2 years and expanded to 7 more airports if warranted by the evaluation in subsection (h).

Senate amendment

Requires a program to be established to authorize airlines to discuss changes in schedules in the event of bad weather.

Within 30 days of enactment, DOT shall establish procedures governing airline requests for authorization, participation by DOT, and the determination by FAA about the impact of bad weather.

When FAA determines that bad weather is likely to adversely and directly affect capacity at an airport for at least 3 hours, airlines may discuss flights directly affected by the bad weather for up to 24 hours. DOT shall be represented at the meetings.

Allows DOT to exempt airlines from the antitrust laws in order to participate in the discussions.

This provision expires 2 years and 45 days after enactment but may be extended for another 2 years. DOT shall notify Congress of any such extension.

Conference substitute

House bill but reduced the number of initial participating airports from 3 to 2. The substitute also includes requirements that the Attorney General concur with certain actions and determinations of the Secretary of DOT. The Attorney General may monitor the communications between air carriers operating at a participating airport. Also includes the authority to grant antitrust immunity. The substitute directs the FAA to define and establish limited criteria for a ''capacity reduction event''. The FAA should work closely with the Department of Justice and the Department of Transportation.

76. COMPETITION AND ACCESS

House bill

No provision.

Senate amendment

Directs DOT to study and report within 6 months on competition, access problems, gate usage, pricing and availability at large airports.

Conference substitute

No provision.

77. COMPETITION DISCLOSURE

House bill

No provision.

Senate amendment

Requires large airports to file a report with DOT within 30 days of denying an airline a gate or other facilities. Report shall provide reason for the denial and time frame for granting the request.

Conference substitute

Instead of requiring a report from an airport each time it is unable to accommodate an airline request for gates, the conference substitute requires an airport to file a report with DOT during each 6 month period that it was unable to accommodate a request for gates. The airport could aggregate several incidents into one report. This provision sunsets in 5 years.

78. AVAILIBILITY OF AIRCRAFT ACCIDENT SITE INFORMATION

House bill

This section adds two provisions to the family assistance plans that airlines are required to follow in the event of a plane crash. The first requires information to homeowners whose houses are damaged about liability and compensation. Typically, this information should direct homeowners to their insurance companies to obtain information on compensation for damages. The second requires the airline to provide closed circuit television or a similar method for families to view NTSB proceedings concerning the accident. This would apply only if the NTSB proceedings were more than 80 miles from the accident site. In such cases, the proceedings would have to be able to be viewed in the cities where the flight originated and where it was scheduled to land. This applies only to cities in the United States.

Senate amendment

No provision.

Conference substitute

House bill.

79. SLOT EXEMPTIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT

House bill

Increases the number of slot exemptions to be granted outside the 1,250–mile perimeter from 12 to 24. Increases the number of slot exemptions to be granted inside the perimeter from 12 to 20.

Accommodates the above additional exemptions by increasing the number that can be granted during each one-hour period from 2 to 3. It also distributes the 20 inside-the-perimeter exemptions as follows—6 for air service from Reagan National to small airports without regard to the new entrant criteria, 10 to medium size or smaller airports, and 4 to any airport. Directs DOT to establish procedures for the grant of these slot exemptions.

Senate amendment

No provision.

Conference substitute

House bill. In order to enhance competition, DOT is encouraged to, among others, consider the competitive importance of service to cities that can serve as gateways to additional western states that currently have only limited service to Reagan National Airport. This language is not intended to favor or prejudice an application from a carrier under this section.

80. PERIMETER RULES

House bill

Requires DOT to study the impact of locally imposed perimeter rules on competition and air service to communities outside that perimeter.

Senate amendment

No provision.

Conference substitute

No provision.

81. COMMUTER AIRCRAFT DEFINITION

House bill

Changes the definition of commuter to allow up to 76 seat regional jets to use commuter slots at Reagan National Airport.

Senate amendment

No provision.

Conference substitute

House bill.

82. NOTICE CONCERNING AIRCRAFT WHERE AN AIRCRAFT IS ASSEMBLED

House bill

This section requires, within 1 year, U.S. airlines to include on the placard in the seat back pocket a notice informing the passenger of where the aircraft was built.

Senate amendment

No provision.

Conference substitute

House bill, but airlines have 18 months to include on the placard in the seat back pocket a notice informing the passenger of where the aircraft was finally assembled.

83. SPECIAL RULE TO PROMOTE AIR SERVICE TO SMALL COMMUNITIES

House bill

In order to promote air service to small communities, this section directs FAA to permit small turbine powered or multi-engine aircraft to carry passengers between a small airport and another airport and to accept payment from those passengers if the aircraft is otherwise operated in accordance with FAA rules in Parts 119 and 135 and DOT rules in Part 298 of 14 CFR.

Senate amendment

No provision.

Conference substitute

No provision.

84. ESSENTIAL AIR SERVICE (EAS) MARKETING

House bill

Allows the portion of the essential air service (EAS) subsidy paid to an airline to promote its service to be paid to the community instead so that the community can promote that service.

Senate amendment

Airports may receive up to $50,000 for a marketing plan to increase usage at an EAS community. A local share, not including federal sources but including bond proceeds or in-kind contributions, is required unless passenger usage increases by a specified amount. Authorizes $50,000 to a State with an EAS community to assist the State in developing methods to increase passengers at the community. A 10% local share, including in-kind contributions, is required.

$12 million per year for 3 years is authorized for this program of which $200,000 may be used for administrative costs.

Conference substitute

Senate amendment.

85. EAS SUBSIDY ADJUSTMENT

House bill

Allows adjustments to a carrier's subsidy rate at any time if average monthly costs have increased by 10% or more without regard to requirements relating to renegotiation or termination notice.

Senate amendment

Allows adjustments to a carrier's subsidy rate within 30 days of enactment if average annual unit costs have increased by 10% or more without regard to renegotiation requirements.

Conference substitute

House bill section 415 (a)(3), but does not go into effect until 30 days after enactment. Senate amendment definition of ''significantly increased costs,'' with revisions to clarify calculation. Includes a new provision authorizing the Secretary to reverse the upward adjustment in the subsidy rate if costs subsequently decline. It is the Managers' intent that the authority provided in this section be used to cover an industry-wide cost increase, such as increased fuel or insurance costs, and not one unique to a particular carrier.

86. RETURNED EAS FUNDS

House bill

No provision.

Senate amendment

Any EAS subsidy returned to DOT by an airport shall remain available to DOT and used to increase flights to that airport.

Conference substitute

No provision.

87. EAS AUTHORIZATION

House bill

Authorizes $65 million, in addition to the $50 million already required to be provided, for the EAS program and for the alternative program established by subsection (f) below. It also authorizes the hiring of additional employees in DOT to manage the program.

Senate amendment

Authorizes $113 million including the $50 million already required.

Conference substitute

Section 404. House bill, with an additional authorization for marketing from the Senate bill. Section 408 authorizes DOT to designate 10 communities within 100 miles of a hub to pay a 10% local share. Only one could be designated per State. Before being designated under this section, communities should first be given an opportunity to participate in the alternative program established by section 405 as that could lead to both better service for the community and lower subsidy costs.

88. SUBSIDY TERMINATION

House bill

Requires DOT to give a community 90 days notice before it discontinues subsidies to a community as a result of that community's failure to meet mileage or per passenger subsidy targets established in Appropriations Acts.

Senate amendment

Notwithstanding the subsidy per passenger limitation in the 2000 appropriations act, DOT may not terminate a subsidy to a community before the end of 2004, if 2000 ridership at the community was sufficient and it received notice in 2003 that its ridership is no longer sufficient.

Conference substitute

No provision.

89. RESUMING SERVICE AT FORMER EAS COMMUNITIES

House bill

Allows an airline to begin service after the date of enactment to a community that has been eliminated from the EAS program without being subject to the hold-in requirements of that program if it should decide to terminate service to that community.

Senate amendment

No provision.

Conference substitute

House bill. The purpose of this provision is to remove a requirement that might prove to be a disincentive to a carrier resuming service to a community without any service.

90. JOINT FARES

House bill

Directs DOT to encourage the submission of joint fare proposals to benefit service to small communities.

Senate amendment

No provision.

Conference substitute

House bill.

91. ALTERNATIVE EAS

House bill

Establishes an alternative to the EAS program. Under this alternative, rather than receiving service from an airline subsidized by DOT, the community could receive a grant from DOT to establish and pay for its own service. This could include scheduled air service, air taxi service, fractional ownership where passengers pay for the service, surface transportation, or some other approach approved by DOT. Communities choosing to participate in this alternative program could not receive service under the established EAS program in the fiscal year in which they participated in the alternate program.

Senate amendment

If money authorized for the marketing program is fully appropriated, DOT shall establish a pilot program for no more than 10 communities under which the airport may forgo EAS subsidies for 10 years in exchange for a grant of double the EAS subsidy for airport development. DOT may require major airlines serving one of these 10 communities to participate in multiple code shares if that would improve air service.

DOT shall establish a pilot program for no more than 10 communities to authorize more flights with smaller aircraft if safety will not be compromised. For 3 of these airports, DOT may establish a pilot program where the subsidy pays for alternate transportation and improvement to airport facilities if the airport agrees to terminate its participation in this program pilot program after 1 year.

DOT may establish a pilot program where airports share the cost of providing service over and above the required essential air service.

Conference substitute

Section 405. Substitute is House section 415 (g), with alternatives and pilot programs in the Senate bill. The fractional ownership provision cannot be used until the FAA rule on fractional ownership takes effect. There is no provision for a local cost share for those communities participating in one of the alternatives or pilot programs authorized by this section.

92. TRACKING EAS SERVICE CHANGES

House bill

No provision.

Senate amendment

Requires semi-annual report from airlines providing EAS on on-time performance and other service changes.

Conference substitute

Senate amendment with revisions.

93. MILEAGE REQUIREMENTS FOR EAS PROGRAM

House bill

Establishes mileage requirements for participation in the EAS program and directs DOT to calculate the mileage by the most commonly used route. DOT should consult with the Governor in determining the most commonly used route. Any community previously eliminated from the EAS program by the distance criteria may appeal that decision to DOT in light of the changes made by this subsection.

Senate amendment

Similar provision but the method for determining mileage applies only to Lancaster, PA while the appeal rights apply to any community.

Conference substitute

House bill but limited to only 2 years prior to date of enactment and order to be issued is limited to 2007.

94. SMALL COMMUNITY OMBUDSMAN

House bill

No provision.

Senate amendment

Establishes ombudsman in DOT to develop strategies for improving air service to small communities.

Conference substitute

No provision.

95. NATIONAL COMMISSION ON SMALL COMMUNITY AIR SERVICE

House bill

No provision.

Senate amendment

Establishes 9-member Commission to study challenges facing small communities and whether existing Federal programs are helping.

Conference substitute

Senate amendment.

96. REFUNDED SECURITY FEES

House bill

No provision.

Senate amendment

Requires flag airlines, within 30 days, to remit to their code share partners any security fees that they paid but that were refunded to the flag airline. IG reviews compliance. Airline CEO certifies compliance.

Conference substitute

No provision.

97. TYPE CERTIFICATES

House bill

Requires anyone building a new aircraft based on a type certificate to have the permission of the holder of that type certificate.

Senate amendment

No provision.

Conference substitute

House bill.

98. CERTIFICATION OF FOREIGN AVIATION PRODUCTS

House bill

Requires the FAA to spend the same amount of time and perform a similarly thorough review when certifying or validating a foreign aviation product as the foreign nation spends in certifying or validating U.S. aviation products.

Senate amendment

No provision.

Conference substitute

The House bill is revised to direct U.S. negotiators to ensure that American products are treated fairly in the certification process.

99. INTERNATIONAL ROLE OF FAA

House bill

No provision.

Senate amendment

Amends section 40101(d) by requiring FAA to exercise leadership with foreign counterparts, in ICAO, and other organizations to

promote safety, efficiency, and environmental improvements in air travel.

Conference substitute

Senate amendment.

100. REPORT ON OTHER NATIONS' ADVANCEMENTS

House bill

No provision.

Senate amendment

FAA shall review other countries' aviation safety, research funding, and technological actions and report with recommendations on how those activities might be used in the U.S.

Conference substitute

No provision, however the report requirement in the Senate amendment is included in section 819 of the bill.

101. DESIGN ORGANIZATION CERTIFICATES

House bill

This section directs FAA to develop, within 4 years, a plan for certification of design organizations and allows the FAA to implement within 7 years a system for certifying design organizations if it so chooses.

Senate amendment

Similar provision but plan is to be submitted in 3 years and implemented in 5 years. Nothing in this section prevents FAA from revoking a certificate. Makes conforming change to subsection on type certificates.

Conference substitute

House timelines with Senate provision on FAA authority to revoke certificates. Replace (f)(3) from House bill with ''The FAA may rely on certifications of compliance by a Design Organization when making a finding under subsection (a).''

102. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS

House bill

This section would direct the FAA to deny a certificate to a person whose certificate was previously revoked for involvement in an activity relating to counterfeit or fraudulent aviation parts.

Senate amendment

Same provision, but would also deny a certificate to a person who carried out an activity related to counterfeit or fraudulent aviation parts for which he could have been convicted.

Conference substitute

House bill.

103. RUNWAY SAFETY AREAS

House bill

Section 419 states that an airport shall not be required to reduce the length of a runway or declare the length of the runway to be less than the actual pavement length in order to meet FAA requirements for runway safety areas.

Section 505 requires airports to undertake, to the maximum extent practical, improvements to the runway safety overrun area to meet FAA standards when they receive grants to construct, reconstruct, repair, or improve that runway. This does not require that airport to build a shorter runway, reduce the length of that runway or similar actions that are prohibited by section 419 of this bill.

Senate amendment

No provision.

Conference substitute

House bill. The substitute limits this provision to airports located in the State of Alaska, as that is apparently where the FAA's actions with regard to runway safety areas have become a problem. The Managers also agreed to require the DOT to conduct a study and submit a report on this issue for airports located in the remaining states.

104. AVAILABILITY OF MAINTENANCE INFORMATION

House bill

Requires manufacturers of aircraft and aircraft parts to provide maintenance manuals at a reasonable cost to repair stations that are authorized to work on those aircraft or aircraft parts.

Senate amendment

No provision.

Conference substitute

No provision.

105. CERTIFICATE ACTIONS IN RESPONSE TO A SECURITY THREAT

House bill

Requires FAA to revoke a pilot's certificate if the Department of Homeland Security notifies the FAA that the pilot is a security risk.

Gives a pilot who is a U.S. citizen the right to a hearing before an administrative law judge (ALJ). Others have the right to the appeal procedures that the Transportation Security Administration (TSA) has already provided for them.

States that the ALJ is not bound by the FAA's or TSA's findings of fact or law. Allows either party to appeal an ALJ decision to a special panel created by the Transportation Security Oversight Board.

Allows either party to appeal the panel's decision to the U.S. Court of Appeals. Requires TSA to give a person appealing under this section an explanation of the reason for the revocation and all supporting documents to the extent that national security permits.

Sets forth the procedures for handling classified evidence This section makes clears that appeals under Subtitle VII of title 49 are handled by the Federal Court of Appeals rather than the District Court.

Contains a conforming amendment.

Senate amendment

No provision.

Conference substitute

House bill with technical clarifications to address how FAA, TSA, DHS, CIA, and the parties shall handle classified information in the hearing and appeal processes.

106. JUDICIAL REVIEW

House bill

Amends 46110(a) by striking ''part'' and inserting ''subtitle'' in the first sentence. Judicial review of TSA actions is covered by section 1710 of H.R. 2144.

Senate amendment

References 46110(c) instead of 46110(a). Uses Administration's proposed language, including sections for TSA.

Conference substitute

Amends section 46110(a) of Title 49, United States Code to clarify that the judicial review procedures set forth in section 46110 apply to persons disclosing a substantial interest in orders issued by the Secretary of Transportation in whole or in part under part A and under part B of Subtitle VII of Chapter 49 of the U.S. Code. The intent is to clarify that decisions to take actions authorizing airport development projects are reviewable in the circuit courts of appeals under section 46110, notwithstanding the nature of the petitioner's objections to the decision. In addition, the Committee believes that FAA orders pertaining to airport compliance are exclusively reviewable in the circuit courts of appeals, like other orders issued under similar provisions in part B of subtitle VII of title 49. The Committee notes that the amendment to section 46110 would resolve the jurisdictional issue raised in *City of Alameda* v. *FAA*, 285 F.3d 1143 (9th Cir. 2002). The Managers agreed to strike ''part'' and insert ''Subparts A and B'' and strike the reference to ''safety'' in order to clarify that the provision is not limited to safety orders of the FAA. Similar changes are made with respect to the Transportation Security Administration.

107. CIVIL PENALTIES

House bill

No provision.

Senate amendment

Sets all civil penalties at $25,000. Increases the limit for the administrative imposition of civil penalties to $1 million.

Conference substitute

Senate amendment on civil penalties with an exemption for individuals and small businesses. They will not be subject to the penalty increase but will be subject to the penalty they were subject to prior to the enactment of this Act. Also, sets the limit for the administrative imposition of civil penalties at $400,000.

108. FLIGHT ATTENDANT CERTIFICATION

House bill

Prohibits a person from serving as a flight attendant on an aircraft of a U.S. airline unless that person holds a certificate from the FAA. That person must present that certificate, upon request, to an authorized Federal official within a reasonable time. People currently serving as flight attendants can continue to do so pending their certification. After the airline notifies the FAA that a person has met the qualifications for certification, that person may serve as a flight attendant even if that person does not have the certificate in hand. Requires the FAA to issue a certificate to a person after the airline notifies the FAA that the person has completed all FAA approved training. Designates the appropriate airline official to determine whether a person has successfully completed the training. Requires the certificate to be numbered and recorded by the FAA, contain the name, address, and description of the flight attendant, contain the name of the airline that the flight attendant works for, be similar to airmen certificates, contain the airplane group (jet or prop) for which the certificate is issued, and be issued by the FAA within 30 days of notification by the airline or within 1 year of the effective date of this section. Subsection (e) states that all flight attendant training programs, other than those involving security, are subject to FAA approval. Training programs approved within one year prior to the date of enactment may be used as the basis for certifying flight attendants. Defines ''flight attendant''. This section takes effect one year after the date of enactment.

Senate amendment

Requires FAA to establish standards for flight attendant training. FAA shall require flight attendants to complete training courses approved by FAA and TSA. FAA shall issue a certificate to each person that completes the course. Has a similar requirement for the certificate. Similar definition of ''flight attendant''.

Conference substitute

House bill, however the substitute allows the Administrator 120 days to issue the certificate after receiving notification from the air carrier.

109. CIVIL PENALTY FOR CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE

House bill

Requires the government agency that owns or controls an airport to provide 30 days notice before that airport is closed. Imposes a

$10,000 penalty for each day that the airport remains closed without having given the proper notice.

Senate amendment

Same provision.

Conference substitute

House bill and Senate amendment. This provision applies only to airport closures that are permanent, not to temporary closures for emergency or operational reasons.

110. NOISE EXPOSURE MAPS

House bill

This section replaces an obsolete date reference and directs airports to update their noise exposure maps if there is a change in the operations at the airport that would lead to a significant increase or decrease in noise.

Senate amendment

Similar provision with exception that does not direct airports to update their noise exposure maps if there is a change in the operations at the airport that would lead to a significant increase or decrease in noise.

Conference substitute

House bill.

111. OVERFLIGHT FEES

House bill

This section makes clear that the changes to the method for calculating overflight fees in the Aviation and Transportation Security Act were not nullified by the savings provision in that Act.

Senate amendment

The provision has a similar goal but accomplishes it differently.

Conference substitute

Ratifies the interim final rule and final rule issued by the FAA on May 30, 2000, and August 13, 2001, respectively. This ratification applies to fees collected after the date of enactment of the Aviation and Transportation Security Act (ATSA) and before the court decision striking down those fees. It also applies to the fees that FAA collects in the future after it undertakes the actions required by this provision. Fees collected after the ATSA fix and before the court decision could be retained by FAA. The FAA may not resume collecting fees until after the Administrator reports to Congress in response to the issues raised in the April 8, 2003 court decision; and after the FAA consults with users and other interested parties to ensure the fees established are consistent with the international obligations of the United States. The Managers intend that consultations before the date of enactment shall satisfy this requirement.

In 1996, Congress directed the FAA Administrator to set and collect fees for the provision of air traffic control and related services for flights that fly over but do not land in the United States. This was done to recover a portion of the costs of these services from those who receive the benefit of the services but who would otherwise pay nothing. Although the FAA Administrator has diligently proceeded to recover such costs through the imposition of overflight fees, a group of foreign airlines has challenged the fees in the United States Court of Appeals for the District of Columbia Circuit.

On April 8, 2003, when the United States Court of Appeals for the District of Columbia Circuit issued an opinion in the case of *Air Transport Association of Canada et al* v. *FAA*, No. 01–1446, setting aside and remanding to the FAA the Final Rule issued on August 13, 2001 under Section 45301 (b) (1) (B) because the Court concluded that, as a result of the generic savings provision set forth in Section 141 of the ATSA, Section 119(d) of ATSA did not apply to this Final Rule since it was the subject of the foreign air carriers' pending challenge at the time the ATSA was enacted. It was never the intention of Congress that the savings provision set forth in Section 141 was to have this effect, and this amendment clarifies that fact by retroactively applying Section 119(d) to both the Interim Final Rule issued on May 30, 2000 as well as the Final Rule issued on August 13, 2001.

Also, to clarify that the FAA has complied with its statutory mandate regarding overflight fees in the Interim Final Rule and Final Rule and to ensure the fees can be collected in the future, the language and authority approved by the Court of Appeals for the District of Columbia Circuit in *Thomas* v. *Network Solutions, Inc.*, 176 F. 3d 500 (D. C. Cir 1999) is adopted hereto retroactively, as well as prospectively, to legalize and ratify both the Interim Final Rule and the Final Rule, effective as of the dates those rules were originally issued by the FAA.

Although the Court of Appeals has never found a violation of international law in the overflight fee rulemakings, there have been complaints that international law has not been complied with by the FAA. To ensure compliance, the Administrator is directed to consult and confer on the concerns of foreign governments and users that the fees established by this section conform to the international obligations of the United States and the Administrator is authorized to adjust the fees, if necessary, to conform to the obligations of the United States under international law.

112. IMPROVEMENT OF CURRICULUM STANDARDS FOR AVIATION MAINTENANCE TECHNICIANS

House bill

This section requires FAA to update the curriculum for training aircraft mechanics to reflect current technology and maintenance practices. Maintains requirement for 1900 hours of training

Senate amendment

No provision.

Conference substitute

House bill without specifically mentioning the 1900-hour minimum requirement.

113. AIR QUALITY IN AIRCRAFT CABINS

House bill

This section directs the FAA to undertake the studies and analysis called for in the National Academy of Sciences study on airline cabin air quality.

Senate amendment

Similar provision, but adds two requirements, to study air pressure and altitude and to establish an incident reporting system.

Conference substitute

Senate amendment.

114. RECOMMENDATIONS CONCERNING TRAVEL AGENTS

House bill

This section requires DOT to consider the recommendations of the National Commission to Ensure Consumer Information and Choice in the Airline Industry and to report to Congress on any actions that it believes should be taken.

Senate amendment

Same provision.

Conference substitute

House bill and Senate amendment.

115. REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES

House bill

This section authorizes $100 million to reimburse general aviation businesses that have incurred costs or lost money as a result of security restrictions. The businesses eligible for this reimbursement are the fixed based operator and any other general aviation businesses at Reagan National Airport that has been largely closed to general aviation since September 11, 2001, the 3 general aviation airports in the Washington, D.C. area that were closed after September 11th and are now operating under security restrictions, banner towers who have been prohibited from flying over stadiums, flight schools that have been unable to train foreign students, and any other general aviation business that is prohibited from operating due to similar restrictions.

Senate amendment

Similar provision but does not explicitly include banner towers or flight schools in each coverage. Definition of general aviation entity is slightly different.

Conference substitute

House bill, but narrows reimbursement eligibility to general aviation businesses that are specifically identified as having incurred costs or lost money as a result of the events of September 11, 2001.

116. IMPASSE PROCEDURES FOR NATIONAL ASSOCIATION OF AIR TRAFFIC SPECIALISTS

House bill

This section requires the wage dispute between the FAA and the National Association of Air Traffic Specialists to be submitted to the Federal Services Impasse Panel if it has not been resolved within 30 days of enactment of this Act.

Senate amendment

No provision.

Conference substitute

No provision.

117. FAA INSPECTOR TRAINING

House bill

Directs GAO to undertake a study of the training of FAA's safety inspectors. Sense of the House that FAA safety inspectors should take the most up-to-date training at a location convenient to the inspector and that the training should have a direct relation to the inspector's job requirements. Directs the FAA to arrange for the National Academy of Sciences to study the staffing standards the FAA uses for its inspector workforce.

Senate amendment

No provision.

Conference substitute

House bill.

118. AIR TRAFFIC OVERSIGHT SYSTEM (ATOS)

House bill

No provision.

Senate amendment

Requires FAA, within 90 days, to transmit an action plan for overseeing repair stations, ensuring foreign repair stations are subject to the same level of oversight as domestic ones, and addressing problems with ATOS identified by GAO and the IG. Sets forth the requirements for the action plan including extending ATOS beyond the 10 largest airlines.

Conference substitute

Senate amendment that within 90 days, the FAA shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan containing an implementation schedule to strengthen oversight of domestic and foreign repair stations and ensure that FAA-approved foreign repair stations are subject to an equivalent level of safety, oversight, and quality control as those located in the United States. This does not require, nor does it prevent, the FAA to perform the same number of inspections on foreign repair stations as domestic ones.

119. PROHIBITION ON AIR TRAFFIC CONTROL PRIVATIZATION

House bill

Prohibits DOT from privatizing the functions performed by its air traffic controllers who separate and control aircraft. States that this prohibition does not apply to the functions performed at air traffic control towers that are operated by private entities under the FAA's contract tower program. This exemption covers the current air traffic control towers that are part of the FAA contract tower program and to non-towered airports and non-federal towers that would qualify for participation in this program.

Senate amendment

Prohibits DOT from privatizing the functions performed by its air traffic controllers who separate and control aircraft and the functions of those who maintain and certify those systems. Section shall not apply to an FAA tower operated under the contract tower program as of the date of enactment.

Conference substitute

No provision.

120. AIRFARES FOR MEMBERS OF THE ARMED FORCES

House bill

This is a sense of Congress urging airlines to provide low fares for Members of the Armed Forces of the United States. Also includes findings.

Senate amendment

Similar provision. No findings. Refers only to standby tickets.

Conference substitute

House bill.

121. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED AIR SERVICE

House bill

This section extends for 9 more months the requirement that airlines accommodate passengers whose flight is cancelled due to the bankruptcy of the carrier on which that passenger was ticketed.

Senate amendment

Same provision. Also requires DOT to consider waiving this requirement where other airlines operate flights over routes operated in isolated areas dependent on air transportation.

Conference substitute

House bill and Senate amendment but without the waiver in the Senate amendment.

122. INTERNATIONAL AIR SHOW

House bill

This section directs DOT, in consultation with the Secretary of Defense, to study the feasibility of the United States hosting an international air show. A report is required by September 30, 2004.

Senate amendment

No provision.

Conference substitute

House bill to the extent that it directs DOT to work with DOD on an international air show.

123. RETIREMENT BENEFITS OF AIR TRAFFIC CONTROLLERS

House bill

This section allows an air traffic controller who is promoted to a supervisory or managerial position to retain the same retirement benefits as one who was not so promoted. Amends the definition of an ''air traffic controller'' within the Civil Service Retirement System (CSRS) and Federal Employee Retirement System (FERS) to include second level air traffic controller supervisors. Clarifies that CSRS and FERS mandatory retirement provisions that apply to line air traffic controllers do not apply to second level supervisors. Specifies that this section shall take effect on the 60th day after the date of enactment. Allow current second level supervisors who have been promoted prior to enactment to retroactively pay into the higher CSRS accrual rate.

Senate amendment

No provision.

Conference substitute

The provision would ensure that former controllers could keep the retirement benefits they accrued as controllers. Also controllers who were promoted to first line supervisors as well as the supervisors of those first line supervisors would continue to accrue the retirement benefit of controllers. Others who are promoted to higher supervisory positions or who move out of the controller ranks would get controller retirement benefits only for the time they spent as controllers.

124. JUSTIFICATION FOR AIR DEFENSE IDENTIFICATION ZONE

House bill

If the FAA imposes flight restrictions in the Washington D.C. area, this section requires FAA to submit a report to Congress within 60 days explaining the need for such restrictions. If such restrictions are in effect on the date of enactment, this report must be filed within 30 days of the date of enactment.

Senate amendment

Same provision with some different wording.

Conference substitute

House bill.

125. INTERNATIONAL AIR TRANSPORTATION

House bill

This is a sense of Congress urging DOT to define ''fifth freedom'' and ''seventh freedom'' consistently for both scheduled and charter passenger and cargo traffic.

Senate amendment

No provision.

Conference substitute

House bill.

126. REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES

House bill

This section directs DOT, subject to the availability of funds, to reimburse U.S. airlines and airports for the security activities that they are still being required to perform. It also directs DOT to reimburse airports for the space being used to screen passengers if that space was being used or would have been used by concessionaires or other revenue producing activities.

Senate amendment

No provision.

Conference substitute

House bill, but limited to reimbursement for the screening of catering supplies and checking documents at security checkpoints. The Department of Homeland Security, rather than DOT, would be responsible for implementing this provision to the extent funds are made available to them.

127. GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT

House bill

This is a sense of Congress that Reagan National Airport should be opened to general aviation flights as soon as possible.

Senate amendment

No provision.

Conference substitute

Requires the Secretary of Homeland Security to develop and implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport. The Administrator of the Federal Aviation Administration is required to allow general aviation aircraft that comply with the requirements of the security plan to land and take off at the airport except during any period that the President suspends the plan developed by DHS due to national security concerns. Also requires a Report to Congress if a plan is suspended by the President.

128. CHARTER AIRLINES

House bill

This section prohibits scheduled charter airlines from operating at Teterboro unless the Secretary finds that it is in the public interest.

Senate amendment

No provision.

Conference substitute

House bill.

129. IMPLEMENTATION OF CHAPTER 4 NOISE STANDARDS

House bill

This section requires DOT to issue rule to implement Chapter 4 noise standards by July 1, 2004.

Senate amendment

No provision.

Conference substitute

House bill but the deadline for the final rule is April 1, 2005.

130. JACKSON HOLE

House bill

No provision.

Senate amendment

Permits Jackson Hole to prohibit operations by small stage 2 aircraft.

Conference substitute

Senate amendment, but only permits a sponsor of a commercial service airport who does not own the airport land and is a party to a long-term lease agreement with a Federal agency (other than the Department of Defense or the Department of Transportation) to impose restrictions on, or prohibit, the operation of small Stage 2 aircraft, in order to help meet the noise control plan contained within the lease agreement. The airport sponsor must give public notice and allow for public comment before imposing a restriction or prohibition.

131. CREW SECURITY TRAINING

House bill

Requires airlines to provide basic security training for flight attendants and sets forth the elements of that training. TSA shall establish minimum standards for that training within one year. Requires TSA to develop and provide advanced self-defense training for flight attendants and sets forth the elements of that training. This training is voluntary and flight attendants are not compensated for taking that training. They cannot be charged a fee. Exempts flight attendants from liability for using self-defense techniques in an actual terrorist situation.

Senate amendment

No provision.

Conference substitute

House bill. The provision authorizes the TSA to set the minimum standards to be included in the basic security training provided by each carrier to train flight and cabin crewmembers to prepare the crew members for potential threat conditions. This could help ensure that each carrier's

training program includes the minimum elements that have been outlined by Congress and the TSA. The programs will be subject to approval of the TSA, who will also monitor and periodically review those programs to assure that the programs are adequately preparing crew members for potential threat situations.

132. STUDY OF TRANSPORTATION SECURITY

House bill

No provision.

Senate amendment

Requires DHS to report in 6 months on the effectiveness of aviation security.

Conference substitute

Senate amendment, but this report may be submitted in lieu of TSA's annual report required by section 44938 of current law.

133. LETTERS OF INTENT TO PAY FOR AIRPORT SECURITY PROJECTS

House bill

No provision, but section 1525 of H.R. 2144 establishes a grant program to airport sponsors for (1) projects to replace conveyers related to security, (2) projects to reconfigure baggage areas, (3) projects that enable EDS installation behind the ticket counters, in baggage sorting areas or as part of an in-line systems, and (4) other security improvement projects determined appropriate. Authorizes Under Secretary to issue letters of intent. Established the Federal share of projects to be 90% for large and medium hubs and 95% for smaller airports. Authorized $500M to be appropriated in each of FY04, FY05, FY06 and FY07 to be available until expended. Prohibits the collection of the security fees unless appropriations cover all outstanding LOI commitments in a given Fiscal year.

Senate amendment

Establishes Aviation Security Capital Fund to provide financial assistance to airport sponsors to defray capital investment in transportation security. Authorizes $500M for each of FY04, FY05, FY06, and FY07 to be derived from the passenger and air carrier security fees. Allocates funds 40% large hub, 20% medium hub, 15% small hub, and 25% discretionary. Amounts allocated to airports are apportioned based on passenger enplanements. Authorizes letters of intent. No provision on Federal share.

Conference substitute

Establishes within the Department of Homeland Security a grant program to airport sponsors for (1) projects to replace baggage conveyer systems related to aviation security; (2) projects to reconfigure terminal baggage areas as needed to install explosive detection systems; (3) projects to enable the Under Secretary for Border and Transportation Security to deploy explosive detection systems behind the ticket counter, in the baggage sorting area, or inline with the baggage handling system; and (4) other airport security capital improvement projects. Authorizes Under Secretary to issue letters of intent. Establishes the Federal share of projects to be 90% for large and medium hubs and 95% for smaller projects. This applies to all grants made under letters of intent beginning in fiscal year 2004 even if the letter was issued in fiscal year 2003. The Under Secretary shall revise letters of intent issued before the date of enactment to reflect this cost share with respect to projects carried out after September 30, 2003. Requires $250 million annually from the existing aviation security fee that is paid by airline passengers to be deposited in an Aviation Security Capital Fund, and made available to finance this grant program. Of this $250 million, $125 million shall be allocated based on the following set-asides: 40% to large hub airports, 20% to medium hub airports, 15% to small and non-hub airports, and 25% to any size airport based on aviation security risks. The remaining $125 million shall be used to make discretionary grants, with priority given to fulfilling letters of intent. In addition to the amounts made available to the Aviation Security Capital Fund, there is authorized to be appropriated an additional $250 million to carry out this program. If additional amounts are appropriated pursuant to this authorization, 50% shall be used for discretionary grants, and 50% in accordance with the set-asides discussed above.

134. CHARTER SECURITY

House bill

No provision, but section 1503(1) of H.R. 2144 moves the provisions governing charters into title 49 and exempts military charters from the requirements that would otherwise apply. Also makes a technical change in the size of charter aircraft covered.

Senate amendment

Maintains as a freestanding provision but otherwise virtually the same. Section 406 makes the same technical change.

Conference substitute

Senate amendment, but includes the provision in U.S. Code, title 49.

135. COMPUTER ASSISTED PASSENGER PRESCREENING SYSTEM (CAPPS2)

House bill

No provision, but section 208 of H.R. 2144 requires TSA to certify that civil liberty and privacy issues have been addressed before implementing CAPPS 2 and requires GAO to assess TSA compliance one year after TSA makes the required certification.

Senate amendment

Requires DHS report in 90 days on privacy and civil liberties issues.

Conference substitute

House bill and Senate amendment, but requires the GAO report in the House bill to be submitted 3 months after TSA certification.

136. ARMING CARGO PILOTS

House bill

No provision but section 1521 of H.R. 2144 allows cargo pilots to carry guns under the same program for pilots of passenger airlines. In addition, this provision revises the armed pilots program to do the following—

Make clear that pilot requalification to carry a gun can be done at either Federal or non-Federal facility;

Establish a pilot program to provide firearms requalification training at various non-Federal facilities;

Permit an off-duty pilot to transport the gun in a lockbox in the passenger cabin rather than in the baggage hold; and

Permit flight engineers to participate in the Federal flight deck officer program.

Senate amendment

Similar provision but includes findings and sense of Congress and requires training of cargo pilots to begin in 90 days.

Conference substitute

Senate amendment, but instead of 90-day provision on training cargo pilots, the substitute includes a provision that both passenger and cargo pilots should be treated equitably in their access to training.

137. TSA STAFFING LEVELS

House bill

No provision but section 206 of H.R. 2144 requires TSA to report to Congress in 30 days on its methodology for allocating screeners and equipment among airports.

Senate amendment

Section 409, eliminates the cap in the FY 03 Appropriations Act on the number of TSA screeners.

Conference substitute

Senate amendment.

138. FOREIGN REPAIR STATION SECURITY

House bill

No provision but section 1526 of H.R. 2144 requires security audits of all foreign repair stations within 1 year after TSA issues rules governing the audits. The rules must be issued within 180 days of enactment. If a problem is found, the repair station must address it in 90 days or its certificate will be suspended until it complies. If there is an immediate security risk, the certificate can be revoked immediately. TSA shall establish procedures for appealing such revocations. If the security audits are not completed within the required 1-year, no new foreign repair station can be certified and no existing one can have their certificate renewed. Priority shall be given to auditing stations in countries that pose the most significant security risk.

Senate amendment

Defines domestic and foreign repair station. Within 180 days, FAA must issue rules to require foreign repair stations to meet the same level of safety as domestic repair stations. These rules shall require drug and alcohol testing and the same type and level of inspection as domestic repair stations.

Requires security audit within 180 days. If a problem is found, the repair station must address it in 90 days or its certificate will be suspended until it complies. If there is an immediate security risk, the certificate can be revoked immediately. If the security audits are not completed within the required 180 days, no new foreign repair station can be certified and no existing one can have their certificate renewed. Priority shall be given to auditing stations in countries that pose the most significant security risk. Rules for security audits must be issued within 180 days. If they are not, no new foreign repair station can be certified and no existing one can have their certificate renewed until the rules are issued.

Requires FAA, within 90 days, to transmit an action plan for overseeing repair stations, ensuring foreign repair stations are subject to the same level of oversight as domestic ones.

Conference substitute

House bill with modifications. Lengthened time to issue rule from 6 to 8 months. If TSA fails to meet this deadline, requires a report within 30 days of the deadline explaining the reasons for failing to meet the deadline and the schedule for issuing the rule. Lengthened time for security audits from 12 to 18 months. Eliminated the provision that prohibits renewal of foreign repair station certificates if TSA has not met this 18-month deadline but kept provision that no new stations can be certificated.

139. FLIGHT TRAINING

House bill

No provision, but section 1539 of H.R. 2144 requires background checks on aliens seeking flight training in aircraft with more than 12,500 pounds. Makes TSA responsible for the background check. Specifies the information that can be collected from the alien. Continues the 45-day waiting period. Continues to require security awareness training for employees. Requires, within 90 days, TSA to establish an expedited process that limits the waiting period to 48 hours for individuals who hold a pilot license from a foreign country, have previously undergone a background check, or who have already had pilot training. Exempts from the waiting period those seeking recurrent training or ground training. Doesn't provide for fees.

Senate amendment

Requires background checks on aliens seeking flight training in any sized aircraft.

Makes TSA responsible for the background check. Doesn't specify the info that can be collected. Reduces the waiting period to 30 days. Continues to require security awareness training for employees. Establishes a notification process for aliens who holds a visa and holds a pilot license from a foreign country or has previously undergone a background check. Exempts from the waiting period classroom instruction. Allows fees to be assessed for the background check. Fee cannot be more than $100 in FY 2003 and 2004. Fees are credited to TSA's account. Requires interagency cooperation. Requires TSA to issue an interim final rule in 60 days to implement this section. This section takes effect when that rule becomes effective. U.S. embassies and consulates shall provide fingerprint services to aliens. Report is required within 1 year.

Conference substitute

For all training on small aircraft, includes a notification requirement but no waiting period. For training on larger aircraft, adopts the expedited procedure similar to the House bill if the alien already has training, a license, or a background check and adopts the 30-day waiting period as in the Senate bill for first-time training on large aircraft. Makes TSA responsible for the background check. The managers are disappointed in the amount of time that the Justice Department took to implement this program and on the burdensome requirements it has imposed. Therefore, the substitute specifies the information that can be collected from the alien. Reduces the waiting period to 30 days. Establishes a notification process for all aliens, even if they hold a visa, who seek training on aircraft of 12,500 pounds or less. Requires, within 60 days, that TSA establish an expedited process that limits the waiting period to 5 days for aliens seeking training on aircraft of more than 12,500 pounds who hold a pilot license from a foreign country, have previously undergone a background check, or who have already had pilot training. Requires all others to go through the background check under the 30-day waiting period. Exempts from the process those seeking recurrent training or ground training or demonstration flights or classroom instruction as well as military trainees of the armed forces, including their contractors. Allows fees to be assessed for the background check. Fee cannot be more than $100 in FY 2003 and 2004. Fees are credited to TSA's account. Requires interagency cooperation. Requires TSA to issue an interim final rule in 60 days to implement this section. This section takes effect when that rule becomes effective. U.S. embassies and consulates shall provide fingerprint services to aliens. A report is required within 1 year. Continues to require security awareness training for employees.

140. REVIEW OF COMPENSATION CRITERIA UNDER STABILIZATION ACT

House bill

This section requires GAO to review the way airlines were compensated after 9/11 to determine whether they should be compensated for the devaluation of their aircraft.

Senate amendment

No provision.

Conference substitute

House bill, however study is on DOT criteria and procedures used to compensate airlines.

141. AIRLINE FINANCIAL CONDITION AND EXECUTIVE COMPENSATION

House bill

No provision.

Senate amendment

Requires semiannual GAO report on measures being taken by airlines to reduce costs and improve earnings and on total compensation, including stock options paid to airline executives.

Conference substitute

Requires a report.

142. REVIEW OF CERTAIN AIRCRAFT OPERATIONS IN ALASKA

House bill

This section requires FAA to report to Congress on whether flights in Alaska can be operated under Part 91 of FAA rules even if passengers pay for some of the costs of operating the aircraft.

Senate amendment

No provision.

Conference substitute

Due to the demands of conducting business within and from the State of Alaska, the FAA shall permit, where common carriage is not involved, a company, located in the State of Alaska, to organize a subsidiary where the only enterprise of the subsidiary is to provide carriage of officials, employees, guests, and property of the company, or its affiliate. The substitute sets forth specific limitations on the carriage that is allowed.

143. USING AIP FOR REPLACEMENT OF BAGGAGE CONVEYER SYSTEMS

House bill

This section states that an airport can only use its AIP entitlement funds for airport terminal modifications to accommodate explosive detection systems. AIP discretionary funds will not be available for this purpose.

Senate amendment

Prohibits the use of AIP for this purpose.

Conference substitute

House bill.

144. USING AIP OR PFC FOR SECURITY

House bill

No provision, but section 44901(d)(2)(D)(ii) of H.R. 2144 deletes the requirement that airports unable to make the checked baggage screening deadline give priority to using AIP and PFCs for security projects.

Senate amendment

Amends section 308 of the Federal Aviation Reauthorization Act of 1996 to allow AIP and PFCs to be used for safety and security only if the improvement or equipment will be owned by the airport.

Conference substitute

Repeals section 308 of the Federal Aviation Reauthorization Act of 1996.

145. SECURITY OPERATING COSTS AT SMALL AIRPORTS

House bill

This section allows small airports to use their AIP entitlement funds in fiscal year 2004 to pay the operating costs required to meet new security requirements.

Senate amendment

No provision.

Conference substitute

No provision.

146. WITHHOLDING OF DISCRETIONARY GRANTS

House bill

If an AIP discretionary grant is withheld from an airport on the grounds that the airport has violated a grant assurance, this section requires that the airport be given the same right to a hearing that it would have if the FAA had withheld an entitlement grant. This section does not require the FAA to give a discretionary grant to any particular airport.

Senate amendment

No provision.

Conference substitute

No provision.

147. DISPOSITION OF LAND ACQUIRED FOR NOISE COMPATIBILITY PURPOSES

House bill

Rather than depositing into the aviation trust fund the proceeds from the sale of land acquired as part of a noise compatibility program, this section allows an airport to retain those proceeds and use them to purchase non-residential property near residential property that was purchased as part of a noise compatibility program.

Senate amendment

No provision.

Conference substitute

House bill.

148. GRANT ASSURANCES

House bill

If an airport owner and an aircraft owner agree that an aircraft hangar can be constructed at the airport at the aircraft owner's expense, subsection (a) requires the airport owner to grant a long-term lease, or at least 50 years, to the aircraft owner for that hangar. The lease may be subject to such terms and conditions on the hangar as the airport may impose.

Senate amendment

No provision.

Conference substitute

House bill but does not specify 50 years.

149. STATUTE OF LIMITATION ON REIMBURSEMENT REQUEST

House bill

Makes a governmental entity subject to the 6–year statute of limitations on making requests for reimbursement from an airport. Currently, only the airport sponsor is subject to this statute of limitations.

Senate amendment

Subsection (d) of section 507 is the same provision.

Conference substitute

House bill and Senate amendment.

150. SINGLE AUDIT ACT

House bill

Clarifies the review of revenue use through the annual audit activities under the Single Audit Act of Title 31.

Senate amendment

Subsection (e) of section 507 is the same provision.

Conference substitute

House bill and Senate amendment.

151. AIP FOR PARKING LOTS

House bill

Permits AIP grants to be used to build or modify a revenue generating parking facility at an airport if it is needed to comply with a security directive.

Senate amendment

No provision.

Conference substitute

No provision.

152. ALLOWING AIP TO PAY INTEREST

House bill

Permits AIP grants to be used at small airports to pay the interest on a bond used to finance an airport project.

Senate amendment

No provision.

Conference substitute

House bill but included as one of the innovative financing techniques already in existing law.

153. ALLOWING AIP TO PAY TO MOVE BUILDINGS

House bill

Permits AIP grants to be used to pay the cost of moving a Federal building that is impeding an airport project to the extent the new building is similar to the old one.

Senate amendment

No provision.

Conference substitute

House bill.

154. APPORTIONMENTS TO PRIMARY AIRPORTS

House bill

Lowers the entitlement for the largest airports by 5 cents for each passenger at that airport over 3.5 million in a year.

Senate amendment

No provision.

Conference substitute

No provision.

155. ENTITLEMENT FOR FORMER PRIMARY AIRPORTS

House bill

Allows airports that fell below the 10,000 passenger threshold in 2002 or 2003 to continue to receive their primary airport entitlement for two years if the reason for the passenger decrease was the terrorist attacks of 9/11.

Senate amendment

Allows airports that fell below 10,000 passengers in 2002 to continue to receive their primary airport entitlement for one more year without regard to the reason for the decrease.

Conference substitute

House bill.

156. CARGO AIRPORTS

House bill

This section increases the entitlement for airports with air cargo service from 3% of total AIP to 3.5%.

Senate amendment

Same provision.

Conference substitute

House bill and Senate amendment.

157. CONSIDERATIONS IN MAKING DISCRETIONARY GRANTS

House bill

This section restates the first five factors that FAA must consider in deciding whether to make a discretionary grant for a project to enhance capacity at an airport. The sixth consideration in current law is eliminated. This section also adds two additional factors for FAA to consider when making discretionary grants for all projects. One is where the project stands in the FAA's priority system. The second is whether work can begin on the project soon after the grant is made.

Senate amendment

Adds an additional consideration for cargo operations.

Conference substitute

House bill and Senate amendment.

158. FLEXIBLE FUNDING FOR AIP ENTITLEMENTS

House bill

Permits an airport sponsor to make AIP entitlement grants for one of its airports available to another one of its airports if that other airport is eligible to receive AIP grants. It also permits an airport to make an agreement with FAA to forego its entitlement if the FAA agrees to make the money foregone available for a grant to another airport in the same State or to an airport that the FAA determines is in the same geographical area.

Senate amendment

Same with respect to the second waiver dealing with the same State or geographical area.

Conference substitute

Senate amendment.

159. FLEXIBILITY FOR GENERAL AVIATION ENTITLEMENTS

House bill

Permits multiyear grants using the general aviation entitlement to the same extent that they are permitted using the primary airport entitlement. Permits retroactive use of the general aviation entitlement in the same way that the primary airport entitlement can be used. It also permits a general aviation airport to use its AIP entitlement for revenue producing facilities, such as building fuel farms and hangars, if the airport certifies that its airside needs are being met. Permits a general aviation airport to use its AIP entitlement for terminal development. Section 513, use of apportioned amounts, subsection (a) allows general aviation airports to carry over their entitlements for 3 years rather than two.

Senate amendment

Same provision.

Conference substitute

House bill and Senate amendment.

160. NOISE SET-ASIDE

House bill

Broadens the purposes for which noise set-aside funds may be used to include projects approved in an environmental Record of Decision and projects to reduce air emissions.

Senate amendment

Increases the percent for grants to 35%. Only allows for funding for noise mitigation committed to in ROD for National Capacity Projects, versus House that allows funding for mitigation in any ROD. Also, does not have funding for new land compatibility and CAA initiatives.

Conference substitute

House bill and Senate amendment with minor technical corrections.

161. PURCHASE OF AIRPORT DEVELOPMENT RIGHTS

House bill

No provision.

Senate amendment

Establishes a pilot program at 10 privately owned public use airports permitting the use of their entitlement to purchase development rights to ensure that the property will continue to be used as an airport.

Conference substitute

Senate amendment.

162. GARY, INDIANA

House bill

No provision.

Senate amendment

Requires FAA to give priority to request for a letter of intent for Gary.

Conference substitute

No provision. The Managers are aware that there are numerous requests for LOI's and urge the FAA to respond as expeditiously as possible to such applications.

163. RELIEVER AIRPORTS SET-ASIDE

House bill

Eliminates the special set-aside for reliever airports.

Senate amendment

No provision.

Conference substitute

No provision.

164. UNUSED AIP FUNDS

House bill

Allows AIP grant funds that are not spent by an airport to be recovered by the FAA and used for a grant to another airport notwithstanding any obligation limitation in an appropriations act.

Senate amendment

Subsection (b) of section 507 is the same provision worded somewhat differently.

Conference substitute

Senate amendment.

165. MILITARY AIRPORT PROGRAM

House bill

Increases from $7 million to $10 million the amount that an airport designated under the military airport program can use for terminal development, parking lots, fuel farms, or hangar construction. Allows an airport designated under the military airport program to use money it receives under that program or from its entitlement for reimbursement for construction of a terminal, parking lot, hangar, or fuel farm.

Senate amendment

No provision.

Conference substitute

House bill, but the allowable amount is increased to $10 million for only 2 years.

166. TERMINAL DEVELOPMENT COSTS

House bill

This section restates two provisions in current law that permit reimbursement for terminal development costs and adds a third provision. The third provision allows a small airport that is designated under the military airport program at which terminal development is carried out between January 2003 and August 2004 to use AIP money to repay money borrowed to build that terminal.

Senate amendment

Reduces the waiting period for an airport that has used AIP to repay the cost of terminal development from 3 years to 1 year before they can use AIP again for terminal development.

Conference substitute

House bill and Senate amendment.

167. AIRPORT SAFETY DATA COLLECTION

House bill

This section allows FAA to use AIP money to enter into a sole source contract with a private entity to collect airport safety data.

Senate amendment

Same provision.

Conference substitute

House bill.

168. AIRPORT PRIVATIZATION PILOT PROGRAM

House bill

Allows a proposed airport privatization to proceed if it is approved by 65% of the scheduled U.S. airlines serving the airport rather than by 65% of all scheduled and charter airlines serving the airport. With respect to a general aviation airport, approval must be by 65% of the owners of aircraft based at the airport, as determined by the Secretary. If an airline has not filed an objection within 60 days, it will be considered to have approved the proposed privatization.

Senate amendment

No provision.

Conference substitute

House bill, but applied only prospectively.

169. FEDERAL SHARE

House bill

Eliminates the provision that limits the Federal share of a discretionary grant for a privatized airport to 40%.

Senate amendment

Increases Federal share to 95% for AIP grants in 2004 to small airports. Allows a different Federal share for projects in State with a significant amount of public land.

Conference substitute

Senate amendment, but for 4 years. Increases the Federal share of a discretionary grant for a privatized airport to 70%.

170. INNOVATIVE FINANCING TECHNIQUES

House bill

This section allows 12 more grants for innovative financing techniques to be issued

but eliminates payment of interest and commercial bond insurance as permitted techniques since those are now covered by section 508(b). It adds payment of interest for large airports as a permitted technique.

Senate amendment

No provision.

Conference substitute

Payment of interest for small airports is put back into the innovative financing section. Instead of allowing AIP to be used by large airports for payment of interest, the substitute allows PFCs to be used for this purpose.

171. AIRPORT SECURITY PROGRAM

House bill

This section directs the FAA to continue to administer the program to test and evaluate innovate aviation security systems and technologies at airports even though most security responsibilities have been transferred to the Department of Homeland Security.

Senate amendment

No provision.

Conference substitute

House bill.

172. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE

House bill

Requires DOT and EPA to ensure that an airport will receive appropriate emission credits for carrying out a project that will reduce emissions at that airport. Directs DOT to carry out a pilot program at no more than 10 airports under which an airport may use AIP grants of not more than $500 thousand to retrofit equipment used at the airport so that they produce lower emissions. Makes projects that will reduce emissions at airports eligible for AIP grants. States that with respect to low-emission equipment that is not already eligible to be purchased with AIP funds, the only portion of the cost that is eligible to be paid for with AIP funds is the portion that the FAA determines represents the increase in the cost of the low-emission equipment over a similar piece of equipment that is not low-emission. Defines low-emission equipment.

Senate amendment

Adds that the DOT and EPA shall issue guidance on eligible low-emission modifications and improvements and how sponsors will demonstrate benefits.

Conference substitute

House bill and Senate amendment.

173. COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS

House bill

This section would allow the FAA to use AIP funds to make grants to States and localities for land use planning near airports so that the communities may make the use of land in their jurisdictions more compatible with aircraft operations. Conditions are imposed to avoid undermining the efforts of the airport. This provision expires in 4 years.

Senate amendment

Ties funding for land use planning to national capacity projects only, as opposed to a broader universe of large and medium hubs in House bill. No sunset provision. Would apply to airports even if they have a current Part 150 program.

Conference substitute

House provision with changes to ensure that an airport sponsor is involved in the compatible land use planning and compatible land use project process. The Managers believe that it is essential that the airport sponsor have the ability to enter into an agreement with the State or local government to develop a land use compatibility plan and that the parties should jointly approve the compatible land use plan.

174. PROHIBITION ON REQUIRING AIRPORTS TO PROVIDE RENT-FREE SPACE FOR FEDERAL AVIATION ADMINISTRATION

House bill

This section requires FAA to pay rent for the space that it uses at airports. Exceptions are provided for agreements that might be negotiated with the airport and for land and facilities needed to house air traffic controllers. TSA covered by section 1527 of H.R. 2144.

Senate amendment

Similar provision but it also covers TSA use of airport space.

Conference substitute

No provision.

175. MIDWAY ISLAND AIRPORT

House bill

Finds that the airport on Midway Island is critical to the safety of flights over the Pacific Ocean. Directs DOT to enter into an MOU with other government agencies to facilitate the sale of fuel at the airport to help it become self-sufficient. Allows the airport to transfer its navigation aids to the FAA and requires the FAA to operate and maintain them. Makes aviation trust fund money available to the Interior Department for capital projects at the airport.

Senate amendment

Allows the Department of Interior to act as a public agency for the purposes of sponsoring grants for an airport that is required to be maintained for safety at a remote location. Section 510(a) is similar to subsection (b) of the House bill. Section 510(b) is similar to subsection (c) of the House bill.

Conference substitute

House bill, with changes to how funding will be made available to the Secretary of Interior. It will be done by a reimbursable agreement rather than a grant. The Managers feel strongly that all of the Federal agencies involved in the administration of Midway Island should work cooperatively to ensure there is a working airfield there.

176. INTERMODAL PLANNING

House bill

Requires medium and large hub airports building a new airport, new runway, or runway extension to make available to any metropolitan planning organization (MPO) in the area a copy of the airport layout plan and airport master plan.

Senate amendment

No provision.

Conference substitute

House bill.

177. STATUS REVIEW OF MARSHALL ISLANDS AIRPORT

House bill

Requires DOT to report within 6 months on whether the airport at the Marshall Islands should get a grant under the AIP.

Senate amendment

No provision.

Conference substitute

Makes the sponsors of airports located in the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau eligible for grants from the Airport Improvement Program Discretionary Fund and Small Airport Fund for fiscal years 2004 through 2007. The Managers have made the entities listed in section 188 eligible for AIP funding. The FAA should strongly consider an application for AIP funds by any one of the entities.

178. REPORT ON WAIVER OF PREFERENCE FOR BUYING GOODS PRODUCED IN THE UNITED STATES

House bill

Requires DOT, within 90 days, to list all waivers granted from the Buy America Act since the date of enactment of that Act and the authority and rationale for that waiver.

Senate amendment

No provision.

Conference substitute

House bill but limited to waiver granted during the previous 2 years.

179. EXTENSION OF EXPENDITURE AUTHORITY

House bill

Allows grants to be made from the aviation trust fund for the purposes specified in this Act.

Senate amendment

Similar provision but adds a conforming amendment to section 9502(f).

Conference substitute

Senate amendment plus additional language making a technical correction to the domestic flight segment portion of the airline ticket tax. Beginning with calendar year 2003, the domestic flight segment portion of the airline ticket tax is adjusted for inflation annually. The technical correction clarifies that, in the case of amounts paid for transportation before the beginning of the year in which the transportation is to occur, the rate of tax is the rate in effect for the calendar year in which the amount is paid. The provision is effective for flight segments beginning after December 31, 2002.

180. ADDITIONAL MATTERS

The Managers strongly encourage the FAA and the Occupational Safety and Health Administration to continue to work under the framework established in the August 2000 Memorandum of Understanding and establish a coordination mechanism to determine which existing and future OSHA regulations can be applied to an aircraft in operation without compromising aviation safety.

The Managers are aware of concerns about the impact of aircraft noise on residential areas, including those surrounding the communities of the four airports of the Port Authority of New York and New Jersey (PANYNJ). Although the FAA determined that aircraft noise pollution was the strongest and most widespread concern raised by the public at its twenty-eight public scoping meetings in five states in 2001, the PANYNJ has not undertaken action to mitigating residential complaints in the neighborhoods surrounding its airports. Therefore, it is the hope of the Conference Committee that the PANYNJ will work in good faith with the New York and New Jersey Congressional delegations to address these issues, including undertaking a part 150 study to qualify for Federal residential soundproofing dollars or to begin undertaking residential soundproofing in the most affected areas in the footprint with particular focus on the neighborhoods surrounding LaGuardia Airport.

The Managers strongly encourage the FAA to work with state aviation agencies and universities to develop a national, innovative program that would offer practical training and information resources for those who operate, maintain, and administer public use airports across the nation on topics such as pavement maintenance, snow and ice control, project development and funding, wildlife control and safety and operations. To further this program, the Committee recommends that FAA consult with state aviation agencies and universities that have created similar programs for general aviation airports in their State.

The legislation includes a section that amends section 4(b) of the Rivers and Harbors Appropriations Act of 1884 to clarify that the restriction in that section with respect to taxes on vessels or other water craft does not apply to property taxes on vessels or water craft, other than vessels or water craft that are primarily engaged in foreign commerce, so long as those taxes are constitutionally permissible under long-standing judicial interpretations of the Commerce Clause. To assure the consistent application of legal principles concerning non-Federal taxation of interstate transportation equipment, the amendment in this section is effective as of November 25, 2002. Over the years, the U.S. Supreme Court has ruled on the constitutionality of property taxes on various forms of interstate and international transportation equipment in a number of cases, including but not limited to *Pullman's Palace Car Co.* v. *Pennsylvania*, 141 U.S. 18 (1891) (railroad rolling stock); *Ott* v. *Mississippi Valley Barge Line Co.*, 336 U.S. 169 (1949) (barges on inland waterways); and *Braniff Airways, Inc.* v. *Nebraska State Board of Equalization*, 347 U.S. 590 (1954) (domestic aircraft); *Complete Auto Transit, Inc.* v. *Brady*, 430 U.S. 274 (1977); and *Japan Line* v. *County of Los Angeles*, 441 U.S. 434 (1979). This line of decisions has sustained property taxes in interstate transportation cases when the tax is applied to an activity with a substantial nexus with the taxing entity, is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to the services provided by the taxing entity. The exception for state and local taxes on vessels or watercraft that are primarily engaged in foreign commerce implements the holding of the Japan Line case. The committee notes that section 4(b) does not affect whether sales or income taxes are applicable with respect to vessels. The purpose of section 4(b) was to clarify existing law with respect to Constitutionally permitted fees and taxes on a vessel, but also to prohibit fees and taxes imposed on a vessel simply because that vessel sails through a given jurisdiction.

The Managers are aware of the concerns raised about the recent increase in shipment interruptions during the transportation of essential radiopharmaceuticals due to new air transportation security mandates. The Committee recommends that the Secretary of Homeland Security, in consultation with the Secretary of Transportation, review current procedures for shipment of radiopharmaceuticals and recommend actions to ensure the timely delivery of them. If the Secretary of DHS undertakes this study, the Secretary shall also submit recommendations to the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the actions taken to ensure that timely delivery of these medical products by commercial aircraft no later than 180 days after the enactment of the Act.

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

DON YOUNG,
JOHN MICA,
VERNON J. EHLERS,
ROBIN HAYES,
DENNY REHBERG,
JOHNNY ISAKSON,

From the Committee on Energy and Commerce, for consideration of sec. 521 of the House bill and sec. 508 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
JOE BARTON,

From the Committee on Government Reform, for consideration of secs 404 and 438 of the House bill and sec. 108 of the Senate amendment, and modifications committed to conference:

TOM DAVIS,
CHRISTOPHER SHAYS,

From the Committee on the Judiciary, for consideration of secs. 106, 301, 405, 505, and 507 of the Senate amendment, and modifications committed to conference:

JAMES SENSENBRENNER, Jr.,
HOWARD COBLE,

From the Committee on Resources, for consideration of secs. 204 and 409 of the House bill and sec. 201 of the Senate amendment, and modifications committed to conference:

RICHARD POMBO,
JIM GIBBONS,

Provided that Mr. Renzi is appointed in lieu of Mr. Pombo for consideration of section 409 of the House bill, and modifications committed to conference:

RICK RENZI,

From the Committee on Science, for consideration of sec. 102 of the House bill and secs. 102, 104, 621, 622, 641, 642, 661, 662, 663, 667, and 669 of the Senate amendment, and modifications committed to conference:

SHERWOOD BOEHLERT,
DANA ROHRABACHER,

From the Committee on Ways and Means, for consideration of title VI of the House bill and title VII of the Senate amendment, and modifications committed to conference:

BILL THOMAS,
DAVE CAMP,
Managers on the Part of the House.

JOHN MCCAIN,
TED STEVENS,
CONRAD BURNS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
Managers on the Part of the Senate.

NATIONAL CEMETERY EXPANSION ACT OF 2003

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 1516) to provide for the establishment by the Secretary of Veterans Affairs of five additional cemeteries in the National Cemetery System.

The Clerk read as follows:

Senate amendments:

Page 2, line 8, strike out ''five'' and insert ''six.''

Page 2, after line 18, insert: (6) The Sarasota County, Florida, area.

Page 3, line 17, strike out ''five'' and insert ''six''.

Amend the title so as to read: ''An Act to provide for the establishment by the Secretary of Veterans Affairs of additional cemeteries in the National Cemetery Administration.''

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that the other body acted upon H.R. 1516 as amended in such a timely manner. Our action today will clear this measure for the President's signature. I am hopeful that we will have the opportunity to clear most, if not all, of our veterans measures which the House has acted upon before we adjourn next week.

The VA adopted a goal, Mr. Speaker, of providing the option of burial in a national or State veterans cemetery to 90 percent of the veterans within 75 miles of their homes. H.R. 1516, as amended, would help the VA meet that goal in six additional locations. It reflects the findings of a recently-completed VA study which determined the areas in the country most in need of a new national cemetery.

H.R. 1516, as amended, would direct the Secretary of Veterans Affairs to establish a new national cemetery not later than 4 years after the date of enactment in six areas determined to be most in need of such a cemetery. Those locations include the areas of southern Pennsylvania, which will serve 170,000 veterans; Birmingham, Alabama, which will serve 212,000 veterans; Jacksonville, Florida, which will serve 189,000 veterans; Bakersfield, California, which will serve 184,000 veterans; Greenville/Columbia, South Carolina, which will serve 169,000 veterans; and, Sarasota County, Florida, which will serve 406,000 veterans.

The Senate amendments to the House bill add the Sarasota County location to the other five. I want to thank especially the gentlewoman from Florida (Ms. HARRIS) for her timely intervention in ensuring that we included that in our legislation and adopted this Senate amendment to our house bill.

All told, Mr. Speaker, more than 1.3 million veterans and their survivors will benefit from these additional cemeteries. The Secretary would be required to use the advanced planning funds to begin the work necessary for establishment of each cemetery.

Additionally, in determining the specific cemetery locations, the bill would require that the Secretary solicit the advice and views of the State and local veterans organizations representatives and other individuals as the Secretary deems appropriate.

I would especially like to thank the gentleman from Pennsylvania (Mr. GERLACH) who is the prime sponsor of the bill and his staff for his work on the bill, as well as the gentlewoman from Florida (Ms. HARRIS) and her staff, the gentleman from South Carolina (Mr. BROWN), our very distinguished chairman of the subcommittee, and the gentleman from Maine (Mr. MICHAUD) who worked very hard in ensuring that this legislation was properly crafted and met the needs of our veterans. As always, I want to thank my good friend and colleague, the gentleman from Illinois (Mr. EVANS), and his staff for their good work on this bill as well.

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

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

Mr. Speaker, I rise today in support of H.R. 1516, the National Cemetery Expansion Act of 2003, as amended, by the Senate. I want to thank the chairman and ranking member of the full committee, the gentleman from New Jersey (Mr. SMITH), and the ranking member, the gentleman from Illinois (Mr. EVANS), for their leadership on the committee. I also want to extend a personal thanks to the gentleman from South Carolina (Mr. BROWN), the chairman of the Subcommittee on Benefits for his work in helping craft this legislation.

H.R. 1516 provided for the authorization and establishment of six new national cemeteries in accordance with the VA's most current burial needs assessment report.

□ 1330

The Senate amended this bill to include a sixth national cemetery to be located in Sarasota County, Florida.

Adding this sixth national cemetery is necessary so that we may provide much-needed burial services to an area of the country with a high and increasing veterans population.

I know how important burial in a veterans cemetery is to our national veterans. Many brave men and women who put on a uniform to protect us during World War II and the Korean War pass from us every day. The veterans of this Nation deserve nothing less than an honored and dignified final resting place.

Mr. Speaker, H.R. 1516 is a good bill, an important bill; and I urge all Members to support its passage.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Speaker, I rise today in support of H.R. 1516, as amended, and reiterate the comments of our chairman in commending the other body for acting so quickly.

In December of 2001, the Logistics Management Institute recorded their finding on the current and future burial needs for veterans. Their findings were based on VA providing a burial option for 90 percent of the veterans residing within a 75-mile service area of an open national or State cemetery.

LMI concluded that 31 additional veterans cemeteries will be needed over the next 20 years in increments of 5 years. H.R. 1516, as amended, will require the Secretary of Veterans Affairs to establish a new national cemetery in the top six areas of need within 4 years of the date of enactment of this act.

The six cemeteries identified in today's bill would serve over 1 million veterans. Among the six is a new cemetery in the Greenville/Columbia, South Carolina, area. Since I served for 16 years in the State House in Columbia, I understand firsthand how important this is to the veterans in that area. This cemetery would serve more than 169,000 veterans and their survivors, and I am pleased it is included in this bill.

I want to thank the ranking member of the Subcommittee on Benefits, the gentleman from Maine (Mr. MICHAUD), as well as the chairman and ranking member of the full committee, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS). Time and time again these folks showed their commitment to our veterans and their families.

Mr. Speaker, with this bill we expand the opportunities for burial in the national veterans cemetery, which is no less than our final show of gratitude to our servicemembers. I urge my colleagues to support H.R. 1516, as amended.

Mr. MICHAUD. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. EVANS), the ranking member.

Mr. EVANS. Mr. Speaker, I rise in strong support of H.R. 1516, the National Cemetery Expansion Act of 2003, as amended by the Senate.

We all know the men and women of the Greatest Generation who have served this country so grandly in World War II and Korea have reached their senior years. Approximately 1,500 veterans from all eras pass each day from this planet, and the rate is projected to increase in years to come. It is our responsibility to provide proper final resting places for all these heroes.

Mr. Speaker, I urge my colleagues to support this measure.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Speaker, I enthusiastically rise in support of H.R. 1516, and I am especially pleased we are going to have a national cemetery finally in Jacksonville, Florida. This is in the northeast central Florida corridor where we have a high military presence. We had this area represented by the gentleman from Florida (Mr. CRENSHAW) and, of course, the gentlewoman from Florida (Ms. CORRINE BROWN) and recently by Representative JOHN MICA. All four of us serve Jacksonville and north central Florida. All of us are very pleased that this cemetery is coming. I am proud that the Jacksonville cemetery has been the intent of my bill, H.R. 197, and others that I have offered during the last 6 years of Congress.

I thought I would just briefly in the time I have also talk about Jacksonville, as why it is such a strategic place for a national VA cemetery. Even before the United States was even a country, there have been veterans fighting in Jacksonville, so it is altogether fitting to establish a national VA cemetery here. Its very name was initially, and is presently, chosen in honor of war heroes. It has a strategic location. It is prominent on the Atlantic Ocean. It has a port, and it has been in many conflicts since its founding.

It was caught in the crossfires of war with Spain, France, the Revolutionary War, and the Seminole Indian War. It was occupied numerous times during the Civil War. And during World War I, 25 steamers were launched from Jacksonville ports. In late February 1942, German spies made it on the shore of Ponte Vedra, but fortunately they were captured before they could blow up Florida's railroad lines and stop the shipment of war supplies.

Mr. Speaker, during the 1991 Persian Gulf War, this port was active again. Jacksonville moved supplies and personnel more than any other port in the country. Nearby Blount Island has a command on the St. John's River in Jacksonville. It is the site of the Marine Corps' Maritime Prepositioning Ships, MPS. Employment of MPS assets during Desert Storm and Desert Shield, Restore Hope, Continued Hope in Somalia, and the present Operation Restore Freedom and Operation Iraqi Freedom decisively demonstrate the utility of these expeditionary forces.

We have also the Mayport Naval Air Station with an aircraft carrier station there. We have the naval air station and depot there also.

Mr. Speaker, there are a lot of veterans, a lot of military history and presence in Jacksonville; and I just want to remind my colleagues that it is a very, very good place, a resting place for our veterans.

Of course, like others who will speak on behalf of their cemetery, the 2000 U.S. Census shows the revised projections forecasting a population of just under 200,000 by the year 2005. I think that demonstrates what we all know, that a lot of veterans are moving into Florida, a lot of them are moving into northeast Florida to retire. They deserve a resting place with dignity and beauty. I think this cemetery will add a lot to that promise.

Mr. Speaker, I will conclude by also mentioning our Nation's second largest veteran population and number one in age in terms of just who they are. Nearly 325,000 veterans call home somewhere in this area of northeast central Florida. It is interesting, a number of current active duty and armed servicemembers are calling Florida and Jacksonville their home. So they might retire in Texas or California or somewhere in the United States, and they will come back to Florida.

We have a close proximity to our veterans hospital in Alachua County and Duval County, which have sent a lot of Reservists and National Guard to Iraq. So this whole area, Mr. Speaker, is demonstrating the importance of this cemetery. Of course, the next closest proximity is in Marietta, Georgia, which is just north of Atlanta. So a new national VA cemetery in Jacksonville will answer this unmet need not only for northern Floridians but also for southern Georgians.

I appreciate the support of the chairman and subcommittee chairman. We are now providing a dignified, hallowed ground for our veterans. They deserve it.

Mr. MICHAUD. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. HOEFFEL), a gentleman who has fought so diligently to make sure that the southeastern Pennsylvania cemetery was included in the bill.

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman from Maine (Mr. MICHAUD) for yielding me time and for his leadership on the subcommittee that has brought this bill forward. I want to also thank the Chair of the subcommittee, the gentleman from South Carolina (Mr. BROWN), and also the Chair and ranking member of the full committee, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS).

This bill, H.R. 1516, is very good legislation that will create new cemeteries across this country of ours, particularly in southeastern Pennsylvania where a tremendous need for a new veterans cemetery has been demonstrated throughout the years.

In southeastern Pennsylvania, nearly 300,000 veterans live over 65 miles from the closest veterans cemetery. And in that congested part of the State, the travel time to that open cemetery is long and arduous. And this veterans cemetery located somewhere in southeastern Pennsylvania will be a tremendous service to the families of veterans and a great way of honoring the service of those who have given so much to this country.

Mr. Speaker, I really stood up to, in addition to indicating my support for the bill, my second purpose was to compliment the gentleman from Pennsylvania (Mr. GERLACH) for the great job he did in breaking the logjam that existed over this issue.

My predecessor, Jon Fox, and then I, introduced legislation in prior Congresses to establish a new veterans cemetery at Valley Forge National Historic Park, which is still a site that I would love to see chosen for this cemetery. But there are some legitimate objections to that park, and the dispute that we got into was sidetracking this proposal.

The gentleman from Pennsylvania (Mr. GERLACH) was able to figure out a way to break that logjam by creating a commission and giving the veterans commission some leeway to pick the appropriate site in consultation with veterans organizations back home. As we have moved forward, other areas of the country have decided this is also the right way to go, and so we have before us today a very sound bill that will establish new cemeteries. And that is what we are trying to do, not fight over locations and get hung up on various procedures, but to actually get the job done. So I thank the gentleman from Pennsylvania (Mr. GERLACH). It was a pleasure to work with him. I was proud to be the leading Democratic cosponsor of H.R. 1516 when the gentleman brought it forward.

I have spoken with our former colleague, Mr. Jon Fox. He is thrilled with the progress on this; and, frankly, Senator SPECTER in the other body has greatly helped move this forward. So it has been a good bipartisan approach.

Again, I thank the Chair, the gentleman from New Jersey (Mr. SMITH), and the ranking member, the gentleman from Illinois (Mr. EVANS), for their great work. And we will be able to provide wonderful service now, hopefully in the next 4 years, in these new locations to create new veterans cemeteries to honor the veterans that have served this country and to remember the need to help their family members and their friends have the convenience of a veterans cemetery that is local to them and easy for them to get to to continue to honor these veterans for years to come.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Pennsylvania (Mr. HOEFFEL) for his good work on this bill as well. This is a bipartisan bill, and he certainly did his part in making sure this legislation went forward, so I do want to thank him.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GERLACH), the prime sponsor of this bill, who has broken a logjam; and now we will soon have a bill signing in this important legislation, not just for Pennsylvania but for other regions as well; it will go forward to the President and will become law.

Mr. GERLACH. Mr. Speaker, I first would like to thank the gentleman from New Jersey (Mr. SMITH) and the ranking member from Illinois (Mr. EVANS) for their great work and their staffs' great work in bringing H.R. 1516 to the floor today. Special thanks to the lead Democrat sponsor of the legislation, the gentleman from Montgomery County, Pennsylvania (Mr. HOEFFEL), for his persistence, not only in this session but in prior sessions to bring this to a conclusion today legislatively.

I also would like to thank the Senator from Pennsylvania, Senator SPECTER, and his staff and ranking member, Senator GRAHAM, for their work also over on the Senate in allowing us to move this forward.

Most importantly, I would like to thank the veterans of southeastern Pennsylvania for their great service and sacrifice to our country over the years.

This legislation was introduced last March to establish a new national veterans cemetery in southeastern Pennsylvania; and as that bill moved through the Committee on Veterans' Affairs, I am very pleased to see that the additional sites were added for other areas of the country that likewise have the need to have veterans cemeteries for their veterans.

The need for a cemetery in our area is well-documented and long overdue. The Philadelphia national cemetery is virtually closed with the exception of cremated remains to nearly 400,000 veterans that reside in the five counties and make up the metropolitan Philadelphia area.

While cremation may be alternative to some, it is certainly not the preference to most; but unfortunately it is the only option for Philadelphia-area veterans currently if they want to have their remains reposed at a veterans cemetery close to home.

The only other national cemetery in our region is the Indiantown Gap Cemetery, which is a long drive from Philadelphia and can be very difficult for widows, widowers, and other family members who want to visit the graves of their loved ones. I would note that more than 290,000 area veterans live more than 65 miles from Indiantown Gap National Cemetery.

The Secretary of Veterans Affairs has expressed his support for the establishment of a new cemetery in southeastern Pennsylvania after analyzing two factors not taken into account in the previous veterans affairs department study. First, the Beverly National Cemetery in nearby Burlington County, New Jersey, is filling up faster than expected and is only available to New Jersey veterans. Additionally, the department recently added Monroe County, Pennsylvania, to the greater Philadelphia service area, thereby increasing the number of the veterans in need to over 175,000, the statistical benchmark for the establishment of a new cemetery.

□ 1345

The Secretary also acknowledged that the Indiantown Gap National Cemetery in Lebanon County, Pennsylvania, is at least 80 miles from Philadelphia, which contrasts with the Department's guidelines of having a veterans cemetery within 75 miles of a veteran's home.

Consequently, the Secretary has expressed his support for a new cemetery in our area to honor those who would be laid to rest there. This legislation would provide for its establishment within a 4-year time period and allow for the input of local officials and veterans in determining its specific site.

The importance of a veterans cemetery from our part of Pennsylvania has already been recognized for a long period of time. In 1862, the 37th Congress created the National Cemetery of Philadelphia when they initially established what has become a large network of national cemeteries across the United States. Southeastern Pennsylvania veterans and the veterans living in the other areas included in the bill today should, like those in the past, have the opportunity to be buried close to home after providing the same level of heroic service and sacrifice to our Nation.

I urge the support of the Members when we vote on this legislation and,

again, thank the chairman of the committee for his support.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. MICA), my good friend and colleague.

Mr. MICA. Mr. Speaker, first I wish to thank the gentleman from New Jersey (Mr. SMITH), the chair of the committee, and also the gentleman from South Carolina (Mr. BROWN), the subcommittee chair, and also the gentleman from Pennsylvania (Mr. GERLACH) for their leadership and the bipartisan support on both sides of the aisle for this much-needed legislation. I think that it is very appropriate that we follow the legislation that was just handled to take care of the medical concerns and need of our veterans by also taking care of their last wishes.

Florida is so privileged to have two of the six new cemeteries that will be dedicated as national veterans cemeteries under this legislation, and what I was told by staff is that the basis of the designations is not done just by political power, but by actual need. And certainly Florida, whether it is south, central or northeast, is the recipient of so many of those men and women who served our Nation and have chosen to retire, to work and to live out their final days in our great State.

So this is the very least that we can do. We have over 1,000 veterans dying across the land every day, World War II veterans and others, and again, many of them coming to Florida. As we adjust our medical needs and health care services to our veterans, it is also appropriate that we make this final adjustment that they have a decent burial place in our State where they have chosen to live, work and also to retire.

I thank my colleagues for their leadership, and I urge the passage of this legislation.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself 10 seconds.

I thank the gentleman from Florida (Mr. MICA) for his contribution, and just remind him that his brother, Dan Mica, used to be on the House Committee on Veterans Affairs and never lost an opportunity to remind us how everyone, everybody ultimately moved to Florida from the northeast and everywhere else. So his point about need was very well-taken.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Florida (Ms. HARRIS) who, again, worked very hard to ensure that the Sarasota provision was included in our bill.

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

Mr. Speaker, I rise and urge my colleagues to support H.R. 1516, the National Cemetery Expansion Act of 2003, as amended by the Senate. On July 21, this House passed the original 1516 by unanimous consent. The bill directs the Secretary or Veterans Affairs to establish five additional cemeteries within the national cemetery system.

Although the original version that we passed 3 months ago addresses the needs of hundreds of thousands of veterans across our Nation, that original version did not acknowledge the men and women of southwest Florida who comprise one of the Nation's largest population of veterans. Currently, Bay Pines National Cemetery in St. Petersburg, Florida, constitutes the closest national cemetery that serves southwest Florida's veterans. For many families, visiting this location involves a strenuous drive. Moreover, Bay Pines, which encompasses a mere 27.3 acres, accepts only cremated remains.

I strongly believe that we should not impose this hardship of travel upon our veterans' families. Moreover, forcing a potentially objectionable method of entombment upon veterans, as a condition of receiving the final tribute they earned, is patently wrong.

The Department of Veterans Affairs regards Bay Pines as an open cemetery for the 13th District's veterans until the year 2016. This designation means that the Department regards that cemetery as sufficient to serve their needs until that year. These brave men and women require a new national cemetery long before then.

Thanks to the chairman of the Senate Committee on Veterans' Affairs, Senator ARLEN SPECTER, and to our own extraordinary Committee on Veterans' Affairs chairman, the gentleman from New Jersey (Mr. SMITH), and to my friend and colleague, the gentleman from Pennsylvania (Mr. GERLACH), we have an opportunity to correct this oversight today.

I respectfully urge my colleagues to accede to the amended version of H.R. 1516 that the Senate passed on October 17 which specifies the Department of Veterans Affairs shall establish a new national cemetery in the Sarasota, Florida, area. Upon the passage of H.R. 1516, approximately 406,000 veterans who live in my District finally have the opportunity to receive the internment, according to their wishes, in a place of honor, closer to their home.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. CRENSHAW), another friend and great advocate for this issue.

Mr. CRENSHAW. Mr. Speaker, I thank the chairman for the time.

I rise in support of House bill 1516 because it keeps a commitment, a sacred commitment to the men and women of our military. Our country has chosen to honor our veterans because of their sacrifice and because of their service. Our veterans did not serve to become heroes. They did not fight because they loved battle. Our veterans went to war because our country asked them to go to war. They fought to defend our freedom.

Such supreme dedication demands supreme recognition, and that is what this bill does. In Florida, we have over 2 million veterans, but only four veterans cemeteries. One is completely full, one accepts only cremated remains, and two are over half a State away from my district in northeast Florida.

This bill provides that a veterans cemetery will be built in northeast Florida. Our veterans want the cemetery. Our veterans need the cemetery, and most of all, our veterans deserve a cemetery.

I urge the passage of this legislation.

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

In closing, I would like to urge my colleagues to support this legislation, and I also want to once again thank the gentleman from New Jersey (Mr. SMITH), the chairman of the committee, for his working extremely hard with the gentleman from Illinois (Mr. EVANS), the ranking member, to make sure that we pass bipartisan legislation because veterans are from both political parties, and I think they deserve the very best, and I appreciate the excellent leadership from both the gentleman from New Jersey (Mr. SMITH), the chairman, and the gentleman from Illinois (Mr. EVANS), the ranking member.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

I, too, want to thank my friends and colleagues on the other side, the gentleman from Maine (Mr. MICHAUD) and, of course, our distinguished chairman of the subcommittee who spoke earlier, and the gentleman from Illinois (Mr. EVANS), the ranking member, just thank them for their good work on this, and the gentleman from Pennsylvania (Mr. GERLACH), of course the prime sponsor.

I also want to thank Senator SPECTER who is the chairman of the Senate Veterans Committee with whom we worked on all of these issues, but he got this back very, very quickly in a way that actually improved it. So I want to thank him for that, and Senator GRAHAM.

Ms. CORRINE BROWN of Florida. Mr. Speaker, today I ask for support of H.R. 1516, which will establish national cemeteries in parts of the country where they are needed the most, in—Southeastern Pennsylvania; Birmingham, Alabama; Bakersfield, California; Greenville/Columbia, South Carolina; Sarasota County, Florida; and my own Jacksonville, Florida.

Florida has the second largest population of veterans in the Nation—totaling almost two million. There are more than 325,000 veterans in the Northeast Florida/Southeast Georgia area alone. One out of every ten deaths nationally is a resident of Florida at the time of interment. And, veterans' deaths are increasing each year as World War II and Korean War-era veterans advance in age. Soon, we will be unable to meet the burial needs of our veterans. Northeast Florida is in dire need of a new cemetery to accommodate veterans and their families. We owe it to our veterans to make certain that they have an appropriate final resting place.

The nearest ''open'' cemetery serving Northeast Florida is in Bushnell, Florida, which is

150 miles from Jacksonville—a three-hour drive. Florida's two smaller national cemeteries in Pensacola and St. Augustine are closed due to full capacity. The situation for Jacksonville-area veterans is almost desperate.

The National Cemetery Administration's intent is to make veterans' burial needs available in a state or national cemetery within 75 miles of the veteran's home. Veterans in the Jacksonville area are twice the distance from an open national cemetery than the National Cemetery Administration's goal. This is unacceptable. People need to be able to visit their loved one's final resting place without being burdened with a six-hour round trip from Jacksonville. We need to show veterans the respect that they have earned.

I ask that my colleagues support this important legislation.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 1516.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1516, as amended.

The SPEAKER pro tempore (Mr. TERRY). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FALLEN PATRIOTS TAX RELIEF ACT

Mr. SAM JOHNSON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3365) to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income.

The Clerk read as follows:

H.R. 3365

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 ''Fallen Patriots Tax Relief Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The tragic events of September 11, 2001, and subsequent worldwide combat operations in the Global War on Terrorism and in Operation Iraqi Freedom have highlighted the significant contributions of members of the Armed Forces in support of the national security of the United States and the sacrifices made by those members in the defense of freedom.

(2) The sacrifices made by the members of the Armed Forces are significant and are worthy of meaningful expressions of gratitude by the Government of the United States, especially in the case of sacrifice through loss of life.

(3) The death gratuity payment made by the United States Government for deaths while in military service has historically been tax exempt.

(4) The military death gratuity payment should remain tax exempt in order to assist families of fallen patriots to continue their quality of life during their greatest time of need.

(5) The Congress should periodically increase the amount of the military death gratuity payment to ensure that its value is not diminished.

SEC. 3. INCREASE IN DEATH GRATUITY PAYABLE WITH RESPECT TO DECEASED MEMBERS OF THE ARMED FORCES.

(a) AMOUNT OF DEATH GRATUITY.—Section 1478(a) of title 10, United States Code, is amended by striking ''$6,000'' and inserting ''$12,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 11, 2001, and shall apply with respect to deaths occurring on or after that date.

SEC. 4. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) IN GENERAL.—Paragraph (3) of section 134(b) of the Internal Revenue Code of 1986 (relating to qualified military benefit) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted on or before the date of the enactment of this subparagraph.''.

(b) CONFORMING AMENDMENT.—Section 134(b)(3)(A) of such Code is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SAM JOHNSON) and the gentleman from New York (Mr. MCNULTY) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this bill, the Fallen Patriots Tax Relief Act. It is important to me, and I think to the whole Congress, that we get this enacted right away. It is unconscionable to me that a knock at the door by a military chaplain is followed by a knock on the door from the tax man.

Sadly, this is the case. I had the distinct honor of serving my country in the Air Force for about 29 years. So my family and I know something about this part of military life, and I will never forget, after I got home from being a prisoner of war, that my wife said that one of her worst moments was when the military chaplain pulled up in front of the house after I was shot down and her heart just stopped. She did not know what they were going to say, but she knew it was not going to be good, and I cannot imagine today the unspeakable despair of a family who just lost the loved one in service of their country only to be followed up by the horror of a visit from the tax man. That is just wrong. This bill fixes that. We need to change that law today.

This bill permits the entire amount of the death benefit gratuity to be tax free. It also increases the amount of the death benefit to $12,000, which is more in line with the value of these benefits when they were initially created.

This is a clean bill. There is absolutely no good reason for it to get fouled up in the same legislative back water that stalled three previous provisions of this bill.

Sadly, every day we hear of deaths in Iraq and other military hot spots around the globe. In the 2 years since 9/11, it has been increasingly important that we eliminate the unfair, immoral tax on the death benefit of a servicemember's loved ones who receive that from the Armed Forces.

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

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

There is no need for me to reiterate the details of this bill. The gentleman from Texas has outlined them. I strongly support the bill, and I agree with him wholeheartedly, that its passage is long overdue.

I will also say that it is one of my great honors to serve in the United States Congress with my friend SAM JOHNSON. He rendered outstanding service as a member of our Armed Forces over a very long period of time. He was also, as my colleagues all know, a prisoner of war for 7 years and endured torture during his service on behalf of our country. Thankfully, he came back home and has rendered outstanding service to his community, to his State, and his Nation ever since.

□ 1400

I am grateful to him, and I am grateful to all of those who served in our Armed Forces through the years.

As I get older, I work more at keeping my priorities straight. Part of that for me is to remember that had it not been for all of the men and women who served in the United States military through the years, the rest of us would not have the privilege of going around bragging, as I often do, about how we live in the freest and most open democracy on the face of the Earth.

Freedom is not free. We have paid a tremendous price for it. Part of that

price is visible in this Chamber. And today we are talking about those who made the supreme sacrifice. The gentleman from Texas (Mr. SAM JOHNSON) was a prisoner of war in the same war that took the life of my brother, HM3 Bill McNulty; and I think that is why I feel especially close to SAM.

Mr. Speaker, this is a very, very minor benefit to the families of those who made the supreme sacrifice, and we ought to pass it with dispatch. I strongly support this bill, and I urge all of my colleagues to vote for it.

Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman for yielding me this time and for his long leadership on tax fairness and support for our men and women in uniform. I also want to publicly express my appreciation for the leadership and the service of the gentleman from Texas (Mr. SAM JOHNSON).

Mr. Speaker, I rise in strong support of H.R. 3365. I had the opportunity last night to speak about the need to change the current military death gratuity, so I simply want to thank my colleague from Arizona (Mr. RENZI) for making sure that the House delays no longer in acting on this urgent issue. I also want to commend the tireless work of the gentleman from Texas (Mr. EDWARDS) and the gentleman from North Carolina (Mr. JONES), who were pioneers on this issue and so many others that benefit our military and their families.

I want to thank my good friend and colleague, and the ranking minority member of the House Committee on Armed Services, the gentleman from Missouri (Mr. SKELETON), for ensuring that language to increase the death gratuity and to make it retroactive to September 11, 2001, will be included in the defense authorization conference report.

Mr. Speaker, I heard from many military veterans in my district about this issue. In April, Mr. Philip Kurdulis of Worcester, Massachusetts, in particular, motivated me to fix the problems with the death gratuity. He wrote: ''Dear Representative McGovern: I was shocked to find out that the death benefit for our servicemen and women is only $6,000, and that $3,000 of that is taxed. We need to do the right thing as a country for the brave men and women who have made the ultimate sacrifice for their country. The Congress had no problem coming up with $1.6 million each for the families and survivors of the World Trade Tower victims. I do not begrudge this money; however we should do much more for the brave men and women we sent to avenge them. Deaths in our current war in Iraq and the conflict in Afghanistan have been relatively few in number. I believe it should be affordable, therefore, to increase the death benefit. I propose legislation to correct this grossly inadequate compensation. As a 10-year veteran of the Army Reserve, I ask you to 'Achieve the Honorable' in this matter.''

Mr. Speaker, I also want to thank Mr. Gary Brown, who is the director of the VA office in Marlborough, Massachusetts, who encouraged me to introduce legislation to remedy the problems with the current death gratuity, which I did on September 5 when I introduced H.R. 3019, a bill that is basically identical to the one we are considering today.

Mr. Speaker, as of this morning, 352 American military personnel have lost their lives in Iraq. At least 67 others have perished in Operation Enduring Freedom, mainly in Afghanistan. Among the fallen, nine are from Massachusetts. In the face of such loss, Members of Congress stand united in our need to express our condolences and respect to the families who have lost a loved one and to ensure that their most immediate needs are provided for. Today, the House will do the right thing by our military families and pass H.R. 3365; but, Mr. Speaker, we cannot stop there. We must make sure that this bill reaches the President's desk before we adjourn. Only then can we be sure that grieving military families will not be burdened with an unexpected tax bill.

We must also move now to complete our work on the Armed Forces Tax Fairness Act, which provides additional assistance to our uniformed men and women, especially our overstressed Guard and Reserves.

It is more than a bit ironic, Mr. Speaker, that yesterday the majority in the Committee on Ways and Means approved legislation to provide $140 billion in corporate tax breaks but cannot seem to find the time to send this very modest bill of tax relief for our military to the President of the United States.

Mr. Speaker, I would urge my colleagues to vote ''yes'' on H.R. 3365, and I call upon the House leadership to send the Armed Forces Tax Fairness Act to the President.

Mr. Speaker, I submit for the RECORD the names of the servicemen from Massachusetts who have been killed in combat.

MEMBERS OF U.S. ARMED FORCES FROM MASSACHUSETTS KILLED IN ACTION OR DIED WHILE ON ACTIVE DUTY SEPTEMBER 11, 2001–CURENT DATE

(Information may be partial or incomplete; sources: CNN ''Forces: U.S. and Coalition Casualities'' and Central Command Public Affairs Office/U.S. Department of Defense)

Staff Sergeant Joseph P. Bellavia; Age: 28; Unit: 716th Military Police Battalion, 16th Military Police Brigade, XVIII Airborne Corps, U.S. Army; Hometown: Wakefield, MA; Date and Place of Death: October 16, 2003 in Karbala, Iraq.

Specialist Matthew G. Boule; Age: 22; Unit: 2nd Battalion, 3rd Aviation Regiment, 3rd Infantry Division, U.S. Army; Hometown: Dracut, MA; Date and Place of Death: April 2, 2003 in central Iraq.

Staff Sergeant Joseph Camara; Age: 40; Unit: 115th Military Police Company, Army National Guard; Hometown: New Bedford, MA; Date and Place of Death: May 21, 2003 in an area south of Baghdad, Iraq.

Sergeant Justin W. Garvey; Age: 21; Unit: 1st Battalion, 187th Infantry Regiment, 3rd Brigade, 101st Airborne Division, U.S. Army; Hometown: Townsend, MA; Date and Place of Death: July 20, 2003 in Tallifar, Iraq.

Private First Class John D. Hart; Age: 20; Unit: 1st Battalion, 508th Infantry Regiment, 173rd Airborne Brigade, U.S. Army; Hometown: Bedford, MA; Date and Place of Death: October 18, 2003 in Taza, Iraq.

1st Lieutenant Brian M. McPhillips; Age: 25; Unit: 2nd Tank Battalion, 2nd Marine Division, U.S. Marines; Hometown: Pembroke, MA; Date and Place of Death: July 27, 2003 in central Iraq.

Captain Benjamin W. Sammis; Age: 29; Unit: Marine Aircraft Group 39, 3rd Marine Aircraft Wing, U.S. Marines; Hometown: Rehobeth, MA; Date and Place of Death: April 4, 2003 in Ali Aziziyal, Iraq.

Sergeant First Class Daniel H. Petithory; Age: 32; Unit: U.S. Army; Hometown: Cheshire, MA; Date and Place of Death: December 5, 2001 in Afghanistan.

Staff Sergeant Bruce A. Rushforth, Jr.; Age: 35; Unit: U.S. Army; Hometown: Middleboro, MA; Date and Place of Death: February 21, 2002 in the Philippines.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. MCNULTY. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Missouri (Mr. SKELTON), my former colleague on the Committee on Armed Services and the ranking minority member of the Committee on Armed Services of the House of Representatives.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for his leadership on this, and my friend, the gentleman from Massachusetts (Mr. MCGOVERN), for his hard work in seeing to it this bill gets here; and I thank as well our friend, the gentleman from Texas (Mr. SAM JOHNSON).

Mr. Speaker, I rise in support of this bill, and I thank those who have offered it and have cosponsored it. The bill before us increases the death gratuity from $6,000 to $12,000; but more important, it would provide that the entire payment be tax free.

Congress first established the benefit for death back in 1908, and there is a long history of this. As a result of increasing the benefit from $3,000 to $6,000, and the way the law was written at the time, part of that remained taxable. We are now increasing this to $12,000 and making it all nontaxable.

About a month ago, I went to Iraq. I had the opportunity to see some young men and young women in uniform doing their duty. It is arduous and difficult, and I felt very proud of them. Whether they had a star on their shoulder or whether they be buck privates, they were doing masterful jobs, for which they were well trained. They are the cream of the crop of our youth in this country. We thank them for that.

Three days our group spent in Iraq, flying in and out of Baghdad from Kuwait. We had to spend the night in Kuwait, for security reasons, we were told. The second night, Sunday night, we flew from Baghdad back to Iraq, and

in the C–130 airplane there was with us a body bag carrying the body of a young soldier. It caused me to stop and think that these young Americans are literally putting their lives on the line, and the best thing we can do is to show gratitude and appreciation.

Cicero once said that gratitude was the greatest of all virtues, and I think that he was right. So how do we do that today? We do it with this bill, introduced by the gentleman from Massachusetts (Mr. MCGOVERN), the gentleman from Arizona (Mr. RENZI), the gentleman from New York (Mr. MCNULTY), and the gentleman from Texas (Mr. SAM JOHNSON). This shows gratitude to those unfortunate families that lose a loved one, and it is a good thing that we can do.

I wholeheartedly support it, both the increase and the tax benefit therefrom, because gratitude is the greatest of all virtues and this is one small way we can express it.

Mr. Speaker, I rise to support my colleagues, Mr. RENZI and Mr. MCGOVERN, in their efforts to provide a tax-free, increased death gratuity payment to survivors of deceased service members. The bill before us would increase the death gratuity payment from $6,000 to $12,000, but more importantly, it would provide that the entire payment be tax free.

Congress first established the death gratuity payment in 1908. At the time, it provided six months pay to the survivors of deceased service members. The death gratuity was necessary because there was no government life insurance program and career personnel often could not obtain or afford adequate commercial life insurance. The death gratuity payment was used to provide immediate financial assistance to families of deceased military members to meet immediate expenses.

The death gratuity program was repealed in 1917 when Congress established the predecessor to the current Dependency and Indemnity Compensation Program. However, only two years later, Congress would restore this important benefit. Over time as inflation and pay increases eroded the principle of a six-month pay payment, all survivors regardless of rank began to receive the higher payment of $3,000.

The maximum $3,000 tax-free benefit would not see a notable increase until 1991, as our Nation sent its sons and daughters in uniform to war in the Persian Gulf conflict. Congress, recognizing the sacrifices that our military families were experiencing, doubled the death gratuity payment from $3,000 to $6,000. Unfortunately, the additional increase of $3,000 was determined to be a taxable benefit.

Today, over 120,000 American troops are back in the Persian Gulf to help liberate the Iraqi people. Since the start of the Iraq conflict, over 229 service members have given their lives in combat and another 127 have been killed in the line of duty. In addition, 31 service members have lost their lives in combat in Afghanistan in Operation Enduring Freedom, and 58 Armed Forces personnel have been killed in service to their Nation.

We have a moral obligation to provide assistance to these families and help them through this difficult time. Increasing the death gratuity to $12,000 for these military families, and those who may lose their service member in the war against terrorism, will provide immediate financial assistance to families in those first turbulent and stressful weeks.

As my colleagues are aware, the conferees to the defense authorization bill are also considering a conference provision that would increase the death gratuity to $12,000 for survivors of deceased service members.

While I am relatively confident that provision will be accepted by the conferees, what is really needed is to make this payment tax-free. Which is why I am pleased that my colleagues from the Ways and Means Committee are here today to help ensure that the death gratuity payments paid to military families are tax-free. These families should not have to worry that this additional money, provided to them in a time of need, may end up being a financial hardship at the end of the year.

I urge my colleagues to recognize the sacrifices and dedication of those who serve in uniform, and support this effort to provide these families the additional financial resources to help them during a heartbreaking and distressing time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from Missouri for his comments.

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

Mr. MCNULTY. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), my friend and colleague.

Ms. WOOLSEY. Mr. Speaker, yesterday the 352nd and 353rd American servicemembers were killed since the start of the war in Iraq. That means almost twice as many soldiers have died since the President declared an end to major fighting operations than during the 2 months of actual war. Something is drastically wrong here.

We are not adequately showing our gratitude to those who have sacrificed for us. As a result, 353 of our soldiers have lost their lives, which speaks to the administration's haphazard planning for the postconflict phase in Iraq, costing those 353 Americans their lives and thousands who have been wounded.

We must support our brave men and women stationed in Iraq and Afghanistan, and we must also make a commitment to support the widows and widowers of those soldiers who are killed halfway around the world. And we can do that by passing H.R. 3365, doubling the amount paid to survivors of service men and women killed on the battlefield from $6,000 to $12,000, at the same time making this benefit completely tax free. After all, taxing families of patriots does not seem very patriotic to me.

It appears this bill has strong bipartisan support, and yet we have not always been so dedicated to our soldiers. On October 20, here in this House, less than 2 weeks ago, this body voted on an amendment to the $87 billion supplemental bill that would have added $1,500 as a bonus for troops serving in Iraq and Afghanistan. Unfortunately, this amendment failed by a vote of 213 to 213, with most Democrats voting in favor of the bonus and most Republicans voting against the bonus.

The Republican administration thrust upon us this budget-busting $87 billion supplemental spending bill for Iraq and Afghanistan, and then the House had the audacity to vote against the bonus for our troops; our troops who are in harm's way; our troops who have been wounded, and whose lives will be changed and altered forever; and our troops who have given up their lives for this country.

We must support our troops. We must compensate them for their service to this country should disaster strike. As any pundit would have predicted, and which has happened 353 times to date in Iraq in the last 7 months, we must support the families of those who make the ultimate sacrifice. Mr. Speaker, this is the very least we can do. To that end, I am proud to support H.R. 3365.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. MCNULTY. Mr. Speaker, I yield myself such time as I may consume. I join with the others in commending the gentleman from Arizona and the gentleman from Massachusetts for their sponsorship of this bill. I thank the ranking minority member of the Committee on Ways and Means, the gentleman from New York (Mr. RANGEL), for designating me to manage the bill on the Democratic side.

As I said in the beginning, this is a minor tax benefit that we are giving to those who have made the supreme sacrifice. I wish we were doing more, but I strongly agree with my friend and colleague, the gentleman from Texas, that this is long overdue. We need to do this with dispatch, and we need to do it for the families of those who have lost their loved ones.

One of the fundamental principles is that ''life is to give, not to take.'' Sitting across from me in this Chamber is a gentleman who has given a great deal throughout his life, and especially during his military service. Veterans of this country and the families of those who have lost loved ones could have no better friend than the gentleman from Texas (Mr. SAM JOHNSON). He is one of the reasons why, when I get up in the morning, the first two things I do are to thank God for my life and veterans, like the gentleman from Texas, for my way of life.

I urge all of my colleagues to support this bill.

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York for his kind words and support, and the support of all the Democrats, which has happened in this House previously.

Mr. Speaker, the House has acted repeatedly on this issue. The Committee on Ways and Means marked up a similar bill in the committee on February 27. That has been a long time ago.

□ 1415

In the full House we passed a similar bill on March 20 by a vote of 422–0. An amended version of this bill then passed the Senate by a vote of 97–0, but it did not get out of conference. The House passed the concept again on April 9 by voice vote, so I guess we are just having a hard time keeping this bill narrow enough to get it enacted. It is so narrow now, I do not think we could squeeze it any tighter.

I do not believe the problems with this bill rest on this side of the Capitol. Unfortunately, House rules do not allow me to talk about where the roadblocks are to enactment, but it is not on this side of the Capitol.

I have a provision regarding military academy scholarships and college savings plans that I would like to get enacted this year, but if it would mean holding up, for even one more day, the elimination of this immoral tax on military death benefits, I would forgo having any other provisions added.

Frankly, I do not care what the reasons are for not having this concept enacted into law, it is just wrong to tax military death benefits. And as the gentleman from New York (Mr. MCNULTY) pointed out, it is a minor tax bill. Let us pass this bill today with another strong vote and get the job done before the end of this year. It is the least we can do for the families who have lost a loved one in service to their country. It is for America. We need to do it for America.

Mr. RENZI. Mr. Speaker, today the House is considering H.R. 3365, the Fallen Patriots Tax Relief Act. I am moved by the bipartisanship that has carried this bill through the House. The outstanding leadership of my colleagues, Mr. JONES of South Carolina and Mr. MCGOVERN of Massachusetts, illustrates the dedication of this Congress to support service members and their families who have sacrificed so much for this great country. In addition, I want to thank the gentlemen for their guidance on this bill and for their eager cooperation in drafting H.R. 3365.

This legislation will increase the death gratuity payment to $12,000 and will return the payment to its historical tax-exempt status. This payment must remain a gift to surviving families as a gesture of a grateful nation that dignifies their ultimate sacrifice of their loved ones. At a time when our nation is sending its sons and daughters to war, it is unconscionable to ask their families to shoulder a tax burden on a gift of thanks intended to be free from taxation. It is because of three of my constituents who gave their lives to defend our freedom that I became involved with this legislation.

Spencer Karol, from Holbrook, Arizona, was a 20-year-old Army Specialist with the 165th Military Intelligence Battalion. He enlisted in the Army with two friends and was sent to Iraq. Specialist Karol died when his vehicle was hit by an explosive device on patrol at Ar Ramadi looking for enemy combatants on October 6, 2003. This legislation would give Specialist Karol's mother the ability to meet the funeral expenses of burying her eldest son.

Specialist Lori Piestewa, was assigned to the 507th Maintenance Division, and was the first Native American woman killed in action. Under current law, Lori's family must pay taxes on the death benefit they have received. This legislation will correct this injustice.

Alyssa Peterson, a 27-year-old Army Specialist, was an athlete and graduated at the top of her class. She was fluent in several languages and gracious to her family and friends. I would like to share with you an essay that this precocious young woman wrote when she was a fifth grade student at Sechrist Middle School, in Flagstaff Arizona. She wrote:

What is an American Patriot?

I believe that an American Patriot can be anyone who lives in America. I think that no matter what anyone does with their time, they can be a patriot each day. To be a patriot you need to be a loyal American. You need to stand up for what is right. You need to be the best person you can be.

A patriot needs to help America be a better place to live. Cleaning up litter is being patriotic. Obeying traffic rules is being patriotic. Helping our neighbors and giving of ourselves is being patriotic. Participating in your school activities is being patriotic, just like adults participating in voting for our government leaders and laws is patriotic. A patriot obeys all the laws of the land.

Patriotism is an attitude which shows up in our everyday actions. No one needs to wait to be a patriot.

I commend Alyssa's words to your attention. It is now time to pass this necessary legislation and pay proper tribute to those who have served our nation.

Mr. SOUDER. Mr. Speaker, I come before you today in support of H.R. 3365, the Fallen Patriots Tax Relief Act. While there has been debate over how strong our national defense should be in order to preserve the freedom of others, I think you will find that everyone in this chamber is in agreement when it comes to the treatment of our fallen soldiers and their families. This bill would be an invaluable way of expressing our country's gratitude to the brave men and women who have died giving their last full measure of devotion.

In March of this year, Marine Lance Corporal David K. Fribley, from Atwood, Indiana, and seven of his fellow Marines, were killed in the opening march of Operation Iraqi Freedom. While the gratuity that is owed to the Fribley family has historically been exempt from taxation, an oversight in the tax code after 1991 left half of the $6,000 gratuity subject to taxation. Families who have had to suffer because of the loss of a loved one are now being asked to pay taxes on what was set up to be a one time, tax-free gift. It is for this reason and for families like the Fribley's that I pledge my full support to this bill. If adopted, this legislation would increase the gratuity payable to survivors of deceased members of the armed forces to $12,000 retroactive to September 11, 2001, and would make the payment fully tax-exempt.

As we carry on this struggle against evil, it is a most tragic fact of war that we are sure to lose more young people like Lance Corporal David Fribley. As they courageously make the sacrifice for our liberty and the safety of our world, we must never fail to honor their memory and see that their loss has not been in vain.

Mr. ORTIZ. Mr. Speaker, the bill we pass today is indeed the least we could possibly do for the young men and women who have carried our battle to the enemy in the global war in which we are engaged. We should be ashamed that the Congress is only now providing enhanced civil and economic protections for military personnel on active duty.

At a time when we are asking our military to carry an incredibly heavy burden, the Congress is deeply concerned about making life as easy as possible for our servicemembers and their families, and this bill is the way to begin.

While our troops are on duty overseas and elsewhere, separated from their families and—in the case of Guard and Reserve troops called up—struggling on less salary than they make in the civilian world, we are hopeful this legislation will help those military families better cope with economic challenges.

This bill would increase the death gratuity payable to the families of deceased members of the Armed Forces and to exclude such gratuity from gross income. The intent is to assist surviving family of active duty service members with immediate expenses following notification of the death of a loved one.

This bill would double the death gratuity from $6,000 to $12,000 and apply it retroactively to all deaths after September 10, 2001. The bill would also exempt from taxation the full $12,000 payment. Currently, only $3,000 of the current payment of $6,000 is exempt from taxation.

Given our experience here in South Texas in helping families who have lost loved ones, I can tell you that this Congress can do much more financially to ease their suffering, but I'm pleased that at least we are no longer taxing their death benefits.

Mr. ALEXANDER. Mr. Speaker, I rise today in support of H.R. 3365/H.R. 3019 (Renzi/McGovern), the Fallen Patriots Tax Relief Act. I am a proud cosponsor of both of these bills because they honor our fallen service men and women. This bill doubles the military death benefit paid to survivors of military personnel killed in the line of duty from $6,000 to $12,000. It also makes the $12,000 death benefit tax-free. The change would be effective retroactive to deaths occurring on or after September 11, 2001. (Under current law, the military death benefit is $6,000, of which $3,000 is subject to federal tax). As a nation and as Members of Congress, we need to do the best we can for the families of the brave men and women who have made the ultimate sacrifice for our country's freedom.

For the last several months, I have supported measures that give our armed forces the resources necessary to provide our soldiers and their families with a better quality of life. I have supported restoring the child tax credit for the families of 260,000 children of active duty military personnel. I also supported a provision on the house floor to add a $1,500 bonus for troops serving in Iraq and Afghanistan. Unfortunately, this provision failed on a tie vote. When Democrats offered to transfer $3.6 billion from Iraqi reconstruction to providing more support for our troops—including important quality-of-life measures such as improved health care benefits I voted yes because I believe that we should do all we can to protect and care for our men and women in uniform. H.R. 3566/H.R. 3019 (Renzi/McGovern) is no different. Support for our troops is a priority for me and I am proud to support this benefit for their families.

I am glad that the Renzi/McGovern bill makes the military death benefit tax-exempt. It is wrong that one-half of the military death

benefit is currently subject to taxation. Families of patriots should not be penalized on a benefit meant to show the nation's gratitude for their sacrifice. We must restore the original intent of this benefit and not unduly burden families with an unexpected tax bill. The death benefit paid to the survivor of a military member has historically been exempt from taxation. An oversight in the tax code after the gratuity was increased to $6,000 in 1991 left half of this payment subject to taxation. Only the passage of H.R. 3566/H.R. 3019 (Renzi/McGovern) will remedy this unfair taxation problem for our military families.

I commend my colleagues Representatives MCGOVERN and RENZI for sponsoring this important measure, and I look forward to supporting this bill and supporting our troops.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today in support of H.R. 3365, the Fallen Patriots Tax Relief Act. It is important that we get this bill enacted into law right away. It is unconscionable that a knock at the door by a military chaplain is followed by a knock on the door from the tax man. But sadly, this is the case.

I had the distinct honor of serving my country in the Air Force for about 29 years. So my family and I know something about military life. And my wife, Shirley, has said that one of her worst moments was when the military chaplain pulled up in front of the house after I was shot down in Vietnam, and her heart just stopped. She didn't know what they were going to say, but she knew it was not going to be good.

I can't imagine the unspeakable despair of a family who just lost a loved one in service of their country, only to be followed up by the horror of a visit from the taxman. That is just wrong. So this bill fixes that. Let us change this law today.

This bill permits the entire amount of the death benefit gratuity to be tax free. It also increases the amount of the death benefit to $12,000, which is more in line with the value of these benefits when they were initially created. This is a clean bill. There is absolutely no good reason for it to get fouled up in the same legislative backwater that has stalled three previous versions of this bill.

You know, there a lot of good stories out there that don't get reported. For example, I've heard of a company of marines that left Iraq this summer without one casualty. That's great news. But, more common is the news we see on T.V. As President Bush says, ''Iraq is still a dangerous place.''

Sadly, nearly every day we hear of deaths in Iraq and other military hot spots around the globe. In the two years since 9/11 it has been increasingly important that we eliminate the unfair, immoral tax on the death benefit a service member's loved ones receive from the Armed Forces. In fact, this bill reaches back to that terrible day and also applies to families who will be receiving a visit from a chaplain in the future. I find it shameful that we continue to tax one-half of the death benefits paid to families.

This must change before the end of the year. It is the least we can do. These families have given the ultimate sacrifice for our country. We must not take any more from them.

Ms. SOLIS. Mr. Speaker, I rise in strong support of H.R. 3365, the Fallen Patriots Tax Relief Act.

The Fallen Patriots Tax Relief Act is a positive step in honoring the men and women of the Armed Services, who have made the ultimate sacrifice and given their lives while serving our country.

Unfortunately, the current death gratuity paid to the survivors of a military member is not adequate to cover funeral expenses, leaving them with the extra burden of covering these unexpected costs. The vast majority of the men and women in uniform come from hard working low-income backgrounds, whose families should not be expected to cover these costs.

On October 13, 2003, Private Jose Casanova, Jr. became the second constituent of mine to lose his life in Iraq.

The financial assistance provided to the Casanova family for burial expenses was not sufficient. The family still had to pay money from their own funds despite having the funeral home and the local police department waive numerous fees and provide some services for free.

This situation is not acceptable. Military families, like the Casanova family, deserve to be relieved of unnecessary financial costs associated with their fallen family members' deaths. This is the least we can do as a country.

In honor and in memory of our fallen patriots, I strongly urge my colleagues to support this bill.

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

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and pass the bill, H.R. 3365.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SAM JOHNSON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SAM JOHNSON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3365.

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

There was no objection.

ENCOURAGING PEOPLE'S REPUBLIC OF CHINA TO FULFILL COMMITMENTS UNDER INTERNATIONAL TRADE AGREEMENTS, SUPPORT UNITED STATES MANUFACTURING SECTOR, AND ESTABLISH MONETARY AND FINANCIAL MARKET REFORMS

Mr. ENGLISH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 414) to encourage the People's Republic of China to fulfill its commitments under international trade agreements, support the United States manufacturing sector, and establish monetary and financial market reforms.

The Clerk read as follows:

H. RES. 414

Whereas United States investors and exporters to the People's Republic of China recognize the opportunity of doing business with China but have raised serious concerns that many of the commitments China made upon joining the World Trade Organization have not yet been implemented or implementation has been inadequate;

Whereas market barriers and unfair trade practices continue to exist, including high tariffs, subsidies, technical trade restrictions, counterfeiting, tied trade, violations of intellectual property rights, and non-market-based industrial policies that limit United States exports;

Whereas increases in global trade will lead to faster growth of the United States economy and an improved quality of life for workers in the People's Republic of China;

Whereas China is one of the fastest-growing economies in the world and an important expanding market for United States exports;

Whereas China has made progress in implementing the commitments that it made upon joining the World Trade Organization, including the required reduction of its tariffs on many industrial goods of importance to United States manufacturers;

Whereas China must move more quickly to implement its World Trade Organization commitments fully and to remove many market access barriers;

Whereas the currency of the People's Republic of China, the renminbi, has been fixed relative to the United States dollar since 1994;

Whereas a systemically misvalued currency by any large country can have damaging trade-distorting effects on both that country and its trading partners by decreasing the price of exports of products of that country and increasing the price of imports to that country;

Whereas China's trade liberalization will cause economic imbalances in its market and world markets unless China also implements capital account liberalization;

Whereas the market-based valuation of currencies is a key component to resilient global trading systems by enabling smoother transitions to reflect underlying economic fundamentals in a country;

Whereas China's substantial foreign reserves reduce China's susceptibility to currency crises and, therefore, the need for continued use of a fixed currency;

Whereas the International Monetary Fund (IMF) has advised China to adopt a more flexible exchange rate policy, and has indicated that such a change would not have serious adverse consequences for that country, although IMF officials have expressed concern about the weakness of China's banking system and that it may not have the ability to move quickly towards a floating rate;

Whereas the Joint Ministerial Statement in September 2003 of the Asia-Pacific Economic Cooperation Finance Ministerial Meeting ''emphasized the importance of accelerating structural reform, adopting macroeconomic policies that promote sustainable growth, supported by appropriate exchange rate policies that facilitate orderly and balanced external adjustment . . . [and] noted a view expressed at the meeting that more flexible exchange rate management, in some cases, would promote this objective'';

Whereas the Group of Seven Finance Ministers and Central Bank Governors in their September 2003 Communique have emphasized that ''more flexibility in exchange rates is desirable for major countries or economic areas to promote smooth and widespread adjustments in the international financial system, based on market mechanisms'';

Whereas China's central bank governor has stated that the value of the renminbi will eventually be determined by market forces rather than be fixed to the dollar but has not given any indication of when this change in policy will occur;

Whereas China recognizes that it is in its own interest to reform its exchange rate regime and its banking system in order to establish a resilient economy and control its rate of economic expansion;

Whereas China is taking concrete steps to move to a more flexible exchange rate regime by increasing private ownership of its banking system and by establishing a technical working group on a range of financial sector issues, including exchange rate policy;

Whereas manufacturing is important to the health of the United States economy, generating high quality products, personal opportunity, productive careers, wealth, high standards of living, and economic growth;

Whereas the manufacturing sector is the leading source of new patents and innovation in the United States economy, which helps drive economic growth at home and abroad;

Whereas the manufacturing sector faces the most intense global competition in United States history, making it difficult for many firms to operate profitably and earn a sufficient return on capital invested, and manufacturing costs continue to increase for many reasons, including governmental actions; and

Whereas the manufacturing sector in the United States seeks a global level playing field for competition and markets: Now, therefore, be it

Resolved, That—

(1) the House of Representatives commends the President and his Administration for continued efforts to engage the Government of the People's Republic of China directly and to encourage China to fulfill its commitments as a member of the World Trade Organization;

(2) the House of Representatives encourages the People's Republic of China to meet its commitments to the trade rules and principles of the international community of which it is now a member;

(3) the Chinese economy would benefit from an exchange rate determined by the market in order to avoid artificial rates that can lead to market and trade distortions;

(4) the House of Representatives will continue to monitor closely and work with the Administration to encourage China's efforts to modernize its financial system, establish a more flexible exchange rate, and comply with its trade agreement obligations;

(5) the House of Representatives urges the Administration to continue its intensive discussions with officials from the Government of the People's Republic of China to facilitate moves towards a market-based valuation of the renminbi, relaxation of capital controls, and reform of its banking sector; and

(6) manufacturing is an important sector to the United States economy and, therefore, the United States Government should intensify efforts to promote innovation, reduce costs, and level the international playing field for this sector.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. ENGLISH) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ENGLISH).

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

Mr. Speaker, currently before the House is House Resolution 414, to urge China to live up to its international obligations which it has agreed to undertake upon joining the World Trade Organization in 2001. We consider this with a sense of urgency as we are running an historically large trade deficit and an enormous bilateral trade deficit with China.

Mr. Speaker, our trade deficit with China has doubled since 1998, and is likely to exceed $120 billion this year. It has become the single largest bilateral trade deficit in the world. And the most conspicuous feature of our lopsided trade partnership with China is China's state-sponsored mercantilism which has cost this country millions of manufacturing jobs.

When the Clinton administration embraced China's entry into the WTO, many of us hoped that China would adopt the disciplines of the global rules-based trading system. Unfortunately, we have been sorely disappointed. China continues to flout global trade rules at the expense of our manufacturers and workers. This cannot be allowed to stand. Americans can compete with any economic power in the world, provided there is a level playing field.

Mr. Speaker, our resolution would: One, show broad support for the administration's efforts to get China to abide by its international trade obligations; two, put Congress on record urging China to follow global trade rules; three, commit to working with the administration to encourage China to modernize its financial system and allow a flexible exchange rate; four, urge the administration to continue intensive discussions with Chinese leaders towards establishing a market-based valuation of their currency; and, five, state that the United States Government should intensify efforts to promote innovation, reduce costs, and level the playing field for the manufacturing sector.

Mr. Speaker, here are the facts, the IMF, APEC, and the group of seven finance ministers all have stressed the importance of allowing for greater flexibility in exchange rates. In the last month, every top official in the administration's economic and trade team, including President Bush himself, has visited China and implored its leaders to bring its trading practices up to global standards and allow their currency value to be dictated by the market.

Still, China's leaders have continued to stall. Our message today is the same as the administration's. They have told China time and time again if they want to have a healthy trade relationship with the United States, then they must be prepared to follow the rules. The message we are carrying today is among the most important that Congress will communicate this year. It is essential for the economic future of the next generation, for the future of good paying jobs in places like my home in northwestern Pennsylvania where we make things for a living, that we get this right.

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

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

Mr. Speaker, this resolution is a weak resolution. It does not suggest any specific actions, and this is consistent with the way that this administration, the Bush administration, has approached trade issues with China.

It is not as if these issues suddenly appeared. They have existed, they have persisted for several years. And there have been some specific tools available for the administration to use. They have not used some of these tools, and others they have not used well.

These are the tools. First, the annual review process within WTO, this annual review process was called for in the U.S. PNTR resolution. It was specifically called for. It was worked for within the WTO, and it was in the final agreement with China when they acceded to the WTO. But the U.S., in this process, did not press China to act on major issues. China said that they did not need to respond in writing to the issues that were raised in the annual WTO review. This has diminished the importance of this significant mechanism.

Secondly, the PNTR legislation that we passed also required an annual report by the administration on China's compliance with its WTO commitments. That report was weak, and it did not press China on the key issues of trade.

Third, the USTR has not used, at any point, formal consultations in any of the sectors or on any outstanding problem, either through use of section 301 or directly in the WTO, whether the outstanding issues related to agriculture, for example, corn or cotton or fertilizers; in the manufacturing sector, whether it was semiconductors, heating and air conditioning, auto or auto parts; or whether it was services, including financial services. There was really little effort, in fact none, in formal consultations relating to the distribution requirements that were clearly laid out in China's WTO accession. And there has not been use of the formal consultation process relating to China's undervalued currency, and there has been none relating to intellectual property.

This administration has not used the specific China safeguard that we worked so hard to place in the China PNTR legislation. Instead, the administration turned down the first two cases that were brought before it. So in a word, instead of taking the lead, getting out in front of the rising concern

about China, the Bush administration left a vacuum, and this vacuum has been filled by rhetoric, including that coming from the administration.

Mr. Speaker, this resolution is essentially rhetorical. It does not call for any specific action. It talks instead about commending the administration when I think that there were serious omissions of opportunity, and then it says it encourages in the second paragraph. And then as to currency, it says the Chinese economy would benefit. In the fourth, it says the House of Representatives will continue to monitor. In the fifth it says the House of Representatives urges the administration to continue intensive discussions. So as I said, this resolution does not call for special or specific action.

Mr. Speaker, I just want to say to the gentleman from Pennsylvania (Mr. ENGLISH), and especially to the administration, that no one should interpret a vote for this resolution as an endorsement of the way this administration has handled the growing issues with China.

I hope there will be other resolutions. We are going to have a hearing in the Committee on Ways and Means beginning tomorrow on China, and I guess it will continue over to Friday. This will be an opportunity for us to probe the places where there have been missed opportunities, the places where there need to be specific actions, the place where we can substitute, for rhetoric, something very specific which will lead, I hope, to actions relating to the trade relationships between our two large and important economies.

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

Mr. ENGLISH. Mr. Speaker, I yield myself 15 seconds.

First, to respond to the gentleman, I point out that this administration has been willing to take on China on these issues, particularly on the currency manipulation, in a way that the last administration certainly did not. At a time like this, when the administration is directly involved with negotiations with the Chinese, this is precisely the kind of resolution that is not only appropriate, but is important to provide to show support.

Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. BALLENGER) who has been a leader in the fight on Chinese trade issues.

□ 1430

Mr. BALLENGER. I thank the gentleman for yielding me this time.

Mr. Speaker, I believe that the Chinese currency is undervalued by some 40 to 50 percent and has been for years. A 40 percent discount for China is unacceptable. American companies deserve a chance to fairly compete on a level playing field. Chinese companies do not have governmental regulations like EPA or OSHA, they do not have minimum wage laws or workplace safety mandates, and they do not have to make a profit.

It goes without saying that China has emerged as the biggest threat to our manufacturing base, and it is not because they make things better than we can, because they cannot. It is because China is cheating the system. China ships textile and apparel goods through Vietnam to avoid textile quotas. That is cheating. China's cheating is scaring all textile producing countries. In 2005, textile quotas disappear. Central American nations are worried. The South Korean hosiery industry is worried. Everybody is worried because we all know about China's cheating and predatory pricing practices.

This cannot continue. That is why we are standing up for our textile workers against China. The Chinese are ignoring international rules and putting millions of hardworking Americans out of jobs. We are standing up for U.S. workers by calling on China to fulfill its commitments under international trade agreements and to establish monetary and financial market reforms. Other countries and international institutions are calling on China to adopt a more flexible exchange rate policy. The market-based valuation of currencies is a key component in the global trading system.

As Secretary Evans said earlier this week on his travels in China, ''We expect the markets to reflect the true value of currency.'' I applaud the administration for their efforts to help U.S. companies better compete, for calling on China to quicken the relatively slow pace of reforms thus far. Further action must follow.

In closing, I urge my colleagues to support H. Res. 414 as a means of putting the Chinese on notice that the Congress is tired of the $103 billion trade surplus. We will expect them to live up to their commitments and to open their markets to U.S. goods and services.

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, working families in my home State of Michigan and our Nation continue to face mounting job losses and a sagging economy. Our international trade deals have left our workers behind. Nowhere is this more obvious than with China. Since March of 2000, we have lost 2.6 million manufacturing jobs while at the same time our trade deficit with China has ballooned.

While House Resolution 414 is a step, we need real action from Congress and this administration. We need to revoke PNTR with China and start over. We need legislation encouraging American companies to keep jobs here rather than sending them overseas. We are at the crossroads to determine our Nation's place in the world. Do we stand by and watch while our jobs go overseas, while our families suffer at home and while our trade deficits rise? Or do we support our working families' needs, keep good manufacturing jobs in our industrial heartland, and get our economy back on its feet? I think the answer is very clear, Mr. Speaker.

Mr. ENGLISH. Mr. Speaker, I yield 1¼ minutes to the gentleman from Georgia (Mr. GINGREY), a distinguished advocate of the interest of American workers.

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

Mr. GINGREY. Mr. Speaker, I want to thank my colleague from Pennsylvania for introducing H. Res. 414. I think it is a positive step in addressing our trade discrepancies with the People's Republic of China.

My district of western Georgia has a rich history of manufacturing textiles, from Milliken and Company, Incorporated, and Bon L. Manufacturing in LaGrange, Georgia, to Mount Vernon Mills in Trion, Georgia, which has been in business since the 1840s. The textile industry has provided good-quality jobs for the citizens of Georgia's 11th Congressional District, with good health care benefits and good retirement. I make this point because people in my district have established a culture and a community around the textile industry.

I am deeply concerned that our country is not properly enforcing our trade policies which are slowly eliminating an entire way of life. When ratifying trade agreements, it is important to encourage both free and fair trade. China is not playing fair because they are manipulating their currency in order to gain an unfair advantage. This currency manipulation is costing people jobs. Between March 2002 and March 2003, 50 textile plants have closed and 40,000 people have lost their jobs, including 100 jobs just last week in Trion, Georgia.

We cannot afford to lose jobs, especially due to the unfair practices of currency manipulation by the Chinese Government. Mr. Speaker, I encourage the passage of House Resolution 414 to encourage China to comply with their trade obligations.

Mr. LEVIN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. I thank my friend from Michigan for yielding me this time.

Mr. Speaker, I rise in support of this legislation, but I have to say that I think it will not do much good and that I think in many ways it deflects attention from the most important issue, which is not asking the Chinese to make changes in their currency but in fact asking the United States Congress and the President of the United States to make changes in our disastrous trade policies.

The bottom line is that right now in America, manufacturing is in a state of collapse. We have lost almost 3 million manufacturing jobs in the last 3 years. We are seeing our economy move from a General Motors economy to a Wal-Mart economy where workers are now earning poverty wages with minimal

benefits. There are a number of reasons for that, but one of the reasons is that our trade policy with China, with Mexico and other countries has failed. It is time to understand that and it is time to redo that.

The bottom line is that American workers should not and cannot be asked to compete against desperate people in China who work for pennies an hour. Does anyone here think that it makes sense to tell a manufacturing worker in America who earns $16 an hour, who has decent benefits, that he has got to compete against someone in China who makes 30 or 40 cents an hour, who if that person stands up and tries to form a union might get thrown in jail?

Is it fair to ask American manufacturers to compete against companies in China where there are virtually no environmental regulations and in a country which is becoming one of the most polluted countries in the world?

The reality now is that in the midst of a $435 billion overall trade deficit, we have a $120 billion trade deficit with China alone. The National Association of Manufacturers tells us that in the next 5 years that trade deficit could well grow to over $300 billion. Yes, we make exports to China but for every $1 that we export, we import $6.

The reality now is that we are hemorrhaging decent-paying jobs because, to a large degree, of a failed trade policy. The Republican leadership and many Democrats are going to have to own up to it. You have got to come forward and say to the American people, yeah, you think it is great for American workers to compete against people who make 30 cents an hour. You are going to have to tell small American manufacturers who want to do business in this country, who are patriotic, who want to employ American workers, that they are no longer going to have to compete against those companies who sell their products back in this country for a fraction of the price that American manufacturers can produce that product for.

So I say to my friend from Pennsylvania, your idea has some merit, but you are not getting to the root of the problem. The root of the problem is that one of the reasons that we are hemorrhaging decent-paying jobs is because of a failed trade policy, and that is why I have introduced legislation, H.R. 3228, which is winning bipartisan support, which says once and for all let us repeal permanent normal trade relations with China, let us develop a new trade relationship with that country which works not just for the large multinationals but works for the average American workers.

I very well remember the debate, as many of you do, about all of the advantages that PNTR with China would bring. We are going to bring some of those quotes back onto the floor of the House, because they were wrong. All of those people who told us about the jobs that were created were wrong. We are losing jobs. We have got to repeal PNTR with China.

Mr. ENGLISH. Mr. Speaker, it is a privilege for me to yield 2 minutes to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. ENGLISH) for his efforts on this.

Coming from a State that depends on manufacturing, and we have lots of small manufacturing in our great State, this is one hurdle that they cannot get over. They are frequently talkers. When I get these small manufacturers, 50, 75, 100 folks in these small manufacturing facilities who talk about and embrace the ideas of free trade, they do not want to back away from that. They think it is good and it is helpful and it will produce jobs in America. But it has to be fair.

One of the things that we have seen is that China is not willing to embrace the tenets of fair trade. Currency manipulation is the greatest of all of its evils standing up front. What it does is it artificially leaches off the value of the dollar, automatically making any deal put together by an American manufacturer uncompetitive. That is unfair. What they are saying is, hey, don't do away with free trade, but let's embrace the tenets of fair trade and help us eliminate those artificial barriers, and we will compete with our great labor force.

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

Mr. ROGERS of Michigan. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, the gentleman talks about the advantages of free trade. Does he think American workers can and should compete against people who make 40 cents an hour and go to jail when they try to form a union?

Mr. ROGERS of Michigan. As the gentleman may understand, there is a greater circumference of competition in every business and it means more than just labor costs. It is all of the costs that go in, including the quality of the production. When you talk to American manufacturers, they will tell you they can compete if these artificial barriers are gone. We ought to stand tall. I appreciate the administration's efforts to this point. We appreciate the things that they are doing. This resolution is an important step, by saying, we are going to give you every tool in the tool box. We are not going to tell you which one, but we are going to give you all of the tools to go after unfair barriers, just like currency manipulation.

Let us stand tall for what the administration is doing and what we can do when we stand together for embracing jobs and competitiveness in American manufacturing.

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

Mr. ENGLISH. Mr. Speaker, I yield 1½ minutes to the gentleman from North Carolina (Mr. HAYES), a distinguished advocate of fair trade.

Mr. HAYES. I thank the gentleman from Pennsylvania for his excellent leadership and guidance here.

Mr. Speaker, today I rise in strong support of this resolution. This legislation is going to send a much-needed and unmistakable signal to China that we expect to see trade and monetary reforms and that we expect them now. This will make it clear that there will be retribution and retaliation if China does not abide by the rules. We have lost too many jobs and too many companies have been hurt because of unfair Chinese trade practices and China's fixed currency structure.

Since 1994, China has devalued its currency 30 percent despite enormous economic growth. It is clear they continue to peg their currency to the U.S. dollar to create an unfair advantage for China at the expense of our American manufacturers and our own workforce. This Congress and the administration must continue to stress to China that their economy will benefit from a market-based exchange rate. It is in China's best interest to create a more flexible currency in order to create a strong and stable economy for the future.

Specifically, this resolution states that this body urges the administration to require that China honor the commitments they made upon joining the WTO, move toward a more flexible rate of exchange, and the U.S. Government should focus on efforts to create fairness and equity in the manufacturing sector. Manufacturing and textile jobs specifically have taken a massive hit in both loss of jobs and businesses due to unfair trade practices by China and their fixed currency. In fact, during the past decade, the U.S. textile sector has been particularly hard hit, losing 700,000 jobs. Without fairness for our workers, businesses, textiles and manufacturing, the demise of our manufacturing sector will continue to take place all over the country.

I am pleased to see that Secretary Snow has brought up the issue during his recent visit to China. I am also encouraged by reading that Secretary Evans has gone to China and made a speech there saying the American market will not remain open to Chinese exports unless China's markets are equally open to our markets.

Mr. Speaker, I urge the passage of the resolution.

Mr. LEVIN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. BECERRA), a gentleman who is very active on these issues as a member of the Committee on Ways and Means and its Subcommittee on Trade.

□ 1445

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

Mr. Speaker, House Resolution 414 sends a message to China. But if this is as strong a message that we can send to China, we are in trouble. We could

do much better than this. We can send a message that is very clear and very responsible about what we would expect of any trading partner, of anyone who wishes to be treated with dignity when it comes to trade with us as well.

In the last 3 years, Mr. Speaker, Americans have lost 3.2 million jobs; 2.5 million of those 3.2 million jobs have come from the manufacturing sector.

Now, if it does not hurt enough, let me just give you some numbers. California, almost 300,000 Americans without jobs as a result of the manufacturing sector losing them; Illinois, 125,800 jobs lost in the last 3 years, according to the September 2003 job numbers; Indiana, 67,000; Michigan, 127,000 Americans who have lost their jobs; New York, 132,000; North Carolina, 145,000 Americans without jobs in the manufacturing sector; Ohio, 151,000 jobs lost for Americans; Pennsylvania, 132,000 jobs lost; Wisconsin, 73,000 jobs lost to Americans in the manufacturing area, many of these going to countries like China.

On top of that, today we are saddled with a national debt of more than $3.3 trillion. This year's budget deficit alone, $370 billion. Next year, we are told our budget deficit will probably reach $500 billion. In each case, these are record deficits for this country.

Our trade deficit, just in what we do globally in trade with other countries, $482 billion in 2002. That is how much we were spending more by buying goods from other countries than they were buying from us. And if we keep on that same pace in 2003, we are going to have an even larger trade deficit with the world.

How much of that comes from China? Well, this past year alone, $103 billion in deficit trading with China, and at the end of this year it will probably be at about $115 billion that we will have spent more in purchasing goods from them than they will have spent in purchasing goods from us.

This week Warren Buffet, one of the wealthiest men in America, said our country is like a rich family that possesses an immense farm. ''In order to consume 4 percent more than we produce,'' which is in essence what our trade deficit means, we are consuming more than we are producing, ''we have been both selling pieces of the farm and increasing the mortgage on what we still own.''

Mr. Buffet said that our trade deficit has worsened to the point that our country's net worth is being transferred abroad at an alarming rate. He predicts that foreign ownership of America's assets will grow by about $500 billion a year. That translates to about 1 percent annually of our wealth being placed in foreign hands.

Mr. Speaker, something needs to be done, and H. Res. 414 is not enough. It is time for us to investigate what the Chinese are doing, it is time for us to take safeguards to protect American industries and American jobs, and it is time for us to use the powers that we have under the Trade Act to investigate whether China is complying with its obligations under the World Trade Organization's regime. It is time to do it. Just talking about it will not make it happen. Let us take some action. House Resolution 414 may be a start, but it certainly is not enough.

Mr. ENGLISH. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules and one of the most distinguished advocates of free trade in the Chamber.

Mr. LEVIN. Mr. Speaker, I yield 1 minutes to the gentleman from California.

The SPEAKER pro tempore (Mr. TERRY). The gentleman from California (Mr. DREIER) is recognized for 4 minutes.

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

Mr. DREIER. Mr. Speaker, I rise in strong support of H. Res. 414. I want to congratulate my good friend, the gentleman from Pennsylvania (Mr. ENGLISH), with whom I have had the privilege of working for nearly a decade on the very important relationship between the United States and the People's Republic of China.

Now, I have heard a lot of things said, and my friend from Vermont says that he is going to take the opportunity to bring back some comments about our debate on PNTR. You do not have to do it, because I am going to talk about them right now and the benefits that has created, Mr. Speaker.

I believe that it is very important for us to realize again that the single most powerful force for positive change in the 5,000 year history of Chinese civilization has been economic reform, and I believe that we need to do everything that we possibly can to continue to encourage that kind of economic reform, and this resolution does help us down that road.

Passage of permanent normal trade relations did, in fact, allow the People's Republic of China to move into a rules-based trading system by becoming a member of the World Trade Organization. It is obvious we still have very serious challenges as we continue down that road. But, Mr. Speaker, I am a glass-half-full sort of guy, and I happen to believe that what we need to do is realize that encouraging these reforms, as this resolution offered by my friend from Pennsylvania will do, is the right thing for us to do.

We also need, Mr. Speaker, to realize the benefits of imports. We obviously can talk about stuffed animals and furniture, and we are on the verge of Halloween, Halloween costumes, a wide range of very important consumer products that are available to children in this country.

The fact that products come from China in fact play a role in enhancing the economic standing of the 1.3 billion people of China. And what does that create? It creates for them an opportunity to become consumers of U.S. goods and services.

Mr. Speaker, I think it is very important for us to note that as we look at the challenges that exist for us today, anything that would undermine that route that is being taken toward greater economic reform would be wrong. That is why, Mr. Speaker, I encourage my colleagues to support this resolution, and to do everything that we possibly can to make sure that even greater reform does take place in the future.

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

Mr. DREIER. I am happy to yield to my friend, the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, I thank my friend very much.

My friend talks about the importance of economic reform in China, and I agree with him. But do you not think we also should be talking about the loss of millions of decent paying jobs?

Mr. DREIER. Mr. Speaker, if I might reclaim my time, I will answer by saying yes, I do believe it is very important for us to focus on the manufacturing base in this country, and that is why with the tax and regulatory legislation that we are looking at here, we will play a role in encouraging that.

My view, Mr. Speaker, is that rather than simply pointing the finger at economies that are growing to the point where they can consume U.S. goods and services, we need to encourage reform right here at home, as well as encouraging reform there.

Mr. SANDERS. Mr. Speaker, if the gentleman will yield further, my friend ignores the fact that all of the projections are that the trade deficit with China is going to grow wider and wider, which means more and more job loss in the United States.

I ask my friend, what do you say to your corporate buddies, who throw American workers out on the street, move to China and hire people there, for 30 cents an hour?

Mr. DREIER. Mr. Speaker, reclaiming my time, that kind of hyperbole, ''corporate buddies,'' that is absolutely ridiculous. I am as concerned about American workers as anyone, and I know the corporate leaders in this country are concerned about American workers.

Mr. Speaker, let me say in response to my friend that we need to do everything that we can to realize that we are in a global economy. If we, as the United States of America, do not shape the global economy, we will be shaped by the global economy. That is why it is correct for us to pursue these reforms, do everything that we possibly can to make sure that it happens, and, at the same time, to look at policies which can encourage the expansion of our manufacturing base right here at home.

Mr. ENGLISH. Mr. Speaker, it is a great privilege for me to yield 2 minutes to the gentleman from Wisconsin

(Mr. RYAN), a distinguished member of the Committee on Ways and Means.

Mr. RYAN of Wisconsin. Mr. Speaker, I thank the gentleman from Pennsylvania for his leadership on this issue and for bringing this resolution, to which I am a cosponsor, to the floor.

Mr. Speaker, this is a dire issue for America. I come from Wisconsin, which arguably has the most manufacturing jobs lost per capita to any other State in the country.

There is a fact that the economic recovery that is under way in America is not necessarily going through manufacturing. We have bled manufacturing jobs, especially over the last couple of years. And when you boil it down and look at what is going on in manufacturing, there are two areas we have to focus on.

Number one, we have to stop pushing jobs overseas. We have to lower health care costs, lower the tax rates on American manufacturers, cut down the regulatory and lawsuit costs, make energy costs cheaper and more affordable and more reliable. But we also have to work at stopping countries from unfairly taking jobs overseas. That is what this resolution is all about.

What this resolution does is express what we in Congress think needs to happen, and what we believe needs to happen is, number one, I am glad that China is in the WTO, because before a year-and-a-half ago, we did not have China signing up to a treaty to play by fair trade rules, we did not have the means to hold China accountable.

Now that China is in the WTO, they have signed on the dotted line, they have said they would play fairly, they would obey international fair trade standards, and they are not doing that. What this resolution does is it says enough. Congress is serious. China needs to obey and play by the rules that they themselves signed up to play by just a year-and-a-half ago.

Now, in Congress, we cannot change China's laws; only they can do that. But we can speak with unity here in this body, Republicans and Democrats, saying that we need to make sure that China upholds their commitments, that they need to play by the rules they themselves signed up to, that we urge and encourage our administration to hold them accountable with our trading partners who are similarly affected by devaluing their currency, pegging their currency at a discount, stealing our intellectual property rights, subsidizing their business sectors.

This is an opportunity for Congress to speak with one voice against these abuses that need to change, and change today.

Mr. Speaker, I thank the gentleman from Pennsylvania for his leadership on this issue.

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

Mr. ENGLISH. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN), a very distinguished advocate of American workers.

(Mr. GREEN of Wisconsin asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Wisconsin. Mr. Speaker, I thank the gentleman for yielding me time.

I stand in strong support of this resolution, H.R. 414 and urge its immediate passage.

The previous speaker, my good friend and colleague the gentleman from Wisconsin (Mr. RYAN), said in Wisconsin we have lost over 77,000 manufacturing jobs in just the last 3 years. We have suffered the loss of some of our most distinguished, some of our oldest companies. We have thrown small communities into turmoil. We have created an uncertain future for too many families. I think it is time for us to fight back.

There are a lot of factors that have led to the loss of manufacturing jobs, anticompetitive tax policies, burden of regulation. We have to address all of those. But better trade policies, more fair trade policies, are clearly something we need to do.

Let us make no mistake, the passage of this resolution is not a substitute for taking definitive steps to level the playing field on trade. However, this resolution is a growing sign, a growing recognition, that there is a problem. I think it does create a higher profile for this issue. I think it lets the Chinese know that we are serious in protecting our economy and protecting manufacturing jobs; that we will not sit by as they ignore their long-term obligations. It is long past time, long past time, for China to follow through on its commitments.

Getting China to reform its currency and trade policies is going to require a full court press that includes more than just Congress. That is why I want to commend the Bush administration for the efforts they have made recently. I know that President Bush has taken this message to China. I know that Secretary Evans is currently in China further driving home this point. I hope the Secretary will use this vote today as leverage in his negotiations. It shows that our Congress is unified in saying that we will take steps to protect our economy.

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This is only a first step, though. If China does not comply with its WTO obligations, we need to do much more. I will call on this body, if they do not follow through, I will call on this body to consider legislative efforts like those that I have authored with my good friend and colleague, the gentleman from Pennsylvania (Mr. ENGLISH), called the China Act. We do need to take steps. Today is a good start.

Mr. LEVIN. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time. I think we have to make sure we clarify a couple of things.

First, I do not think anyone would propose that our country become China when it comes to its manufacturing base and how we treat our workers and the type of product we put out. Certainly we have to do a number of things to continue our competitiveness with countries abroad, but there is no way that America will ever get to compete with countries that are paying 50 cents an hour for wages. And I hope that no one is recommending here that we spiral downward to try to compete; in other words, this become a race to the bottom in order to be able to compete and manufacture products abroad.

My good friend, the gentleman from California (Mr. DREIER), mentioned that we are about to celebrate Halloween and all of those costumes that our kids are going to be wearing, if you take a look at the label, most have been made in places like China. They were made in America before. But I do not believe anyone is suggesting that we now pay Americans 50 cents an hour to manufacture and fabricate garments like that in order to be able to compete with China.

At the same time, look at the bill. The only thing it calls for, well, first it commends the President and his administration for continued efforts to engage the government of the People's Republic of China and to encourage China to fulfill its commitments. Encourage. And then it continues to say the House of Representatives encourages the People's Republic of China to meet its commitments. We encourage. We encourage. We closely monitor. There is nothing this does.

We should investigate. We have the power under statute to investigate the trade violations committed by countries like China. That is what this bill should say, not that just we encourage the Chinese to do something better.

Mr. ENGLISH. Mr. Speaker, I have no further speakers beyond reserving the right to close.

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

Mr. Speaker, it is interesting. I listened to the two gentlemen from Wisconsin, and one said it is a dire situation, and the other said that rhetoric is not a substitute for specific steps. And that is the shortcoming in this resolution. It is a weak one.

I want to emphasize, there are specific steps that the administration should have taken and some that it can still take. I want to be very clear about that. First, the annual review, WTO, I believe it is now going on. The administration should use that as an opportunity to press China on its shortcomings as to its commitments when it went into the WTO. It did not press last time. It needs to this time.

Secondly, the annual report. It was weak. It should have been much stronger.

And there are also specific steps under our statutes that can be taken and under WTO regulations when China does not live up to its obligations. We

can use section 301 to start an inquiry, or we can go directly into the WTO.

So there are these specific steps and they have not been taken, for example, article 15 of WTO relating to currency. So what I am saying is, and I hope this message also goes out in addition to the message in the English resolution. His message is essentially more rhetoric, more jaw-boning. The message I hope that also goes when we vote for this is, go beyond this. Use the specific provisions in our law and in the WTO regulations and in those provisions. We need to press China to live up to its obligations that were so clearly laid out, and we have to do more than send a Secretary over to China to give speeches. We need to use the mechanisms that exist so that we have a certainty that as we trade with China, and it is more than Halloween costumes, it is increasingly in electronics, that they live up to the obligations they promised to abide by when they joined the WTO.

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

Mr. Speaker, this has been an edifying debate. I particularly want to salute my colleague, the gentleman from Michigan on the other side of the aisle, who has been attentive to the issue of China trade for a long time and has been an example to many of us, including many of us on my side of the aisle.

I must say, though, I think the record needs to be made clear and this resolution needs to be put in context. It is more than a weak exhortation; it is an expression of support for the administration's efforts at a very critical time to challenge China and encourage them to float their currency and liberalize their trading regime. We sent Secretaries over to China to do more than give speeches. They have delivered a very powerful message, and it appears that the Chinese are beginning to listen. But I agree with the people on the other side: more needs to be done.

Our message today, Mr. Speaker, is that Congress will not stand on the sidelines while our industrial base is eroded and manufacturing jobs are lost forever.

Some adopt the rhetorical convention that criticism of China's trade policies amounts to protectionism. But Adam Smith himself would not have recognized China as a free market bulwark. The term that he would have used to describe China's economic policies is mercantilistic, and mercantilism has no place in today's global marketplace which is guided by a rules-based system where ''beggar thy neighbor'' is not part of the equation.

The goal of this resolution today is to encourage the leveling of the playing field in our trade relationship and create fair opportunities for both our employers and our employees.

This is a resolution that should ultimately unite Members with diverse districts and diverse philosophical backgrounds. It has drawn support from the National Association of Manufacturers, the U.S. Chamber of Commerce, the United Steelworkers of America, and the American Iron and Steel Institute.

Mr. Speaker, this is precisely why I strongly encourage all of my colleagues to send a message to the administration, send a message to China, and send a message to the world that we are watching and we are proceeding from here, starting with this resolution, proceeding with hearings in the Committee on Ways and Means later this week, and proceeding from here with a much stronger trade policy that is determined to fight for our industrial base.

Mr. THOMAS. Mr. Speaker, China is now a member of the World Trade Organization (WTO). The WTO is not a club that just anyone can join—a country must be deemed ready and economically mature. China's accession signifies that it is expected to meet the obligations that come with its stronger presence within the global economy. It is our role, as one of China's major trading partners, to make sure that china fulfills its WTO commitments. However, I am concerned that many of China's commitments have not yet been implemented or implementation has been inadequate. I join the many cosponsors of this resolution in urging the Administration to continue to engage China on compliance, as well as use the dispute settlement mechanism where necessary to enforce our rights.

In addition to seeking WTO compliance, I support the Administration's efforts to encourage China to establish a more flexible exchange rate. At the same time, China's financial system is in desperate need of modernization. I urge the Administration to continue to work with China to modernize its fiscal structure and relax its capital controls.

On Thursday and Friday of this week, the Committee on Ways and Means is holding a hearing to explore China's expanding role in the global economy, its currency management and its progress in meeting its new trade commitments. The insights we will gain in this hearing will give us more guidance as we develop a tough policy to promote a healthy and strong trade relationship with China.

Finally, today's resolution is yet another foray in the battle to support U.S. manufacturers. We must create more jobs at home and preserve existing jobs by promoting innovation, reducing costs and making U.S. companies more competitive. Yesterday, the Ways and Means Committee approved the American Jobs Creation Act, legislation to foster job creation through comprehensive tax relief for domestic manufacturers, small businesses and other employers. It is my hope that the House will take swift action on this legislation. American workers need help now.

Mr. SMITH of Michigan. Mr. Speaker, I rise to support H. Res. 414. Recently, I met with a delegation of Chinese parliamentarians. China is undergoing huge changes that will alter relations between the United States and the People's Republic of China for decades to come.

Trade was high on our agenda. Total U.S.-China trade rose from $5 billion in 1980 to $147 billion in 2002. China is a huge potential market for U.S. goods and services. However, last year China sold us $103 billion more in goods than we sold to them. This trade deficit is caused by the political and social difficulties of doing business in China, by China's restrictive trade and investment practices and by the enormous American appetite for low-priced Chinese goods. In seemingly good news for farmers, China has been dramatically increasing its protein consumption, which means our agricultural trade should improve.

Many, including Treasury Secretary John Snow, contend that China also tilts the playing field by manipulating the value of its currency to keep it low. This lowers the price of Chinese goods in the United States and raises the price of our exports to China. Depending on whether you buy or sell, this makes Americans better or worse off in the short run. For the long run, such a large trade deficit makes America vulnerable. We presented our concerns to the parliamentarians about agricultural and industrial quotas and arbitrary Chinese biotechnology standards. We will press for a market in China that is fair.

China's large potential market should not blind us to the oppressive and aggressive nature of the regime. It remains a Communist system with dictatorial control over politics and business. Communist party leadership fills the top positions, but the military, with the world's largest standing army, also wields great influence in state industries and politics. China still represses Tibetan and Muslim minorities, and has been working to reduce free political expression in Hong Kong, sparking huge rallies in defiance of proposed anti-sedition laws. While enterprise flourishes in certain zones, it is a privileged capitalism operating under government favor. China still tries to dictate the terms of Taiwan's existence and has traditionally backed North Korea's reprehensible regime.

Yet, China is changing. Economic growth and competition in the free world economy will tend to bring social and political change, though probably not as quickly as we would like. Experts on China like Ross Terrill (author of The New Chinese Empire—and What it Means for the United States) predict that the Communist party-state will crumble under the pressures of foreign trade and international obligations for transparent trade laws. Encouraging this transparency will be to our advantage.

We need to welcome Chinese participation in the society of nations when it chooses to play a constructive role. However, we must be firm when we disagree. We should not soft-pedal our commitment to fundamental human rights or our demands for trade agreements that don't put us at a disadvantage. We must recognize China's ambitions to challenge U.S. interests at the United Nations, in Asia and around the world. We have to be aware of and resist Chinese encroachments on our national security and that of our allies. Firm discussions of differences, like those we had with the parliamentarians, are one way to push forward U.S. engagement with this great nation in pursuit of interests we have in common. I commend the gentleman from Pennsylvania, Mr. ENGLISH, for his leadership.

Mr. MANZULLO. Mr. Speaker, our manufacturing base is slowly evaporating before our very eyes. Just last week, Rockford, Illinois—the main city I represent—lost 3 facilities. Over 1,200 workers in a town of 150,000 lost their job last week. Over 2.8 million manufacturing jobs have been lost since July 2000. Manufacturing now just makes up 14 percent of our

Gross Domestic Product. Yet, few people in Washington, D.C. are truly aware of this problem because this town doesn't produce much except paper.

There are many causes to the problems facing manufacturing: high health care and energy costs; legal liabilities; a staggering tax and regulatory burden; an outdated export control system; a government procurement system that thinks that it is OK to buy abroad; and an unfair global trading system.

I am proud to stand with Representative PHIL ENGLISH today in trying to bring about some relief in the trade area. The United States faces huge challenges with China. We all recognize and appreciate the difficulties the Chinese face as they integrate into the world economy. China is to be commended for going down a path towards more free markets and away from a planned economy. They have over 1.2 billion people and tens of millions of people enter their workforce each year. China must grow about eight percent a year just to keep even as they try to integrate new workers into the economy and also provide real employment for former workers at failed state-owned enterprises.

However, while acknowledging these challenges, we also must not allow the nations of the world to expect the United States to be the only global economic growth engine. It is in China's long-term best interest to address the real problems contained in this resolution. It is time for China to promote economic growth within their country mainly by selling the products made in their nation to their own people—not using the United States as a pressure relief valve.

Plus, China should take a cue from one of our great industrialists—Henry Ford—and pay their workers sufficient wages so that they can afford the products they are making for U.S. consumers.

Yes, China has honored many of its WTO commitments. But it has also not lived up to all of its commitments to the WTO. We have given China the benefit of the doubt for too long. While we are grateful for China's willingness to buy more U.S. products, this is not enough. Now is the time to ratchet up the pressures and if necessary bring a trade case through the WTO process to force full compliance of China's commitments. Our manufacturers have taken it on the chin for too long now.

For example, having very low taxes imposed on Chinese semi-conductor manufactures but taxing imported semi-conductors at a much higher rate is outrageous. We're struggling to replace our Foreign Sales Corporation/Extraterritorial Income tax regime due to a WTO challenge from Europe; however, this Chinese tax discrimination policy hasn't been challenged in the WTO system yet. Does that make any sense? The National Association of Manufacturers has many more examples, which I ask unanimous consent to include in the RECORD.

I'm also grateful to Representative ENGLISH for including a good deal of the language in H. Res. 414 dealing with Chinese currency manipulation from the legislation I authored along with my good friends and colleagues Representatives MIKE ROGERS, of Michigan, CHARLIE STENHOLM of Texas, and BARON HILL of Indiana. I am especially pleased that the House of Representatives will go on record today in opposition to these policies that place up to a 40 percent tax on U.S. exports to China and up to a 40 percent discount on Chinese imports into the United States. Is it any wonder why our manufacturers are crying out for relief? This resolution is a good first step towards final action on H. Con. Res. 285, which, if diplomacy fails, calls for initiating a Section 301 trade case to impose trade sanctions against nations that manipulate their currencies for a trade advantage.

Let me also remind my colleagues that China is not the only nation that deliberately undervalues its currency. Japan, Korea, and Taiwan also vigorously intervene in currency markets to prevent their currency from strengthening against the U.S. dollar. Passage of this resolution today should not undermine our resolve to combat the problem of unfair foreign currency manipulation of other nations.

Prior to his departure for the Asia Pacific Economic Council conference, President Bush said we must make sure that ''currency policies of a government don't disadvantage America. Fair trade means currency policies [are] fair.'' We should strongly support passage of H. Res. 414 today. But we should also work towards ensuring passage of H. Con. Res. 285 if timely progress is not made towards accomplishing the goals set out in this resolution and if countries including Japan, Korea, and Taiwan do not halt the practice of undermining the value of their currency to boost their export potential.

Again, Mr. Speaker, I urge my colleagues to support H. Res. 414.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
September 10, 2003.

REVIEW OF CHINA'S COMPLIANCE WITH ITS WTO ACCESSION COMMITMENTS

AREAS OF CONCERN

Currency undervaluation;
Subsidized exports;
Counterfeiting and IPR violations;
Discriminatory VAT taxes;
Unjustified product labeling requirements;
Inappropriate standards and concerns about CCC mark procedures;
Restrictions on trading rights;
Lack of action on auto financing regulations;
Problems with Tariff Rate Quotas; and
Slow progress on transparency.

OVERVIEW

The National Association of Manufacturers (NAM) welcomes the opportunity to comment on China's compliance with obligations accepted as a WTO member and commitments made in conjunction with accession to open its internal market to foreign products and services. The NAM supported China's membership on the condition that it would take meaningful steps to adhere to these obligations and commitments and become a responsible participant in the international trading system.

Trade with China is of immense importance to many U.S. manufacturers. The Chinese market is set to become one of the largest in the world within the next several years. Chinese imports are expected to exceed $380 billion in 2003, making China the world's third largest importer after the United States and Germany. At the same time, China is rapidly becoming a major exporter of industrial goods, and the range of industrial products exported has continued to grow at a rapid pace. China's expanded participation in the global marketplace, then, offers both important new commercial opportunities as well as challenges resulting from increased competition in the U.S. and foreign markets.

NAM members want the United States to have a positive trade relationship with China. However, they also want a level playing field for competition. In that regard, we are hearing increasing concerns about unfair Chinese trade and currency practices and China's failure to provide the same kind of access to U.S. goods and services in the Chinese market that Chinese goods and services enjoy in the U.S. market.

As China concludes its second year as a WTO member, its compliance record is decidedly mixed. While U.S. exports to China continue to increase (by 24 percent in the Jan.–June 2003) and a growing number of U.S. companies are trading and investing there, the NAM has also received far more complaints about unfair Chinese practices than in the previous year.

NAM members recognize that China is still in transition to a market economy and in the process of phasing in certain WTO market-opening commitments. However, because China has quickly becomes such an important global importer and exporter, it is vital that the United States work to ensure that China complies as fully as possible with all WTO obligations and particularly those that have a significant impact on U.S. economic interests.

NAM member companies and affiliated organizations have reported the following concerns regarding China's WTO compliance.

CURRENCY MANIPULATION

By far, the NAM has received the greater number of complaints about China's deliberate policy of undervaluing its currency to gain unfair competitive advantage over U.S. producers and those of other WTO member countries. Economists have estimated that China's currency could be undervalued by 40 percent or more. The Chinese yuan has remained pegged to the dollar at 8.28 for the past eight years despite an extended period of robust economic growth, continuing trade surpluses and a large build-up in foreign exchange reserves, which exceeded $350 billion in July 2003.

Chinese officials have acknowledged that the pegging of the yuan to the dollar is part of a deliberate strategy to support Chinese industry and boost exports. This kind of currency undervaluation for commercial gain goes against the intent of the General Agreement on Tariffs and Trade (GATT), which seeks to remove trade barriers and allow markets to determine trade flows. Article IV, for examples, states that ''Contracting Parties shall not, by exchange action, frustrate the intent of the provisions of this Agreement . . .'' China's undervalued currency, in effect, acts as an additional trade barrier to U.S. exports and an unfair subsidy for all Chinese exports. We believe that Chinese exchange rate policies do not comply with WTO obligations.

SUBSIDIZED EXPORTS

We continue to receive reports from different industries (e.g., tool-and-die, metal forming, steel and chlorinated isocyanurates) that Chinese products are being sold in the United States at prices so low that they could not even cover the cost of raw materials and shipping much less full production and marketing costs. A tool-and-dye company, for example, reports that a Chinese competitor was selling a product similar to one made in the United States for $40,000, compared to the U.S. producer's price of $100,000. The U.S. company maintains that the cost of the raw materials alone would amount to $40,000, not including shipping, duties and other costs. A U.S. producer of chlorinated isocyanuratrs, which is used as a cleaning agent in swimming pools, reports a similar situation. As a result of pricing which appears to be below cost, Chinese exporters are expected to increase exports of

this product by 400 percent in 2003 over 2002 levels.

These reports suggest the likelihood of widespread use of subsidies, either direct or indirect, to help Chinese exporters gain unfair competitive advantage in the U.S. market. They merit further investigation by USTR and the Department of Commerce. One source of indirect subsidy is continued bank leading to money-losing and insolvent Chinese manufacturers, often state-owned or state-controlled enterprises. Since the Chinese banks providing these loans are either state-owned or state-controlled, the Chinese government bears responsibility for their lending practices. U.S. steel producers note that the Chinese steel industry is the largest-recipient of interest-rate subsidies authorized by the national government. Since many of the companies that benefit from either directed bank lending or subsidized interest rates are engaged in international trade, they have an unfair competitive advantage vis-à-vis U.S. based companies, which must rely on private financing at market rates.

COUNTERFEITING AND INEFFECTIVE ENFORCEMENT OF IPR PROTECTION

While Chinese laws on intellectual property rights (IPR) have improved considerably, the lack of effective enforcement of the IPR protection remains a serious problem. Violations of trademarks through product counterfeiting is rampant and on a massive scale. The violations involve a wide range of products, including consumer hygiene and health care products, athletic footwear, pharmaceuticals, food and beverages, motorized vehicles and even entire automobiles. Pharmaceutical counterfeiting is now, according to U.S. industry representatives, a serious public health concern in China. We believe that the lack of criminal penalties for counterfeiting, including jailing, prevents effective enforcement of trademark and labeling violations.

We are also concerned about reports that local government authorities are actually promoting the expansion of local industry dedicated principally to counterfeiting. At a minimum, local authorities are knowledgeable of counterfeit production and taking no action to halt it. There appears to be no mechanism for the national government to prevent local governments from aiding and abetting counterfeiting by local industry. In addition, the Chinese customs service has not cooperated in blocking exports of counterfeit products even when solid evidence of counterfeiting was provided. It is claimed that, since the ''exporting'' of counterfeit products does not constitute a ''sale'' of the products, the relevant Chinese law did not apply.

Other IPR violations are also common. They include unauthorized duplication of computer software, music films; copying of designs; unauthorized use of patented technology; and unauthorized use of U.S. product certification logos. The makers of air conditioning and refrigeration equipment note that the ARI (Air-Conditioning and Refrigeration Institute) certification symbol was being used without authorization by a Chines company. Efforts to have the Chinese government stop this unauthorized use proved ineffective.

The pharmaceutical industry does, however, also report improvements in intellectual property protection, notably by the promulgation of a new regulation on data exclusivity for clinical trials, as required in TRIPS and committed in China's accession package.

MANIPULATION OF VAT AND OTHER TAXES

We have reports that China is manipulating the application of taxes, notably the Value-Added Tax (VAT), to both restrict imports and indirectly subsidize exports. For example, the scrap recycling industry has told us that Chinese users of imported copper and other scrap metals are deliberating undervaluing their invoices to pay less VAT on the imported metal. When the finished metal products are exported, however, Chinese producers claim a rebate of the VAT based on the metals' real import price. This results in a substantial subsidy for the exported product that translates into lower prices in the U.S. market. It also enables Chinese scrap metal users to pay higher prices for scrap metal than their U.S. competitors. Chinese customs and tax authorities have not taken action to investigate these practices.

A major U.S. producer of semiconductors has also expressed concern about continuing Chinese discrimination in the application of the VAT on imported and domestically produced semiconductors. China levies a 17 percent VAT on imported integrated circuits. Domestically designed and produced integrated circuits are taxed at VAT rates ranging from 3–6 percent. Integrated circuits produced in China but designed abroad are taxed at 11 percent. This discriminatory treatment of domestic and foreign ''like'' products violates Article 3 of the GATT.

UNJUSTIFIED LABELING REQUIREMENTS

In 2002 the Chinese Ministry of Health promulgated a new regulation mandating the labeling of all genetically modified (GM) food products. While the implementation of the regulation was subsequently suspended indefinitely, the fact that it remains on the books is already having significant adverse economic effects and creating barriers to trade. Some producers have ceased shipping these products in anticipation of the regulation going into effect.

U.S. food producers have questioned whether the Health Ministry's action was in conformity with China's WTO obligations. The ministry did not provide a justification for the labeling requirement based on an assessment of health risks, which is a requirement of the Agreement on Sanitary and Phytosanitary Measures. The Technical Barriers to Trade Agreement (TBT) also suggests inadequate attention to the treatment of ''like products,'' the question of whether the labeling requirement addresses a ''legitimate objective'' and the requirement to base technical regulations on ''performance'' rather than ''design'' characteristics.

INAPPROPRIATE STANDARDS AND CONCERNS ABOUT CCC MARK SYSTEM

Several NAM members have raised concerns about application of technical standards and the CCC Mark system. With regard to standards, China is requiring that certain products (e.g., electrical products) be manufactured only to ''international standards'' as determined in the ISO or IEC. Other ''international standards,'' notably those developed in the United States and widely used in the global marketplace, are not allowed. This does not conform with the WTO TBT Committee interpretation that ''international standards'' need not be limited to ISO or IEC standards.

A second set of standards concerns relates to the CCC mark system. China introduced the CCC mark system to comply with WTO requirements for a single mark for like domestic and imported products. It is, in that sense, a step forward on standards and mark requirements. However, the inconsistent, non-transparent and inflexible application of the CCC Mark on a variety of products (e.g., electrical products, air conditioning and refigeration equipment, and tires) has created market access barriers and needlessly raised the cost of importing products into China.

Generic problems include: the high cost of having Chinese inspectors audit factories in the United States and other foreign countries on compliance with the standards; continued delays in allowing U.S. testing and certifying bodies to certify compliance for the CCC mark; and lengthy delays and relatively high cost of obtaining testing and certification for the CCC mark in China.

Several other specific problems were noted. A major tire company reported that several types of its bus tires that are standard sizes in countries around the world cannot obtain the required CCC mark because these sizes are not listed in the Chinese National Standards. Another type of tire widely on Chinese trucks is also not on the list and thus cannot be sold by the U.S. company in China. Efforts to resolve this problem with Chinese standards authorities and Chinese customs have thus far been unsuccessful. In addition, the company reports that local inspection offices appear to be abusing their authority by requiring the re-inspection of the company's Chinese-produced tires and confiscating tires which they determine to be ''non-complaint'' with the CCC mark standards.

RESTRICTIONS ON TRADE RIGHTS OF JOINT VENTURES

China is not fulfilling its commitment to allow foreign joint ventures to import and sell products (e.g., tires, automobiles, auto parts and industrial equipment) in China, which was to have gone into effect on Dec. 10, 2002. A major tire company, for example, reports that the Chinese government has imposed additional restrictions on its trading rights that were not anticipated when this concession was negotiated. They include allowing only new joint ventures to have this right and requiring the Chinese and foreign partners to have separately done U.S. $30 million in trade with China over each of the three preceding years.

LACK OF ACTION ON AUTO FINANCING REGULATIONS

The Chinese government has committed to publish new regulations governing the financing of automobile purchases. Several NAM member companies have expressed concern about slow progress on the regulations that were explicitly promised in China's accession agreement. The U.S. government should press for their prompt issuance to comply with WTO obligations.

PROBLEMS WITH TARIFF RATE QUOTAS AND IMPORT CERTIFICATES

Complications in implementing tariff rate quotas (TRQs) are creating non-tariff trade barriers to U.S. feed products, notably corn and wheat. Chinese authorities have delayed issuance of regulations on the administration of the TRQ system and introduced unreasonable licensing procedures. There has also been a lack of transparency in the process which makes it difficult to know which companies are granted quotas. China has also violated its accession agreement by redirecting quotas reserved for non-state companies to state-owned companies.

A related problem that has affected soybean exporters is the narrow window for using import permits under the AQSIQ permit system. U.S. exporters have only 90 days to purchase, transport and unload their products in China. These restrictions are not only limiting U.S. commodity exports sales but also restricting the operation of soybean processing plants in China.

LACK OF TRANSPARENCY IN TRADE REGULATORY PROCESS

Many companies complain about the lack of transparency in the trade regulatory process and the difficulty in obtaining current laws and regulations governing trade and

business operations. This is a continuing problem that should lend itself to solutions in a relatively short time frame. The U.S. government should press for concrete steps that improve transparency at all levels.

WILLIAM PRIMOSCH,
Director, International Business Policy, National Association of Manufacturers.

Mr. OXLEY. Mr. Speaker, I am pleased to rise today in support of H. Res. 414, a resolution which I am co-sponsoring and which encourages China to move to a more flexible exchange rate. As Chairman of the Financial Services Committee, which has jurisdiction over domestic and international monetary policy as well as economic growth and stabilization, I believe that this is an important measure which deserves the support of the House.

I commend Mr. ENGLISH for his leadership in introducing this important resolution, which seeks to encourage China to continue taking concrete steps to reform its economy and move towards a more flexible exchange rate mechanism. I note that the U.S. Chamber of Commerce, the National Association of Manufacturers, the United Steelworkers of America, and the American Iron and Steel Institute all support this resolution.

I also want to commend the gentleman from New York (Mr. KING) who chairs the Subcommittee on Domestic and International Monetary Policy, Trade, and Technology, which held the first House hearing on this subject.

I support this resolution because it helps signal to the Chinese government that this House is monitoring closely the efforts of both the Chinese and U.S. governments to position China to develop a more appropriate exchange rate and infrastructure to support that exchange rate. The goal is to ensure that serious progress continues to be made.

For some time now, our own dynamic economy has been undergoing a dramatic shift towards services sector jobs. It is unclear how the Chinese exchange rate regime contributes to, or accelerates, this trend. However, the trend should not be confused with the notion that the U.S. economy will someday outsource all production of physical goods.

The manufacturing sector in this country is a significant source of innovation, patent development and, therefore, economic growth. We cannot permit potentially unfair competition to undercut this important activity. We should not accept that possibly unfair competition will require hard-working Americans doing a good job to be unemployed.

China is the world's most populous country. It is becoming one of the United States' most important trading partners. It has recently served as a source of strength in Asia, as well as an engine of economic growth globally. U.S. companies and consumers benefit from a strong and growing China, but only if that growth is based on a fair system.

China's economic growth and potential should lead it to adopt 21st Century exchange rate policies as well. If China is going to be serious about its WTO commitments, it must also recognize that fair competition requires market-determined exchange rates in addition to opening its markets to foreign companies.

It is true that such large changes cannot occur overnight, especially in a command economy. It is also true that a financial system must be strong and resilient in order to absorb the kind of capital market volatility that accompanies floating exchange rates. Finally, it is true that China's fragile banking system needs to be strengthened if a floating rate system is to be launched successfully. Change is needed for the good of China's own economy.

Mr. Speaker, these facts should underscore the importance of China moving clearly and unambiguously towards banking sector reform. They cannot serve as an excuse for delaying these necessary reforms.

I urge all of my colleagues to support the resolution.

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

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Pennsylvania (Mr. ENGLISH) that the House suspend the rules and agree to the resolution, H. Res. 414.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of H. Res. 414, the resolution just debated.

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

There was no objection.

CONGRATULATING THE FLORIDA MARLINS FOR WINNING THE 2003 WORLD SERIES

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 415) congratulating the Florida Marlins for winning the 2003 World Series.

The Clerk read as follows:

H. RES. 415

Whereas Pro Player Stadium, located in the City of Miami Gardens and Miami-Dade County, is the home field for the Florida Marlins;

Whereas Major League Baseball is celebrating the 100th anniversary of the World Series this year;

Whereas on October 25, 2003, the Florida Marlins won the 2003 World Series in a six game series;

Whereas by defeating an excellent New York Yankees team—the American League Champions and the latest team in a storied franchise which, with 26 World Series victories, dominated professional baseball's first 100 years—the Florida Marlins have captured their second World Series title in the brief ten year history of the team;

Whereas, during the World Series, Marlins pitcher Josh Beckett struck out 19 Yankee batters in two games, maintained a 1.10 earned run average, including a 2–0 shutout during the crucial 6th game, and was named the 2003 World Series Most Valuable Player;

Whereas the Marlins won 91 games during the regular season to earn a playoff berth by clinching the National League Wild Card slot;

Whereas the Marlins have never lost a post-season series;

Whereas the Marlins defeated the Western Division Champion and defending National League Champion San Francisco Giants in the National League Divisional Series;

Whereas the Marlins defeated the Central Division Champion Chicago Cubs in the National League Championship Series;

Whereas, during the National League Championship Series, Marlins catcher Ivan Rodriguez batted .321 with 2 home runs and ten runs batted in while playing stellar defense, and was named the 2003 National League Championship Series Most Valuable Player;

Whereas the Marlins team of skilled players, including Josh Beckett, Ivan Rodriguez, Juan Pierre, Jeff Conine, Mike Lowell, Luis Castillo, Alex Gonzalez, Miguel Cabrera, Derek Lee, Juan Encarnacion, Brad Penny, Carl Pavano, Mark Redman, Dontrelle Willis, Ugueth Urbina, Braden Looper, Chad Fox, Michael Tejera, Nate Bump, Rick Helling, Mike Redmond, Brian Banks, Lenny Harris, Mike Mordecai, Todd Hollandsworth, Armando Almanza, Toby Borland, Blaine Neal, Kevin Olsen, Tommy Phelps, Tim Spooneybarger, Justin Wayne, Ramon Castro, Josh Willingham, Andy Fox, Kevin Hooper, Jesus Medrano, Wilson Valdez, Josh Wilson, Chad Allen, Chip Ambres, Abraham Nunez, Gerald Williams, and A.J. Burnett, contributed extraordinary performances during the regular season, the playoffs, and the World Series;

Whereas Manager Jack McKeon, who was hired on May 11, 2003, provided strong and wise leadership and bold strategy for a young and resilient baseball team during the regular season and in the postseason and, in the words of one columnist, ''. . . recapture[d] much of what baseball once was, how tangy it tasted, what a field of honor it celebrated and how its central emotion should be joy'';

Whereas the Marlins coaching and support staff, which included Pitching Coach Wayne Rosenthal, Bench Coach Doug Davis, Hitting Coach Bill Robinson, First Base and Infield Coach Perry Hill, Third Base Coach Ozzie Guillen, Bullpen Coaches Pierre Arsenault and Jeff Cox, Team Physician Dr. Daniel Kanell, Trainer Sean Cunningham, Assistant Trainer Mike Kozak, Equipment Manager John Silverman, Assistant Equipment Manager Mark Brown, Visiting Clubhouse Manager Bryan Greenberg, Clubhouse Attendant and Umpire's Room Assistant Michael Hughes, and Visiting Clubhouse Assistant Michael King, exhibited exemplary leadership and guidance to the team;

Whereas Jeffrey Loria purchased the Florida Marlins franchise on February 12, 2002, and stated: ''Our goal is to restore the organization to championship form.'';

Whereas Jeffrey Loria, Chairman, CEO, and Managing General Partner of the Florida Marlins, David Samson, President of the Florida Marlins, and Larry Beinfest, Senior Vice President and General Manager of the Florida Marlins, have shown a positive commitment to the Marlins franchise by successfully acquiring, assembling, and maintaining a team of high-quality, winning players;

Whereas the dedicated Marlins fans supported their team with joy and enthusiasm; and

Whereas the Marlins captivated the United States with their ''never-say-die'' playing style during this historic performance: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates—

(A) the Florida Marlins for winning the 2003 Major League Baseball World Series championship and for their outstanding performance during the 2003 Major League Baseball season; and

(B) Florida Marlins pitcher Josh Beckett for winning the 2003 World Series Most Valuable Player Award;

(2) recognizes and praises the achievements of the Marlins players, coaches, management, and support staff whose hard work, dedication, and resiliency proved instrumental throughout their World Series Championship Season;

(3) commends the Florida community and the Marlins fans for their dedication; and

(4) directs the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to—

(A) the Marlins players;

(B) Marlins Manager Jack McKeon;

(C) Marlins Chairman, CEO, and Managing General Partner Jeffrey Loria;

(D) Marlins President David Samson;

(E) Marlins Senior Vice President and General Manager Larry Beinfest;

(F) the Marlins Coaches;

(G) The Honorable Shirley Gibson, Mayor of the City of Miami Gardens, Florida;

(H) The Honorable Manny Diaz, Mayor of the City of Miami, Florida;

(I) The Honorable Alex Penelas, Mayor of Miami-Dade County, Florida; and

(J) The Honorable Jeb Bush, Governor of the State of Florida.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

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

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Florida Marlins are World Series champions, again. ''The Fish,'' as they are affectionately known in our hometown, this low-budget baseball team that plays in a football stadium, amazed the sports world by defeating the New York Yankees in the World Series on Saturday night.

Who would have expected the Marlins, in only their 11th year of existence, after starting the year with only 19 wins in their first 48 games, after firing their manager in May, that they would rebound to win their second World Series in the last 7 years. But it was not easy. The Marlins' road to the championship was nearly as bumpy as it was unexpected.

When the Marlins struggled early in the season, many commentators speculated that the season was hopeless and that the team would soon unload many of their veteran players to save money for the future. Instead, the Marlins did the opposite, aggressively acquiring key players midway through the summer who proved integral to their eventual championship run. Under the direction of new manager Jack McKeon, the Marlins turned it around and began winning. The Marlins finished the season with a relatively astonishing record of 91 wins and 71 losses, and earned the wild card berth in the National League.

In the first round of the playoffs, the Marlins were slated to take on the most feared slugger in baseball, Barry Bonds, and the defending National League champions, the San Francisco Giants. After dropping game one, the Marlins defeated the Giants in three straight games to win the series. Who could forget Jeff Conine's clutch throw from left field to catcher Ivan Rodriguez for the final out in game 4 that clinched the series.

In the League Championship Series, fate seemed to challenge the Marlins as much as their opponents, as the Marlins squared off against the Chicago Cubs. The red-hot Cubs, who had not even advanced to the World Series since 1945, seemed to have a date with destiny as they took a 3-games-to-1 lead on the Marlins in the best-of-7 series. Incredibly, the Marlins again bounced back to win three straight games and the last two in Chicago to defeat the Cubs in this unforgettable classic.

The unlikely Marlins advanced to the World Series to play the giants of baseball, the New York Yankees. Just like during the regular season, and the two previous playoff series as well, no one besides the Marlins themselves and their fans believed they had a chance. Once more, the Marlins fell behind in the series; this time the Yankees captured a 2-games-to-1 advantage. But remarkably, the Marlins were not to be denied. Paced by their pitching ace, World Series Most Valuable Player Josh Beckett, they triumphed in three consecutive games to win a series for the third time. The entire baseball world was stunned as the Florida Marlins became the World Series champions.

The standouts on this Marlins team were many during the season and through the playoffs, and it seemed like a different player excelled each game. Catcher Ivan Rodriguez seemed to always deliver timely hits and great defense. Pitchers Josh Beckett, Mark Redman, Dontrelle Willis, Carl Pavano, and Brad Penny provided underrated performances all year long, and 20-year-old Miguel Cabrera was called up from the minor leagues in mid-June and was one of the most valuable hitters down the stretch; and their double-play combination of Alex Gonzalez and Luis Castillo was perhaps the league's best.

And we must certainly recognize the manager, Jack McKeon, a man who took over the struggling team midway through the year and led them all the way to a World Series crown. Jack kept the Marlins from unraveling early and motivated them to reach unthinkable heights.

Mr. Speaker, this was the Marlins' second world championship in their short history. It is important to note that the Marlins have never lost a playoff series, winning all six in which they have played.

Mr. Speaker, I am proud to be a cosponsor of House Resolution 415, and I strongly support its speedy adoption. I commend both of my colleagues, the gentleman from Miami, Florida (Mr. MEEK), as well as the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), for introducing this timely measure. I congratulate the Florida Marlins for their unforgettable season.

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

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

Mr. Speaker, the Chicago Bears, Bulls, White Sox and Black Hawks are all in my congressional district; but today, they take a back seat to the Marlins.

Inspiration is what we call this. That is the best way to describe the Florida Marlins, who rose from the ashes, going from 10 games under 500 on May 22 to winning the 2003 World Series.

□ 1515

The road to the World Series title was grueling and draining. The Marlins had to get by Barry Bonds and Company, the Giants, in the division series. Then after trailing 3–1 to the Cubs, again the Marlins came through, beating Mark Prior and Kerry Wood in back-to-back victories at Wrigley Field, sending Dusty Baker and the Cubs back into hibernation, saying wait until next year.

Then the Marlins, who captured the World Series in 1997, won the final three games against the Yankees. They kept their streak intact of never losing a series in the postseason with the help of a 23-year-old right-hander who dominated the playoffs. Josh Beckett threw a five-hit shutout, with nine strikeouts, to clench the World Series with a 2–0 victory over the Yankees in Game 6. Beckett was subsequently named the series Most Valuable Player.

Marlin's manager Jack McKeon said of Beckett, ''Whether it is 3 days or 4 days, guys have a tendency to lose a little, but this guy is special. This guy has got the guts of a burglar. He is mentally tough. I was not about to take him out. It is a spectacular job for a 23-year-old kid that has come on and matured in the postseason. And you are looking at a possible All-Star next year and a 20-game winner. This guy is going to be something special,'' end of quote.

In the 100th World Series game played at Yankee Stadium on the 100th anniversary of the first World Series, another team got to celebrate on the field other than the 26-time champions.

I am sure that that was not only an inspiration for all of the Marlins, but that was an inspiration to baseball lovers all over the country. That was a kind of rejuvenation, if you will, in many instances of the love of the game of baseball.

So we congratulate the Marlins.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), lead cosponsor of this resolution.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I join my colleagues in celebrating the Marlins' win of the World Series. I think we have to recognize that Major League Baseball has perhaps provided the country and the world with the best postseason ever in this month that has just ended. It was an extraordinary series of games, series of series topped off by a wonderful and extraordinary World Series, won by a young and dynamic team that has earned the admiration of the entire world.

Obviously, in south Florida we are extremely proud of our Florida Marlins. They embody in many ways south Florida, from Jack McKeon, the manager, who at age 72 became the oldest manager to lead a team to the World Series, after being called just a few months earlier when he was, in fact, out of a job and many thought that he would never again manage in the Major Leagues, was asked by the front office of the Marlins to come and turn the team around, that they needed someone at the helm with the experience and leadership qualities of Jack McKeon. And what a job he did.

And I think for that job, he needs to be commended. And the front office starting with Jeffrey Loria, the chairman and CEO and managing general partner of the Marlins, and David Samson, the president of the Marlins, and Larry Beinfest, the senior vice president and general manager, what a job they did putting together this young team that faced and defeated a New York Yankees team with over three times the payroll. And, yet, because of the young talent in the Florida Marlins, the Marlins were able to prevail.

What can we say? We can pick example after example that really leaves us in awe. That cleanup hitter, 20-year-old cleanup hitter who just a few months earlier was in AA baseball, in the Minors, and he was called up because he showed such extraordinary talent and Miguel Cabrera became the first 20-year-old since Ty Cobb to bat in the cleanup position in the World Series. What a future he has.

As with so many others in the Florida Marlins, we can go down the roster and analyze and really celebrate the excitement that all of the players represent, from Juan Pierre, that dynamic and really exciting, extraordinarily exciting center fielder, to obviously Ivan Rodriguez, the catcher, who electrified us all with his plays and his hitting day after day, what a World Series it was. So I am glad that the gentleman from Florida (Mr. MEEK) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) have come forth with this resolution which I have joined.

And I think we not only should commend the Marlins for their extraordinary victory and share, obviously, in the celebration that all of south Florida is engaged in, but also remember that this is an opportunity for some tasks that remain undone to be finished.

First I think it is important, and I have full faith and confidence that the front office, the leadership of the Marlins, is not going to do what the ownership did after the last World Series, and that is to basically eliminate that great team, but rather it is our hope, and I am sure that we will see that the nucleus of this team will remain together so that the community can see that team again playing next year and winning, as I am sure that it will.

And we also have in south Florida a great task, which my brother, the gentleman from Florida (Mr. MARIO DIAZ-BALART), was heavily involved in just a few years ago when he was in the State legislature in attempting to put together all the pieces that are required for a new stadium. And south Florida needs a new baseball stadium. And I hope that this impetus now that has been gained by this marvelous victory can serve for the community to come together and perhaps dust off the plan that almost succeeded just a few years ago that was a very good and interesting plan, and that a baseball stadium can be built because this team, this dynamic, wonderful team deserves it, and the community deserves it.

And so congratulations to that wonderful team, the Florida Marlins.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. MEEK), who himself was an outstanding athlete at Florida A&M, playing outside linebacker before he became an outstanding elected official.

Mr. MEEK of Florida. Mr. Speaker, I want to thank the gentleman from Illinois (Mr. DAVIS) for his very kind remarks as it relates to not only good sportsmanship but recognizing an outstanding team in the Florida Marlins.

We have had many conversations during the series of the Cubs and the Marlins, and he was quite honorable. He was a man of faith in his own team, but not only perseverance but a little magic moved the Marlins along.

I want to thank my colleagues, the gentlewoman from Florida (Ms. ROS-LEHTINEN), also the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), who are very fine friends of mine, who are all Marlin fans in Miami-Dade County, including my colleague the gentleman from Florida (Mr. MARIO DIAZ-BALART.)

Mr. Speaker, I rise today to not only congratulate the Marlins, but congratulate those individuals that live in south Florida and throughout the world that are fans of the Marlins, some old and some new. I think the Marlins' victory in the World Series was very good for the country, taking the lead from my good friend, the gentleman from Georgia (Mr. LEWIS), when he was sharing with me that it would be good for the country if the Cubs in Boston would be able to make it to the World Series.

But watching those games, which I had the opportunity to witness some personally in south Florida, I cannot forget the experience not only that the Marlins experienced when we went to Yankee Stadium during the Series, not on Saturday night but the night before that, and we were there, and I ran into my good friend Armando Cadina and his wife Margerete and also his daughter Ann Marie, it was quite an experience because we seemed to be the only Marlins fans in the whole stadium.

Yankees fans, my hats are off to you. You are my future constituents in Florida, so I have to be nice to you. But I just want to say that it was quite an experience for the Marlins to actually win a victory, a 0–2 victory, an outstanding series, an outstanding game in New York on Saturday that I witnessed on television in low temperatures. We are used to 80-plus in south Florida. It was just outstanding.

Mr. Speaker, I brought the Miami Herald that was thrown on my lawn on Sunday morning that just simply said ''Amazing.'' And I must say that the Marlins' season was amazing.

Both of my colleagues referenced the manager of the Marlins. I must say that it is a story that I believe that Americans can buy into, that older Americans and wiser Americans still have a lot of contribute to this country. And I think it was his leadership that led this very young team to their second world championship.

And I must say being a young person myself and having great respect for wiser and older individuals, I think that we need to understand in this country, even through the love of baseball, that we need to put that love in our own life practices, making sure that we give those that have contributed in the past an opportunity to contribute again.

And I want to commend not only the Marlins leadership, the president, but also the vice president and managers that they hired Jack McKeon to be the manager of the Marlins once again.

Mr. Speaker, I also would like to add that it is important that we continue to not only honor those individuals that won the World Series but also that they put it on behalf of Americans, at a time of war and a time of conflict overseas. It is always good for us to come together as Americans. It is always good for colleagues to come together in such a resolution as this.

This Resolution 415 is a resolution sponsored by every member of the Florida delegation, all 25 members. I

would like to commend them for doing so.

Once again, to the Florida Marlins, we appreciate you, we commend you. We like our New York fans, we like our Cubs fans, we like our Giants fans, but we love our Marlins fans. And the people of Miami had three celebrations, Mr. Speaker, for the Marlins yesterday, one down Flagler Street where they had an outstanding ceremony at the end of that, one in Little Havana, and another one in Ft. Lauderdale with a boat parade.

Marlins, you deserved what you received. I want to thank Mr. Beckett for being the MVP of the World Series. I wish him many, many more seasons.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield such time as he may consume to a very frustrated Cubs fan, the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, I want to commend the resolution. I also want to commend the Florida Marlins. They are a terrific team. Their outfield speed, their pitching, their fans, their coach, is really outstanding. I think it is a pretty good deal.

I saw in the paper the other day that they are only a 15 to 1 team to repeat next year. I think that is a pretty good deal, by the way, particularly now that they signed, resigned Jack McKeon.

I just have one question, though, for the gentlewoman from Florida (Ms. ROS-LEHTINEN). And I was a good loser. I helped participate with the Chicago folks in providing Chicago pizza and a few other things for the delegation. I want to ask if there is anything in this resolution, and I admit that I have not read it yet, that either praises that right fielder for the Giants that dropped that ball at the critical point in the play-offs, or Steve Bartman?

Ms. ROS-LEHTINEN. Mr. Speaker, would the gentleman yield?

I am sure that we will be glad to consider any further resolutions in the future, but right now we are just so very proud of the Fish. And I am sure that you would agree that there is always next year.

Mr. UPTON. Mr. Speaker, there is always next year. We have been saying that for a lot of years, though.

Mr. DAVIS of Illinois. Mr. Speaker, I do not have any additional requests for time, but just simply the words of the Cubs: Wait until next year. And we congratulate the Marlins for an exciting year. We will see what happens in the future.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I have no other speakers. I want to congratulate again the Marlins manager Mr. McKeon, the Florida Marlins team, all the administrators, and everyone involved, including the fans, for the remarkable World Series championship.

I also want to congratulate my colleagues from Florida once again, the gentleman from Florida (Mr. MEEK) and the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) for giving their support to this resolution being considered by the House today. I urge its adoption. Go Fish.

Mr. SHAW. Mr. Speaker, I rise today in recognition of the 2003 World Series Champions, the Florida Marlins. Earning the reputation of a team that does not quit or tire, the Marlins defeated the famed New York Yankees in a thrilling 6-game series. Having never lost a post season series, the Marlins defeated the San Francisco Giants in four games and the Chicago Cubs in an exciting seven game series.

The National League Championship Series garnered the excitement and thrill baseball fans have not witnessed in some time. Playing in famed Wrigley Field, the Marlins took Game 1 and headed home to the friendly confines of Pro Player Stadium with a split in the series. Games 3 and 4 went the way of the Cubs resulting in a 3 to 1 deficit that looked monumental to overcome. However, under the leadership of Manager Jack McKeon and behind the arm of pitcher Josh Beckett, the Marlins and Beckett gave baseball fans across the country an exciting two-hit, complete game shutout sending the series back to Chicago. Down 3 games to 2, the Marlins players were never swayed from their sheer competitive spirit and gamesmanship. With the undaunting task of facing Cubs' ace Mark Prior, the Marlins battled the Cubs the entire game. However, with one out in the top of the eighth inning, a World Series berth seemed out of reach. In a span of 10 minutes, the Marlins had turned Game 6 from being down 3–0, to leading 8–3 due to the solid hitting of men like Juan Pierre, Pudge Rodriquez, Miguel Cabrera, Jeff Conine, Derek Lee, and utility fielder Mike Mordecai. The thrilling series was now deadlocked 3 games apiece.

Game 7 is every fan's postseason dream. Two teams tied and playing with everything on the line with the chance of being crowned National League Champions and a trip to the fall classic. As we all know, the Marlins came out swinging against Cubs star pitcher Kerry Wood. Despite losing a lead, the Marlins continued their case of consistent and timely hitting. In the end, the Marlins once again shocked the baseball world. In just 10 short years, the Marlins were headed back to their second World Series—participating in Major League Baseball's 100th World Series.

Behind the outstanding leadership of Jack McKeon, the Marlins stole the show in Yankee stadium by defeating the Yankees in Game 1. Heading back to South Florida, Marlins fans packed Pro Player Stadium cheering this exciting young team on the home field. Battling past the hype of Roger Clemens' final start, the Marlins battled the Yankees winning Game 4 and in a thrilling 12 innings thanks to the game ending heroics of shortstop Alex Gonzalez. Last Thursday, the Marlins, behind stellar pitching by Carl Pavano, sent the Series back to Yankee Stadium leading 3 games to 2. With the stage set for Game 6, Jack McKeon decided on the arm of Josh Beckett to deliver the championship to South Florida. Beckett pitched a gem. A nine-inning complete game, shut out by holding Yankee hitters to five hits in a 2–0 win. What a performance!

Mr. Speaker, this Marlins fan congratulates Chairman and CEO Jeffrey Loria, Skipper Jack McKeon, the Marlins coaching staff, MVP Josh Beckett, each player and the entire Marlins organization and fans on an exciting 2003 World Series.

Mr. STEARNS. Mr. Speaker, I wanted to rise today and join my colleagues from the Florida Delegation in commending the World Champion Florida Marlins. It was your classic Cinderella story in which the Marlins knocked out the heavily favored Yankees in a comeback season not soon to be forgotten. Led by skipper Jack McKeon, the Marlins, dealing with the adversity of a coaching change, rebounded from a 16–22 record to finish 91–71, making them only the ninth team in Major League history to rally from at least 10 games under .500 to reach the playoffs. In Game 6 in front of a hostile crowd, McKeon's Marlins, aided by the stout pitching of Josh Beckett, took the World Series title, four games to two. With their second title in the franchise's 11 years, I believe the Marlins are in good hands. Jack McKeon who turns 73 next month, is the oldest coach in any major U.S. professional sport to lead his team to a championship, and I surely hope that he will agree to return for a run at it again in 2004.

Mr. MILLER of Florida. Mr. Speaker, I rise today to congratulate the Florida Marlins on winning the 2003 World Series. The team is a great source of pride for my home state and proved, against the odds, exactly what it was capable of.

The Marlins certainly had to work hard for their second championship. Their opponent, the New York Yankees, had won four of the last eight World Series. This Florida team surprised many with its victory, but they deserve every bit of praise. Even changing the team's management, mid-season, did not keep them from obtaining baseball's top award.

I urge my colleagues to join me in recognizing the 2003 World Series Champions, and I congratulate the Florida Marlins on a fantastic season. Your Congress is proud of what you have accomplished.

□ 1530

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 415.

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

A motion to reconsider was laid on the table.

WELCOMING PRESIDENT CHEN SHUI-BIAN OF TAIWAN TO UNITED STATES

Mr. CHABOT. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 302) expressing the sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States on October 31, 2003.

The Clerk read as follows:

H. CON. RES. 302

Whereas for more than 50 years an ironclad relationship has existed between the United States and Taiwan which has been of enormous economic, cultural, and strategic benefit to both nations;

Whereas the United States and Taiwan share common ideals and a clear vision for

the 21st century, where freedom and democracy are the foundations for peace, prosperity, and progress;

Whereas Taiwan has demonstrated its unequivocal support for human rights and a commitment to the democratic ideals of freedom of speech, freedom of the press, rule of law, and free and fair elections routinely held in a multiparty system;

Whereas the upcoming October 31, 2003, visit to the United States of Taiwan's President Chen Shui-bian is another significant step in broadening and deepening the friendship and cooperation between the United States and Taiwan;

Whereas on October 31, 2003, Taiwan's President Chen Shui-bian will be presented an award by the International League for Human Rights for his efforts in promoting tolerance, democracy, and human rights; and

Whereas Taiwan's President Chen Shui-bian will bring a strong message from the Taiwanese people that Taiwan will cooperate and support the United States campaign against international terrorism and efforts to rebuild and bring democracy and stability to Afghanistan and Iraq: Now, therefore, be it

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

(1) offers its warmest welcome to President Chen Shui-bian of Taiwan upon his visit to the United States on October 31, 2003;

(2) asks President Chen Shui-bian to communicate to the people of Taiwan the support of Congress and of the American people;

(3) recognizes that the visit of President Chen Shui-bian of Taiwan to the United States is a significant step toward broadening and deepening the friendship and cooperation between the United States and Taiwan;

(4) congratulates President Chen Shui-bian on his receiving the Human Rights Award from the International League for Human Rights; and

(5) thanks President Chen Shui-bian and the government and people of Taiwan for their humanitarian and medical assistance in Afghanistan and post-war Iraq as well as for their willingness to contribute to the peace, stability, and prosperity of the Middle East.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. CHABOT) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

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

GENERAL LEAVE

Mr. CHABOT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 302.

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

There was no objection.

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

Mr. Speaker, I first of all want to thank the distinguished gentleman from California (Mr. LANTOS) for his leadership on this issue. And I might add that I had the opportunity just to get back last night from a trip to Baghdad and Turkey and Jordan as well, and traveling with the gentleman from California (Mr. LANTOS) is like travel basically in a seminar and listening to him talk about the situation. One learns a great deal, not only in committee but traveling with the gentleman from California (Mr. LANTOS); and I want to thank him for his leadership and for educating many of us who were with him.

I also wanted to commend my colleague, the gentleman from Florida (Mr. WEXLER), who is also a fellow co-chair of the Congressional Taiwan Caucus, for offering this resolution, as well as my colleagues, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Ohio (Mr. BROWN), who are also founding co-chairs of the caucus.

Mr. Speaker, I rise today to express my enthusiastic support for H. Con. Res. 302, a resolution warmly welcoming the visit to the United States of Taiwan President Chen Shui-bian. I call upon all Members to join in supporting a resolution which affirms the American values of democracy and human rights, for there is no place in the world providing a clearer example of respect for these values than that of Taiwan.

President Chen was inaugurated after fair and free elections where the people of Taiwan, despite high-handed pressure from the outside, exercised their free choice in selecting their leadership. Taiwan stands out as a shining example, a beacon of these democratic values which reaches across the strait to the people of mainland China.

It is also fitting and proper that the Congress should welcome the visit of the leader of this flourishing democracy, a testament to the fact that Chinese culture is not inherently inconsistent with democratic values. The International League of Human Rights, which will present President Chen a human rights awards for its efforts in promoting tolerance, democracy and human rights, fully recognizes the fact that Taiwan and its democratically elected leader are sterling examples for not only Asia but for the entire world.

I note that despite his busy New York schedule, President Chen will take time to visit a memorial to mourn the passing of the former first lady of China and Taiwan, Madam Chiang Kai-shek, who died in Manhattan last week at the venerable age of 105 years old.

Madam Chiang's passing reminds us again of the long and enduring ties between the freedom-loving people of the United States and the freedom-loving people of Taiwan. Madam Chiang was the first Asian woman to address a joint session of this Congress during the World War II era when we were united in the ultimately successful struggle against international fascism during that war. She returned to the Congress in 1995 to commemorate the 50th anniversary of the conclusion of that historic conflict. We in the Congress join President Chen and the people of Taiwan in mourning Madam Chiang's passing.

Finally, I do not want to miss the opportunity provided by President Chen's visit to thank him and the people of Taiwan for their steadfast support for the campaign against international terrorism, the prevention of the spread of weapons of mass destruction, and the reconstruction of both Iraq and Afghanistan.

The recent interdiction by Taiwan port authorities of chemical cargo bound for North Korea is but one example of their continued support in the war against international terrorism.

With the passage of this resolution, the House warmly welcomes President Chen Shui-bian and congratulates him on receiving the Human Rights Award.

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

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

Mr. Speaker, I rise in strong support of this resolution. At the outset, let me thank my good friend, the gentleman from Ohio (Mr. CHABOT), for his undeserved and very generous comments for which I am very deeply grateful.

Mr. Speaker, I want to commend my friend and distinguished colleague, the gentleman from Florida (Mr. WEXLER), for introducing this significant resolution.

When I first visited Taiwan decades ago, it was a destitute dictatorship. It is now a thriving and prosperous free and democratic society. The political landscape in Taiwan has fundamentally changed over the past 2 decades. Authoritarian rule has been tossed aside, and Taiwan's leaders are now chosen by free and fair elections. Taiwan has become a vibrant democracy, serving as a beacon to those across the entire Asia Pacific region who yearn for freedom, showing that democracy can and does thrive in a Chinese context.

The resolution before us, Mr. Speaker, welcomes the elected President of Taiwan, Chen Shui-bian to the United States during a so-called transit visit.

Mr. Speaker, we are, of course, pleased that President Chen is transiting the United States and he will have the opportunity to meet with Members of Congress and other American leaders over the next few days. But if Taiwan were any other nation, Mr. Speaker, President Chen would be welcomed with a Rose Garden ceremony, a state dinner, and the opportunity to address a joint session of Congress. These honors, Mr. Speaker, would be commensurate with the increasingly close and mutually beneficial relationship between our two countries. Not only is Taiwan a bulwark of democracy in the Asia Pacific region, it is our eighth largest trading partner. We have an extremely close security relationship, and Taiwan has stepped up to provide humanitarian and medical assistance in both postconflict Afghanistan and postconflict Iraq.

In short, Mr. Speaker, Taiwan is one of our closest allies in the Asia Pacific region. Yet, due to the sensitivities of

the People's Republic of China, the executive branch refuses to give Taiwan the status and recognition it deserves.

Mr. Speaker, I support a strong and vibrant relationship between the PRC and the United States. Provocative steps which upset the peace across the Taiwan straits should be avoided; but we must find new ways to show the people of Taiwan that the United States recognize Taiwan's profound economic and Democratic transformation and that our Nation will work energetically to promote a greater role for Taiwan in the community.

Mr. Speaker, I look forward to meeting with President Chen this weekend and discussing with him ways in which we can strengthen the political, economic, and security ties between our two nations. I will tell President Chen that this Congress will not stop fighting until Taiwan can participate in the World Health Organization and many other international organizations in which Taiwan can and will make a significant contribution. I strongly urge all of my colleagues to support this resolution.

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

Mr. CHABOT. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DELAY), the distinguished majority leader.

Mr. DELAY. Mr. Speaker, in the world today, few men live their lives as a model of courage and freedom with as much vigor as Chen Shui-bian.

As President of Taiwan, Chen has been a stalwart champion of human rights and an ally of the United States in the war on terror. And during his visit to New York this week, President Chen will be recognized by the International League of Human Rights promoting and defending the inalienable rights of all men to life, liberty, and the pursuit of happiness.

With this resolution, the American people will welcome President Chen to our Nation and send a message with him back across the Pacific that the United States stands in solidarity with the people of Taiwan. And during his time in office, President Chen has revealed himself to be a true friend of the American people, and a vital ally in pursuit of our common interests around the world.

I was honored to host President Chen myself in Houston in 2001, his first such visit to the United States, during which we took in an Astros game and had the chance to introduce him to Texas cuisine. And I know it did not compare with shark fin soup, but I think he liked it nonetheless.

Mr. Speaker, Taiwan is an indisputable success as an ally and as a nation. America's solidarity with Taiwan and her people, the solidarity of freedom, will not be served by convenience nor threatened by bullying.

Our brave friend President Chen leads an island of hope, Mr. Speaker, a light shining out from dark shadows of an oppressive tyranny. With this resolution we will tell the citizens of that shining island that we see their light on the horizon and know the sun of freedom is rising over the Pacific.

I urge my colleagues to send that message of hope and solidarity to the people of Taiwan and vote for this resolution.

Mr. LANTOS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. WEXLER), the distinguished author of this resolution.

Mr. WEXLER. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS) for yielding me time.

Mr. Speaker, as co-chair of the Taiwan Caucus, I join my colleagues, the gentleman from California (Mr. ROHRABACHER), the gentleman from Ohio (Mr. CHABOT), and the gentleman from Ohio (Mr. BROWN), in strongly supporting this resolution welcoming the President of Taiwan, President Chen, to the United States.

Since assuming office in May 2000, President Chen has demonstrated his steadfast commitment to the ironclad relationship between the United States and Taiwan and the shared principles upon which our partnership has been formed, that of democracy, freedom, and the defense of human rights. In fact, during his visit to America, President Chen will be presented an award by the International League for Human Rights in recognition of his efforts to promote tolerance and freedom amongst the people of Taiwan. And I would like to express my most sincere congratulations to President Chen for receiving this highly esteemed award.

Mr. Speaker, in the past decades, Taiwan has blossomed into a strong and dynamic democracy. It has experienced unprecedented economic, political and social growth, culminating with its entry into the World Trade Organization in 2002.

□ 1545

Taiwan has demonstrated its unequivocal support for freedom of speech, freedom of the press and the rule of law and a commitment to democracy and its multifaceted alliance with the United States. In fact, under President Chen's leadership, Taiwan has joined the war against terror and contributed humanitarian and medical assistance to American-led peacekeeping efforts in Afghanistan and Iraq.

On behalf of the Congressional Taiwan Caucus, I wish to express our appreciation to President Chen and the Taiwanese people for this invaluable assistance and pledge America's continued commitment to the security and prosperity of Taiwan.

President Chen's visit to America serves as a reminder that Taiwan is one of America's most important allies in East Asia and a model of democracy and progress in the region. I applaud President Chen for his bold leadership, resolve, and vision and urge my colleagues to join me, to join us in welcoming him to the United States and thanking him for the deepening and historic, mutually beneficial relationship between America and Taiwan.

Finally, I would like to reiterate the comments by the gentleman from California (Mr. LANTOS) suggesting in the most critical of terms that Taiwan be given the opportunity to enter the World Health Organization. The experience with respect to SARS this past year points out how important it is that Taiwan be given that opportunity, and the people of Taiwan should always know that the people of America will stand with them in their fight and defense of freedom.

Mr. CHABOT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Speaker, I also want to take this opportunity to express our warm welcome to President Chen and his delegation from Taiwan to New York City and obviously to support this legislation.

Taiwan and the United States have enjoyed a very close relationship with each other for more than 50 years. It is political, it is economic, it is cultural. It has been a rich association for both of us. In fact, Mr. Speaker, despite its size, it is our 8th largest trading partner, and we are Taiwan's largest trading partner.

For this and for many other reasons, the United States must unabashedly, unabashedly stand behind the Taiwan Relations Act which will communicate our resolve, our intention, our commitment for a peaceful resolution in Taiwan.

Mr. Speaker, it has always been that Taiwan has been a reliable ally to the United States. They stood with us, shoulder to shoulder, right after 9/11, and Taiwan has given us its support of our war with Iraq and, as a Nation, has promised humanitarian assistance into postwar Iraq. So I look forward to meeting with him in New York and hearing his vision and commitment to the continued democratization of Taiwan.

Just as a footnote, I might point out he is coming up for reelection. Just like all of us come up every 2 years, he comes up for reelection in March of 2004. He is going to be involved with a free, open election process, and with the free election process in Taiwan, they have a very active campaign structure, and so I look forward to that just as he does.

I might also point out that he is the first opposition candidate to ever be elected in Taiwan. So, again, I think today we can look at that country and say democracy is not only working, it is working uniquely, and we want to commend him and stand behind that wonderful country of Taiwan.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from Ohio (Mr. BROWN), a distinguished member of the Committee on International Relations.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS) for his work and his managing of this bill and his incredible support for human rights around the world, for his entire service in Congress.

I also want to thank the sponsors of this resolution and the cochairs and founders of the Taiwan Caucus, the gentleman from Ohio (Mr. CHABOT), my friend, the gentleman from California (Mr. ROHRABACHER), and the gentleman from Florida (Mr. WEXLER), and I join all of them in urging my colleagues to join me in welcoming President Chen Shui-bian as he visits the United States this weekend.

The United States and Taiwan are true democracies that share common ideals and share a clear vision for the future. Taiwan is a country where freedom and democracy have become the foundation for peace, for prosperity, for progress.

Taiwan shares common goals with the United States in supporting human rights and a commitment to the democratic ideals of freedom of speech, freedom of the press and free and fair elections that are the strength of any democracy, but with Taiwan, it has not always been that way.

My first trip to Taiwan was many years ago when Taiwan was still under marshall law. It was not anything close to a democracy. It was a country with one-party rule. Some used the word ''fascist.'' Others used other words to describe Taiwan, but one of the real miracles of the world in the last 2½ decades is what has happened to that country, a country that went from one-party totalitarian rule to a country that is democratic, that is prosperous, that shares the ideals of our country.

That miracle, that road to progress, that road to democracy was in large part because of the courage and the fervor for human rights exerted by people like Chen Shui-bian who sacrificed a great deal of his life, his family's life and much of his time on this earth to sacrifice that to bring Taiwan forward.

The move towards democracy, the miracle of Taiwan is partly because of Chen Shui-bian, partly because of his political party of the DPP and largely because of the commitment of Taiwanese in Taiwan and Taiwanese overseas in this country who have been a major part of that.

The effort for Taiwan to get into the World Health Organization, as the gentleman from Florida (Mr. WEXLER) mentioned, as the gentleman from California (Mr. LANTOS) mentioned has not yet reached fruition. That is so very very important.

On a personal level, I have met President Chen Shui-bian when he was mayor and when he was a candidate for the presidency of his country. He has done a terrific job in dealing with issues like SARS. He has done a terrific job in beginning to rebuild the economy in his country. He and his political party, the DPP, have done a miraculous job in helping to create the miracle that we know as Taiwan. It is a country that we should look to as a model for much of the rest of the world, for a developing country, that did not enjoy the fruits of democracy and has moved towards that and puts them in the community of nations. We owe it to that nation, that country to embrace them in the community of nations.

I think President Chen Shui-bian's visit to the United States will help do that this weekend.

Mr. CHABOT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), who has been a tireless leader for speaking out on behalf of the people of Cuba.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I thank my friend from Ohio for yielding me the time.

For me, I consider it a privilege and an honor to be able to speak on behalf of the resolution welcoming to the United States the elected President of the Republic of China of Taiwan. I have always had admiration for the Republic of China of Taiwan.

I believe that first they demonstrated an extraordinary, an extraordinary and commendable and admirable will and devotion to work and to sacrifice that permitted them to achieve economic prosperity which is the envy of the world, and then they have made, as our distinguished colleagues have mentioned today, also extraordinary and admirable progress in democratization and have, in fact, established a representative democracy that is to be admired by all of the world.

So I join my colleagues in welcoming President Chen Shui-bian to the United States. The entire Congress and the American people welcome him and say to him that we consider it a great privilege to be able to be an ally and a friend of Taiwan, that that will always be reality, and here in Congress I think it is important, Mr. Speaker, that we reiterate our support for Taiwan, for the Taiwan Relations Act and that we never falter, never falter in support and in reminding the world that the safety and security of Taiwan is a matter of extreme importance to this Congress, to the American Government and to the American people.

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

We are all looking forward to the distinguished President's visit. It will further strengthen U.S.-Taiwan relations, and on behalf of all of us in Congress, we are honored to have him come again to the United States.

Mr. BALLANCE. Mr. Speaker, as many Chinese-Americans and American friends of Taiwan prepare to welcome Taiwan President Chen Shui-bian to New York on October 31, I wish to pay tribute to this impressive Taiwan leader.

At the age of 49, Mr. Chen Shui-bian was elected the tenth president of the Republic of China on Taiwan in March 2000. Mr. Speaker, I have learned that his political success came only after a series of personal tragedies. As active political opponents of the government in the 1970's and 1980's, Mr. Chen and his wife were often targets of attack by the government. In November 1985, Mr. Chen's wife was hit by a tractor-truck speeding out of a narrow lane. Although Mrs. Chen's life was spared, the lower half of her body was paralyzed. Mr. Speaker, In 1986, Mr. Chen was sentenced to eight months in prison for libel for criticizing the government. At the end of 1986, campaigning in her wheelchair Mrs. Chen was elected to the Legislative Yuan (Parliament). After Mr. Chen was released from prison in 1987, he served as Mrs. Chen's assistant and joined the Democratic Progressive Party, the opposition party.

Subsequently, Mr. Chen became a member of the Legislative Yuan, chairman of the Formosa Foundation and Mayor of Taipei, prior to his election as president in 2000. President Chen undoubtedly is a fighter for his people and his country. He has instilled confidence in his people, making them feel that they are important, that they matter in the world, and that they must choose their own future, without interference from outside sources. Mr. Speaker, there are many who believe that President Chen speaks for his people; the world should listen carefully to what he has to say; and only he and his people can help maintain peace and stability in the Taiwan Strait. Mr. Speaker, President Chen needs our help to make the right decisions that are good for Taiwan.

I ask my colleagues to join me in supporting President Chen's efforts.

Mr. KIRK. Mr. Speaker, I join my colleagues in welcoming our distinguished guest, President Chen Shui-bian of Taiwan, to the United States.

Mr. Chen Shui-bian was elected president of the Republic of China on Taiwan on March 20, 2000. Since his election, he has shown true leadership in improving Taiwan's economy, instituting further democratic reform, and strengthening Taiwan's role in the international community.

I am confident that President Chen will further strengthen Taiwan's strong ties with the United States. Taiwan has been a key ally in our efforts against global terrorism, and has pledged assistance to the rebuilding of Afghanistan and Iraq.

I also trust that President Chen will soon begin a dialogue with the leaders of the People's Republic of China with the interests of the 23 million people of Taiwan in mind. Taiwan is a sovereign nation and must make its own decisions about its future without coercion from the People's Republic.

I applaud President Chen's insistence on his people ''walking their own road, their own Taiwan road.'' President Chen is a dynamic leader with a vision for Taiwan's future, and I join my colleagues in wholeheartedly welcoming him from one democracy to another.

Mr. CARDOZA. Mr. Speaker, I rise today to welcome Taiwan's President, Chen Shui-bian as he travels through the United States later this month. President Chen recently celebrated his third anniversary in office; a term of service which has been marked by Taiwan's

strong support and friendship with the United States.

During his time in office, President Chen has shown that he is a thoughtful, responsible leader, which has been evident in his handling of cross-strait relations with the People's Republic of China. President Chen has consistently stated that both sides of Taiwan Strait have an obligation to uphold the principles of ''goodwill reconciliation, active cooperation and permanent peace.'' Regrettably, despite his many calls for dialogue and cooperation, the Chinese government has insisted on the dated ''one country, two systems'' formula as the solution to the Taiwan issue.

President Chen's has asserted that ''Taiwan is not a province of one country'' but a sovereign nation. I strongly agree with his assertion and believe that President Chen is right to guide his country and his people toward a brighter, more prosperous future.

As a strong supporter of Taiwan and its people, I believe the widespread praise President Chen has received is well earned. He has proven to be an effective leader for all of his people, with an unswerving dedication to continued democratization, economic reform and basic recognition of human rights.

I believe President Chen's U.S. visit will further enhance U.S.-Taiwan relations and friendship. The Untied States and Taiwan have been allies, partners and friends and this unique relationship will continue to grow stronger in the future.

Mr. Speaker, America welcomes President Chen and salutes him upon the many successes and achievements of his administration.

Mr. TANCREDO. Mr. Speaker, I rise today to welcome President Chen Shui-bian of Taiwan to the United States, and to wish him a pleasant visit to New York City at the end of this month. I am pleased that he will have an opportunity to visit with many Members of this Congress, and I am confident that his visit will be productive for our two countries.

During this time of uncertainty and regional instability in many areas around the world Americans appreciate President Chen's continued efforts and dedication to winning the war on terror, his pledge to provide humanitarian assistance in Afghanistan and Iraq, and his support for the United States as President Bush and regional leaders work to diffuse tension on the Korean peninsula.

Taiwan has been a reliable friend of the United States for many decades, and I hope that his visit will provide an occasion for our two nations to further strengthen our positive and mutually beneficial relationship.

I also want to assure President Chen and the people of Taiwan that they have many friends in the United States, and to reiterate America's support and commitment to the security of Taiwan embodied by the Taiwan Relations Act, and President Bush's statement last spring that, ''Our nation will help Taiwan defend itself,'' should that need ever arise. I also want to again state my unequivocal support for Taiwan's participation in international organizations like the World Health Organization and the United Nations.

Mr. Speaker, I applaud President Chen's insistence on pursuing a higher standard of human rights for people in Taiwan and across the globe, his commitment to individual liberty and democracy, and would like to again thank him for the stabilizing influence that his democratically elected government brings to the entire region.

I welcome President Chen to America, and I hope that many of my colleagues have the chance—as I have—to meet and visit with him when he arrives later this month.

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

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

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 302.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 2443, COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2003

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 416 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 416

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my good friend, the distinguished gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

(Mr. LINCOLN DIAZ-BALART of Florida asked and was given permission to revise and extend his remarks.)

□ 1600

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, House Resolution 416 is an open rule providing for the consideration of H.R. 2443, the Coast Guard Maritime and Transportation Act of 2003. The rule provides 1 hour of general debate, evenly divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. The rule also provides one motion to recommit with or without instructions.

Mr. Speaker, the legislation before us authorizes over $7 billion for the Coast Guard and $18.74 million for the Federal Maritime Commission in fiscal year 2004. The legislation is essential in the effort to strengthen the Coast Guard in its ever-increasing role to defend the homeland.

In this bill we face a turning point in the effectiveness of the Coast Guard. The Department of Homeland Security has called on it to be the defender of American coasts while, at the same time, sending needed resources, soldiers, and vessels to the battle against terrorism in the Middle East.

I am pleased to highlight the Integrated Deepwater System acquisition program. The Deepwater System provides the needed capital to institute effective acquisition of the cutters, computer equipment, and other resources that the Coast Guard so desperately needs. The Deepwater System has not received the funding that was outlined in 1998, but this bill makes up for the years of acquisition lost. H.R. 2443 authorizes $702 million for fiscal year 2004 to ensure that this acquisition remains on pace, allowing the Coast Guard to remain effective both at home and abroad.

The Coast Guard is particularly important to my district and constituents in south Florida, Mr. Speaker. The Coast Guard Integrated Support Command in Miami is essential to the safety and security of the area. The Coast

Guard in south Florida coordinates integrated plans aimed at hurricane safety, recreational boater safety, and, most important, protection of our coastline from terrorism and drug trafficking.

H.R. 2443 was reported out of the Committee on Transportation and Infrastructure by a voice vote. This is very good legislation, it is essential to our continued commitment to the security and safety of all citizens and residents of the United States, and we have brought it forth, Mr. Speaker, under a fair and, in fact, open rule.

I would like to thank the chairman, the gentleman from Alaska (Mr. YOUNG), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for their important work on this legislation; and I urge my colleagues to support both the rule and the underlying legislation.

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank my friend and colleague, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), for yielding me this time; and I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this rule and the underlying legislation. I believe I speak for every Member of this side of the aisle when I say that I appreciate the efforts of the majority to bring this bill to the floor today under an open rule and in a bipartisan manner. I only wish that more bills of significant importance in this body and to the country were considered in a similar fashion. Today's rule is an open rule, and Members are permitted to offer germane amendments to the Coast Guard and Maritime Transportation Act.

As my colleague previously mentioned, the underlying legislation authorizes $7.1 billion in fiscal year 2004 for activities of the United States Coast Guard and $18 million for the Federal Maritime Commission. The level of funding that the House is providing to the Coast Guard is a 4 percent increase over the amount that was appropriated for the agency under the Homeland Security Appropriations Act for fiscal year 2004. The bill also provides the Maritime Commission with an 11 percent increase over last year's funding.

In addition to funding these two important Federal agencies, this bill amends current law affecting the Coast Guard's requirement to fire warning shots, inspect foreign vessels, and collect user fees. The legislation increases the number of commissioned officers in the Coast Guard as well as the number of active duty officers. The bill also improves our ability to respond to oil spills by requiring that oil-carrying vessels develop oil spill response plans. And my goodness gracious is that too long overdue for our Nation and, indeed, the world?

Mr. Speaker, the Coast Guard is charged with the responsibility of patrolling the 12,452 miles of coastline in the United States. Nearly 2,000 of these miles are located in Florida, in my district, as well as that of the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), and the Speaker pro tempore's, the gentleman from Florida (Mr. FOLEY), where the Coast Guard plays, as we so well know, an integral role in patrolling our shores and protecting our citizens. The increase in funding provided in the underlying legislation for this important branch of the United States Armed Services serves as a statement about the role of the Coast Guard in our global war on terrorism.

Reports have shown that America's ports remain susceptible to attack and infiltration by America's enemies. And it does not go insignificantly or symbolically mentioned that I, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), and the present Speaker pro tempore, the gentleman from Florida (Mr. FOLEY), all three of us on the floor at this time, represent three major ports: Port Everglades, the Port of Palm Beach, and the Port of Miami. Those three ports alone handle more than 13.2 million tons of cargo. In all, well over 1.5 million shipping containers were processed by South Florida longshoremen during the last year.

Certainly these statistics highlight the pressing need to increase the number of customs agents working in America's ports, but they also suggest that the roles of the Coast Guard and the Federal Maritime Commission in protecting our ports are greater than ever.

Mr. Speaker, when Congress created the Department of Homeland Security, it not only reorganized the Federal Government, but it also recommitted itself to the security of America. The underlying legislation, which the House will consider later today, is an extension of that commitment.

Mr. Speaker, I urge all of our colleagues to support the rule and the underlying legislation.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. FOLEY). Without objection, the previous question is ordered on the resolution.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 4:45 p.m.

Accordingly (at 4 o'clock and 7 minutes p.m.), the House stood in recess until approximately 4:45 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BEREUTER) at 5 p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 1720, by the yeas and nays;

Senate amendments to H.R. 1516, by the yeas and nays;

H.R. 3365, by the yeas and nays, and

House Resolution 414, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining votes in this series will be 5-minute votes.

VETERANS HEALTH CARE FACILITIES CAPITAL IMPROVEMENT ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1720, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 1720, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 17, as follows:

[Roll No. 576]

YEAS—417

Abercrombie	Bono	Collins
Ackerman	Boozman	Conyers
Aderholt	Boswell	Cooper
Akin	Boucher	Costello
Alexander	Boyd	Cox
Allen	Bradley (NH)	Cramer
Andrews	Brady (PA)	Crane
Baca	Brady (TX)	Crenshaw
Bachus	Brown (OH)	Crowley
Baird	Brown (SC)	Cubin
Baker	Brown, Corrine	Culberson
Baldwin	Brown-Waite, Ginny	Cummings
Ballance	Burgess	Cunningham
Ballenger	Burns	Davis (AL)
Barrett (SC)	Burr	Davis (CA)
Bartlett (MD)	Burton (IN)	Davis (FL)
Barton (TX)	Buyer	Davis (IL)
Bass	Calvert	Davis (TN)
Beauprez	Camp	Davis, Jo Ann
Becerra	Cannon	Davis, Tom
Bereuter	Cantor	Deal (GA)
Berkley	Capito	DeFazio
Berman	Capps	DeGette
Berry	Capuano	Delahunt
Biggert	Cardin	DeLauro
Bilirakis	Cardoza	DeLay
Bishop (GA)	Carson (IN)	DeMint
Bishop (NY)	Carson (OK)	Deutsch
Bishop (UT)	Carter	Diaz-Balart, L.
Blackburn	Chabot	Diaz-Balart, M.
Blumenauer	Chocola	Dicks
Blunt	Clay	Dingell
Boehlert	Clyburn	Doggett
Boehner	Coble	Doolittle
Bonilla	Cole	Doyle
Bonner		Dreier

Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—17

Bell
Case
Castle
Dooley (CA)
Fletcher
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hinojosa
Lampson
Miller (NC)
Ortiz
Pombo
Rodriguez
Stupak

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1725

Mr. RENZI changed his vote from ''nay'' to ''yea.''

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

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: ''A bill to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, establishing, and updating patient care facilities at Department of Veterans Affairs medical centers, to provide by law for the establishment and functions of the Office of Research Oversight in the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes.''.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BEREUTER). Pursuant to clause 8 of rule XX, the remainder of this series will be conducted as 5-minute votes.

NATIONAL CEMETERY EXPANSION ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 1516.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 1516, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 22, as follows:

[Roll No. 577]

YEAS—412

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes

Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—22

Akin
Bell
Bradley (NH)
Case
Castle
Dooley (CA)
Farr
Fletcher
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hinojosa
Lampson
McCotter
Miller (NC)
Ortiz
Pearce
Rodriguez
Stupak
Velazquez

□ 1734

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FALLEN PATRIOTS TAX RELIEF ACT

The SPEAKER pro tempore (Mr. BEREUTER). The pending business is the question of suspending the rules and passing the bill, H.R. 3365.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and pass the bill, H.R. 3365, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 21, as follows:

[Roll No. 578]

YEAS—413

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—21

Akin
Bell
Bradley (NH)
Case
Castle
Dooley (CA)
Fletcher
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hinojosa
Lampson
McCotter
Miller (NC)
Ortiz
Pearce
Peterson (PA)
Rodriguez
Stupak

□ 1741

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PETERSON of Pennsylvania. Mr. Speaker, on rollcall No. 578, I was unavoidably detained. Had I been present, I would have voted ''yea.''

ENCOURAGING PEOPLE'S REPUBLIC OF CHINA TO FULFILL COMMITMENTS UNDER INTERNATIONAL TRADE AGREEMENTS, SUPPORT UNITED STATES MANUFACTURING SECTOR, AND ESTABLISH MONETARY AND FINANCIAL MARKET REFORMS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 414.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ENGLISH) that the House suspend the rules and agree to the resolution, H. Res. 414, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 1, not voting 22, as follows:

[Roll No. 579]

YEAS—411

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner

Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—22

Akin
Bell
Bradley (NH)
Case
Dooley (CA)
Fletcher
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hinojosa
Holden
Jenkins
Lampson
McCotter
Miller (NC)
Ortiz
Pearce
Rodriguez
Stupak
Woolsey

□ 1748

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Speaker, I regret that I was unavoidably detained. Had I been present, I would have voted "yes" on rollcall Nos. 576, 577, 578 and 579.

PERSONAL EXPLANATION

Mr. GREEN of Texas. Mr. Speaker, earlier this evening, I regret I was called away on urgent business and missed the vote on rollcall 576, 577, 578 and 579. I would like the RECORD to reflect that had I been present, I would have voted in the following manner:

On rollcall 567, I would have voted "aye".

On rollcall 577, I would have voted "aye".

On rollcall 578, I would have voted "aye".

On rollcall 579, I would have voted "aye".

MESSAGE FROM THE PRESIDENT

Message writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. BECERRA. Mr. Speaker, subject to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 1308, the Child Tax Credit bill. The form of the motion is as follows:

Mr. Speaker, I move that the managers on the part of the House and the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to H.R. 1308 be instructed as follows:

One, the House conferees shall be instructed to include in the conference report the provision of the Senate amendment, not included in the House amendment, that provides immediate payments to taxpayers receiving an additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.

Two, the House conferees shall be instructed to include in the conference report the provision of the Senate amendment, not included in the House amendment, that provides families of military personnel in Iraq, Afghanistan and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.

Three, the House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provisions.

Four, to the maximum extent possible within the scope of conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and families of the astronauts who died in the *Columbia* disaster.

Five, the House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees and the House conferees shall file a conference report consistent with the preceding provisions of this instruction, not later than the second legislative day after adoption of this motion.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1626

Mr. CARSON of Oklahoma. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1626.

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

There was no objection.

PERSONAL EXPLANATION

Ms. KAPTUR. Mr. Speaker, due to my attending the funeral of a member

of our family on Wednesday, October 8, 2003, a day for which I requested and was granted leave of absence, I missed five recorded votes.

I would like the RECORD to reflect that had I been here for these votes, on rollcall 535, final passage of H.R. 3108, Pension Funding Equity Act of 2003, I would have voted ''yea.''

On rollcall 536, H.R. 2297, Veteran Benefits Act of 2003, I would have voted ''yea.''

On rollcall 537, H.R. 2998, to amend title 10, U.S. Code, to exempt certain members of the Armed Forces from the requirement to pay subsistence charges while hospitalized, I strongly support this bill and have been complaining to the Secretary of Defense regarding unconscionable charging of $1 per minute for men and women on duty in Iraq who want to call home, and would have voted ''yea.''

On rollcall 538, H. Res. 355, commemorating the 100th anniversary of diplomatic relations between the United States and Bulgaria, I would have voted ''yea.''

On rollcall 539, expressing the condolences of the House of Representatives in response to the murder of Swedish Foreign Minister Anna Lindh, I would have voted ''yea.''

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003

Mr. FILNER. Mr. Speaker, pursuant to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 6, the Energy Policy Act.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 6 be instructed to reject section 12403 of the House bill, relating to the definition of oil and gas exploration and production in the Federal Water Pollution Control Act.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Mrs. CAPPS. Mr. Speaker, under rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 1, the Medicare Prescription Drug and Modernization Act.

The form of the motion is as follows:

Mrs. CAPPS of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1 be instructed as follows:

One, to reject the provision of subtitle C of title II of the House bill.

Two, to reject the provisions of section 231 of the Senate amendment.

Three, within the scope of the conference, to increase payments for physician services by an amount equal to the amount of savings attributable to the rejection of aforementioned provisions.

Four, to insist upon section 601 of the House bill.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Ms. DELAURO. Mr. Speaker, pursuant to clause 7(c) of House rule XXII, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 2660, the fiscal year 2004 Labor, Health and Human Services, Education and Related Agencies Appropriations Act.

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 2660 be instructed to insist on the Senate level for part B of the Individuals with Disabilities Education Act.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

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

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

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2660, be instructed to insist on the highest funding levels possible for programs authorized by the No Child Left Behind Act.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Ohio (Mr. REGULA) each will control 30 minutes.

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

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. PELOSI), the distinguished minority leader.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me the time. I thank him for presenting this motion to instruct, and I thank him for his extraordinary leadership on behalf of America's children. His lifelong service in the Congress and commitment to America's children is an example to all of us. He knows the education issue chapter and verse, and he gives us a very important motion to vote on this evening.

Mr. Chairman, agreeing to the highest level in a conference, as the gentleman from Wisconsin's (Mr. OBEY) motion to instruct calls for, is the very least that we can do for the children of America. As my colleagues know, earlier, not in this Congress but a Congress before, we authorized the No Child Left Behind legislation. It was groundbreaking. It called for standards in the schools, and it was controversial. It received bipartisan support. It was the President's initiative, and it received bipartisan support in the House, in the Congress.

It was never imagined, I do not think, that when we would go forward with these mandates on public schools in our country that we would give them the mandates and withhold the money. That this bill falls $8 billion short on funding for Leave No Child Behind is appalling, and it is impossible for the schools to meet the mandate.

President Bush and the Republicans have made a great show in supporting education, and they have promised with great fanfare Leave No Child Behind, but when they cut billions of dollars from the bill, they are leaving millions of children behind. When it comes time to keep the promises, President Bush and the Republicans in Congress take a recess from responsibility and again leave millions of children behind.

No matter what else students have learned in school this year, students and their parents across the country have learned a valuable lesson about the Republicans. They do not keep their promises on education. The appropriation bill the Republicans passed this summer falls a staggering $8 billion below the funding level promised in the Leave No Child Behind bill. It only funds a small portion of what was promised for Title I, the program that helps at-risk students master the basics.

It falls more than $1 billion short of the special education funding promised in the recently passed Individuals With Disabilities Education Act reauthorization bill, a 55 percent gap between what the Republicans promised and what they delivered.

The vote on this appropriations bill clearly defined the differences between the parties. Not one single Democrat voted to support this affront to America's education needs and with good reason. I will just take my own State of California for example. It underfunds our needs in California by $1.3 billion for our children. In Georgia, it underfunds by $280 million. When my Republican colleagues voted for this bill, if they were from Georgia, they voted to shortchange the children of Georgia by $280 million; in Arizona, $168 million. The list goes on and on.

By voting for this bill, Republicans showed that all of their rhetoric supporting education is just that, empty rhetoric. It is yet another example of the credibility gap between the rhetoric around here and the harsh realities of the budget priorities the Republicans have. It is more important for them to give tax breaks to corporations, moving manufacturing jobs offshore. It is more important for them to give tax breaks that are even described by the CATO Institute in a negative way to the energy sector.

□ 1800

Everything seems to be more important to the Republicans than the education of America's children.

Today, Members have the opportunity, thanks to the gentleman from Wisconsin (Mr. OBEY), to close the gap between the rhetoric of that education and funding for education. His motion calls for keeping our promises. This is not to restore the full funding. We do not have that opportunity. Republicans will not give us that chance. But at least it tells us to go to the highest funding between the two Houses. As I said, it is the least we can do for America's children.

With that, Mr. Speaker, I once again commend the gentleman from Wisconsin for his great leadership on behalf of educating America's children.

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

I find it fascinating, Mr. Speaker, that my colleagues on the other side of the aisle today seek to instruct conferees to adopt certain higher funding levels for education when less than 3 months ago they stood on this very floor and voted against providing the funding for many of these same programs.

The Labor, Health and Human Services and Education appropriation bill that this body approved in July was a fair and balanced bill. In the area of Federal education spending, we provided increases in education totaling $2.2 billion, or 4.5 percent. Further, within these increases are the highest levels of spending for both title I programs and special education, IDEA programs, today. Finally, let me remind my colleagues that not only did the bill include increases in both those highly visible education programs, but it also included increases in other numerous important education programs as well.

Mr. Speaker, I just want to run through the list of education programs that were increased in funding in this bill over last year: title I grants to school districts, Even Start, Reading First, Early Reading First, literacy through school libraries, migrant education programs, programs for neglected and delinquent youth, comprehensive school reform, Impact Aid payments for children of military families, mathematics and science partnerships, after-school centers, State assessments, education for homeless children, education programs for rural school districts, teacher enhancement programs, charter school grants, credit enhancement for charter schools, mentoring programs, physical education programs, special education programs, preschool programs for disabled children, grants for special needs infants and their families, vocational rehabilitation grants for adults with disabilities, independent-living grants for adults with disabilities, services for older blind individuals, National Institute on Disability and Rehabilitation Research, American Printing House for the Blind, National Technical Institute for the Deaf, Gallaudet University for the Deaf, vocational education State grants, adult education State grants, smaller high schools, Pell grants, Hispanic Serving Institutions, Historically Black Colleges and Universities, TRIO programs for first-generation college students, GEAR UP programs to encourage minority students to attend college, Teacher Quality Enhancement Grants, Howard University, education research, education statistics, national assessment of educational progress, and national assessment governing board.

Every one of those education programs had an increase in our bill over last year.

Mr. Speaker, this body passed a responsible Labor, Health and Human Services and Education appropriation bill in July. The bill was within the subcommittee's allocation and the budget resolution. Let us work to finish our conference with the other body so that we can complete the people's work for the year and fund these important programs that give hope to the children of the families of our Nation.

I would like to point out that a previous speaker mentioned the fact that the President has not supported the programs in the No Child Left Behind bill. Since No Child Left Behind was signed into law, Federal spending for major elementary and secondary education, including funding for children with disabilities, has increased by approximately 34 percent, from $24.5 billion in fiscal year 2001 to $32.8 billion in fiscal year 2003. So I think that this clearly says that the President and the majority party have supported responsible increases to fund the No Child Left Behind programs.

Mr. Speaker, I urge adoption of this motion to instruct because we want to provide the most money possible for education, too. And I agree with the gentleman from Wisconsin that we should do as much as possible, and the gentlewoman from California, the minority leader; but we have to live within the budget constraints. We do not do the budget in our committee; we live with the money that has been provided by the Committee on the Budget. And I think we did a very responsible job given the constraints of the amount that was budgeted for Labor, HHS and Education by a vote of this House when they approved the budget.

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

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, the previous speaker, my friend, the gentleman from Ohio (Mr. REGULA), has talked about all of the vaunted increases in the Labor, HHS appropriation bill. But the fact is that if we take into account inflation, and if we take into account increases in student population, what we are talking about for most programs in real terms is a freeze, and in per capita student terms what we are talking about in many of these programs is, in fact, a per-child cut. And that comes at the same time that States are experiencing excruciating budget problems, which ought to require the Federal Government to provide more help, not less, and yet that is not what we are getting.

Now, the gentleman can talk all he wants about the increases we have had over the past few years in education funding. The fact is that over the last 9 years, $20 billion in additional funding was put into education above and beyond the amount that would have been provided by Republican bills in this House because of the negotiating insistence of Members on this side of the aisle, and in some of those years the Clinton administration.

Now we have a different picture. This fall, some 22,000 students in 44 States and the District of Columbia have been notified that they failed to meet their academic targets set by States under the No Child Left Behind Act, that is, they have failed to make adequate yearly progress under the terms of that act. That is nearly one in four public schools across the country that will need additional teachers, tutors, books and curricula, and up-to-date technology to improve their academic performance and to meet the No Child Left Behind mandates. They include 576 schools in Illinois, 1,000 in Texas, 1,033 in Missouri, 2,770 schools in Florida, and 829 schools in Ohio, according to their State education departments. And some of these States are in the midst of a huge financial crisis.

This motion to instruct is, at best, a modest effort to prevent some of these 22,000 schools from being left behind. It is a modest instruction because the procedural constraints facing us limit us in what we can ask. We instruct the House conferees to go to the highest possible funding levels for No Child Left Behind programs that would roughly double the modest increase in the House bill if each program were funded at the higher of the House or Senate level. We should be doing much more.

Mr. Speaker, when the President came to office, he said that education would be a top priority, but that there would be no new money until we reformed the programs. So we took a flyer. We took the President at his word. We gave him the benefit of the doubt, and a lot of us voted for No Child Left Behind. That act imposed all kinds of accountability measures and mandates. Now, 2 years after the enactment of that legislation, we have the smallest new Federal investment in education in almost a decade under both the House and the Senate bills. The Labor, HHS bill adopted by the majority barely provides an inflation increase for No Child Left Behind, a freeze in real terms. It falls a whopping $8 billion short of the funding schedule that was promised in No Child Left Behind.

Because the majority has chosen to put so much of its money in super-sized

tax cuts, there is very little money left to fulfill the majority's own promises made in their own budget resolution. Let us inventory those promises:

It was the Republican budget resolution that promised to provide $3 billion more for education compared to last year; yet the Republican Labor, HHS bill falls $700 million short of their own promise. It was the Republican budget resolution that promised to provide a $1 billion increase for title I grants to low-income schools; yet the Republican bill falls $334 million short of their own promises. And it is the majority Labor, HHS bill that falls short in other areas as well.

The No Child Left Behind Act mandates that every school in America have a highly qualified teacher in the subjects of english, reading, math, science, foreign language, civics, government, economics, art, history, and geography. Yet the Republican Labor, HHS freezes funding for teacher training at $2.9 billion, $244 million short of the $3.2 billion promised 2 years ago. There is no more money for teacher quality at a time when the Department of Education says that 46 percent of the Nation's secondary schoolteachers do not meet the No Child Left Behind highly qualified criteria.

More than one million disadvantaged children could be helped if the after-school program was fully funded at the No Child Left Behind level of $1.75 billion; yet the Republican Labor, HHS bill freezes funding for after-school centers when communities across the country are struggling to provide safe places where kids can learn and play between the hours of 3 and 6 p.m. One million at-risk children will be left behind.

Recently, I received a letter from a dedicated school principal at the Colwyn Elementary School in Pennsylvania who wrote this: ''I am left wondering how is it that schools can be labeled as failures when so many of our children enter schools already left behind. And if schools are to fix all the societal ills that haunt our students, why is the funding not there for our schools, especially the urban schools, where our most needy students are?''

Mr. Speaker, unfortunately, we are at a place where we will not be able to answer that dedicated school principal's call for more funding because of the policies of the majority party. These policies say that we can afford super-sized tax cuts for the wealthiest Americans, but cannot afford $3 billion more to educate America's children. Faced with the choice between tax breaks for millionaires and making sure that all children have an opportunity for a quality education, the majority has made it clear where it stands. As a result, millions of children will be left behind.

Now, I know the gentleman from Ohio does not like the fact that we do not buy into his bill. We have never criticized the gentleman or the committee for the priority choices they have made. What we have said is that the limitations imposed on the gentleman are unacceptable to us, and we have a right, and indeed an obligation, to follow our consciences to try to get more money in this bill, just as we did every year for the last 9 years.

If we had rolled over the last 9 years to the argument that, oh, this is all the budget allocation will allow us, we would not have that $19 billion that the gentleman so anxiously voted for after we leveraged it into the bills over the objection of the gentleman's own party leadership in this House.

So I think the gentleman needs to recognize that, and the House needs not only to pass this motion, which does not begin to cover the need; the House needs to provide substantially more resources for this bill if we are to meet the needs and to meet the promise that so many of us signed on to when we voted for No Child Left Behind just a few months ago.

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

□ 1815

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

Mr. Speaker, I would point out that the gentleman's party had control of the Presidency, the House, and the Senate in fiscal years 1994 and 1995. During this time, Congressional Democrats voted to cut the Department of Education by over $3 billion below levels recommended by their President, President Clinton. The final 1994 increase was only 3.6 percent; the final increase in 1995 was only 2.4 percent. And remember, they controlled everything; and we propose in this bill to increase it by 4.5 percent.

Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, let me thank the gentleman for yielding me this time.

Before we vote on this rather meaningless motion which I will probably support, I think it is important that we try to frame it in a proper context. I think what we have tonight is a vote that is politics, pure and simple. Virtually every Member supports providing the highest possible funding for the key programs in No Child Left Behind, and I fully expect whatever agreement we are able to reach with our colleagues on the other side of the Capitol will meet this goal. We will, once again, provide another major increase in funding for Federal education programs, the third major increase since No Child Left Behind was enacted into law.

We have heard all year about this so-called under funding of education programs. I would point out that we have a dual process in this Chamber of authorizing and appropriating. The authorized level is the cap, the maximum amount that can be spent. At no time during my experience, the 13 years that I have been here, have we ever fully funded, as Members would describe it, these education programs.

As a matter of fact, in fiscal year 1995, the last year that Democrats ran the Congress and had the White House, the authorization for title I was $13 billion, and yet the actual funding for that program came in at $10.3 billion. I do not recall any Member of the House, Republican or Democrat, or the Senate, claiming we were underfunding our education commitment.

Now, when it comes to the issue of whether we have kept our promise under No Child Left Behind, let us recall what the promise was. The promise was to have a significant increase in spending to help support the goals of No Child Left Behind. So what did we do? Fiscal year 2001, $24.5 billion. What happened when we passed No Child Left Behind, an increase of $5.4 billion to $29.9 billion. That is a real increase.

Then we went to $32.8 billion, and this year we are at $34.6 billion. Now, these are the numbers. They are real. No one can say we have not kept our promise because we have had a significant increase in Federal education spending.

Let us look at the largest of these programs where a lot of the money is, and that would be in title I, the money that goes to poor students and poor schools across the country. These bars here in yellow are the years when the Clinton administration was in office, and the red years are the Bush years. What do we see, significant increases since No Child Left Behind was put in place.

As a matter of fact, to put it in even better perspective, during the 8 years that President Clinton was President, half of the time Democrats controlled one or both Chambers, the increase during those 8 years under President Clinton, $2.4 billion in title I funding over 8 years. That was the increase. What has been the increase over the first 3 years of the Bush administration, $2.9 billion.

Now, to say we have not dramatically increased our commitment to education is just not true. But as I said before, all of us in this Chamber support trying to fund these programs at the maximum allowable level to get as much money as we can out there to help poor children have a chance at a good education.

But as the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce and others sitting here would attest to, if money were to have solved all of the problems in K–12 education, we would have solved them long ago. Some of the biggest spending levels in our country are in urban centers which happen to have the worst schools.

One only needs to look in Washington, D.C., the third highest level of spending in any urban district in America, and without a doubt, the worst schools in America. Money will

not solve the education woes in our country. It is attitudes. It is attitudes and a commitment and a discussion about whether we, as a Nation, are willing to educate all of our children.

We have had this discussion for a long time, and we all talk about public education and how important it is, but our Nation has never attempted to educate all of our people. We have never had a real commitment to educate all of our children. We have embarked on an effort to try to get to that goal. It is not going to be easy, and I am not sure we even know what the answers are in terms of how we educate all of our children. But I think we are going to learn those answers.

Again, I am not sure that money is going to solve those problems. We need to have real changes of attitudes in our schools, in our communities, about really helping poor children have the same chance in life that all of us have had. They deserve that chance, just like our children deserve that chance, to get a good education. It is not happening today. I do think with the passage of No Child Left Behind, one of the most bipartisan bills of this session of Congress, we can begin to move toward that goal. We are meeting our commitment on the Federal end, and I know the States are having problems meeting their commitments to their local schools. We wish they would do more; but please, do not come here and say we are not meeting our commitment to helping every child get a chance at a good education.

Mr. OBEY. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Mrs. LOWEY), a member of the Committee on Appropriations.

Mrs. LOWEY. Mr. Speaker, we are on the cusp of implementing a bill that will fall at least $8 billion below the levels authorized in the No Child Left Behind Act. Our failure to uphold the promises made just 2 years ago will be felt in classrooms throughout America by every school-aged kid. I agree that we have to deal with attitudes. There are a lot of problems, and all of the problems of a community converge on our school systems.

But, Mr. Speaker, I visit our schools which have to face the mandates included in No Child Left Behind. They are facing massive teacher shortages, and that has to be resolved by money and training. We have to ensure that every teacher of an academic subject be highly-qualified by 2006 and administering annual assessments in reading and math by 2006. America's schools should not have to choose between the need to recruit and train new teachers, implement antidrug programs, and pay for urgent school renovations. I would like my colleagues to visit some of these schools that are trying to educate these kids without enough books, without enough dollars, without enough teachers with adequate training.

If we do not retool our efforts during the Labor-HHS conference, we will impose a great burden on our school administrators, board members and parents. For example, the NCLB Act promised to provide school districts with 40 percent of the Nation's average per pupil expenditure for each low-income student. The title I program already does not meet the overwhelming needs across the country, but NCLB was a step in the right direction. Many of us voted for it. There was broad bipartisan support.

However, in this Labor-HHS bill it is $6 billion below the authorized amount. What does that mean for needy children? In New York State alone, almost 460,000 eligible children would not be fully served by the program. This morning, the Afterschool Alliance released a poll demonstrating the public's broad, unwavering support for after-school programs. And, quite frankly, the numbers leapt off the page. They made clear that Americans, not just parents of school-age children, but all Americans, across the board, believe that after-school programs are a sound investment. Eighty percent said after-school is nothing short of an absolute necessity. That is not just support, that is extraordinary support.

After-school programs keep kids safe, help them learn, help working families. No Child Left Behind set out a prudent road map for growing the 21st Century Community Learning Centers Initiative, but since the moment the law was enacted, we have gotten off course. Not only did the administration's fiscal year 2004 budget propose a cut of $400 million, or 40 percent to the 21st Century After-School Program, but both the House and the Senate Labor-HHS bills fall 40 percent short on funding for the 21st Century Initiative, providing just $1 billion of the authorized $1.75 billion for the current fiscal year. That funding gap translates into more than 1 million children being left behind after school.

I want to say in closing, sometimes we look at these numbers, it sounds great, a billion here, a billion there, but when we are cutting a million dollars or a billion dollars from a key program such as that, that is reflected in real children and real lives. I urge Members to try and get these dollars up so we can be educating all of our children. These programs are critical. I thank the chairman for all of the good work he has done, and I hope we can work together to truly get these numbers up so we can satisfy the tremendous needs out there.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. WICKER), a distinguished member of the subcommittee.

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

The chairman of the full authorizing committee just made a statement that I think is very instructive. He called this motion rather meaningless. If our colleagues do not know by now, they should certainly be apprised that all of these motions to instruct that are being brought during the waning days of this session of Congress are nonbinding. They offer us an opportunity to have an hour of debate on a particular issue, and that is instructive; but even if this motion were completely binding, I do not know how we could enforce it, because it simply says that the conferees be instructed to insist on the highest funding levels possible for programs authorized by No Child Left Behind.

Now, if that means the sky is the limit, then I might have to disagree with my chairman and the chairman of the authorizing committee. We may not want to do that because I do think we should exercise some discretion in the amount of funding. But if it means we are going to do the very best we can, within the confines of the budget resolution, as our chairman has done, then I do support that concept. So I am a little torn, Mr. Speaker. On principle, should I just vote no because it is a meaningless exercise, or should I go along with my chairman and the chairman of the authorizing committee?

This, I think, is an opportunity for my friends on the other side of the aisle to try to point out to anyone who is watching that they would spend more money on education if they were in charge and that they would spend a lot more money if they possibly could. They will make that case, but I am not so sure about that contention.

The fact of the matter is when the Democrats had control of the Presidency, the House and the Senate, fiscal years 1994 and 1995, they did not fully fund their education bill. As a matter of fact, President Clinton proposed a figure for the Department of Education, and the Democrats and the Congress cut that figure by some $3 billion below the level recommended by their own President, failing to ''fully fund'' the request of their President.

□ 1830

During the time of Democratic control of Congress, Mr. Speaker, they funded only 20 percent of the IDEA program for fiscal year 1994.

By contrast, in the last 8 years of Republican control in the House of Representatives, Federal funds for education have more than doubled. So I think we can be proud of our record on education, Mr. Speaker, as compared to the prior 6 years under Democrat leadership where they funded Federal education programs by an increase of only 47 percent. Republicans doubled education funding. The Democrats increased funding by only 47 percent. So when it comes to numbers, we really do not have anything to be ashamed of on this side of the aisle.

I would point out to my colleagues that during these past years of Republican control, this House of Representatives and this Congress has increased title I aid to disadvantaged students by 84 percent; increased special education grants to States—that IDEA program

that I mentioned—by some 330 percent for IDEA programs; and tripled funding for reading programs during Republican rule, Mr. Speaker. We have increased Federal teacher quality funds. We have increased the maximum Pell grant by some 64 percent. We have increased Head Start funding by 91 percent under Republican control. And we have increased Federal aid to America's Historically Black Colleges and Universities.

I am proud of what we have done. Of course, raw numbers are not the only answer. The problem with much of American education is the accountability and results, and that is what we think No Child Left Behind is changing. I want to commend Chairman REGULA for working across the aisle for a balanced bill that funds many competing programs. He has produced a good result. I believe the conference will do so, too. I just want to congratulate my chairman for funding education as best as we possibly can.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Rhode Island (Mr. KENNEDY), a member of the subcommittee.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I want to thank my colleague, the gentleman from Wisconsin (Mr. OBEY), for his long leadership on the issue of education and his offering his motion to us today on the floor.

In response to my colleague from Mississippi who said all we need to do is look at the numbers, I think that would be interesting. I think if this Republican administration ran on us just looking at the numbers, they would be thrown out of office quicker than we can look at the door. We have gone from nearly a $5 trillion surplus to a $5 trillion deficit. The very children they claim to support are children that are going to be saddled with nearly a $600 billion deficit, deficit, this year because this President has chosen to cut the taxes of the wealthiest 1 percent of our population.

Two-thirds of the tax cut goes to the wealthiest 1 percent in the form of capital gains dividends and estate taxes. Who is going to pay for these taxes? It is going to be the children of today's generation and our children's children that are going to be saddled with this debt. So I do not want to hear from Members of the other side of the aisle about how Democrats underfunded education. At least we left the children of this country a $5 trillion surplus on which to build a future.

When it comes to Leave No Child Behind, the fact is the numbers do tell the truth. The numbers tell us that when it comes to the President's commitment to making sure we leave no child behind, the commitment is nothing but words. Mr. President, we want action, not rhetoric. We want you to put your money where your mouth is. You have not done it. By refusing to provide the promised funding, the Leave No Child Behind Act has become an albatross around the necks of school committees around our country. The people who are watching this who can listen to the gentleman from Mississippi say that all of this is worthless debate, I will just tell you this. Go talk to your local school committee. Go talk to your local city council person and have them tell you how much property taxes are going up in order to make up the difference in the requirements that the Leave No Child Behind Act have put forward. Requirements for new systems of assessment for children, not funded in the bill. Requirements for new enrollment status and graduation records so that we can track these students and thereby be able to measure their progress, no funding under the bill. Funding for massive databases and new standards, inadequate funding under the bill.

The fact is if you look at the bill itself and you look at what this Congress is doing, it is sending the bill for this Leave No Child Behind Act to our property taxes. Make no mistake about it, it is cutting Bill Gates's taxes, but it is sending the taxes back to our local property taxes in order to fund the deficit in this Leave No Child Behind Act.

Mr. REGULA. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. CUNNINGHAM), a very valued member of our subcommittee.

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

Mr. CUNNINGHAM. Mr. Speaker, the gentleman who just spoke said that they left this House with $5 trillion. Well, in 1993 the rhetoric that they said, let us give tax breaks to the middle class, they raised the tax on the middle class. You increased the Social Security tax. You cut veterans COLAs. You cut military COLAs. You spent every dime out of the Social Security trust fund. And where you promised tax relief for the middle class, you increased it. And guess what? Republicans took the majority. And we reduced Social Security increases. We gave money back to the middle class so that they would have money to spend on their education systems. Not a single Democrat budget or economic policy has passed since. Not one. Not even the Blue Dogs. And so for you to take credit for the surplus is ridiculous.

Unfortunately, it is an election year. I am going to vote for this motion. But what it is, as you can see from my colleagues on the other side, it is election year partisanship Republican bashing. That is all it is. They know that this is meaningless. But all they want to do is sit up here and bash Republicans.

I am going to give you a couple of issues. You know that when we talk about how we finance education, my friends on the other side, anything to do with unions, they will not cut. Davis-Bacon for school construction, the right-to-work States save up to 30 percent on school construction, but do you think my colleagues on the other side would support a reduction in Davis-Bacon just for building schools? Absolutely not. That is where they get their campaign dollars. When you start caring about education more than you do the unions, come talk to me.

Alan Bersin, Democrat under Bill Clinton, is the superintendent of San Diego city schools. His number one problem in the State of California, it was Gray Davis, it is not now, his number one problem is trial lawyers who are ripping off the schools for special education. In the D.C. bill at least we capped trial lawyers' fees. In 1 year we are giving $12 million for special education students, for special education programs, for special education activities, not to the trial lawyers. But do you think my friends on the other side would do that? No way. If you want to increase money, take a look at your own rhetoric.

I am going to vote for this motion, but I want to tell the gentleman, when the gentleman from Wisconsin (Mr. OBEY) said that he drug Republicans for educational spending, the only thing the Democrats are doing right now is dragging their anchor. They are going to vote against the bill, and they do not want people to know that they are going to vote against education; and that is exactly what they are doing. This is another reason for them saying, all the mean Republicans. If you vote against this bill, you are voting to cut education, the very thing that you are bashing Republicans for. I resent the implication. You know how hard most of us work, on both sides of the aisle. My wife was chief of staff for the assistant Secretary of Education. I was a teacher and a coach in high school and college and dean of a college. My sister-in-law is in charge of special education in San Diego city schools. I stayed on the D.C. committee to improve education. And for your leadership to sit up here and say Republicans do not care about education, I resent it. I wish I could say more, but my words would be taken down.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. GEORGE MILLER), ranking member of the Committee on Education and the Workforce.

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, Republicans on the other side of the aisle keep saying it is not about the numbers, and then they want to argue the numbers. Let me agree with them: this is not about the numbers. This is simply a question of values and ethics. This is whether or not this President and this Republican Party that controls the Congress of the United States will keep their word to America's children and to their parents and to the school districts and the teachers across this Nation.

It is all interesting what you want to talk about before No Child Left Behind passed. But No Child Left Behind is the

most significant reforms we have made to American education in 35 years. And we did it with full knowledge of how much money we were spending, and we did it with full negotiations with this President about the reforms and the significance of these reforms; and this President said, if you can get these reforms, I will get you the resources. We now find out he just simply was not telling the truth. He told the truth for 1 year. He just could not tell the truth for both years, because the resources are not there. We told schools that this Nation wants you to have 100 percent of our children proficient at grade level in 12 years. Schools are working hard to do this. And there are mixed results. But they are doing it. They are working at it. And now we have identified each and every child that is not meeting that standard. Those are called schools in need of improvement.

What do we say in the Federal law for schools in need of improvement? We said we will give you additional money in the second and third year to turn those schools around, to reconfigure those schools to get different results. Those are the exact schools that need the money this year, and it is not there because this Congress and this President refuse to provide it. So what do those poor children do? They have been told that they need improvement. Later there could be sanctions against these schools at the State level, and we have pulled back the money that they were going to use to improve those schools. The Governors have taken the heat for identifying those schools. The school superintendents have taken the heat for identifying these schools. Parents are upset. But the whole idea was that we would help you turn those schools around because it is important to our country, it is important to these children, it is important to their families. But on the eve of the moment that that is supposed to happen, this President reneged on his promise. He got the reforms on a big bipartisan basis, and school districts all across the country are trying to make them work, and he walks out on them because he did not put the money in his budget, and he is encouraging the Congress not to go forward with these kinds of increases.

This motion to instruct is not meaningless. It is important. It is about values. It is about truthfulness. It is about the ethics of our profession when we promise the American people we will do something and then we fail to do it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). The Chair will remind Members that it is not in order to refer to the President in personal terms. Although remarks in debate may include criticism of the President's official actions or policies, they may not include criticism on a personal level such as accusing him of not telling the truth.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentlewoman from Kentucky (Mrs. NORTHUP), a very productive member of our subcommittee.

Mrs. NORTHUP. Mr. Speaker, I rise to add my voice to others' about the importance of education and making sure that quality education is available to every child. As the mother of six children, when I have students that visit Washington, they often ask me, where did you learn what you needed to know to be a Member of Congress? Of course, they expect me to talk about my years in the State legislature or what I studied in college. But I tell them the answer and I tell them that the truth is I learned most of what I needed to know as the mother of these six children, all of whom had different talents and different challenges, all of whom went through school needing the advice and the special programs that would be available to them so that they could succeed.

□ 1845

That is what is so important for all the children in this country, and that is what we are struggling with.

I believe my colleagues on the other side of the aisle also want every child to have an opportunity for a quality education, and they have always focused on input, asking for more programs and more dollars. In fact, my experience in Washington, compared to my experience in the State legislature, has been a take-your-breath-away experience over the last 7 years, as every single appropriation meeting is about more, more, more; more dollars, more programs. No matter how much more is proposed, there are always amendments to spend even more than that.

In every single markup of education bills and other bills, there are proposals for $1 billion here and $1 billion there. I will never forget sitting in one markup for one education appropriation bill, and there was over $10 billion proposed for new spending, something that the Democrats voted for almost en masse in that markup of that bill. Every program, more money, more money, more money.

On the other hand, as a mother, what I found is that I needed to be able to go to school and talk to my children's teachers and ask, what can we do to help this child with their math? What can we do to help this child with reading? I needed to know that for the children that were disorganized, that the teacher would help me in formulating a program to help them become more organized; that for the child that struggled in writing, we could address those challenges.

And what teachers tell me in my district is nothing about more money, more money, more money. That is not what parents talk about. They talk about red tape; they talk about their hands tied; they talk about Federal limitations.

When No Child Left Behind was passed, overwhelmingly I heard thank you for rolling so many of these different programs together, giving teachers and schools the ability to address the challenges that were unique to their school. Did they need more computers? They could spend the dollars there. Did they need more remedial reading programs? They could spend the dollars there. Did they need more flexibility, so that the challenges of other children could be met? They could do that. Instead of having every single dollar sort of outlined for them, they could address the unique challenges that their students, in their schools, had.

What our side of the aisle has focused on is not only investing more money in education, but in the outcome, how do we make sure that those dollars help children achieve at a higher level? And why is that important? Because, after all these years of Federal investments, what were we looking at when we passed No Child Left Behind? Sixty-eight percent of our fourth graders could not read at grade level. We knew that minority children and children from disadvantaged families were falling behind at even a faster and greater rate than any time in our past, so we knew that we had more money, and more programs were not the answer.

Many of the objections that my colleagues on the other side of the aisle refer to are actually talking about programs that have been wrapped together so that a school that needs more after-school programs can spend the dollars in a way that meets those needs; schools that need more tutoring or more intervention for kids that have learning disabilities can use the dollars there. What we are talking about is not only the investment, but making sure we get the benefits of those investments.

I want to thank our chairman. He has done a wonderful job of making sure that with No Child Left Behind, that we invested 18 percent additional dollars into our school systems. There are those that think that before those dollars are even out the door, that that is not enough. They almost imply that that 18 percent is not carried over to the next year and the next year. But, of course, we have built on that each year since then. I thank the chairman for the balance and the investment for our children.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished 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 my friend from Wisconsin for yielding me time.

Mr. Speaker, the gentlewoman from Kentucky just said the majority is interested in outcomes. Well, let me tell you what the outcome of the No Child Left Behind Act has been for thousands of schools across America. This law, which has had great potential to create learning opportunities for children, is creating great havoc for the schools of America.

Public educators across the country, who were told that they would receive

more help if they needed it, are receiving lectures from the Department of Education about how to run their schools, mandates from the United States Congress telling them what they must do in their schools, and money that falls $8 billion short of the job that we say needs to be done. We said to these public educators, you must test and evaluate every child, every year, between the third grade and the eighth grade, and you, local taxpayers, should pay for it. That was not the commitment of the No Child Left Behind Act.

They have been told that if your school falls into the category of a school that needs improvement, a definition that has been tortured beyond recognition by the Department of Education in its interpretation of this law, if you fall into such a category, you will get the money for the tutoring programs and the after-school programs and the parent academies that work to improve learning. But the money is not here, because we are $8 billion short.

Governing is choosing, and I would suggest to the majority, here is your choice: You can let the No Child Left Behind Act with all of its flaws stay in place and force upon your constituents and mine local tax increases; or you can find the funds to meet the promise this Congress made to those local school districts and pay for the tests and pay for the mandates and pay for the services that are required.

It is the great dilemma of the majority. The budget resolution it passed does not permit them to do so, because this country's educational future, as is the case with so many other priorities in this country, was squandered on the majority's tax cut so we can have a tax cut tilted toward the very wealthy in Washington. We will see increases on everyone else across the country to pay for the mandates of the No Child Left Behind Act.

The right thing to do is to suspend the mandates of the No Child Left Behind Act until the money is there to pay for those mandates. Otherwise, when the gentlewoman talks about local flexibility and local educators being able to buy computers and do tutoring programs, the money they would like to have for those computers and those tutoring programs is being spent on the No Child Left Behind Act.

Support the resolution. Enforce the act properly.

Mr. REGULA. Mr. Speaker, I yield 2½ minutes to the gentleman from Florida (Mr. WELDON), a member of our subcommittee who works diligently on these tough problems.

Mr. WELDON of Florida. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise in opposition to this motion. The Obey motion to instruct insists on the highest funding levels possible for implementation of the No Child Left Behind Act. The motion to instruct says that unlimited funding is the answer. But higher funding is not an end in itself. In fact, it often represents a failure of government.

What kind of responsibility, what kind of governance, is provided by simply spending more money? None. Instead, we have a system already in place to determine educational spending that provides accountability and results. It consists of local school boards and parents. It consists of State initiatives, like charter schools and vouchers, to enhance academic choice and school accountability.

The President's No Child Left Behind initiative attempts to build accountability and results into what States are doing. When we have no other alternative but to increase funding levels, we say increased funding is all we can do and the system is broken.

If higher funding levels were the answer, the District of Columbia would have some of the highest academic scores in the Nation. But, unfortunately, the opposite is true. Higher funding does not guarantee results. The District of Columbia's school system spends more per student than Fairfax County, just across the river. The academic performance could not be more different.

The answer, I believe, is local control and decision making. In Brevard County, Florida, where I live, a local sales tax initiative is being considered by local officials to support increased educational funding. The same thing is going on in Fairfax County as well. This is what should be done; local control, the decisions of local voters.

I believe the Federal Government needs to get out of the way of local action. We are not local school boards, and we should not pretend to be them either. Let us allow greater discretion at the local school board level and local government level, and let us let them set the majority of the policies. Oppose the Obey motion.

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

Mr. Speaker, we are going to support this motion because we share with the gentleman from Wisconsin (Mr. OBEY) the desire to have the highest funding levels possible for programs on No Child Left Behind. We did that in the bill. Obviously, there is never enough, but we did as much as we could under the constraints of the budget.

I would point out again and reiterate that we increased the funding for 43 programs in education, including title I, including IDEA and a whole host of others. Of course, the motion is simply saying do the best possible job we can.

I know that the gentleman from Wisconsin (Mr. OBEY) and I both share the desire to do as much as we can for education, but we are constrained by the amount of money that is available to us under the budget resolution. Within that, and in the priorities within our bill, we have done every bit possible. Hopefully, in conference, we can reach an agreement with the other body that will even increase some by taking it from other areas. I support the resolution.

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

Mr. Speaker, I will include at the end of my remarks two chronologies.

Mr. Speaker, the gentleman from Ohio has just said that we did the best job that we could in funding these education programs within the context of the budget resolution. I do not deny that. The important part of that sentence, however, is ''within the confines of the budget resolution.''

Our target has never been this bill; our target has been the constraints on our committee imposed by the budget that mean that we will be providing an ever-smaller increase in funding for education at a time when we need to be providing more.

I must say, I am a little bit confused by some of the rhetoric I have heard today. We heard three Republican speakers in a row try to suggest that it was the Republican Party that in fact had done a better job than Democrats in terms of funding education. Then we heard the gentlewoman from Kentucky get up and take the opposite end of the same argument and bemoan and decry the fact that we had the temerity on one occasion to ask for a $10 billion increase in investments in our children.

That is absolutely right. We did, and I make no apology for it. I think we should have done more.

The gentlewoman from Kentucky mentioned people's concern about red tape. The mother-of-all-red-tape programs in the education area is No Child Left Behind.

We gave the President the benefit of the doubt, because he said he wanted the programs reformed before we put more money in. They have been reformed. Now the question is, where is the money?

The fact is that what is happening is that, whether it is denied or not, this Congress, under the policies dictated by the Republican budget resolution, this Congress is walking away from the policies of No Child Left Behind.

For 1 year after that program passed, this Congress had a bipartisan position in support of meeting the goals of that act. But now we see that it was evidently a 1-year promise. We are $8 billion short of where we promised the country we would be if we passed those reforms. In education, we are $3 billion short of where the budget resolution, the Republican budget resolution, promised we would be.

□ 1900

We are, for title I, $131 million short of where the Republican budget resolution promised we would be. We are $1.2 billion short of where the Republican budget resolution promised us we would be for special education. Those numbers are undeniable.

I would like to close by reading a greater portion of the letter that I received from a Michelle Cinciripino, a

principal in Philadelphia. In part, here is what her letter reads: ''On September 2 we opened a new school year in a brand-new school building and we were off and running, despite the lack of books and other needed supplies. And then Friday came. A second grader ran screaming from her classroom and had to be restrained until she finally broke down in tears and told us she was worried about her mom, a known drug dealer in trouble again with the law. I assured her we loved her and that she was safe at school, and off she went for the weekend. Monday came and this time she came screaming from the building. Several hours and a sound breakfast later, we finally got her back to class. Tuesday and Wednesday followed the same pattern, until Thursday when she came in having been beaten with a belt. I spent Thursday with the police and Child Protective Services. She is now safe with her dad. But I am left wondering, how is it that schools can be labeled as failures when so many of our children enter school already left behind? And if schools are to fix all of the societal ills that haunt our students, why is the funding not there for our schools, especially our urban schools where our most needy students are?''

Then she goes on to say, ''The second grader I mentioned is but one of many hurting, angry children who enter my school on a daily basis. They lack what we take for granted: a safe, loving, nurturing home where their basic needs are met. For these students, my staff and I provide the only consistent safe place these kids know. We want desperately to teach them; but before we can do that, we must feed them and love them. We must gain their trust and we must teach them the social skills that no one has ever shared with them or modeled for them. I hope you will share my story with your colleagues who say that educators 'just don't want to be accountable.' I would be happy to share my story with them in person and can be reached at the above address and phone number.''

I think we ought to take the concerns of that principal to heart.

This motion in and of itself is not the issue. The amount of money that we can provide through this motion in added funding for education is small indeed.

The real issue is whether or not the House, having had an opportunity to once again hear concerns expressed about the problem, whether the House, in fact, will find a way to do more for education than we have done in this bill.

One of the previous speakers said that he resented it because we said that Republicans do not love education. I do not believe that. I think Republicans like education. I just do not think, based on their records, that they happen to like it as much as they like preserving $88,000 tax cuts for millionaires. That is our only objection. And when we have a change in those priorities, we will, once again, have a bill we can both agree on.

Ms. WOOLSEY. Mr. Speaker, I rise in strong support of Mr. OBEY's motion to instruct conferees on H.R. 2660 to increase funding for the No Child Left Behind Act to the highest possible amount.

As we near the end of the second year since No Child Left Behind became law, schools all over America are crying out for more funding in order to meet the new accountability benchmarks.

When I voted for the No Child Left Behind Act almost 2 years ago, I did so with reservations about the new testing requirements. But, I and all of the Members, were assured that while we were going to be asking much more of our schools, we would also be giving our schools increased support. But that is not what happened.

H.R. 2660 underfunds the No Child Left behind Act by $8 billion.

It falls $244 million short of the $3.2 billion that was promised to the States to make sure that there would be a highly qualified teacher in every classroom.

It underfunds after school programs by $750 million, serving one million children less than was promised in No Child Left Behind.

It denies eligible children the title I supplemental education services that they need to succeed in school.

States and schools all across America are doing their part to raise test scores and improve teacher quality. Congress needs to do its part by providing the promised funding. We need to fund programs under the No Child Left Behind Act at the very highest level possible.

Mr. CASTLE. Mr. Speaker, we all have heard the impressive statistics regarding the education funding increases that this Congress and Administration have provided over the past two years. No one can legitimately refute the fact that each year we provide historic increases that are necessary for states and schools across the country.

As someone who worked closely with the Administration and the Committee when Congress passed the No Child Left Behind Act, I have remained committed to following its implementation as well as the funding levels. I have always argued that we should make fundamental reforms to our federal programs before throwing money at them. No Child Left Behind is inciting those reforms and states, school districts, teachers, students and parents across the country are answering the call.

I think we all can agree that change is difficult and that No Child Left Behind reflects that. It is forcing all of us, as a nation, to have an important dialogue about education. A discussion that is being followed by action and dedication to success. It is for these reasons that I believe we are justified in continuing to push for and appropriate increased funding for our education programs. The people on the ground deserve it.

I have always prioritized adequate funding for education programs as well as fiscal conservatism. Given other expenses we have across the country and the world, I believe the House Labor, Health and Human Services and Education Appropriations Act represents a delicate balance between increased funding for federal education programs and fiscal restraint. I support the motion to instruct, however, because all of these education programs deserve to have the highest funding levels possible. Any additional available funding should go to our students.

The SPEAKER pro tempore (Mr. BASS). The time of the gentleman has expired. All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The motion was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. LINCOLN DIAZ-BALART of Florida (during debate on motion to instruct on H.R. 2660), from the Committee on Rules, submitted a privileged report (Rept. No. 108–335) on the resolution (H. Res. 421) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2115, VISION 100—CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. LINCOLN DIAZ-BALART of Florida (during debate on motion to instruct on H.R. 2660), from the Committee on Rules, submitted a privileged report (Rept. No. 108–336) on the resolution (H. Res. 422) waiving points of order against the conference report to accompany the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MOTION TO INSTRUCT CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I offer a motion to instruct conferees.

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

The Clerk read as follows:

(1) The House conferees shall be instructed to include in the conference report the provisions of section 837 of the Senate Amendment that concern reformulated gasoline in ozone nonattainment areas and ozone transport regions under the Clean Air Act.

(2) The House conferees shall be instructed to confine themselves to matters committed to conference in accordance with clause 9 of rule XXII of the House of Representatives with regard to any matters relating to ozone nonattainment and ozone transport.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and the gentleman from Texas (Mr. BARTON) each will control 30 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

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

My motion to instruct the energy conferees is very, very simple. There is no provision in the House or Senate energy bills that allow ozone nonattainment areas to extend, or ''bump up,'' deadlines to comply with the Clean Air Act.

Now, House GOP energy conferees, including my respected colleague, the gentleman from Texas (Mr. BARTON), want to include a rider in the energy conference report to overturn four Federal court rulings and amend the Clean Air Act to allow polluted areas to have more time to clean up, but without having to implement air pollution controls. Every time one looks up, it is another extension. This would delay the adoption of urgently needed antipollution measures in communities throughout the country.

Industry officials, environmentalists, local elected officials, the Texas Commission on Environmental Quality, and the Environmental Protection Agency have been working hard in recent months to find a way of complying with the ozone standards in north Texas. The Barton provision destroys that process.

This special interest rider also shows reckless disregard for the health consequences that dirty air has on my constituents and others that live in smoggy cities across the country.

To further delay necessary emissions reductions in ozone nonattainment areas is unacceptable and a betrayal of the public's trust. It is unacceptable, most of all, because it is based on false information that ozone transport jeopardizes attainment for smoggy cities.

An article in my hometown newspaper, the Dallas Morning News, states today that documents and interviews from the Bush administration's EPA show little or no evidence to support claims that Houston's smog is harming the Dallas-Fort Worth attainment of clean air goals.

This is not about jobs versus clean air; this is about a small set of areas seeking to avoid their responsibility under the Clean Air Act, thereby gaining a competitive advantage over other industries in other areas that have complied. The disadvantaged area is quite likely to be in your district.

This provision is blatantly unfair to my constituents and the gentleman from Texas's (Mr. BARTON) constituents who write me all the time and live down wind from the smokestacks in my colleague's district. Under this provision, dirty, unhealthy air will continue to blow downward on to my constituents, possibly until the year 2012.

I am a nurse by profession. The health effects of air pollution imperil human lives. Ozone pollution burns cell walls in the lungs and air passages, causing tissues to swell, chest pain, coughing, irritation, and congestion. Ozone pollution decreases the ability of lungs to function properly. Air pollution aggravates asthma and increases susceptibility to bacterial infection. Long-term exposure to ozone in otherwise healthy individuals could set the stage for more serious illnesses. The cost for asthma, estimated at $11 billion annually, is only part of the total cost of the health care necessitated by exposure to harmful levels of ozone.

The American Lung Association reports that exposure to high levels of ozone air pollution appears to be responsible for up to 50,000 emergency room visits and up to 15,000 hospitalizations for respiratory problems each year. I had a dear friend lose her life this year from this very ailment, a 51-year-old M.D. who had never smoked a cigarette.

In my district, the effects of air pollution are especially compelling. The American Lung Association reports that nearly a half million people in the Dallas-Fort Worth area live with diseases that are aggravated by air pollution. EPA's own consultants found that each year almost 370 residents of the Dallas-Fort Worth area died just because of pollution from the oldest and dirtiest unregulated power plants, and 10,500 asthma attacks are triggered.

To further delay compliance and cleanup will increase health care costs for my constituents at a time when the health care system is broken. Clean air is crucial to the health of north Texans and the future economic well-being of our region.

The Barton ''bump-up'' provision has no business in the energy bill.

I suggest that if my colleague from Texas (Mr. BARTON) and my colleague from Louisiana (Mr. TAUZIN), gentlemen I respect, wish to amend the Clean Air Act, they should do so by showing respect for our legislative process and by using a more appropriate legislative vehicle. But instead, they have language they are not even sharing with people to do it.

Enough is enough. Hard deadlines are necessary to get the job done and clean up our air. This time has been lengthened and lengthened and lengthened and, each time, what is the answer? Another lengthened time.

Our Republican colleagues cannot continue to delay and stall. We have a greater obligation to protect public health than polluters' profits and campaign contributions.

I am disappointed that many Republicans will frame this debate as a trade-off between jobs and the environment. They are dead wrong. I urge my colleagues to vote against giving a clean air holiday to a few areas with the right political connections. I ask my colleagues to put the public health ahead of polluters' profits. Please vote for the motion to instruct.

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

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

First, Mr. Speaker, I want to say I have nothing but the highest personal regard for the gentlewoman from Texas who is offering this motion to instruct conferees. She and I have served together in this body for, I think, approximately 11 years; and we have worked together on many, many issues and spent many, many moments together in very positive dialogue, and I appreciate her bringing this issue to the floor. My objection to the resolution is based on the policy, not on the person who is bringing the resolution.

I do rise in opposition, respectfully, to the Johnson motion to instruct. To put it in the simplest terms, the issue before us today is not whether any Member of this body does not want the cleanest air possible for our citizens; the issue is whether we want to apply common sense to the Clean Air Act and to codify Clinton administration policy that was explicitly designed to avoid what the EPA, under the Clinton administration back in 1994, called an odd or even absurd result that penalizes an area for pollution that is beyond their ability to control.

Let me put this in language that everybody can understand. The Clean Air Act amendments of 1990 categorized in a more definitive way ozone as a pollutant that needed to be regulated, and it set standards. It is the only pollutant in the act that has gradations of standards. For the other controlled pollutants, it is kind of an in or out, yes or no, pass or fail. But for ozone, it has different levels, from very moderate to very severe; and each of the levels has a different standard and a different timeline for compliance.

I am an author of the Clean Air Act amendments. I spoke for them on the floor. I helped to work to put the bill together in the committee. So I have some personal history in this issue.

As the Clean Air Act amendments of 1990 were being implemented, it became apparent that there were many regions of this country that were trying to comply; but because there were other areas down wind from them that had a different timetable and a different compliance criteria, it was making it difficult for some of these regions to comply in the technical sense with the act. So the Clinton administration came up with a proposal that said, we will show some flexibility. If, in fact, you have a State implementation plan that has been approved or is in the process of being approved and if, in fact, it looks like you are making a good-faith effort to come into compliance, we will give you an extension if we think it is meritorious and the reason that you need the extension is because there is another region that is not in compliance that is transporting their ozone pollution to you. That is common sense. There is nothing wrong with that.

I want to put into the RECORD at this point in time, Mr. Speaker, the 1994 Clinton administration policy that was contained in a memorandum signed by then-Assistant Administrator for Air and Radiation, Mary Nichols. This memorandum attempted to reconcile the conflicting provisions of the Clean Air Act and to give effect to as much of Congress' manifest intent as possible. I also want to put into the RECORD the 1998 Clinton administration policy on this issue that was actually published in the Federal Register.

ENVIRONMENTAL PROTECTION AGENCY

EXTENSION OF ATTAINMENT DATES FOR DOWNWIND TRANSPORT AREAS

Agency: Environmental Protection Agency (EPA).

Action: Proposed interpretation; request for comments.

Summary: Today's notice announces EPA's interpretation of the Clean Air Act (Act) regarding the possibility of extending attainment dates for ozone nonattainment areas that have been classified as moderate or serious for the 1-hour standard and which are downwind of areas that have interfered with their ability to demonstrate attainment by dates prescribed in the Act. The guidance memorandum that is being printed in today's notice is entitled ''Extension of Attainment Dates for Downwind Transport Areas'' and was signed by Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, on July 16, 1998. This notice follows up on the statement made in the guidance memorandum that EPA would request comments on its interpretation.

A number of areas may find themselves facing the prospect of being reclassified or ''bumped up'' to a higher classification in spite of the fact that pollution beyond their control contributes to the levels of ozone they experience. The notice addresses the problem by providing an avenue to extend the attainment dates for areas affected by transported pollution. The EPA intends to finalize the interpretation in this guidance only when it applies in the appropriate context of individual rulemakings addressing specific attainment demonstrations and requests for attainment date extensions. If EPA approves an area's attainment demonstration and attainment date extension request, the area would no longer be subject to bump up for failure to attain by its original attainment date.

Dates: The EPA is establishing an informal 30-day comment period for today's notice, ending on [insert date 30 days after date of publication in the Federal Register].

Addresses: Documents relevant to this action are available for inspection at the Air and Radiation Docket and Information Center (6101), Attention: Docket No. A–98–47, US Environmental Protection Agency, 401 M Street, SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548, between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Written comments should be submitted to this address.

For Further Information Contact: Denise Gerth, Air Quality Strategies and Standards Division, Office of Air Quality Planning and Standards, US Environmental Protection Agency, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5550.

Supplementary Information: On July 16, 1998, the following guidance was issued by Richard Wilson, Acting Assistant Administrator for Air and Radiation. It should be noted that the July 16, 1998 memorandum reprinted in this notice refers to EPA's proposed NO_x SIP call. After the memorandum was signed, EPA took final action on the SIP call and promulgated a final rule. See 63 FR 57356 (October 27, 1998).

Guidance on extension of attainment dates for downwind transport areas

Preface

The purpose of this guidance is to set forth EPA's current views on the issues discussed herein. EPA intends soon to set out its interpretation in an advance notice of proposed rulemaking on which the Agency will take comment.

While EPA intends to proceed under the guidance that it is setting out today, the Agency will finalize this interpretation only when it applies in the appropriate context of individual rulemakings addressing specific attainment demonstrations. At that time and in that context, judicial review of EPA's interpretation would be available.

Introductory Summary

A number of areas in the country that have been classified as moderate or serious nonattainment areas for the 1-hour ozone standard are affected by pollution transported from upwind areas. For these downwind areas, transport from upwind areas has interfered with their ability to demonstrate attainment by the dates prescribed in the Clean Air Act (Act). As a result, many of these areas find themselves facing the prospect of being reclassified, or ''bumped up,'' to a higher nonattainment classification in spite of the fact that pollution that is beyond their control contributes to the levels of ozone they experience. In the policy being issued today, EPA is addressing this problem by planning to extend the attainment date for an area that is affected by transport from either an upwind area with a later attainment date or an upwind area in another State that significantly contributes to downwind nonattainment, as long as the downwind area has adopted all necessary local measures, and has submitted an approvable attainment plan to EPA which includes those local measures. (By ''affected by transport,'' EPA means an area whose air quality is affected by transport from an upwind area to a degree that affects the area's ability to attain.) EPA intends to initiate rulemaking for each area seeking such relief and contemplates providing such relief to those who qualify. If after consideration of public comments EPA acts to approve an area's attainment demonstration and extend its attainment date, the area will no longer be subject to reclassification or ''bump-up'' for failure to attain by its otherwise applicable attainment date.

Background

The Act may be interpreted to allow a later attainment date than generally applicable to a particular ozone nonattainment area if transport of ozone or its precursors (nitrogen oxides (NO_x) and volatile organic compounds (VOCs)) prevents timely attainment. This principle has already been advanced in EPA's Overwhelming Transport Policy, which allowed a downwind area to assume the later attainment date if it could meet certain criteria, including a demonstration that it would have attained ''but for'' transport from an upwind nonattainment area with a later attainment date. See Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, entitled, ''Ozone Attainment Dates for Areas Affected by Overwhelming Transport,'' September 1, 1994. In the four years since the issuance of that memorandum, the history of the efforts to analyze and control ozone transport has led EPA to believe that it should expand the policy's reach to ensure that downwind areas are not unjustly penalized as a result of transport.

In March 1995, EPA called for a collaborative, Federal-State process for assessing the regional ozone transport problem and developing solutions, and the Ozone Transport Assessment Group (OTAG) was subsequently formed. See Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, entitled ''Ozone Attainment Demonstrations,'' March 2, 1995. The OTAG was an informal advisory committee with representatives from EPA, thirty-seven states in the Midwestern and eastern portions of the country, and industry and environmental groups. OTAG's major functions included developing computerized modeling analyses of the impact of various control measures on air quality levels throughout the region and making recommendations as to the appropriate ozone control strategy. Based on OTAG's modeling analyses, it developed recommendations concerning control strategies. These recommendations, issued in mid-1997, called upon EPA to calculate the specific reductions needed from upwind areas.

In November 1997, using OTAG's technical work, EPA issued a proposed NO_x State implementation plan (SIP) call, directing certain States to revise their SIPs in order to satisfy section 110(a)(2)(D) by reducing emissions of NO_x to specified levels, which in turn will reduce the amounts of ozone being transported into nonattainment areas from upwind areas. 62 FR 60318 (November 7, 1997). In July 1997, the EPA promulgated a revised 8-hour ozone NAAQS. 62 FR 38856 (July 18, 1997). That promulgation included regulations providing that the 1-hour NAAQS would be phased out, and would not longer apply to an area once EPA determined that the area had air quality meeting the 1-hour standard. 40 CFR section 50.9(b). Until the 1-hour standard is revoked for a particular area, the area must continue to implement the requirements aimed at attaining that standard.

The Current Problem

The Act called on areas classified as moderate ozone nonattainment areas to submit SIPs that demonstrate attainment by 1996 (unless they receive an extension), and called on serious nonattainment areas to demonstrate attainment by November 1999 (unless they receive an extension). Section 181 and 182(b) and (c). For many of these areas, EPA has preliminary determined in the proposed SIP call that transport from upwind areas is contributing to their nonattainment problems. Such transport also appears to be interfering with their ability to demonstrate attainment by the statutory attainment dates.

The graduated control scheme in sections 181 and 182 of the Act expressed Congress's intent that areas be assigned varying attainment dates, depending upon the severity of the air quality problem they confront. Sections 181 and 182 provide for attainment ''as expeditiously as practicable,'' but establish later deadlines for attainment in more polluted areas, and additional control measures that the more polluted areas must accomplish over the longer time frame. Thus, many of the upwind areas have later attainment dates than the downwind areas which are affected by emissions from the upwind States. On the other hand, section 110(a)(2)(D)(i)(I) of the Act requires SIPs to prohibit ''consistent with the other provisions of [title I],'' emissions which will ''contribute significantly to nonattainment in . . . any other State.'' The EPA interprets section 110(a)(2)(A) to incorporate the same requirement in the case of intrastate transport. Sections 176A and 184 provide for regional ozone transport commissions that may recommend that EPA mandate additional regional control measures to allow

areas to reach timely attainment in accordance with section 110(a)(2)(D)(i)(I).

These provisions demonstrate Congressional intent that upwind areas be responsible for preventing interference with timely downwind attainment. They must be reconciled with express Congressional intent that more polluted areas be allotted additional time to attain. As EPA pointed out in its overwhelming transport policy, Congress does not explicitly address how these provisions are to be read together to resolve the circumstances where more polluted upwind areas interfere with timely attainment downwind, during the time provided for those upwind areas to reduce their own emissions.

In the 1994 overwhelming transport policy, EPA stated that it would harmonize these provisions to avoid arguably absurd or odd results and to give effect to as much of Congress' manifest intent as possible. The EPA struck a balance in the overwhelming transport policy by requiring that the upwind and downwind areas reduce their contribution to the nonattainment problem while avoiding penalizing the downwind areas for failure to do the impossible.

In the 1994 policy, EPA reasoned that Congress did not intend the section 110(a)(2)(D)(i)(I) obligation to supersede the practicable attainment deadlines and graduated control scheme in sections 181 and 182, especially since section 110(a)(2)(D)(i)(I) specifically applies only ''to the extent consistent with the provisions of (title I).'' The same rationale applies in the intrastate context under section 110(a)(2)(A).

Developments since the issuance of the overwhelming transport policy in 1994 have prompted EPA once again to interpret these provisions so that they can be reconciled in light of existing circumstances. Since the issuance of that policy, EPA and the States, through OTAG, have made significant progress in addressing interstate transport in the eastern United States, and have worked to analyze the flow of transport and to allocate among the States their respective responsibilities for control. During the period required for this effort, which took longer than was anticipated, the resolution of the regional transport issue was held in abeyance. The effort to address regional transport recently resulted in EPA's proposed NO_X SIP call, expected to be finalized in the next few months. For areas in the OTAG region affected by transport, the conclusion of the OTAG and SIP call processes in September 1998 will result in assignments of responsibility that will assist in the design of SIPs and the formation and implementation of attainment demonstrations.

Because EPA had not previously determined how much to require upwind States in the OTAG region to reduce transport, downwind areas were handicapped in their ability to determine the amounts of emissions reductions needed to bring about attainment. While operating in this environment of uncertainty, many of these downwind areas confronted near-term attainment dates. Moreover, as described in the NO_X SIP call proposal, the reductions from the proposed NO_X SIP call will not likely be achieved until at least 2002, well after the attainment dates for many of the downwind nonattainment areas that depend on those reductions to help reach attainment.

The Solution

The EPA believes that a fair reading of the Act would allow it to take these circumstances into account to harmonize the attainment demonstration and attainment date requirements for downwind areas affected by transport both with the graduated attainment date scheme and the schedule for achieving reductions in emissions from upwind areas. Thus, EPA will consider extending the attainment date for an area that:

(1) has been identified as a downwind area affected by transport from either an upwind area in the same State with a later attainment date or an upwind area in another State that significantly contributes to downwind nonattainment. (By ''affected by transport,'' EPA means an area whose air quality is affected by transport from an upwind area to a degree that affects the area's ability to attain);

(2) has submitted an approvable attainment demonstration with any necessary, adopted local measures and with an attainment date that shows that it will attain the 1-hour standard no later than the date that the reductions are expected from upwind areas under the final NO_X SIP call and/or the statutory attainment date for upwind nonattainment areas, i.e., assuming the boundary conditions reflecting those upwind reductions;

(3) has adopted all applicable local measures required under the area's current classification and any additional measures necessary to demonstrate attainment, assuming the reductions occur as required in the upwind areas. (To meet section 182(c)(2)(B), serious areas would only need to achieve progress requirements until their original attainment date of November 15, 1999);

(4) has provided that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

EPA contemplates that when it acts to approve such an area's attainment demonstration, it will, as necessary, extend that area's attainment date to a date appropriate for that area in light of the schedule for achieving the necessary upwind reductions. The area would no longer be subject to reclassification or ''bump-up'' for failure to attain by its original attainment date under section 181(b)(2).

Legal Rationale

The legal basis for EPA's interpretation of the attainment date requirements employs and updates the rationale invoked in the Agency's overwhelming transport policy. By filling a gap in the statutory framework, EPA's interpretation harmonizes the requirements of sections 181 and 182 with the Act's requirements (sections 110(a)(2)(D)(i)(I), 110(a)(2)(A), 176A and 184) on inter-area transport. It reconciles the principle that upwind areas are responsible for preventing interference with downwind attainment with the Congressional intent to provide longer attainment periods for areas with more intractable air pollution problems. It also takes into account the amount of time it will take to achieve emission reductions in upwind areas under the NO_X SIP call, which EPA expects to finalize in September 1998.

The EPA's resolution respects the intent of sections 181 and 182 to provide longer attainment dates for areas burdened with more onerous air pollution problems, while allowing reductions from upwind areas to benefit the downwind areas. Under EPA's interpretation, upwind areas will be required to reduce emissions to control transport, but should not find that the requirements imposed upon them amount to an acceleration of the time frames Congress envisioned for these areas in sections 181 and 182. Downwind areas will be provided additional time to accommodate the delayed control contributions from upwind areas, while at the same time being held accountable for all measures required to control local sources of pollution.

The EPA's interpretation of the Act allows it to extend attainment dates only for those areas which are prevented from achieving timely attainment due to a demonstrated transport problem from upwind areas, and which submit attainment demonstrations and adopt local measures to address the pollution that is within local control. The EPA believes that Congress, had it addressed this issue, would not have intended downwind areas to be penalized by being forced to compensate for transported pollution by adopting measures that are more costly and onerous and/or which will become superfluous once upwind areas reduce their contribution to the pollution problem.

This interpretation also recognizes that downwind areas in the OTAG region have been operating in a climate of uncertainty as to the allocation of responsibility for controlling transported pollution. Section 110(a)(2)(D) is not self-executing and, until the NO_X SIP call rulemaking, downwind areas in the OTAG region could not determine what boundary conditions they should assume in preparing attainment demonstrations and determining the sufficiency of local controls to bring about attainment. By allowing these areas to assume the boundary conditions reflecting reductions set forth in the NO_X SIP call and/or reductions from the requirements prescribed for upwind nonattainment areas under the Act, EPA will hold upwind areas responsible for reducing emissions of transported pollution, and downwind areas will be obligated to adopt and implement local controls that would bring about attainment but for the transported pollution.

The EPA's interpretation harmonizes the disparate provisions of the Act. It avoids accelerating the obligations of the upwind States so that downwind States can meet earlier attainment dates, which would subvert Congressional intent to allow upwind areas with more severe pollution longer attainment time frames to attain the ozone standards. In addition, EPA's interpretation of the Act takes into account the fact that, under the SIP call, upwind area reductions will not be achieved until after the attainment dates for moderate and serious ozone nonattainment areas. To refuse to interpret the Act to accomplish this would unduly penalize downwind areas by requiring them to compensate for the transported pollution that will be dealt with by controls adopted in response to the requirements of the NO_X SIP call or to achieve attainment in an upwind area. The EPA is thus interpreting the requirements to allow the Agency to grant an attainment date extension to areas that submit their attainment demonstrations and all adopted measures necessary locally to show attainment. This solution preserves the responsibility of these downwind areas to prepare attainment demonstrations and adopt measures, but does not penalize them for failing to achieve timely attainment by reclassifying them upwards, since such attainment was foreclosed by transport beyond their control.

Under this policy, once EPA has acted to approve the attainment demonstration and extend the area's attainment date, the area would no longer be subject to reclassification or ''bump-up'' for failure to attain by its original attainment date under section 181(b)(2).

The EPA requests comment on the interpretation in the guidance memorandum reprinted above.

ROBERT PERCIASEPE,
Assistant Administrator for Air and Radiation.

MEMORANDUM

Subject: Ozone Attainment Dates for Areas Affected by Overwhelming Transport.

From: Mary D. Nichols, Assistant Administrator for Air and Radiation (6101).

To: Director, Air, Pesticides and Toxics Management Division, Regions I and IV; Director, Air and Waste Management Division, Region II; Director, Air, Radiation and Toxics Division, Region III; Director, Air and Radiation Division, Region V; Director, Air, Pesticides and Toxics Division, Region VI; and Director, Air and Toxics Division, Regions VII, VIII, IX, and X.

The purpose of this memorandum is to provide guidance on attainment dates for ozone nonattainment areas affected by overwhelming transport. In particular, a number of States have expressed concern that it may be difficult or impossible for some areas to demonstrate attainment by the statutory attainment date because they are affected by overwhelming transport or pollutants and precursors from an upwind area with higher classifications (and later attainment dates). (Reference to upwind area in this memorandum and the attachment may imply that there is more than one area involved.) States containing such areas face difficulty in complying with two specific requirements:

1. Submitting an attainment demonstration by November 15, 1994 that includes measures for specific reductions in ozone precursors, as necessary, to attain by the statutory attainment date.

2. Actually demonstrating attainment through monitoring data by the statutory attainment date.

We believe that, due to conflicting provisions of the Act, it is reasonable to temporarily suspend the attainment date for these areas without bumping them up to a higher classification for the purpose of the two requirements listed above. A revised attainment date will be determined based on the analyses described in the attachment to this memorandum. The attachment also provides the legal rationale for this approach, along with specific criteria that States must meet. This policy does not relieve any State of the obligation to meet any other requirement of the Act. This memorandum describes current policy and does not constitute final action. Final action will be taken in the context of notice-and-comment rulemaking on the relevant SIP submittals.

This approach is premised on the requirement that the area in question clearly demonstrates through modeling that transport from an area with a later attainment date makes it practicably impossible to attain the standard by its own attainment date. This modeling is expected to be submitted on the same schedule as the required modeled attainment demonstration due November 15, 1994. The modeling must support the new attainment date which should be as expeditious as practicable, but no later than the attainment date in its SIP.

The EPA encourages upwind and downwind areas to consult with one another and the EPA Regional Offices to coordinate on this issue. Immediately after the downwind area determines that it plans to request an attainment date extension, it should notify the appropriate Regional Office. The Regional Office should then notify any affected upwind area of the intentions of the downwind area and its obligations under this policy. The EPA may use its authority under sections 110(a)(2)(D)(i)(I) and 110(k)(5) to issue a call for a SIP revision for the upwind area to ensure that it provides the necessary analyses and control measures needed to prevent significant contribution to the downwind area's nonattainment problem.

The attachment does not specifically address all of the modeling issues related to this demonstration. We recommend that Regions work with our Technical Support Division to determine what is appropriate for each area.

The EPA is also developing a general transport policy that will address situations where areas have difficulties reaching or maintaining attainment because of large-scale transport.

Please share this information with your States and appropriate local air pollution control agencies. Any general questions about this approach may be addressed to Kimber Scavo at (919) 541–3354, or Laurel Schultz at (919) 541–5511. Specific questions concerning modeling should be addressed to Ellen Baldridge at (919) 541–5684.

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Mr. BARTON of Texas. Mr. Speaker, this policy built upon the 1994 statutory interpretation memorandum that we have just put into the RECORD. And it indicated that the EPA considered its bump-up policy to be a fair reading of the act.

Now, what happened after this 1994 memorandum and the 1998 Federal Register, no Member of Congress complained about that. There was no group of citizens that came to the Congress and complained about the Clinton administration proposal. But what did happen was that in 2002, the Sierra Club filed three different lawsuits in three different regions, one of them here in the D.C. Circuit, one in the 5th Circuit, and one in the 7th Circuit, and they really did not argue against the policy of flexibility. They simply said the Clean Air Act did not give the EPA that authority. It was a very technical argument. And, to their credit, the Sierra Club's argument was upheld by the courts. The courts said, ''We have read the Clean Air Act and it is ambiguous. And since it is ambiguous, we have to say no to flexibility because it does not explicitly state there can be flexibility.'' That was in 2002. Those were lawsuits filed by the Sierra Club that went to court.

So we now fast forward to 2003. The gentleman from Louisiana (Mr. TAUZIN), the distinguished chairman of the full committee, and the gentleman from Michigan (Mr. UPTON), a member of the Committee on Energy and Commerce, all worked with me and other members of the committee on a bipartisan basis. We passed the most comprehensive energy legislation this Congress has seen back in April, April 11, I believe, on the floor of the House.

We, at that time, had not had time to study the effect of the court ruling. We had not had time to put together a hearing on this issue. But we did in July. In July we had a hearing in my subcommittee. We had a number of witnesses testify, and, with one or two exceptions, everybody who testified said this policy of flexibility is a good idea. We should allow it.

Democrats, my good friend from Houston, the gentleman from Texas (Mr. GREEN), my friend from Beaumont, the gentleman from Texas (Mr. LAMPSON), my friend from Crockett, the gentleman from Texas (Mr. TURNER), they all came and brought some of their constituents who testify or put testimony into the RECORD that said flexibility is good.

So as we went to conference with the other body, after consultation with the minority leadership of the Committee on Energy and Commerce, we put this in.

Mr. Speaker, I yield to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, this really is not a partisan issue. It is a matter of clean air that people breathe. I am certain there are people on that side of the aisle that will stand with the gentlemen, who I consider both my good friends. But there will be some probably who will not because they want to breathe some clean air. That is all this is about. It has nothing to do with partisanship. It has nothing to do with the Clinton administration. They have been given time. That is all this indicates. They have already had time to clean the air.

Mr. BARTON of Texas. Mr. Speaker, I thank my good friend, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), and I will continue to yield to her because I think we should have a dialogue, but what I am trying to point out is this is a commonsense policy that we have put in or are attempting to put into the energy conference with the other body. Because there is a lot of support for it and it gives the flexibility, if the local region needs it. Everything in it is based on a transport issue, and if the EPA says that it will help. That is all it does.

Mr. TAUZIN. Mr. Speaker, would the gentleman yield?

Mr. BARTON of Texas. Mr. Speaker, I will be happy to yield.

Mr. TAUZIN. Mr. Speaker, let me make the most important point here. Environmentalists for years have argued that we ought to have environmental laws that require the polluter to pay, that the polluter ought to be responsible for cleaning up his act and that the victims ought not be responsible for the actions of polluters. That is essentially what the EPA tried to do but was not allowed to do by the court and what we are trying to let the EPA do today.

The polluter in this case is the upwind polluter, the victim is the downwind community. What the Clinton administration and Carol Browner tried to do was to create flexibility in the EPA so that the downwind community did not have to pay to clean up the pollution in the upwind community. In other words, to make sure that the upwind community cleaned up its act so that it did not dump pollution on an innocent victim community who might end up having to pay for it.

So the idea was not to diminish the cleanliness of the air, it was not to exonerate anyone from their obligations

to clean their air. It was certainly not to allow the air to stay dirty. It was all about requiring the upwind polluter to get their act together, to clean up their act, and then to be able to count that together with the work done by the downwind community to reach clean air attainment. Now, that is fair.

Now, we have criticized the Clinton administration on this side many times for its action. In this case they were right. The EPA was right. The court, unfortunately, correctly, I think, said the EPA did not have the authority to do the right thing here.

What we are trying to do in the conference is make sure EPA has the authority to do the right thing and to make sure that the polluter does pay, that the innocent community downwind does not have to sacrifice because they are being dumped on by some upwind community.

Mr. Speaker, I urge this motion be defeated.

Mr. Speaker, let me make one last point. I respect the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) so much. I hope she knows that. We are in a conference right now with the Senate. We are trying to fix this. This would be a terrible instruction. This would be a terrible instruction to every community in America that suffers because someone upwind of them is polluting their community. It would be a terrible instruction.

What we want to do in the conference committee with the Senate, and I hope we finish that bill soon, is bring Members back a chance to pass an energy policy that does enforce the idea that the polluter should be responsible to clean up their act first. We are going to try to bring that back to Members.

This instruction hurts us, even though it is nonbinding, and I would urge that we reject it.

Mr. Speaker, I rise in strong opposition to the Johnson motion and urge my colleagues to vote against it.

I don't think any Member would disagree that the Clean Air Act has been extremely beneficial to America's environment over the last three decades. But as with any complex regulatory statute of its kind, there are times when the letter of the law either leads to unintended consequences or can give rise to conflicting interpretations.

This is precisely the situation that confronted the Clinton administration nearly a decade ago. In 1994, under the leadership of then-Administrator Carol Browner, the Environmental Protection Agency adopted a regulatory interpretation of the Air Act that allowed for some flexibility in applying ozone nonattainment dates. EPA issued additional guidance several years later, under which, in limited circumstances, the Agency would extend dates for downwind areas that suffered from pollution transport. The EPA then applied this guidance on a discretionary basis through approval of various state implementation plans.

Unfortunately,the courts threw out EPA's interpretations of the Air Act last year. So for the EPA's common-sense, flexible approach to nonattainment is to prevail across the country, Congress must codify it as part of the Clean Air Act.

As we debate this motion tonight, it is by no means clear when we will be able to get an energy conference report to the House floor. And that's largely because conferees are continuing to negotiate a number of key provisions, including whether we should include the ''bump up'' codification.

The motion before us is non-binding, Mr. Speaker. But I would not want for the House to be even symbolically constrained in its ability to negotiate with the other body, particularly when it comes to doing something like including a common-sense Clinton-era environmental regulation.

I want to make clear to my colleagues that the Clinton-era policy on bump up does not let downwind areas off the hook. In order to qualify: (1) An area must be the victim of pollution transported from another area that significantly contributes to nonattainment in the downwind area; (2) EPA must approve a plan that complies with all requirements of the Clean Air Act that are currently applicable to the area—as well as includes any additional measures needed to reach attainment by the date for the upwind area; and (3) the extension of any date must provide for attainment of Clean Air Act standards ''as expeditiously as practicable,'' but in no case later than the time in which upwind controls are in place.

The codification measure is fair and balanced. It prevents an unjust result—that a downwind area suffering from transported pollution is penalized for pollution that it does not generate. Many areas have made progress and are close to attaining—it makes no sense at this stage to impose additional penalties that will not advance attainment. In some cases, areas risk being classified as ''severe'' nonattainment even though they violated the 1 hour standard just a few times over 3 years and would otherwise be considered to be in ''marginal'' nonattainment.

At the end of the day, the codification of the Clinton bump up policy may actually be the most pro-environment thing we can do because it provides for the best possible course to reach attainment. The sooner we have it in place—regardless of how it gets to the President's desk—the better for our constituents living in these areas.

Again, Mr. Speaker, I urge opposition to the motion.

Mr. BARTON of Texas. Mr. Speaker, I yield to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, what I need to ask is that at what point will these polluters be responsible for cleaning up? If we stand here and change the goal post one time after another, the time never comes.

The Clinton administration, which you love to refer to on this, gave leeway, but it is time now to clean the air. People are dying from this dirty air.

Mr. BARTON of Texas. Mr. Speaker, if I may reclaim my time to respond briefly. This is not about changing the goal post at all. The same standard is in effect. We are not changing the standard. We are simply saying if they are trying to comply, and one of the reasons they are not in technical compliance is because of an ozone transport issue outside of their control area, they have the flexibility to ask for an extension. And the EPA has the right to grant that extension. But if the EPA does, it cannot grant an extension that is any longer than in the noncompliant area that is causing the transport issue.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, I want to piggyback on to the comments of the gentleman from Louisiana (Mr. TAUZIN). I can remember when Carol Browner, the then administrator of EPA, came and testified before the subcommittee. I was one that supported the Clean Air Act as well as the Clean Water Act. I can remember when we debated the Clean Air Act, the delegation at that time included important language, and I am not a lawyer but we thought it was sufficient, that gave the EPA the administrative authority when downwind communities were impacted by what came from the polluter itself.

My district, southwestern Michigan, I have air that comes from Gary, Indiana, from Chicago, Illinois, and Milwaukee, Wisconsin, across Lake Michigan. Some of my counties have reported that they could actually remove all human activity in some of my counties, and we would still not be in compliance with the new 8-hour standard because of what is coming across the lake.

When Carol Browner came and heard that at the subcommittee, she helped us with this language and the administrative relief that they put into effect for other areas around the country. What the gentleman from Texas (Mr. BARTON) is doing, and the gentleman from Louisiana (Mr. TAUZIN) as part of the conference, is to revert back to what the Clinton administration said then: We still want to help the polluters clean up their air, but we also recognize that the victims. For me, my area of southwest Michigan, can do absolutely nothing about it. In fact, they can have some relief if these new penalties are assessed, collecting millions of dollars which, at the end of the day, will not provide one iota of cleaner air. Because, again, we could remove everything, every road, every lawn mower, every small business, every large business, at the end of the day there is nothing we can do without some type of relief.

And that is why it is important, I think, that we defeat the motion to instruct of the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) because we are left with no choice. And that is why the Clinton administration agreed with us when they came and testified before our subcommittee.

Mr. BARTON of Texas. Mr. Speaker, I will reserve the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California (Mrs. CAPPS.)

Mrs. CAPPS. Mr. Speaker, I thank my colleague and fellow nurse for

yielding and also for her motion to instruct conferees on the Energy Policy Act.

Mr. Speaker, I rise in strong support of this motion. It is a real shame that at the 11th hour the Republican conferees have added a new provision to this energy bill which weakens the Clean Air Act and harms public health. This new provision will allow polluted cities to avoid having to clean up their dirty air.

Right now cities can get extended deadlines to meet their requirements under the Clean Air Act, but in exchange for the time extension, within the Clean Air Act, cities with dirty air have to meet specific goals and specific timetables. This is EPA's bump-up policy that is supposed to ensure that dirty air is cleaned up. And the policy is designed to work with cities, to make sure that this can happen in a timely fashion. But under the new energy provisions being proposed, cities that have not met their clean air requirements will just be given a pass. That means that cities with dirty air will not have to institute stronger pollution controls to clean up their act for a much longer time.

People living in these cities and people living downwind will suffer longer from dirty air and its damaging health effects. We cannot afford this, not in our health care and not in our economy.

As a public health nurse, I am so concerned with this very provision and its impact on the state of our air quality. The argument is that it is hard for these polluted areas to clean up due to dirty air blown in from elsewhere. That case has been made. But in many of these areas it is been demonstrated that these areas that would be exempted, transported pollution is only a small part of the problem.

Now, what about continued local clean-up efforts which are demonstrated to be necessary? And, in addition, this new provision provides a special break for certain areas of Texas and Louisiana. That is blatantly unfair to all the cities and their businesses that have worked so hard to meet pollution control deadlines, to provide healthy air for their citizens.

This added change also harms all the areas downwind of those that get the extension as more air pollution will continue to blow downwind for so many years longer.

The truth is this last minute change was never approved by either the House or the Senate. In fact, this provision, and I was at the hearing that we held in July, but it has never been debated upon. Alternatives have never been able to be proposed in a committee setting.

This change weakens the Clean Air Act and overturns three appellate court rulings upholding current law. This is an end run around the courts which have repeatedly held that the EPA does not have the authority to extend air quality deadlines without following the Clean Air Act requirements.

Mr. Speaker, EPA reports that 133 million Americans in our country live where air is unhealthy to breathe because of ozone pollution. The provisions in this bill are denying these Americans their right to breathe clean air.

The provision in this bill is going to be denying these Americans their right to breathe clean air. The provision in the energy bill is a bad idea. The end result will be a delay in cleanup, continued unhealthy air, and more asthma attacks, respiratory illnesses and other health problems. It is going to affect health and productivity of American companies and American workers. Our children and our families have waited too long for clean air.

So I urge my colleagues to support this motion and oppose any energy bill that contains this shameful provision.

Mr. BARTON of Texas. Mr. Speaker, could I inquire of the time on each side right now?

The SPEAKER pro tempore (Mr. KLINE). The gentleman from Texas (Mr. BARTON) has 16 minutes remaining. The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) has 20½ minutes.

Mr. BARTON of Texas. Mr. Speaker, I would like to yield 2½ minutes to the gentleman from Houston, Texas, (Mr. GREEN), a member of the committee and the subcommittee.

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman from Texas (Mr. BARTON), my colleague and the chairman of our subcommittee on the Committee on Energy and Commerce.

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It is with reluctance I rise in opposition to the motion to instruct offered by my colleague and longtime and respected friend, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON). We have served together now for 30 years, and every once in a while we do find ourselves on opposite sides. Since I represent Houston, and I will deny under oath if necessary that we caused Dallas' pollution problems, but be that as it may, I understand the gentlewoman's passion to improve the air quality for her constituents. That is impressive and she is doing great work to raise the public profile of a difficult issue. But I find myself in a difficult situation myself today. A bipartisan group of my colleagues from north Texas and east Texas are blaming my area of Houston for increasing smog levels in their area.

First, let me say that the Houston area is doing everything in our power to reach compliance with the Clean Air Act. Our deadline is 2007. We have a tremendous amount of manufacturing facilities and jobs in our area. And reengineering these facilities without causing a regional recession is a challenge, but we are making progress.

The EPA has given areas with imported air emissions extra time to meet the deadlines, but the courts have ruled that they do not have that authority. A provision is in the draft conference report, which is what the gentleman from Texas (Mr. BARTON) talks about that allows the EPA the authority to extend the deadline for two years with areas with imported emissions.

Now, in the Houston area we do have some problem in imported emissions from if they have fires in Mexico, we receive it. But Houston would not come under this. But if the EPA decides that Houston's air quality significantly impacts Beaumont, for example, to the east and Dallas' air quality, then maybe they should also have the same deadline in Houston in 2007 instead of 2005. That is basically all this provision in the conference committee would do. We are not reopening the Clean Air Act. It is just allowing Dallas or Beaumont to ask for that extension.

I understand there are similar situations in areas all over the country. And I also understand the concern of my colleague, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), that the deadline be moved back, because often we relax if it is not pressing.

Mr. Speaker, I strongly believe Dallas and Beaumont should not use an extension as an excuse to avoid local control and delay cleaner air for their citizens. But I do believe the EPA should be able to grant them an extension and give them as much time as my own area with the Clean Air Act.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentlewoman for yielding me time and for her leadership on this motion to instruct.

Mr. Speaker, when it comes to air quality, Maine is America's tailpipe. We are downwind of industrialized areas to our south and west. Southern Maine endures unhealthy air days during most summers.

According to the EPA's analysis, 98 percent of the emissions leading to unhealthy air days in Maine originate outside of our borders. And so as a result of our experience, I sympathize with those areas which also have pollution coming in, blowing into their areas from other parts of the country; but I do not believe this provision is the right answer.

I rise today to oppose addressing the transport problem by rewriting the Clean Air Act within the energy bill conference. The Clean Air Act should not, in my opinion, be amended in secret meetings of the energy bill conference committee. If we look back at the secret meetings of the Cheney task force, they were linked to the administration's new source review rule changes, the clearest weakening of the Clean Air Act ever approved, and we do not need to weaken the Clean Air Act and threaten the health of our people.

Portland, Maine, could not have attained healthy air by its 1996 deadline if the whole city had packed its bags and moved to Quebec. We have suffered

from such a severe transport problem, more severe in percentage terms than Dallas, Texas, that local efforts could not possibly have brought the city into attainment.

Like my colleagues who have added this provision to the energy bill, Maine's former Governor complained that the Clean Air Act was flawed back in 1996, some State policymakers even advocating changing the act to alleviate our burden. The same arguments are being made here today, but I do not buy it. No matter how many times flexibility is mentioned or the Clinton administration proposals, the real risk here is that we will weaken the Clean Air Act in a fundamental way.

The transport problem is real, but the Clean Air Act gives States the tools to go after upwind sources that risk the health of our citizens. In the mid-1990s, for example, Maine's policymakers used the Clean Air Act by filing a section 126 petition against upwind sources, and other northeastern States did the same. In short, we pushed for a more comprehensive solution to the transport problem; and as a direct result of the section 126 petitions, EPA initiated the NOX SIP Call, which when this administration finally implemented it in 2004, will help us to attain healthy air.

The Committee on Energy and Commerce can take appropriate action to address the needs of certain areas, such as Atlanta, without endangering public health. If this provision were reasonable and environmentally benign, the authors, I believe, would show us the text, mark it up in regular order, and place it on the suspension calendar.

As I say, I am from an area that suffers from transport; but I do not believe this provision, whatever its exact language, will help the people of my State. We need to stop this effort to help polluters at the expense of children with asthma and grandparents with emphysema. So I want to encourage Members to support the motion to instruct.

But I would like to yield the balance of my time to the gentleman from Texas (Mr. BARTON) if he can answer a simple question.

Would the gentleman agree to provide the text of this provision? We are in an odd position here, debating a provision that has been reported, but that we do not have a text of. Would the gentleman agree to provide the provision?

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Texas.

Mr. BARTON of Texas. If we had a finalized version of the text, I would certainly share it with the gentleman. We do not yet have a finalized version. I can tell the gentleman the substance of it and would be happy to do that; but I myself do not have a hard copy of it because we have not finalized the negotiations with the other body.

Mr. ALLEN. Mr. Speaker, I would be happy to settle for the substance.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to try to answer my good friend's question. Before I do that, I want to put into the RECORD the witness list for the subcommittee hearing on July 22, 2003, that I believe the gentleman from Maine (Mr. ALLEN) attended, if I am not mistaken. My recollection is that he was there.

We had 10 witnesses headed by the Honorable Jeffrey Holmstead, who is the assistant administrator for the air and radiation office of the Environmental Protection Agency.

We had nine witnesses that were State and local witnesses. We had a fair panel. Of the nine State and local witnesses, my recollection is that five or six supported this proposal and that three did not. There may be one of the six that I count as a supporter that was kind of 50/50 on it.

The material referred to is as follows:

PANEL I

The Honorable Jeffrey Holmstead, Assistant Administrator for Air and Radiation, Environmental Protection Agency, 6101A USEPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

PANEL II

The Honorable Bobby Simpson, Mayor-President, Baton Rouge/Parish of East Baton Rouge, 222 St. Louis Street, 3rd Floor, Baton Rouge, LA 7802.

The Honorable Carl K. Thibodeaux, County Judge, Orange County Courthouse, 123 South 6th Street, Orange, TX 77630.

The Honorable Carl R. Griffith Jr., County Judge, Jefferson County Courthouse, 1149 Pearl Street, Beaumont, TX 77704.

The Honorable R.B. ''Ralph'' Marquez, Commissioner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Mail Code 100, Austin, TX 78711.

Dr. Ramon Alvarez, Scientist, Environmental Defense, 44 East Avenue, Suite 304, Austin, TX 78701.

Mr. David Farren, Attorney, Southern Environmental Law Center, 200 West Franklin Street, Suite 330, Chapel Hill, NC 27516.

Mr. Ronald Methier, Chief, Georgia Department of Natural Resources, Environmental Protection Division, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, GA 30354.

Mr. David Baron, Staff Attorney, Earthjustice, 1625 Massachusetts Avenue, NW., Washington, DC 20036.

Mr. Samuel Wolfe, Assistant Commissioner for Environmental, Regulation, New Jersey Department of Environmental Protection, P.O. Box 423, Trenton, NJ 08625–0423.

Mr. BARTON of Texas. What the pending proposal with the other body would do is simply and very narrowly in the States that are part of the agreement with the EPA on NO_x, and there are 17 States, most of them east of the Mississippi, if those States have a State implementation plan approved or in the process of being approved and they can show that one of the reasons they may not be in compliance is because of ozone transport, they can ask for an extension. The EPA has the discretion to grant the extension; but if the EPA does grant the extension, it can only grant it forward to the compliant date where the ozone transport is originating from, if that makes sense. It is purely discretionary on asking for the extension. It is purely discretionary on granting the extension.

The extension can only be granted for ozone transport. It is an attempt to codify the Clinton administration's proposal that was put in the Federal Register in 1998.

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

Mr. BARTON of Texas. I yield to the gentleman from Maine.

Mr. ALLEN. My understanding of the current law is that if extensions are granted for any purpose, there is a requirement that stiffer pollution control requirements be implemented in the area. Does the gentleman's provision do away with that requirement for stiffer pollution requirements?

Mr. BARTON of Texas. Let me call a time out if that is possible.

It does not require additional implementation control measures, but it would require that they could file an addendum to the SIP that would do that.

Mr. ALLEN. I thank the gentleman.

Mr. BARTON of Texas. Reclaiming my time, Mr. Speaker, I want to comment on what might happen if a region is not granted an extension.

The courts have ruled in these court cases that if the EPA is not allowed to give some discretion in terms of meeting the timeline and if that region does not look like it is going to be in compliance, it is automatically bumped up to the next highest attainment, nonattainment category.

There are five nonattainment categories in the Clean Air Act. The least nonattainment is called marginal. Their design parameter is between 121 parts per billion for ozone and 138 parts per billion. You go to moderate which is 138 parts per billion to 160. You go to serious .160 to .180. And you go to severe which is 180 parts per billion to 190 parts per billion, and anything above that is extreme. And if you do not have the flexibility to give an extension, and if the region cannot show that it will be in compliance by that specific deadline, EPA has to bump them up in the next higher nonattainment area.

And we might ask ourselves, well, so what? So we are bumped up from serious to severe, from moderate to serious. No big deal. Well, it actually is a big deal because as we go into the more severe nonattainment criteria, the things that have to be done, there is no discretion on that. For example, if you apply for a permit to perhaps build a new factory to provide new jobs, you have to show that there is a two to one offset.

In other words, you have to shut down two tons of pollution for each new ton that the new factory would provide. You almost bring to a halt any highway funding in the area. And in the DFW area that the gentlewoman and I share representation with, those

highway funds on an annual basis or order of magnitude are around $600 million just in Dallas and Tarrant County.

Any new source that is over 25 tons per year has to get a special permit, and 25 tons per year is not a large amount of emissions. And it is possible that the Federal Government can come in and just take over the entire State implementation.

Now, there are some that may think that those are all well and good; but most of this body I would postulate would say, would it not be better to give the region some flexibility to ask for an extension and would it not be better to give the EPA the authority if they felt it was in order to give the extension. That is the question. And again, we are not changing the standards; we are not changing the 125 part per billion standard for ozone. We are not maintaining that at all. We are not changing the criteria for being classified from marginal to extreme. We are not changing that at all. We are not changing the general attainment dates that go back in the statute to 1990. We are simply saying flexibility and discretion are a good thing, not a bad thing.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I have no further requests for time, and I believe I have the right to close.

The SPEAKER pro tempore (Mr. KLINE). The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) has the right to close.

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Mr. BARTON of Texas. Mr. Speaker, if she is about to close, I have some more comments, and she does have the right to close. Would she allow me to speak and then she could close the debate?

The SPEAKER pro tempore (Mr. KLINE). The gentleman from Texas (Mr. BARTON) is recognized.

Mr. BARTON of Texas. Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore. The gentleman from Texas has 8½ minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

I do not want to belabor the debate. Let me just in summary, before the gentlewoman closes, point out that while the gentlewoman is from the Dallas-Fort Worth area, and I am also, this is not a local Dallas-Fort Worth issue. These court cases were brought in three different circuit courts, one of which is the District of Columbia here in Washington, D.C., the 5th circuit and the 7th circuit. So this is a national issue.

Regions that are affected immediately by these court cases do include the Beaumont-Port Arthur area, Dallas-Fort Worth area. So there are two areas in Texas but we also have St. Louis, Missouri; Atlanta, Georgia; Washington, D.C.; greater Connecticut; and Baton Rouge, Louisiana. Those are the cases that we know of, the State implementation plans that were pending that have been stayed by these are affected by these court rulings. So this is not just a Texas issue or just a Dallas-Fort Worth issue. This is a national issue.

The second thing that I would point out is that we are not affecting the standard, the national standard of 120 parts per billion, but let me say on that, when the gentlewoman from Dallas indicates that she has constituents that are affected by ozone and, as she called it, by the dirty area, so do I.

I am slightly asthmatic. My son is, I would say, moderately to severely asthmatic. I have done a lot on the floor of this body to try to help asthmatics. I am the cofounder, along with Senator KENNEDY in the other body and the gentlewoman from New York (Mrs. LOWEY), of Asthma Awareness Day. Back before it was politically correct to be talking about asthma, in some earlier Congresses, I was one of the handful of sponsors of the Asthma Act back in the 105th Congress. I was one of only three sponsors of H.R. 4654. In the 106th Congress, I was one of only four sponsors of H.R. 1965. I am still a leader of the Asthma Awareness Day that we have had every year in the Congress for the last 8 years I think.

So we are not trying to say it is not a problem, but there are some people in our society, when they set these standards for ozone, that we could take ozone to background levels, five parts per billion, six parts per billion like we have in Atlanta, Georgia, and there would still be some asthmatics that were negatively affected.

The other pollutants that are regulated under the Clean Air Act, in every case there was some sort of a bright line test, and again, it is not the different categories. It is yes or no. For lead, yes or no. For SO2, yes or no. For NOx, yes or no. But for ozone, it is not a yes or no, and there is wide scientific debate about where to set the standard.

Having said that, we could set the standard at a level that only the Supreme Being of the universe could meet, and we would still have some people that would be negatively affected. So when we get into the debate about parts per billion and number of days they are out of compliance, 3 days in a 3-year period is okay, but 4 days in a 3-year period is not if they exceed it by one part per billion, then I think discretion is advisable, and I think flexibility is advisable. And I think the pending House position with the other body on the energy conference report is a very defensible, not only defensible, it is a very useful provision, and I would hope, if the gentlewoman insists on a record vote, that we would vote against her motion to instruct, not because it is not well-intentioned, not because she is not well-meaning, but because it actually would, in many ways, I think, hurt the effort to clean the air because of the arbitrariness of the way the courts have ruled under the current Clean Air Act.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself the balance of my time.

There are lots of areas in the country that have already implemented the controls that the gentleman from Texas (Mr. BARTON) speaks about and had worse transport problems and are not seeking extensions. It is a matter of whether these companies want to do it and have the encouragement to come into compliance rather than to help to stay out of compliance.

I would also like to note that the gentleman from Michigan (Mr. UPTON) was here speaking, and I do not know about his application for an extension, but all the areas in Michigan have attained the 1-hour standard. So I do not know why the EPA policy would even apply to Michigan.

The only transport occurring in my area is from the gentleman from Texas' (Mr. BARTON) district to mine. It is not from Houston to Dallas, and in today's article that was well-researched in the Dallas Morning News, it states that the region missed Federal deadlines in 1996 and 1999 to clean up its air. The last missed date made the region, now classified as a serious ozone violator, eligible to move to the next worse category, as severe. That would impose the new deadline set by a Federal law for 2005 and new orders for pollution cuts.

Mr. BARTON of Texas. Mr. Speaker, will the gentlewoman yield?

Ms. EDDIE BERNICE JOHNSON of Texas. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I know she has the right to close, but she made a characterization about my district, and at the appropriate time, I would like to respond to that. I do not mean to interrupt her, but if she would yield to me some time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Speaker, I will put into the RECORD data by the Texas Environmental Air Quality Commission that shows the monitoring in Ellis County has not exceeded one time the standard, not one time. Now, there are monitors in Arlington, Texas, that have, and that is also in my district, but if a reference is to Ellis County, the data shows that there have not been any exceedences. I do not know which part of my district she was referring to, but if it is Ellis County, we are okay in Ellis County. If it is part of Arlington that I represent, then we have had an exceedence.

The data is for ozone exceedences in Dallas/Fort Worth area in 2002 and 2003 (through 10/28/2003).

Measured values for Midlothian Tower C94/C158/C160 show 91 ppb on 15 May 2002, 86 ppb on 22 June 2002, 90 ppb on 23 June

2002, 85 ppb on 24 June 2002, 87 ppb on 8 July 2002, 88 ppb on 7 August 2002, 87 ppb on 8 August 2002, 99 ppb on 9 August 2002, 94 ppb on 11 September 2002, 86 ppb on 13 September 2002, 89 ppb on 28 May 2003, 86 ppb on 9 June 2003, and 89 ppb on 6 August 2003.

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

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to revise and extend her remarks, and include extraneous material.)

Ms. EDDIE BERNICE JOHNSON of Texas. Wherever we are dirtying this air, it is dangerous to the lungs, and it is dangerous to the health.

According to the Environmental Protection Agency, 127 million Americans breathe air that violates Federal standards for smog and soot pollutions. EPA's own consultants found that each year almost 370 residents of the Dallas-Fort Worth area died just because of pollution from the oldest and dirtiest unregulated power plants in the country, and 10,500 asthma attacks are triggered.

During the past several years, EPA gave several metropolitan areas a free pass, extending air deadlines for dirty areas without bumping them up to the higher pollution categories that would require more protective standards. Four separate Federal appellate courts all ruled that EPA's extension policy violated the language and purpose of the Clean Air Act. Appropriately, that led the agency to abandon the policy.

With so many Americans breathing in dirty air, it should be obvious that air quality standards are already not being enforced enough. Why would we make them weaker? But rather than accepting the judgment of the EPA and the courts, the gentleman from Texas (Mr. BARTON) and his allies are seeking to amend the Clean Air Act. His changes would turn the clock back, extend the air time frames once again, without raising the bar for air quality. What this means in real terms for real people is simple: Dirtier air for longer.

In their desire to pass any comprehensive energy bill, some of my colleagues may be willing to overlook the massive damage this bill would do to our existing clean air policies. Including the Barton dirty air rider, which I do not even know what it says because he will not let us see it, but it means ignoring overwhelming scientific evidence on the serious health effects of ozone pollution. It will mean that pollution in these areas will go unchecked for longer and longer in the future.

Asthma attacks, respiratory problems and pulmonary disease will go up, while the amount of time children can spend playing outside will go down. Developing lungs process 50 percent more air, pound for pound, than those of adults.

Children suffer most from the current air quality shortfalls. Letting the situation worsen for years and even decades does nothing for a child unable to go outside today.

It is true that we must secure our energy future, and this is why a comprehensive energy bill is attempting to move forward, but we must not roll back critical safeguards. We must not pass a bill with great shortfalls simply because we need to pass a bill. We must instead work toward a fair bill that protects us all and does not endanger ourselves and our children.

This is not an attack upon my colleague and nor is it Democrats versus Republicans. We see Democrats sitting over here that are for this, too. He is for dirty air, but while we agree that emissions from vehicles are significant contributors to ozone formation in north Texas, we also want to highlight the fact that the volume of the emissions coming from sources in Ellis County equals that of 2.5 million vehicles annually. These emission figures do not account for the two power plants that have sited their plants in Ellis County. Many of them have moved from Dallas County to Ellis County to avoid compliance with better emission controls because they knew they would find the gentleman from Texas (Mr. BARTON) there to protect them, which is not a part of this quote, with better pollution controls nor do these emission figures account for the three permit amendments that are pending at the Texas Commission of Environmental Quality to increase emissions.

Are we going to forget about the people and the health of the people altogether and not care what happens to the people's lungs, including those of us who are here, or are we going to say to the companies, get serious, comply with the standards?

Mr. Speaker, I also have testimony from that hearing from four witnesses in July, as well as other material that I have referred to, to place in the RECORD at this point.

[From the Dallas Morning News, Oct. 28, 2003]

HOUSTON LINK TO D–FW SMOG DOUBTED

(By Randy Lee Loftis)

Internal reviews at the Environmental Protection Agency found little or no evidence to support Texas' contention that Houston's smog was harming Dallas-Fort Worth's attainment of clean-air goals, documents and interviews show.

Nonetheless, EPA officials publicly used much different language—asserting that Houston's smog ''jeopardized'' Dallas' attainment—and proposed giving urban North Texas two more years to clean up its smog than federal law allowed. The move postponed a tougher smog crackdown.

Current and former EPA officials this week defended their decisions and said there was no attempt to alter scientific findings to justify their January 2001 proposal to extend North Texas' smog deadline.

''I don't recollect anybody trying to hide a shell game on Dallas-Forth Worth,'' said Tom Diggs, the EPA's chief air planner for Texas. He said the agency's actions were in line with national policy.

But a scientist at a major environmental group called the discrepancy between the EPA's internal reviews and its public statements ''damning'' evidence of collusion to avoid statutory deadlines, at a cost to public health.

''It is shameful that the EPA was more worried about appearing inflexible than upholding the law,'' said Dr. Ramon Alvarez of Environmental Defense's Texas office.

TIME TO CLEAN UP

North Urban Texas is under pressure to resolve one of the nation's most stubborn smog problems. Emissions from vehicles and industries combine to create hazy skies and health risks, especially for children, the elderly and people with lung ailments.

The region missed federal deadlines in 1996 and 1999 to clean up its air. The last missed date made the region, now classified as a serious ozone violator, eligible to move to the next-worse category, severe. That would have imposed a new deadline, set by federal law for 2005, and new orders for pollution cuts.

When the EPA proposed postponing the deadline to 2007, it also put off the area's designation as severe. That decision two years ago has surged back into the headlines in recent days as part of a bitter fight in Congress.

The agency gave such extensions to several metropolitan areas, in each case saying scientific evidence supported them. Federal courts have struck down the extensions as illegal.

An effort by U.S. Rep. Joe Barton, R-Enis, to legalize them has helped to stall a major energy bill.

Some Senate Republican leaders and Democrats in both chambers oppose Mr. Barton's attempt. ''We did some research on the issue,'' Mr. Barton said Tuesday in Washington. ''We had a hearing in the committee. And all but some of the more radical environmentalists said we ought to give the EPA this discretion.''

The EPA's policy on ''transport'' of smog, or ozone, between cities was supposedly meant to keep a downwind area from paying a price for an upwind area's pollution.

Starting with the Clinton administration, the EPA offered to extend deadlines for any urban area that could demonstrate that another area's smog was significantly affecting its clean-air attainment.

Atlanta, Washington, D.C., St. Louis and Beaumont-Port Arthur were among the takers.

So was Dallas-Fort Worth. The Texas Natural Resource Conservation Commission, now the Texas Commission on Environmental Quality, submitted technical findings in September 1999 that it said showed Houston's effect on Dallas-Fort Worth.

The EPA's Dallas office formally accepted the state's evidence Jan. 4, 2001. The EPA cited the evidence in proposing to postpone Dallas-Fort Worth's deadline to 2007 from 2005, the date set by law.

''We are proposing that this transported pollution affects DFW's ability to attain by the current attainment date,'' the EPA announced in the Federal Register.

''Thus, the DFW and HGA [Houston-Galveston] areas are inextricably linked,'' the agency wrote. ''Without controls in the HGA, the DFW area's ability to attain is jeopardized.''

Environmentalists questioned that assertion at the time, saying the EPA was using transport as an excuse to give states more time for cleanups. The federal court rulings kept the EPA from finalizing the North Texas extension. Future smog plans are being negotiated.

Mr. Diggs, the EPA's chief regional planner, said Tuesday that the state's submittal met the EPA national policy for such claims. He acknowledged, however, that the EPA set the scientific hurdle so low that it was easy for states to get the deadlines extended.

''Whether [making the extensions easy] was a good decision or not, it was out there for every state,'' he said.

''SIGNIFICANT'' IMPACT

Elsewhere in that Federal Register document, Mr. Diggs noted, the EPA said Houston's impact on North Texas was small and limited to some days, but met the agency's definition of ''significant.'' However, EPA technical reviews in 1999 had found that Texas' scientific case was ''weak'' and that Houston actually had ''minimal, if any'' effect on Dallas-Fort Worth's attainment, documents and interviews show.

One former EPA staff expert who reviewed the evidence concluded then: ''Thus, there is not much of an impact of HG [Houston-Galveston] on the DFW [area] that would interfere with DFW's ability to achieve attainment.''

Dick Karp said in an interview that he was given no new information later that would change that conclusion.

TOO RIGOROUS REVIEW

The problem, he said, was that supervisors told him his review was ''more rigorous'' than the agency wanted.

''There was a lot of passing back and forth,'' Mr. Karp said. ''I know in the beginning I was probably a bit more of a stickler for them being able to prove it—show me that there's a real impact from Houston.

''And I kind of got taken aside and told, 'Well, that's not exactly what this policy is about.'''

EPA executives wanted to grant the extensions, but making the states prove their claims would go against that goal, Mr. Karp said.

So he was told that the burden was on the EPA to disprove the states' claims, not on the states to prove them, he said.

''I wasn't real comfortable with that, but I don't get to make the rules,'' said Mr. Karp, who has left the EPA.

Former EPA regional administrator Gregg Cooke, who made the decision to delay Dallas-Fort Worth's deadline, said he was never told that there were questions about the state's evidence.

''The staff document that was sent to me [said that] we think we should give the extension, ''he said. ''And I approved that based upon whatever was given to me at the time. . . . I thought the analysis from staff was that the technical argument was well-taken.''

Asked whether knowing of lower-level staff concerns about the state's case might have changed his decision, Mr. Cooke said, ''It might have been germane.''

Mr. Cooke, who has since left the EPA, is an attorney representing the governments of Dallas-Fort Worth-area counties on clean-air planning.

Mr. Diggs said the EPA's final technical documents, published along with the proposal to extend North Texas' deadline, laid out the agency's policy requirements and showed that Texas had met them. The documents did not claim, he said, that Houston's smog was keeping Dallas-Fort Worth out of clean-air attainment. That was clear in an Oct. 22, 1999, letter to Texas officials, he said.

''We would never say that Houston is the reason for Dallas-Fort Worth's nonattainment,'' Mr. Diggs said, ''Houston coming into attainment does not solve Dallas-Fort Worth.''

Even the Texas officials who assembled the state's evidence knew that they couldn't prove that Houston was a big factor for North Texas, said Brian Foster, an air planner with the Texas Commission on Environmental Quality.

'MINIMAL IMPACT'

''We did show that there was a minimal impact. We admit that it wasn't the greatest amount there was,'' Mr. Foster said.

But the state agency, hoping that new federal and state measures would help ease Texas smog, readily took advantage of the delays that the transport policy offered, he said.

''We felt that we needed more time,'' Mr. Foster said. The key to getting it was EPA's low standard for showing ''significant'' impacts. ''Once again, it goes back to the EPA policy,'' Mr. Foster said.

Dr. Alvarez, the Environmental Defense scientist, said the EPA oversold Houston's impact to the public to justify the extension. Added together, he said, such seemingly small steps backward help explain why decades of efforts have failed to clean up North Texas' air.

''It seems like sophomoric high school decision-making,'' he said. ''Unfortunately, the stakes are much higher: It is the asthmatic children in the metroplex that pay the price of yet another delay in the fight for clean air.''

U.S. SENATE,
Washington, DC, October 27, 2003.

Hon. PETE DOMENICI,
Chairman, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Clean Air Act has reduced pollution from many different sources, but there is still much more work to be done. Nearly 150 million Americans are living in areas that currently do not meet the nation's air quality standards. As you know, in the Senate, the Environment and Public Works Committee has the responsibility for reviewing and revising that Act in a manner that will help us achieve the unanimous goal of improved air quality for all our citizens.

We understand that members of the energy bill Conference Committee from the House of Representatives have proposed an amendment to Title I of the Clean Air Act. That amendment, to codify a policy with respect to ozone nonattainment designations, is not relevant to energy issues, has been overturned by the courts, and has not been the subject of consultation with or legislative action by the Environment and Public Works Committee or the Senate. Therefore, we believe it is inappropriate to include such provisions as part of the energy bill.

The effect of the proposed amendment would be to disregard the compelling scientific evidence on the serious health effects of ozone pollution and delay necessary emissions reductions. This will increase pollution in those areas and in downwind areas, increasing asthma attacks, the number of hospital admissions for respiratory and pulmonary problems, and reducing the number of days that children can play outside safely. This would be contrary to the system established by the Clean Air Act and unsound policy.

In addition, the precedent of bypassing the Committee on Environment and Public Works would be unfortunate. Disregard for the views of the committee of jurisdiction would be compounded by incorporating a new matter such as the proposed amendment, which is not in either Houses' version of H.R. 6, into the conference report. Inclusion of the amendment in the conference report on H.R. 6 will delay Senate consideration and any final action on H.R. 6.

Finally, we clearly understand that this proposal is not emanating from the Senate conferees and urge you to oppose it. Energy Committee majority staff has indicated publicly that you do not think that the energy bill is the appropriate vehicle for amending the Clean Air Act.

We hope that you will maintain that position with respect to this proposed amendment and any such proposals outside the scope of what has already passed the Senate when the conferees meet again.

Sincerely,

Jim Jeffords, Jack Reed, Patrick Leahy, Barbara Boxer, Joe Biden, Ron Wyden, Dianne Feinstein, John F. Kerry, Hillary Rodham Clinton.

TESTIMONY BY SAMUEL A. WOLFE, ASSISTANT COMMISSIONER FOR ENVIRONMENTAL REGULATION, NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, ON USEPA'S BUMP-UP POLICY UNDER TITLE I OF THE CLEAN AIR ACT BEFORE THE HOUSE ENERGY AND COMMERCE COMMITTEE SUBCOMMITTEE ON ENERGY AND AIR QUALITY, JULY 22, 2003

Good morning, Mr. Chairman and members of the Subcommittee. My name is Samuel Wolfe. I am Assistant Commissioner for Environmental Regulation for the New Jersey Department of Environmental Protection. Thank you for the opportunity to testify before you today regarding the Environmental Protection Agency's bump-up policy under Title I of the Clean Air Act.

Even though the EPA created the bump-up policy in an effort to help areas affected by ozone transport, New Jersey cannot support revising the Clean Air Act to accommodate the EPA policy. The policy does nothing to address transport. It simply rewards an area's failure to attain air quality standards by extending deadlines beyond the two years that the law allowed without requiring any additional action to address air pollution.

The 1990 Clear Air Act Amendments created five classes of ozone nonattainment areas to reflect the severity of each area's ozone problem, ranging from marginal to extreme. The classification system followed the principle that a more severe problem would require more work and more time to correct. For that reason, the law requires areas with more severe problems to take more actions to reduce air pollution, and allows those areas more time to attain the Federal air quality standard.

Under the law, areas that fail to attain the standard by the statutory deadline could get the deadline extended for up to two years. If they still failed after that extension, they would be ''bumped up'' to a higher classification, giving them more time but also requiring that they do more to control air pollution.

The EPA's 1998 ''bump-up'' policy extended the attainment deadlines for moderate or serious nonattainment areas when pollution transported from outside the area interfered with its ability to demonstrate attainment by the deadline. More than many States, New Jersey appreciates the need to address transport. Over a third of the air pollution in our State is transported from outside our borders. However, we cannot support codifying into law a policy that simply provides extensions and does nothing to address transport.

Granting these cost-free extensions would be easier to justify if a bump-up forced an area to impose costly or onerous requirements to control air pollution. This is not the case. From the beginning, the EPA classified most of New Jersey as severe nonattainment areas. As a result, New Jersey has had to implement almost all of the ozone pollution control measures required under Title I of the Clean Air Act. We required our major sources of ozone precursors to install reasonably available control technology. We required vapor recovery at gas stations. We run an enhanced program for motor vehicle inspection and maintenance, which is much easier to create now than it was when we started.

The truth is that these types of Title I measures are now the ''low hanging fruit'' of

emission reductions. Areas that fail to meet their attainment deadlines can put these measures in place without difficulty or great expense.

It would also be easier to justify these extensions if the areas that received them were merely passive victims of transport from upwind. Unfortunately, many of these areas themselves contribute to poor air quality downwind. Extending attainment deadlines, without requiring additional action, means that these areas by transport will continue to receive unabated air pollution from outside their borders. This air pollution will harm the health of the area's own residents, as well as the health of people who live and work downwind.

New Jersey itself provides a good example of the problem. Again, more than a third of our air pollution comes from outside our borders. At the same time, air pollution from inside New Jersey affects other States downwind. For that reason, we have filed a petition with the EPA to restrict emissions from facilities upwind of us, while States downwind of us have filed similar petitions targeting facilities in New Jersey. We participated in the research that made it clear that ozone transport is a significant issue in the United States, especially in the eastern half of the country. We have also worked actively with other Northeastern and Mid-Atlantic States and with the EPA to develop regulatory programs and legal actions that would address transport.

At the same time, it was never an option to do nothing while we wait for the transport problem to be solved. For that reason, we continued to pursue sources of air pollution that affected our own residents as well as people downwind. Among other things, we reached an agreement with the operator of the three largest coal-fired electric generating units in the State, which will bring advanced air pollution controls to those units.

Givinig a free pass to areas affected by transport does not solve the problem of transport. What will solve the problem of transport is a strong national effort to reduce the formation of ozone air pollution throughout the country, complemented by continuing State and local efforts to find and implement cost-effective ways to reduce air pollution within our borders.

We therefore ask that the existing bump-up provisions of the Clean Air Act be left in place.

Thank you for this opportunity to testify. I am happy to answer any questions you may have.

TESTIMONY OF RAMON ALVAREZ, PH.D., SCIENTIST, ENVIRONMENTAL DEFENSE, BEFORE THE SUBCOMMITTEE ON ENERGY AND AIR QUALITY OF THE COMMITTEE ON ENERGY AND COMMERCE OF THE U.S. HOUSE OF REPRESENTATIVES, JULY 22, 2003

Good morning. My name is Ramon Alvarez and I am an atmospheric scientist in the Austin, Texas office of Environmental Defense, a non-profit, non-partisan, non-governmental environmental organization representing approximately 300,000 members nationally. Thank you for the invitation to share with you the experience of the Dallas/Fort Worth ozone nonattainment area with EPA's attainment date extension policy.

SUMMARY

Achieving the ozone standard in the Dallas/Fort Worth (DFW) area and other U.S. communities is of vital importance of public health. Ozone impairs the body's respiratory system, aggravates existing respiratory diseases, and has been associated as a causative factor in the development of asthma in children. Unfortunately, the DFW area has made little progress in reducing ozone pollution since the passage of the 1990 Clean Air Act Amendments.

The DFW region twice failed to meet the ozone standard, in 1996 (due to a scientifically flawed plan) and in 1999 (after failing to develop a plan prior to the clean air deadline). After EPA threatened sanctions, a new clean air was developed in April 2000. In 2001, EPA proposed to approve this plan, including the request from Texas to extend the attainment date to 2007 without reclassifying the area to severe nonattainment. EPA has indicated that it will not finalize this approval in light of the appellate court decisions on the attainment date extension policy.

As discussed below, transported pollution from Houston has only a minor and infrequent impact on the DFW area. EPA's transport policy, even if legal, was thus erroneously applied in the DFW area, since the evidence shows DFW could attain the ozone standard even if Houston were to do nothing to clean up its air pollution.

As public concern about local air pollution has increased, stakeholders in the DFW area are now more actively working together to agree on a path forward to clean up the region's air. Legislative proposals to extend attainment deadlines pose a serious risk of disrupting these ongoing negotiations that have a good likelihood of reaching a solution that meets the needs of all the parties involved. Moreover, any further delay in deadlines for the DFW area would mean that thousands of children and other sensitive individuals will continue to suffer the adverse health effects associated with ozone pollution.

FAILURE TO REDUCE HIGH OZONE LEVELS SERIOUSLY THREATENS PUBLIC HEALTH

Inhaling ozone significantly harms human health: ozone can burn cell walls in the lungs and air passages, causing tissues to swell, chest pain, coughing, irritation and congestion. Other effects include decreased lung function, aggravation of asthma, increased susceptibility to bacterial infection, and generation of scar tissue and lesions in the respiratory system.

In reviewing recent evidence of the harm caused by ozone, EPA reached an ominous conclusion on the effects of repeated and long-term exposure to ozone: ''EPA has concluded that repeated occurrences of moderate responses, even in otherwise healthy individuals, may be considered to be adverse since they could well set the stage for more serious illnesses.''

EPA's conclusion was confirmed by new evidence showing that children who participate in high activity, outdoor sports in portions of the Los Angeles air basin are 3.3 times more likely to develop childhood asthma than children who play equally active sports in communities with low ozone environments. For most children who develop asthma, it is an incurable lifetime affliction. EPA recognizes that whatever the effect of ozone inhalation on average adults, the impact on those who suffer from asthma, the elderly, outdoor workers, and active children are far more severe.

A lifetime of asthma is a high price to exact from our children for failing to reduce ozone to safer levels. Any further delay in deadlines to meet the ozone standard would mean that hundreds of thousands of American children and other sensitive individuals will suffer the adverse health effects associated with ozone pollution.

HOW DID DALLAS/FORT WORTH COME TO RELY ON THE ATTAINMENT DATE EXTENSION POLICY?

The Dallas/Fort Worth area has had little success in curbing ozone air pollution since the passage of the 1990 Clean Air Act Amendments. Both the frequency of ozone exceedances and the peak levels monitored each year have remained largely unchanged since the late 1980s. (See Exhibit 1). The Dallas/Fort Worth area continues to routinely record 1-hour ozone exceedances, including this year's high value to date of 161 parts per billion.

Under the 1990 Clean Air Act Amendments, the 4-county Dallas/Fort Worth area was classified as a moderate nonattainment area and required to meet the health standard for ozone by 1996. The State Implementation Plan (SIP) submitted to EPA in 1994 contained only the Act's minimum mandatory reduction (15% of the emissions of volatile organic compounds). Notably, this plan lacked any measures to reduce nitrogen oxides, significant reductions of which are now accepted to be essential to achieving the ozone standard. Not surprisingly, the minimalist VOC-only plan of 1994 failed to bring the region into attainment by the 1996 deadline. EPA reclassified (''bumped up'') the Dallas/Fort Worth nonattainment area from moderate to serious in March 1998.

The bump-up to serious required Texas to prepare a new SIP by March 1999. The SIP Texas submitted was, by its own admission, inadequate. Accordingly, EPA found the SIP incomplete and started the sanctions and Federal Implementation Plan clocks.

The looming threat of sanctions spurred the development and submission in April 2000 of a new SIP. This plan relies on EPA's 1998 attainment date extension policy, which is the subject of today's hearing. In January 2001, EPA proposed to approve the April 2000 SIP and extend the attainment date to November 2007 while retaining the area's serious classification.

TRANSPORATION FROM HOUSTON DOES NOT PREVENT THE DALLAS/FORT WORTH AREA FROM ATTAINING

EPA's proposed extension of the DFW area's attainment date is based on a claim that transported pollution from Houston jeopardized the DFW area's ability to attain the ozone standard. The evidence, however, does not support that claim. We accept the notion that emissions from the Houston/Galveston nonattainment area can contribute to observed ozone levels in the DFW area on some days. Since 1996 we have argued that the control strategy for the DFW area must address ozone transport. However, we do not believe that ozone transported from Houston/Galveston would alone prevent the DFW area from attaining the ozone standard.

EPA justified its proposed extension of the DFW area's attainment date largely on two analyses performed by Texas:

Ozone source apportionment analysis. On the day with the highest modeled zone, 2 to 4 ppb of ozone in some portion of the DFW area cam from Houston sources.

Back trajectory analysis. Air masses entering the DFW area had trajectories going back to the Houston area on approximately 10 percent of the days when ozone exceedances were recorded in DFW between 1993 to 1998.

The only conclusion that can be reached from the analyses contained in the administrative record is that on a small number of days, there may be a small amount of additional ozone in the DFW area that came from Houston. Such a result is not surprising—ozone air pollution is known to travel over even longer distances such as from the Midwest to the Northeast. However, the fundamental question that was never answered by Texas or EPA is whether the small amount of ozone originating in Houston that might occasionally arrive in the DFW area is enough to prevent DFW from attaining the ozone standard before Houston's attainment date.

A fair evaluation of the evidence would lead to the conclusion that the Dallas/Fort

Area could still attain the ozone standard even if Houston did nothing to clean up its air pollution. For example, Houston's emissions could be expected to impact the DFW area less than one time per year. Even if all of the monitored ozone on those relatively rare days came from Houston, the DFW area could still comply with the 1-hour standard, which allows for 1 exceedance per year. Thus, EPA's transport policy, even if it were legal, was erroneously applied in the DFW area.

Because transport from Houston is only a minor component of Dallas/Fort Worth's ozone air pollution, attainment of the 1-hour ozone standard will only be achieved after sufficient local controls are in place to eliminate the vast majority of exceedances that are the result of ozone precursor emissions generated within the DFW area itself. It is misguided to blame the small amount of transport from an upwind area as the reason to once again extend a deadline established to ensure the DFW area's more than 4 million residents can breathe healthier air.

LEGISLATION THREATENS LOCALLY-DRIVEN, WIN-WIN SOLUTIONS

In both the Dallas/Fort Worth and Beaumont/Port Arthur areas, legislative proposals at this time pose a serious risk of disrupting ongoing negotiations that have a good likelihood of reaching a solution that meets the needs of all the parties involved.

In the Dallas/Fort Worth area, local government officials, business leaders, EPA, the Texas Commission on Environmental Quality and environmental groups are working in a cooperative spirit to agree on a path forward to cleaning up the region's air. One outcome might be expeditious attainment of the 1-hour standard and early compliance with the 8-hour ozone standard now being implemented by EPA. I and other DFW area stakeholders feel that the current air quality challenges facing the region can best be handled at the local level and that Federal legislation on the attainment data extension policy is not needed. (See for example Exhibit 2, e-mail from Ron Harris, Collin County Judge)

In Beaumont/Port Arthur (BPA), discussions are actively taking place between all the parties (including the environmental plaintiffs, regulated industry, Texas and EPA) to respond to the 5th Circuit Court decision on EPA's use of the attainment date extension policy for the BPA area. These discussions could lead to a negotiated agreement whereby the area would not be bumped up to severe. EPA has already demonstrated the Act's potential flexibility by proposing, in the alternative, a single or double bump up for BPA.

EXHIBIT 2, R. ALVAREZ—TEXT OF E-MAIL FROM RON HARRIS DATED 7/19/2003

To: Ramon Alvarez

From: Ron Harris, Collin County Judge, Co-Chair, North Texas Clean Air Steering Committee

As we discussed yesterday, please relay to the House Committee hearings on delay of attainment dates the following:

The North Texas Area is currently working closely with both local government, business, EPA, Texas Commission on Environmental Quality and specifically Environmental Defense along with Public Citizen to continue efforts at cleaning up the air in North Texas.

The efforts include working with the Texas Clean Air Working Group and the Texas Legislature. In my opinion, we are making progress toward attainment of the National Clean Air Standard.

At this juncture, I think it would be better left to local partnerships to work and not change the rules again, until such partnerships become unsuccessful and mistrust from those involved results in a slowing down of the clean air goals.

WRITTEN TESTIMONY OF J. DAVID FARREN, SOUTHERN ENVIRONMENTAL LAW CENTER BEFORE THE U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON ENERGY AND COMMERCE, SUBCOMMITTEE ON ENERGY AND AIR QUALITY, HONORABLE JOE BARTON, TEXAS, CHAIRMAN: HEARING ON BUMP UP POLICY UNDER TITLE I OF THE CLEAN AIR ACT, JULY 22, 2003

INTRODUCTION AND SUMMARY

Mr. Chairman and Members of the Subcommittee: Thank you for the opportunity to provide information on the application of EPA's Downwind Extension Policy as an alternative to reclassification, or ''bump up'' as the appropriate mechanism to extend the attainment date under Section 181 of the Clean Air Act (the ''Act''). As an attorney with the Southern Environmental Law Center, which has an office in Atlanta, I have worked closely over the past decade with conservation groups, other citizen organizations, and health professionals in Georgia on issues related to air quality.

The Atlanta area has never achieved the ''one-hour'' National Ambient Air Quality Standard (NAAQS) for ground level ozone, an important step in the effort to protect the health and quality of life of the Atlanta area's four million residents. The Eleventh Circuit Court of Appeals ruled last month that the Downwind Extension Policy is illegal as applied to the Atlanta area. For the following reasons, I urge this Subcommittee not to recommend changes to the Act that would undermine its carefully crafted deadline-driven scheme:

The failure to achieve attainment of the one-hour ozone NAAQS in Atlanta has very little to do with pollution transport and, instead, results overwhelmingly from the failure timely to institute available controls on local sources of pollution. In fact, only 9% of the violation days in Atlanta are contributed to by transport.

Georgia officials project that Atlanta will achieve the ''one-hour'' ozone standard by 2004, which will avoid any additional consequences under the Act that would result from the failure to meet the 2005 deadline applicable to ''severe'' nonattainment Areas.

Reclassification creates a planning opportunity to ensure that the ''one-hour'' standard is attained no later than 2005. In addition to the mandatory measures specified in the Act for ''severe'' areas, Atlanta can choose to implement other measures of its choosing to attain the ''one-hour'' standard and also to make progress toward meeting the new ''eight-hour'' standard which EPA has determined to be necessary to protect public health.

The prompt reduction of ozone pollution in Atlanta will result in significant public health benefits, increased productivity and reduced health care costs. A study published in the Journal of the American Medical Association co-authored by an Atlanta pediatric pulmonologist found that reducing ozone precursors during the 1996 Olympics led to a significant decline in acute respiratory illness.

HISTORY OF DELAY IN ATLANTA

Ground-level ozone, one of the main harmful ingredients in smog, is produced when its precursors, volatile organic compounds (''VOCs'') and nitrogen oxides (''NO_X'') from motor vehicles, smokestacks, and other sources, react in the presence of sunlight. In the thirty years since EPA established the first national ozone standard in 1971, Georgia has never adopted an effective strategy for achieving the pollution reductions necessary to bring the Atlanta area into attainment with the ''one-hour'' ozone standard. Under the 1990 Amendments to the Clean Air Act, the Atlanta area was designated a ''serious'' ozone nonattainment area and was given almost a decade, until November 15, 1999, to develop and implement a plan to control air pollution to attain the NAAQS for ground-level ozone. Unfortunately, the history in Atlanta has been to delay the adoption and enforcement of readily available local controls on ozone precursors. As a result of this failure, hundreds of thousands of Atlantans continue to suffer the adverse health effects associated with ozone, despite the passage of the 1999 deadline for Georgia to implement the emissions reductions required for attainment of the NAAQS.

The 1990 Amendments established a 1994 deadline for Georgia and other states to submit to EPA a plan that would provide for attainment of the NAAQS by the 1999 deadline. *See* 42 U.S.C. §7511a(c)(2)(A). It was not until five years after this submittal deadline, October 28, 1999, that Georgia finally submitted for approval its proposed State Implementation Plan (SIP). Even then, EPA proposed to disapprove the SIP unless Georgia included additional pollution control measures to achieve further emissions reductions. *See* 64 Fed. Reg. 70,478 (Dec. 16, 1999).

A revised SIP with various modifications was not submitted until July 17, 2001, six years after the submittal deadline and almost two years after the deadline for actual attainment. Rather than demonstrating timely attainment of the NAAQS by 1999, this SIP purports to demonstrate attainment by the year 2004 based on EPA's 1998 ''Guidance on Extension of Attainment Dates for Downwind Transport Areas'' (the ''Downwind Extension Policy''). Thus, the delay in attaining the ozone NAAQS in Atlanta is the result of Georgia's delay in developing and implementing a plan to address the long-standing local air pollution problem in Atlanta.

TRANSPORT IS A VERY SMALL FACTOR IN ATLANTA'S OZONE POLLUTION

Never formally adopted as a rule by EPA, the Extension Policy permits the extension of the attainment date without ''bump up'' for some ''moderate'' and ''serious'' nonattainment areas based on EPA's belief that certain of these areas have been hindered in their attempts to meet air quality standards by pollution transported from other states. The Extension Policy, however, does not require a showing of ''but, for'' causation. To be eligible for a waiver of the attainment deadline, the 1999 Federal Register notice announcing the policy explains that downwind areas only need show that transport ''significantly contributes to downwind nonattainment,'' not that transport has rendered attainment by the deadline impossible or even impracticable. 64 Fed. Reg. 14,441 (March 25, 1999).

For Georgia, by example, to be eligible for the policy, it was not required to demonstrate that it was unable to attain the NAAQS in Atlanta by 1999 through more aggressive control of local pollution. In addition, EPA was exceedingly liberal in its interpretation of the ''significantly affected'' standard for application of the policy. In fact, EPA found that ''upwind controls are predicted to reduce the number of exceedances in Atlanta by 9 percent.'' 63 Fed. Reg. 57,446 (Oct. 27, 1998). This means that over 90% of violation days in Atlanta result from local emissions. If Congress were to change the Act to allow extensions based on small amounts of transport, as occurred with Atlanta, almost any area could claim that it is somewhat affected, delaying public health protections for many millions of American families.

As Georgia acknowledges in its most recent SIP revision, the ''worst ozone episodes'' occur during ''multiple day stagnation and recirculation events.'' In other words, the smog days result from extended periods of calm weather where local pollutants hover in the air, not on days where the wind is bringing in emissions from out of state. Thus, it is clear that the most effective way to achieve the public health protections of ozone pollution reduction is to focus on local controls, which Georgia has been reluctant to do.

According to Georgia's submitted SIP, the majority of the emissions that cause ozone in Atlanta come from motor vehicles rather than from transport or stationary sources. The nature of the transportation network, the resulting number of vehicle miles traveled in the nonattainment area and the failure to address this issue are directly related to the severity of the ozone pollution problem. As Georgia acknowledges in its SIP, smog in the area ''is spreading outward in the shape of a giant doughnut,'' and is greatly exacerbated by the fact that Atlantans drive about 35 miles per day for every man, woman and child—more miles per capita than in any other major city in the United States.

Unfortunately, Georgia has been extremely reluctant to address transportation emissions. For example, just this spring it further delayed the implementation of a new low-sulfur fuel rule in the Atlanta nonattainment area at the request of interest groups within the oil industry. In addition, Georgia has repeatedly fallen through on promises to provide funding for transportation options to single occupant vehicle driving, such as commuter rail, HOV lanes and other air-quality beneficial transportation investments. Further, the Atlanta transit system languishes with the highest fare in the country, service cutbacks and no support from the State or suburban counties. Georgia has not attempted to develop and implement timely strategies and programs that have been shown to effectively reduce vehicle travel and motor vehicle emissions. Many such strategies are identified in the Act itself, 42 U.S.C. §7408(f)(1)(A), and even are illustrated in Georgia's SIP as capable of achieving prompt reductions in summer ozone levels in Atlanta.

GEORGIA CAN READILY ACHIEVE THE ''ONE HOUR'' STANDARD IN ATLANTA WITH LOCAL CONTROLS

The proposed SIP for Atlanta based on the extension policy, recently struck down by the Eleventh Circuit, projected that air quality will be improved sufficiently to meet the one hour standard by 2004, after out of state power plants institute required controls under the national NO_X SIP call agreement. Thus, the strategy chosen by Georgia for Atlanta was to sit back and do less to control pollution locally, based on the extension policy, rather than institute more strategies to achieve the NAAQS by 1999.

While this choice for Atlanta is now a fait accompli, it has consequences for the area, the primary one being the delay in public health benefits. The failure to attain also means that Atlanta must be reclassified to ''severe'' status and prepare a new SIP, which contains certain additional control measures. Because Atlanta had projected that it could attain the ''one-hour'' standard even under the prior SIP by 2004, Georgia faces little danger of not meeting the 2005 deadline for ''severe'' areas. These additional control measures, however, should in no sense be considered superfluous, as they are required under the Act to ensure attainment by the new deadline. In addition, the additional measures will be necessary to meet EPA's new ''eight-hour'' ozone standard beginning next year.

Further, to the extent that transport is a small contributor to nonattainment in Atlanta, many of the appropriate controls are in the process of being implemented. For example, Alabama, the largest source of transport that affects Atlanta, has begun this year to implement NO_X controls for most of its power plants. Of course, the most effective way to reduce stationary source pollution in Georgia would be to require further reductions from in-state stationary sources, which are second only to transportation emissions as a source of ozone precursors in Atlanta. For example, two of the older power plants in Georgia, McDonough and Yates, lack the post-combustion NO_X controls of modern facilities.

SUBSTANTIAL PUBLIC HEALTH BENEFITS CAN BE ACHIEVED THROUGH PROMPT OZONE REDUCTION

Ozone is a lung-scarring irritant that affects everyone in the Atlanta region and which can cause or exacerbate serious health problems. For example, people with asthma and others who experience breathing difficulties must limit outdoor activities on days with high ozone levels. Frequently during the spring and summer months, air quality in Atlanta fails to meet the ozone NAAQS established by EPA for the protection of public health.

According to EPA, in 1999, the year established under the Act for attainment, Atlanta violated the existing ''one-hour'' ozone standard on 23 days and exceeded the ''eight-hour'' standard on 69 days. See Georgia Environmental Protection Division air quality data posted at http://www.air.dnr.state.ga.us/tmp/99exceedences/old/index.html. (Due to more favorable weather conditions in the last couple of years, the number of violation days has been lower, as has occurred during previous periods of especially favorable weather patterns.) This means that on many summer days in Atlanta it is not safe for kids to go outside for recess, for the elderly to be working in their gardens and walking in the neighborhood or for healthy adults to exercise outdoors.

Evidence regarding the adverse health effects attributable to ozone pollution strongly influenced the adoption of the 1990 Amendments to the Act. Expert testimony presented to Congress included evidence that: ''Ninety percent of the ozone breathed into the lung is never exhaled. Instead, the ozone molecules react with sensitive lung tissues, irritating and inflaming the lungs. This can cause a host of negative health consequences, including chest pains, shortness of breath, coughing, nausea, throat irritation, and increased susceptibility to respiratory infections. . . . Some scientific evidence indicates that over the long term, repeated exposure to ozone pollution may scar lung tissue permanently. . . . Ultimately, emphysema or lung cancer may result. . . . Young children may be especially vulnerable to both the acute and permanent effects of ozone pollution.''

H.R. Rep. No. 101–490 (1990), reprinted in Environment and Natural Resources Policy Division of the Congressional Research Service, Legislative History of the Clean Air Act Amendments of 1990 3021, 3223 (1993).

The frequent, dangerously high ozone levels in Atlanta during warmer months affect not only children and persons with impaired respiratory systems, but also healthy adults. As the former EPA Administrator concluded: ''Exposure to ozone for six to seven hours at relatively low concentrations has been found to reduce lung function significantly in normal, healthy people during periods of moderate exercise. This decrease in lung function is accompanied by such symptoms as chest pain, coughing, nausea, and pulmonary congestion.'' 60 Fed. Reg. 4712, 4712 (Jan. 24, 1995). In reviewing more recent evidence of the harm caused by ozone, EPA published a lengthy notice summarizing the adverse health effects of both short-term and long-term ozone exposure. According to the Agency, the effects of short-term exposure on healthy individuals include reduced lung function, chest pain, reduced productivity, increased susceptibility to respiratory infection, and pulmonary inflammation. 66 Fed. Reg. 57,268, 57,274–75 (Nov. 14, 2001). With respect to repeated and long-term exposure, the finding is ominous: ''EPA has concluded that repeated occurrences of moderate responses, even in otherwise healthy individuals, may be considered to be adverse since they could well set the stage for more serious illness.'' Id. at 57,275.

These general findings by EPA have been underscored by additional research conducted in many cities, including Atlanta. One recent study published in the prestigious peer-reviewed Journal of the American Medical Association on February 21, 2001 demonstrates that when ozone was reduced in Atlanta by encouraging alternatives to motor vehicle travel during the 1996 Olympic Games, the number of children requiring emergency or urgent care for asthma decreased dramatically. There was a 41.6% decline in visits for Medicaid claimants, a 44.1% decline for HMO enrollees and a 19.1% decline in overall hospital asthma admissions. A copy of this study is appended to this testimony, which is entitled ''Impact of Changes in Transportation and Commuting Behaviors During the 1995 Summer Olympic Games in Atlanta on Air Quality and Childhood Asthma.''

The study specifically tied the positive public health results to the lower ozone concentrations due to a reduction in vehicle emissions. Overall, during the Olympics there was a 27.9% decrease in ozone and no violations of the ''one-hour'' standard. In contrast, the standard was violated on five days immediately before and after the games. While favorable weather conditions contributed somewhat to the lower pollution levels, this dramatic percentage decrease in ozone pollution and emergency care was substantially contributed to by the 22.5% decrease in peak morning traffic counts resulting from travel demand strategies, increased transit service and other programs encouraged in the Act to reduce transportation emissions.

CONCLUSION

''Bump up'' of Atlanta to ''severe'' is an example of the Act working as Congress intended: If a deadline is not met, a new SIP with additional controls is required to ensure that a new deadline is met. The most recent Supreme Court case addressing the Clean Air Act statutory scheme noted that the NAAQS is the ''engine that drives nearly all of Title I of the CAA,'' id. at 468, and characterized the attainment deadline provisions as the ''backbone'' of the ozone control requirements for nonattainment areas. Whitman v. Am. Trucking Ass'ns, Inc, 531 U.S. 457 (2001). Codification of EPA's extension policy would fundamentally weaken the deadline and incentive structure in the Act carefully crafted by Congress in 1990. Instead, it would reward officials, at the expense of many citizens—including the four million residents of Atlanta, who fail to take all appropriate steps to address local ozone pollution. This would set a dangerous precedent that would undermine the Act at a time when the scientific consensus is that more, rather than less, must be done to protect the public from ozone pollution.

TESTIMONY OF DAVID S. BARON, ATTORNEY, EARTHJUSTICE, BEFORE THE SUBCOMMITTEE ON ENERGY AND AIR QUALITY OF THE COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, JULY 22, 2003

INTRODUCTION AND SUMMARY

Mr. Chairman and members of the Subcommittee, my name is David S. Baron. I am an attorney with the Washington, D.C., office of Earthjustice, a nonprofit law firm that represents conservation and community groups on a wide range of environmental and public health issues, including air quality. Our clients on clean air matters include the American Lung Association, Sierra Club, Environmental defense, and others. I am very familiar with the Clean Air Act, having specialized in enforcement of that statute for more than twenty years at the local, state, and national levels. In 1996–97, I served on the Subcommittee for Development of Ozone, Particulate Matter and Regional Haze Implementation Programs, a Federal Advisory Committee to the U.S. Environmental Protection Agency (EPA). I have also taught environmental law courses as an adjunct professor at the University of Arizona College of Law and Tulane Law School.

I appreciate your invitation to discuss the Clean Air Act's requirements for reclassification (or ''bump up'') of areas that fail to timely meet clean air standards, and EPA's prior attempts to waive bump up for cities affected somewhat by air pollution transported from other areas. I strongly believe that EPA's waiver of bump ups via its ''downwind extension policy'' not only violated the Clean Air Act, but also wrongly delayed measures that are sorely needed to protect public health in these and other communities.

BACKGROUND

In the late 1990's, EPA announced an ''Attainment Date Extension Policy'' (sometimes called the ''downwind extension'' policy) that was not authorized by the Clean Air Act. This unfounded policy allowed industries to pollute at higher levels for longer than the Clean Air act authorized merely because they were located in cities affected somewhat by pollution transported from other areas. EPA applied the policy to unlawfully extend clean air deadlines for a number of cities without requiring them to be reclassified into more protective pollution categories with stronger pollution controls. The courts invalidated this policy as being completely contrary to both the language and purpose of the Clean Air Act.

The 1990 Clean Air Act, signed by the first President Bush, classified cities as marginal, moderate, serious or severe based on the severity of their ozone pollution problem. Areas with higher classifications were given more time to meet clean air standards, but also had to adopt stronger anti-pollution measures. The clean air deadline for moderate areas was 1996, for serious areas 1999 and for severe areas 2005 or 2007.

Wher a city missed its clean air deadline, the Act required that it be reclassified (''bumped up'') to the next highest classification. For example, if a serious area failed to meet standards by 1999, it was to be reclassified to severe. It would then be given until 2005 to meet standards, but would also have to adopt the stronger pollution controls required for severe areas.

Reclassification triggers stronger pollution control requirements for industry as well as additional measures to reduce pollution from car and truck exhaust. These stronger measures are already required in numerous communities throughout the nation, including Chicago, Milwaukee, Baltimore, Philadelphia, New York, Los Angeles, Wilmington, Trenton, Sacramento, Ventura County (CA), Riverside County (CA), and San Bernardino County (CA).

Relying on its unfounded extension policy, EPA extended the clear air deadlines for a number of cities without bumping them up to the higher pollution categories that would require the adoption of more protective ozone control measures to help address the adverse public health impacts resulting from the additional delay. EPA also allowed these areas to postpone the adoption and implementation of local measures that were necessary for each area to attain the ozone health standard on the original schedule, thereby postponing a large portion of the public health benefits from reduced ozone that these measures would have achieved. In addition, EPA waived the statutory requirement that each area continue to reduce emissions by 3% annually until the area attains the standard. Three separate federal appellate courts have all ruled that EPA's policy violates the language and purpose of the Clean Air Act. In voiding the extension policy as applied to the Washington, D.C. area, Chief Judge David Ginsberg of the U.S. Court of Appeals for the D.C. Circuit, wrote that ''to permit an extension of the sort urged by the EPA would subvert the purposes of the Act.'' Sierra Club v. EPA, 294 F.3d 155, 161 (D.C. Cir. 2002) (emphasis added).

HARM TO PUBLIC HEALTH FROM EPA'S DOWNWIND EXTENSION POLICY

EPA's application of this discredited policy has delayed adoption of additional pollution controls that are badly needed to meet clean air standards in Atlanta, Washington, DC, Baton Rouge, and Beaumont Texas. The illegal extensions have burdened the public in those areas with dirty air until at least 2005 without the additional pollution controls already required in other cities. As a result of EPA's illegal deadline extensions, the air in these cities is substantially dirtier than it should be.

If the Clean Air Act were weakened in an attempt to legalize EPA's extension policy, this would delay the adoption of badly needed antipollution measures in the affected communities. Last summer, the Washington, DC area, for example, suffered from the worst ozone pollution in more than a decade, exceeding the 1-hour standard on nine days, and recording another 19 days when the air was deemed unhealthful for children and persons with lung ailments. On all of these days, children were warned to limit outdoor play. By some estimates, breathing difficulties during a typical smoggy summer in the DC area send 2,400 people to the hospital, and cause 130,000 asthma attacks.

Last year alone, the Beaumont/Port Arthur, Dallas/Fort Worth, and Houston/Galveston regions exceeded the one-hour ozone standard on three, seven, and 26 days respectively. Atlanta exceeded the one-hour ozone standard seven times and the 8-hour ozone standard 38 times. Ultimately, delay of stronger pollution controls has left the air in these cities more unhealthful than it would have been had the law been followed.

Adoption of the EPA policy would also make it harder for other communities to meet clean air standards. Pollution from cities like Washington, Atlanta, Beaumont, and Baton Rouge can be transported elsewhere, where it contributes to ozone violations. Cities like Baltimore, Philadelphia, and New York that have already adopted more protective ''severe'' area measures should not have to suffer pollution from upwind cities that have failed to adopt the same level of control.

EPA'S DOWNWIND EXTENSION POLICY IS UNFAIR TO STATES THAT DID THE RIGHT THING

As noted above, many states and cities have already adopted the more protective control measures associated with higher pollution classifications. These areas are also affected by transported pollution, a situation understood by Congress at the time that the 1990 amendments placed them in these higher classifications. Adoption of EPA's policy, accordingly, would have an inequitable impact on areas that are already doing the right thing without resorting to delays that imperil the health of their citizens.

EPA's extension policy has been opposed by Republicans as well as Democrats. In 1999, the State of New York under a Republican administration, criticized EPA's extension policy. The State noted the inequity of allowing some states to avoid achieving timely clean air while other states—also affected by transported pollution like New York—were already undertaking necessary, effective control steps: ''[T]hese more effective control steps [required for higher nonattainment classifications] already have been implemented in many areas of the country and have been proven to reduce the emissions of ozone precursors. Implementation of these measures would help level the playing field among the states, provide some localized relief of ozone levels, and help the affected areas in their efforts to achieve the revised eight-hour ozone standard.''

In 1999, the State of Ohio, also under a Republican administration, criticized this same attainment date extension policy and approach: ''U.S. EPA is rewriting one of the most important and substantive measures placed in the 1990 CAA. . . .

''Ohio EPA does not believe that the CAA intended that extensions be granted to areas which have not demonstrated attainment. In some cases, these areas have not implemented current CAA requirements and would not achieve the 1-hour ozone standard even after transport had been addressed. These areas need an additional level of local controls, which is the precise purpose of the bump-up provisions of the CAA.''

Thus, a roll back of pollution control requirements under a policy will harm the public health of citizens locally and regionally by delaying more rigorous ozone pollution abatement measures needed to meet clean air standards.

In its unsuccessful defense of its extension policy, EPA claimed that deadline extensions and bump-up waivers for some areas are justified because those areas are impacted somewhat by pollution transported from other areas (generally within the same state). But other cities with higher classifications—and therefore stronger local pollution control requirements—are also impacted by transported pollution—in some cases to a much greater extent. For example, transported emissions account for a smaller percentage (24%) of the ozone problem in the Washington, D.C. area than in areas that were previously classified as severe, such as Baltimore (56%), Philadelphia (32%), or New York (45%). Conversely, EPA's data for Atlanta shows that implementation of the NO_X SIP call controls would eliminate only 9% of the days with expected ozone violations. For Baton Rouge, EPA has found that only 7% of ozone exceedance days between 1996 and 2000 were potentially associated with transported pollution from Houston.

This situation was also true when Congress adopted the 1990 amendments and established the classifications system with its consequences for failure to attain air quality standards. Indeed, Congress was aware of EPA's assessment of the ozone transport problem in its post-1987 attainment date analysis of he reasons why ozone areas failed to attain, and adopted into law EPA's decision ''not to allow a delay in submittal of the post-1987 ozone attainment demonstrations and revised SIPs for areas affected by [regional transport].'' 52 Fed. Reg. 45,874.

CURRENT CIRCUMSTANCES MAKE EPA'S EXTENSION POLICY EVEN LESS DEFENSIBLE

EPA's policy was ill-advised when it was adopted in 1999, for many of the same reasons given by Ohio and New York above. But whether or not the policy was a good idea then, circumstances have changed in such a way that its codification now would be a terrible idea. Technical advances reflected in EPA's new MOBILE VI emissions estimation model are showing that many areas have much larger local emissions problems than were previously thought, and greater local emission reductions will therefore be needed. Moreover, with the upcoming implementation of EPA's more protective 8-hour ozone standard, the areas affected by EPA's policy, and many other areas as well, will need to implement the suite of protective control measures required in the 1990 Clean Air Act Amendments, in addition to reductions in transported pollution. Many of the areas for which EPA has sought to avoid the stronger pollution control measures associated with reclassification are already exceeding the 8-hour ozone standard repeatedly each year. It is insupportable to delay local control measures needed to reduce these annual exceedances, thereby exacerbating local air quality and public health problems, and forestalling the meaningful steps that will be necessary to attain the 1-hour and 8-hour ozone standards.

Mr. HOLT. Mr. Speaker, I rise in support of the motion to instruct offered by my colleague from Texas, EDDIE BERNICE JOHNSON.

Ms. JOHNSON is understandably upset about the provision she is trying to remove from the energy conference report. Under a shroud of secrecy, the way virtually all of the energy negotiations have happened so far, a provision was slipped in that will extend deadlines for cities to clean up their dirty air. This will have dramatic effects on the health of Ms. JOHNSON's constituents.

I'm not here because of any city in my district that isn't complying with clean air regulations. I'm here because New Jersey has the unfortunate distinction of being number one in worst smog pollution for 2002, according to a recent New Jersey Public Interest Research Group Report. Even by the EPA's 8-hour standard, New Jersey has the second-worst pollution in the country.

New Jersey's efforts to clean up our air are laudable. The state has implemented a large number of ozone control measures and even negotiated a deal to close two coal-fired power plants in a neighboring state. But there is simply no way that the state can adequately tackle this problem—New Jersey can't control the jet stream. Because prevailing winds carry pollution from plants in the Midwest to the East Coast, much of the smog, soot, and fine particulates that endanger the health of state residents do not come from in-state sources.

That's why the federal government needs to take an active role. This was the motivation behind the 1970 Clean Air Act and the New Source Review rules. The Clean air Act has helped the country take major steps towards making the air we breathe better for our health.

So just like Ms. JOHNSON, I am dismayed to see that members of the energy conference committee have slipped in this provision that will undermine the spirit and the letter of the Clean Air Act.

It seems that some of the conferees are working in concert with the Bush Administration to conduct a frontal assault on clean air protections and to let polluters get out of making necessary environmental upgrades.

Take New Source Review, for example. NSR is an important part of the Clean Air Act that requires power plants, chemical factories, and other large industrial facilities to adopt effective emission controls when expansions or upgrades lead to increased pollution. According to the EPA, this has meant keeping 300 million tons of pollution out of the atmosphere in areas that meet national air quality standards.

The Administration has proposed changes to the New Source Review program that will create gaping loopholes in clean air protections. Facilities would be allowed to increase the amount of pollution they emit if the cost of making a change is less than a certain percentage of the cost of the entire facility. Thus companies can easily make incremental changes to renovate a facility without triggering NSR. And even if the cost of the upgrade does exceed the percentage trigger, plants will still not need to implement pollution controls if the upgrade consists of replacing existing equipment with new equipment performing the same function, regardless of cost.

These are changes that have been clearly demonstrated by numerous experts—including Abt Associates, who has done research for the EPA—that will result in more premature deaths and more cases of asthma and other respiratory illnesses.

I came to Congress five years ago to represent the people of the 12th District of New Jersey. It's pretty obvious that among the more important responsibilities I have in representing my constituents is standing up for them when someone is making them sick or killing them—the way air pollution is now.

That is why I urge all of my colleagues to support the Johnson motion to instruct.

Ms. WOOLSEY. Mr. Speaker, I would like to thank the gentlewoman from Texas for offering this Motion to Instruct Energy Bill Conferees.

Instead of working on an Energy Bill that will work to solve our nation's energy crisis, the Republicans are holding a conference without any Democrats and now they are trying to add in riders to weaken the Clean Air Act. What will they think of next?

This rider allows polluters to further delay establishing clean air controls—contributing to air pollution that bellows out of giant smokestacks and puffs out of tailpipes. This air pollution has led to a record number of people with asthma, particularly in our cities. By trying to attach this rider to the Energy Bill, the Republicans are showing once again that they do not value clean air or the health of Americans.

And the sad fact is that children are the most vulnerable to air pollution. They spend more time outdoors, they inhale more pollutant per body weight, and their bodies, lungs and immune systems are still developing. Children are particularly vulnerable to smog and soot—continued exposure can scar and severely damage children's lungs.

Instead of weakening the Clean Air Act, the Republicans should be using this opportunity to develop and use new technologies and to cut our reliance on dirty energy fuels. Unfortunately, in the Energy Conference, the Republicans have chosen the interests of big business over the health of the American people.

Mr. Speaker, I ask my colleagues to join me in supporting this motion to instruct.

Mr. BURGESS. Mr. Speaker, I rise to speak against the Motion to Instruct Conferees on the H.R. 6, The Energy Policy Act.

As discussed thus far, under the Clean Air Act of 1990, areas designated as ''severe'' nonattainment areas, such as Houston, must meet the 1-hour standard by 2007, and Dallas, classified as ''serious'' areas was required to meet the 1-hour standard by 2005.

Wind currents can transport ozone and its chemical components over long distances, which can have an adverse affect on the air quality of areas that are downwind of more severe nonattainment areas. For example, Houston's air quality can impact Dallas's air quality.

In 1998, under the direction of President Clinton's EPA Administrator Carol Browner, the EPA promulgated transport policy rules that allowed the EPA to allow affected ''moderate'' and ''serious'' areas until 2007 to meet the 1-hour standard. This common sense rule simply allows cities to take into account the ozone that is transported from other cities.

Strict judicial interpretation of the Clean Air Act of 1990 said that the EPA did not have statutory authority to promulgate this rule. As a strict constitutionalist, I was glad to see the judicial restraint exhibited by these decisions.

However, I think it is important to note that Congress did not give the EPA this authority under the Clean Air Act of 1990 because Congress was not aware of the impact of ozone transport on air quality at that time. Since 1990, the science has improved to the point that we are aware of and better able to determine the impact of the transport of ground level ozone.

That is why there is a provision in this year's energy bill to give EPA that authority, if they so choose.

Some have claimed that this will ''roll back'' the Clean Air Act, and that is just not true. The State of Texas and other affected States and the cities of Dallas and Fort Worth are not going to stop working toward clear air. In fact, as recently as reported last Friday in the Fort Worth Star-Telegram, the North Texas Clean Air Steering Committee said that they will not slow down efforts to clean the air if Congress pushes back the deadline.

As a member of the Transportation and Infrastructure Committee, I do not support tying the issue of ozone transport to my district's transportation funding. I do not believe that taking away transportation funding from the Dallas-Fort Worth region will result in improved air quality.

In fact, I believe eroding our transportation funding would adversely affect air quality because studies have shown that automobiles operate more efficiently at around 60 miles per hour than at lower speeds such as those cars idling during bumper-to-bumper traffic in bottleneck areas, such as on Interstate 35 East in my district. A more efficient motor decreases the amount of ozone-creating pollutants that are released into the air. This is especially important to the Dallas-Fort Worth region because EPA studies have shown that our region's air quality is especially affected by mobile-source (automobile) pollution.

If my colleagues disagree with me and believe that we should decrease transportation funding in order to improve air quality, I am more than happy to accept their piece of the transportation funding pie. I know we all agree—we need to keep our cash on the dash!

Clean air is one of the most important legacies that we can leave our children. If we are going to preserve this world for future generations, we must take steps that will protect our

natural resources, but we must also not harm our economy.

If you cannot identify the source, and control the source, you cannot effectively reduce ozone. I will vote against the Motion to Instruct Conferees on H.R. 6.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

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

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

GENERAL LEAVE

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this motion to instruct.

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

There was no objection.

□ 2000

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Mr. DAVIS of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. NUNES). The Clerk will report the motion.

The Clerk read as follows:

Mr. DAVIS of Florida, moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1 be instructed to reject the provisions of subtitle C of title II of the House bill.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Florida (Mr. DAVIS) and the gentleman from Virginia (Mr. CANTOR) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. DAVIS).

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

Mr. Speaker, this motion instructs the House medicare conferees to reject the provision in the House Medicare bill that I believe can be fairly characterized as leading to the privatization of Medicare. The House leadership has cleverly described this provision by calling it premium support. But how much support this premium support provision truly provides beneficiaries should be the subject of an open, honest and detailed debate tonight out of respect for the Nation's seniors who simply want to see us get something done.

I also want to pause to point out that there are a number of Republicans and Democrats here in Congress who truly do want to find a middle ground, a compromise between the House and the Senate, between Democrats and Republicans, to achieve a long overdue Medicare prescription drug bill. Many of us have been very consistent in arguing that that is not achievable as long as the premium support issue, which is the subject of this motion, is part of a final bill. So the motion tonight is an attempt to remove a provision which many of us believe represents an obstacle to a compromise to a truly practical long overdue prescription drug benefit for our Nation's seniors.

Now, what the premium support provision does is to allow seniors in the year 2010 to have what is being described as a meaningful choice as to how to obtain their Medicare coverage. Not just for the drug benefit. This is for the entire Medicare program. And the concern I wish to express tonight on behalf of seniors throughout the United States, Democrats, Republicans, independents, seniors who really are not interested in politics but are simply interested in seeing a drug benefit that they can use, is that the premium support provision in the year 2010 forces seniors throughout the United States to make a choice as to how they are going to receive health care, and that this is going to be a problem for those seniors who have health issues.

I think one of the many things that we can agree upon tonight on the floor of the House of Representatives is that there are a number of seniors who have health issues as they approach the age of 65, or long before then; and that is what this debate is about.

I met with the incoming president of one of the major private insurance companies in Florida a few weeks ago, and it could have been any insurance company or any CO of an insurance company; and I said to him, if this were to become law in 2010 and my mom had some health issues and she went to you and tried to get insurance, would you offer her insurance? What he told me, and I respect his candor, is we really do not want people that have health issues in our policies. We are looking for healthy people. They are easier to insure, the risk is more certain, it is more affordable, it is easier to earn a reasonable profit; and so that is the type of beneficiary we are looking for.

And if somebody is in the private sector, I understand his point of view. He is trying to earn a profit on behalf of his company. And if the government does not force him to choose to accept people like my mom or somebody else's mom with some health problems, he is not going to do it. So what this debate is about tonight is what happens to that individual, somebody over 65 who has some health problems or develops health problems.

Now, Mr. Skully, who is the administrator of the Federal agency, the Center for Medicare and Medicaid Services, which has a slightly different name now, said in 2001, in the fullest candor, which I respect, that there was a problem with private plans charging higher copayments for those people with health risks that they did not want to accept, and that we who are entrusted in the Federal Government to provide a Medicare program that truly works should be concerned that private plans will use higher copayments and other devices to discourage people from signing up for their plans.

And that is exactly what I am talking about here tonight. Because under this premium support provision, which I would also refer to as a voucher, but it is whatever you choose to call it, in 2010 an individual with a health problem is going to have one of two choices: they can either try to get into a private plan, which again I would submit is not going to want them and is going to discourage them and is going to have the full ability under this bill to do that, and if that person with some health issues who is over 65, that Medicare beneficiary cannot get into the private plan, they are left with the crux, I would say the cruel result of the premium support plan.

I will attempt to explain that. And in the debate tonight, I hope we can reach some agreement as to what the facts are, and then we can debate the differences as to how we interpret those facts and where the values of our country lie in terms of how we treat this beneficiary and in terms of how Congress designs this plan.

The second choice that is available to that Medicare beneficiary, if the private plan rejects him, is they receive a voucher. Now, what that voucher represents in terms of value is a dollar figure that is based on the average cost of insuring a person who is in a private plan. Because in a private plan I think we can safely say those beneficiaries are going to be healthy, their health care bill, of course, is going to be less. It is going to be less expensive to insure them. So that individual who receives the voucher is going to receive a voucher that is equal in value to the average cost of a healthy beneficiary whose costs are lower.

Now, what does that all translate into? What that means is that with this voucher, if you have some health issues and therefore your health care bills are higher, that voucher is not going to provide to you enough money to get you through the month or to get you through the year. I believe it is fair to say that we face a situation where these Medicare beneficiaries with health problems that have been rejected by these private plans are going to get enough money to almost get them through the month or to almost get them through the year.

Matter of fact, the chief actuary who works for the CMS, the Federal health care agency, said in a piece of paper that under this premium support or voucher plan, that premiums could go up as much as 25 percent for this individual I am describing who could not get into a private plan and has to find another way to cover their health care costs. Twenty-five percent, that is a lot of money.

And remember, when we are talking about a Medicare beneficiary who has some health problems, we are talking about somebody who probably is having difficulty paying their other bills. They are fighting for their health, and they are probably getting into some serious financial duress. And under this premium support voucher plan, we are going to add to that duress. Because what you are left with is a Medicare beneficiary with health problems who at the end of the month or the end of the year their Medicare runs out.

And that is what we are debating tonight: Do we believe as a Congress that Medicare should ultimately leave that individual without the support they have always had when it gets to the end of the month or the end of the week? And I think the answer is clearly no.

The basis for the premium support, and I salute my colleagues on the Republican side who have been very clear in explaining what the purpose of this premium support provision is, is to reduce the cost of Medicare. You can call that reducing the rate of growth in Medicare, you can call it cutting Medicare, but what you can fairly say is this is about reducing the cost of Medicare.

And my colleagues, this is what it boils down to: Are we as a Congress going to reduce the cost of Medicare by saying to that Medicare beneficiary who is struggling to recover their health, that at the end of the week, at the end of the month, you are on your own? You are on your own; we wish you well. Medicare as we know it is no longer there to get you through the week. It is no longer there to get you through the month. We wish you well, and it is on your back that we are reducing the cost of Medicare.

I would suggest that that is an indefensible proposition; that there are seniors throughout the United States, Democrats, Republicans, independents, people who simply want the drug benefit, want the Medicare program they have come to know and trust who think it is fundamentally unfair that the growing number of seniors in this country who struggle with health issues after the age of 65 are forced to try to find the funds at the end of the week or the end of the month to meet the health care bills that we will no longer be able to meet for them through the Medicare program.

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

Mr. CANTOR. Mr. Speaker, I yield myself such time as I may consume, and I too am delighted to be here to debate with the gentleman from Florida the motion to instruct which he offered.

Mr. Speaker, I think there is a consensus in this body that we do something to save the Medicare program. All of us know the demographics, all of us know the health of the system itself is in jeopardy, and we must do something to reform the program to ensure its financial health and longevity.

It is interesting, Mr. Speaker, the gentleman from Florida insisted that we ought not go the route of market-based competition and we ought not allow the competition of private sector plans to come into play to give seniors a choice of how they want their health care delivered. But I heard no ideas come forth from the gentleman. Where is his solution?

I think it is fairly indicative that there is no solution coming from the other side, and that they probably, I do not want to put words in the gentleman's mouth, are satisfied with the status quo. But we cannot be satisfied with the status quo. We must reform the system. We must modernize it, and we must update it so that seniors can have a choice and seniors can have access to a prescription drug benefit.

So if we call premium support, as the gentleman said, a voucher, I think it is a characterization that perhaps may not adequately or accurately reflect what the House bill does. And let us start back from the very beginning when a bipartisan commission on the future of Medicare studied this. It concluded that the best way to reform Medicare was to provide beneficiaries with a choice of plans similar to the choice available to Members of Congress, the FEHBP plan, which we all have access to. And certainly I would think we would want to share that same type of health care with the millions of seniors out there who may not currently enjoy the same type of options under the plan.

But to talk to the gentleman's allegations that the House bill would only squeeze out the unhealthy seniors and would deny them access is simply not true. Absolutely not true. At 2010, when competition sets in, the rates that are set at that point are not just the average rates.

And since we are talking about the facts, and the gentleman says he hopes we can agree on the facts, the facts are that in the House bill the average rates are a blended rate, a blended rate of the then-private plan rates as well as the government rate that was used as a benchmark up until that point. And at that point we will then have market forces coming to bear, and we will enable plans to compete for business. And if plans can come in under that benchmark or that blended rate, then there will be a benefit for seniors to choose those plans because they, as well as the government, will be able to share in the savings in the costs of those premiums.

But to speak to the gentleman's conclusion, that if we have competition we will ultimately deny seniors health care, that is just preposterous. There are provisions, if he would look at the facts in the House bill, there are provisions which allow for an adjustment in premiums of the government program. No one ever said that there would not be an option in the government program. Nothing changes a senior's entitlement to Medicare. There is no change in entitlement.

And if, as the gentleman suggests, that perhaps there is a disproportionate number of the population of ill or more sick seniors that are in the government program, there is a provision in the bill which allows there to be an adjustment in the premium so as to avoid the exact problem the gentleman points out. Those are the facts.

And to conclude, Mr. Speaker, again, we have got to do something about Medicare. Medicare and the demographics supporting that program do not bode well given the current state of affairs. I do not hear a single solution coming from the other side, which seems to suggest that there perhaps may be an obstructionist plan not to allow Congress to pass a prescription drug benefit plan this year, but that is what America's seniors wants and that is what we must do.

The bill that passed the House offers us a way to reform the system, to achieve savings, to allow seniors to have choice in their health care, and choice just as we here in Congress enjoy in the FEHBP program.

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

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Mr. DAVIS of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I have great respect for my colleague, the gentleman from Virginia (Mr. CANTOR), but when I listen to the arguments being made, I have to reject them outright. The gentleman talked about how Medicare is going broke and the gentleman said, What is the solution? Well, the solution is for the Republican leadership in the House and the Republican President to abandon their failed economic plan, which essentially over the last 2 years has been to create more and more tax cuts, drive the Federal Government into deficit, the biggest debt we have had in anybody's memory, and borrow all of the money from the Medicare trust fund so it goes broke.

Mr. Speaker, if we keep borrowing from the trust fund in order to pay for tax cuts for the wealthy, of course there is not going to be money in Medicare. The solution is easy, get rid of the tax cuts that are primarily favoring the well-to-do and corporate interests, and then Medicare and the trust fund will have money and there is a solution to the problem.

That is what we were doing when President Clinton was in office, we

were getting out of debt, and we had a balanced budget. The other side of the aisle created the problem, the economic downturn, and the situation where the trust fund does not have the money; so do not talk to me about solutions, they are easy: Get rid of the failed Republican economic plan.

I listened to what the gentleman said, and he was honest about the facts. He said in 2010 there is going to be a blended rate of the government plan and private plans, but what the gentleman fails to tell us is this blended rate is less than what traditional Medicare costs at that point. Because there is a voucher system in place, the senior who wants to stay in traditional Medicare is going to pay more. There is a blended rate with the traditional Medicare and the private plan. If the traditional Medicare costs more, seniors will have to pay out of pocket, and most seniors who want to stay in traditional Medicare will not have enough money to pay out of pocket. It could cost them $500 more a year, $1,000 more a year, $4,000 more a year, the sky is the limit. Increasingly, a lot of seniors will drop out and not be able to have traditional Medicare. That is why we say essentially what they are doing is trying to save money, and they are saving money by keeping money from access to traditional Medicare.

The gentleman talks about choice of plans. How is there a choice of a plan if you cannot afford to pay for the plan you want, which is traditional Medicare. And meanwhile, you lose your choice of doctor and your choice of hospital because the only way you can get your health care is by joining an HMO, a private plan. So you do not have a choice of plan because you cannot afford to stay in traditional Medicare. You do not have a choice of hospital or doctor because you have to go into an HMO to get your health care.

The facts are simple. The other side of the aisle is setting up a voucher. They do not care about the traditional Medicare program. They say it costs too much when, in reality, they have created the situation that is making it go broke, and it is not really broke, but certainly it will be if we continue with this economic policy.

I have to look at it from the point of view as a senior citizen. They want to privatize. So you have to say, we will give you a drug benefit, but you have to join an HMO to get the drug benefit. And you are sort of dangling the opportunity for a drug benefit out there, but in the course of getting that drug benefit you are setting up a program with this premium support or voucher which essentially privatizes Medicare and forces people out of the traditional Medicare program.

So it is really an effort to sort of ''behind the scenes'' get the seniors out of traditional Medicare and force them into HMOs by suggesting somehow we cannot afford traditional Medicare and that this is the only way to get a drug benefit.

I think they have to be honest about what they are doing. I support the motion of the gentleman from Florida (Mr. DAVIS) because it makes quite clear that on the Democratic side of the aisle, we do not want seniors forced into vouchers or forced into HMOs. We do not want them losing their choice of doctors or choice of hospitals, and we do not want to set up a situation where essentially we kill traditional Medicare. That is what the Republicans are all about, and that is why we need to support this motion to instruct.

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

Just to respond to the gentleman from New Jersey's statements, first of all about the need for us to reverse the trend toward giving people and businesses back more of their hard-earned money, so they can invest that money creating opportunity, so we can actually grow this economy the way we are seeing it grow as a result of the Bush tax cuts that we have passed in this Congress. And setting that aside, Part A is funded by the trust fund, and Part A has a surplus in it. But Members know the demographics. Just like the Social Security situation, the demographics in this country are betting against us because as more and more people retire, less money will be paid into the program and more people will be on the back side benefiting from the program. That is the problem with Part A.

Part B is funded by general revenues. As we continue to put money into Part B, and we continue to see rising health care costs, estimates are that a third of people's income will be used in the next 20 or 30 years to fund the Medicare program. I do not think any of us want to see our children and grandchildren saddled with that kind of debt off into the future. That is why we have to act now. That is why we have to reform this program, we have to afford ourselves efficiencies, we have to save money, and we have at the end to provide seniors with a health care plan that affords them choices.

I will also tell the gentleman, I am having difficulty following the argument about the blended rate and about the fact that we are going to have a blended rate that reflects both private rates, as well as the rate in the government program. That is the beginning. That is the transition into the formula which after 5 years will then reflect basically the rates that are out there in the marketplace for the predominance of the public, the seniors who are in the private plans. And the gentleman just said the private plans will be cheaper, so if the private plans are cheaper, then the government plan and the fee to get into the government plan will reflect the costs offered by the private plan. I am having trouble with the sort of circular argument that you cannot have these private plans succeed because only the nonsick will enter them and will leave all of the sick people in the government-run program which we already said there are provisions in the bill to address that.

Also, we are talking about doing something to reform and better the program. We are talking about updating and modernizing the program. I hear nothing from the other side of the aisle which even suggests that we should go forward to offer seniors a real choice in health care just as we have as Members of Congress.

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

Mr. DAVIS of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN), the ranking member on the Subcommittee on Health.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman yielding me this time, and thank the gentleman for the good work he does on health care on the Committee on Energy and Commerce.

Mr. Speaker, I rise in support of the Davis motion. Under H.R. 1, Medicare, pure and simple, ends as we know it, as the gentleman from California (Mr. THOMAS) the chairman of the Committee on Ways and Means has predicted and has worked towards, it ends in 7 years. In 7 years, regardless of what Republicans tell us, Medicare will be replaced by a voucher to cover part of the premium for health insurance. As the voucher goes into effect, seniors out-of-pocket costs increase. Medicare no longer, under the plan of the gentleman from California (Mr. THOMAS), under H.R. 1, under the Republican plan, it no longer guarantees seniors and disabled Americans access to the health care that is deemed medically necessary for them. The government would contribute a set number of dollars to an HMO or some other health insurance; beneficiaries foot the rest of the bill. The government may, although they have not under HMOs so far, may save money; but every dollar the government saves comes out of middle-class and lower-income seniors' pockets.

So much for the Medicare entitlement, so much for guaranteed benefits, so much for choices that matter: Choice of hospital, choice of doctor. I love it when Members on the other side of the aisle say seniors want more choice. They want choice of hospital and doctor. That is what Medicare gives them. They are not asking for choice of insurance agent or insurance company or maybe even choice of glossy HMOs brochure, they want choice of hospital and choice of doctor. That is what Medicare has given seniors for 38 years.

I hear my friends on the other side of the aisle say Democrats do not have a solution. First of all, you have to tell me what the problem is before we offer the solution because Medicare clearly, except it does not have a prescription drug benefit and it is too expensive for some seniors, and we need to fix that, but other than that, seniors are happy with the way Medicare works. They have full physician choice, and they

have full hospital choice. I love how the other side of the aisle argues for market-based competition. That has certainly worked to keep the price of prescription drugs down. It is good for going to the grocery store and buying a new stereo, but it does not seem to be working for prescription drugs or HMOs.

Seniors would choose an HMO over traditional Medicare if traditional Medicare were funded as well as it should be, I do not think so. But what I think about this, Mr. Speaker, what I think about the Republican efforts to privatize Medicare and turn it into a voucher system to change, as the gentleman from California (Mr. THOMAS), the leading Republican expert in this Congress on Medicare says, to change, to end Medicare as we know it.

When I think about that, it dawns on me what the Republicans want to do. They have never, Republicans have never really appreciated and liked Medicare. In 1965 when Medicare was passed, only 11 Republicans in this whole body and the other body voted for it: Then-Congressman Bob Dole voted no, then-Congressman Gerald Ford voted no, then-Senator Strom Thurmond voted no, then-Congressman Donald Rumsfeld voted no. Republicans did not want to create Medicare.

Then many years later, the first time Republicans were in control of this body, the first thing Speaker Gingrich did, the first time they were in the majority, the first thing he tried to do was cut $270 million from Medicare. Why, to give a tax cut to the most privileged people in society, wealthy Americans. They do not like this program. They want to privatize this program. They want to turn Medicare over to private insurance companies, private HMOs, so instead of choice of physician and hospital, you will have choice of glossy insurance company brochure, you will have choice of insurance agent, choice of insurance company. That is not the kind of choice senior citizens want.

Mr. Speaker, every time since Mr. Gingrich in 1995 tried to cut Medicare, every other time Republicans have had an ability to do something to try and weaken Medicare, they have tried to do it. President Bush said in a State of the Union speech, he said if you want to get prescription drug coverage, you have to get out of Medicare and go into a private HMO to get it.

The Democrats simply want Medicare prescription drug coverage to be done through traditional Medicare, not turned over to insurance companies. When you look at what Republicans think about Medicare, the lack of support in 1965, the lack of support in 1993, the lack of support in 1999, the lack of support in 2003, you know the system works, you know the Republicans do not like a government program like that.

Mr. Speaker, I ask for support for the Davis motion to instruct. It makes sense. We want to preserve and protect Medicare, not privatize this system and turn it over to the insurance industry which just happens to give millions and millions of dollars to President Bush and to Republican candidates.

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

Mr. Speaker, first I would like to call to the attention of the other side of the aisle, in H.R. 1 on page 260, line 18, in very bold print it says, ''No change in Medicare's defined benefit package. Nothing in this part or the amendments made by this part shall be construed as changing the entitlement to defined benefits under parts A and B of the act.''

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Again, nothing is going to change the entitlement for seniors to these benefits, as we said earlier in the House bill.

I would also, Mr. Speaker, at this time like to point out, the gentleman from Ohio says that Republicans do not like Medicare. It is interesting that we on the Republican side are the only ones, once we took majority in this House, who put preventive benefits into the Medicare package. We now have as current law colorectal cancer screening which seniors are entitled to, mammograms, pap smears, prostate screening. In the current bill that we have before us that is in the conference committee, there is an initial physical that will be offered to seniors. There is screening for diabetes, screening for cardiovascular disease provided to all seniors. All seniors. That is what the bill provides for.

As the gentleman also knows, there has been much discussion and much work on the part of the gentlewoman from Connecticut (Mrs. JOHNSON) in the area of chronic disease management. Together with these screening provisions and these benefits that are going to be offered to seniors, we will be able to address some of the potential for these diseases early on, thus saving an awful lot of money and lengthening seniors' lives. I find it hard to even digest the gentleman's suggestion that Republicans do not like Medicare.

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

Mr. DAVIS of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I listened to what the gentleman said about the benefits. Surely we have all worked on a bipartisan basis to increase the benefit package. But the bottom line is it is the quality of care that suffers. We know that our seniors, many of them do not like to have to join an HMO where they are not necessarily provided with certain procedures. HMOs routinely deny seniors certain procedures, certain operations.

Clearly they are forced to have certain doctors and are limited in terms of their choice of doctors and hospitals. So when the gentleman says they are going to have a benefit package, sure they have the same benefit package, but that does not mean they have the same quality of care, it does not mean they can choose their doctor or choose their hospital. They may be denied an operation. They may be denied certain equipment. So do not tell me that just because you are guaranteed a certain benefit package that it does not make a difference when you want to stay in traditional Medicare as opposed to having to join an HMO. There is a big difference.

I just wanted to point out one thing, and I was going to ask my colleague from Ohio about this because he has been a leader on this issue. The gentleman from Virginia talked a lot about saving money, but the one big way that you could save money is if you had some kind of cost controls and you negotiated the prices of prescription drugs. The one thing that Republicans have refused to do as part of this package is to in any way control or limit costs in terms of the price of prescription drugs. I would venture to say to you that if you did not have this clause, you have a noninterference clause that says the Secretary of Health and Human Services or the Medicare administrator cannot negotiate price. We do it with the VA, we do it with the Defense Department, we do it with the military. That is one way of saving on cost. You absolutely refuse to do it. You prohibit it.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. BROWN) because I know that he has often talked about this issue. It is clearly a way to save money.

Mr. BROWN of Ohio. I thank the gentleman from New Jersey for yielding. When you talk about cost savings, you can talk about a lot of things but the greatest opportunity we have to save money for the Medicare program is to put the prescription drug benefit inside Medicare and then use the buying power of 39 million Medicare beneficiaries to bring the price down. That is what the Canadians do. That is what the French and the Germans and the Japanese and the Israelis and the Brits do. They use the buying power of millions of seniors, of millions of citizens in their country to get the price down.

That is why Americans pay two and three and four times the price of prescription drugs that anybody else in the world pays. But probably the reason for that is, again, as the insurance industry, it goes back to who is helping the Republican Party. The drug industry has already given $60 or $70 million to President Bush's campaign and to House Republicans and Senate Republicans. That is why this prescription drug benefit, H.R. 1, and every other House bill that comes to this floor sponsored by the Republican leadership will never deal with the high cost of prescription drugs simply because the drug industry, who frankly is way, way too influential in this body, the drug industry simply will not let my Republican friends bring a bill to floor that will cost them a lot of money.

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

I would just like to respond, number one, the gentleman from New Jersey suggests that the best way that we can control the escalation in cost in health care is essentially for the government to fix the price and for the government to be the player. That is essentially what we have got now in Medicare. We have got a one-size-fits-all government plan determining benchmarks, government determining reimbursement rates. I would just ask the gentleman whether he really believes that we have done anything to really control costs. I am not yielding to him right now. He can respond on his own time. Does he really believe that the costs have come under control and that we are facing a deflationary trend in the cost of health care?

Then I would like to also say that in terms of the accusations that we in some way through passing the House bill are forcing people into HMOs, there is no provision which forces anyone into an HMO. In fact, the bill takes great strides toward creating regional provider networks, so that individual Medicare beneficiaries will have the ability to go and seek care within the network. They can go outside the network. No one is forcing anyone into an HMO, which again goes back to the central point of what we are trying to do and that is to afford seniors a choice. Not everyone wants the same type of health care. And certainly I would suggest that no one wants a Canadian-style health care. No one wants to see a nationalized health care. It is almost like the other side calls for Hillary-care. No one wants that.

As far as the gentleman from Ohio in his discussion on the pharmaceutical end, I thought that the motion to instruct on the part of the gentleman from Florida related to part C, not part D.

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

Mr. DAVIS of Florida. Mr. Speaker, I yield myself 4 minutes.

I would like to briefly point out some of the things that clearly are not a part of this debate and then focus on some of the things on which there is some agreement here. This is not about nationalizing the health care system. The statement was made earlier that I am against market-based competition. Speaking simply for myself, I am not. That is not the issue here tonight. The issue is how do we answer the question to a Medicare beneficiary who has some health issues, who has been rejected by a private plan, how is she or he going to find a way to pay their bills at the end of the week, at the end of the month when the Medicare dollars that they receive now run out. That is the question.

The issue has been presented tonight as to whether we are against choice. I do not think it is whether we are against choice; it is whether what is being presented here is a false choice. I think we can agree that if you are a perfectly healthy Medicare beneficiary, this private plan may work for you. But if you are not, if you have reached 65 and you have had a history of some health problems or you are going to be experiencing them, I believe, as I stated earlier, that the insurance companies across this country will say that we do not choose to insure you; and this bill, and this point has not been refuted by the other side, does not force a private insurance company to accept somebody with health issues who is more expensive who they do not choose to insure because they do not think that person is sufficiently profitable. That private insurance company has a choice. They have a choice to say to that Medicare beneficiary, We do not want you. Instead, you take your voucher and you go off and you take care of your own health care.

It is also important to point out, there has been no disagreement on the other side, no even attempted disagreement as to the fact that the chief actuarial for Medicare has stated that under this premium support provision, that a Medicare beneficiary's premium could increase by as much as 25 percent. This is a fact. This is not in dispute. So notwithstanding these arguments about risk adjusters and blended rates and the bill saying whether it is defined benefit or defined contribution, the fact remains at the end of the day that when a private insurance company turns away somebody with health issues and their premium goes up by as much as 25 percent, that person is left in the cold, that person is left in the dark at the end of the week or at the end of the month when their voucher runs out.

The question remains whether we believe as a Congress, as Democrats, Republicans, as independents, as United States citizens, that it is humane to change Medicare as we know it and leave that person in the cold, in the dark when their voucher runs out. We can look at examples around the country of the Medicare+Choice plan that has been in effect, in my State, Florida, in many States where people who had no health problems enjoyed the benefits of the Medicare+Choice plan. But when as they got older they started to develop health problems and they were turned away by their private plan, thank goodness traditional Medicare was there as a fallback to provide to them the coverage that they had earned through paying a payroll tax, through the copayments and the premiums they paid. Thank goodness traditional Medicare was there. But if this premium support plan is adopted, that person will no longer have that benefit. They will have the voucher instead.

Finally, the gentleman, I think, credibly points out, where is the alternative? I wish I was in a position tonight to offer the alternative. I am forced only to offer a motion to instruct to remove parts of the bill, not to add them. This motion is offered in an attempt to take this very destructive issue off the table so we can get to what we are here today which is to create a reliable, affordable Medicare prescription drug benefit.

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

Mr. CANTOR. Mr. Speaker, I yield myself such time as I may consume. I just want to respond to the gentleman's remarks about discriminating against seniors and thereby denying them access. I think the gentleman will agree, again we are talking about facts, that current law already provides that under Medicare there can be no discrimination based upon age or based upon one's health. And in this bill there is a requirement that the plans that participate and opt to participate in the Medicare program must have uniform pricing and uniform premiums. There are safeguards. And so all this doomsday prediction that the gentleman offers is not going to occur because there are safeguards provided in the bill for that.

I would also like to point out to the gentleman that studies have shown that the poor that are existing now under the Medicare program, they by far are opting for the Medicare+Choice plans versus the standard Medicare program because they are, frankly, more affordable. Again, this is the marketplace at work. I think it brings us back full circle to the fundamental difference between the parties here. We believe that seniors are individuals and they deserve to have a choice and we should bring in the same type of choice that we all have as Members of Congress in the FEHBP, that seniors should also have that and with the safeguards that we have spoken about, seniors can have that choice just as we do, and not be suffering under a one-size-fits-all government-run program that, frankly, is going to run out of money. So we have got to do something.

The gentleman says he is only in a position to offer a motion to instruct. I have heard no solutions being offered by the gentleman or any of the speakers on the other side of the aisle other than some notion of recreating Hillary-care.

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

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

I think we are getting closer to the facts here. This is about choice. This is about whether the beneficiary under current law can fall back on the traditional Medicare program. There has been no dispute that under this bill as the chief actuarial, the President's chief actuarial, has said, the premiums can increase by up to 25 percent. Nobody is disputing that. And nobody is trying to answer the question, what happens to that Medicare beneficiary whose premium increases by up to 25 percent who runs out of money under the voucher at the end of the week or at the end of the month.

With respect to solutions, which are not within the scope of the motion to instruct tonight, I think the gentleman should respond to the point that has been made a couple of times here, which is one of the ways to develop a more affordable prescription drug benefit is to give to the Federal Government the authority to negotiate a discount. Just as Secretary Rumsfeld, the Secretary of Defense, negotiates a discount when he buys a helmet or a hammer, just as Sam's Club negotiates discounts for the benefit of all the people we represent, why should the Federal Government not have the ability to negotiate a discount when it purchases prescription drugs for the benefit of our Medicare beneficiaries?

□ 2045

The answer in this bill is that this bill specifically prohibits the Secretary of HHS from negotiating any discount in the price of prescription drugs, and that is an unforgivable travesty in terms of our obligations to defend the taxpayers and the Medicare beneficiaries of this country who are paying horrific prices.

I would be happy to yield to the gentleman if he would care to defend the provision in this bill that specifically prohibits the Federal Government from negotiating any discount whatsoever in the price of prescription drugs.

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

Mr. DAVIS of Florida. I yield to the gentleman from Virginia.

Mr. CANTOR. Mr. Speaker, I will be glad to respond to the question, because, again, we are talking about the philosophy. Do you want the government out there fixing prices? Do you want the government out there coming up with the formulary? That is what you are talking about. Many States across the country do that, they come up with a formulary, and we all know how difficult it is to get anything through this Congress.

So as the drug industry comes up with more and more miraculous lifesaving and life-lengthening drugs, we will be stuck and mired in the bureaucratic process of approving a change in the formulary, so it will almost be impossible for that to happen.

Mr. DAVIS of Florida. Mr. Speaker, reclaiming my time, does the gentleman further believe the Secretary of Defense should not have the authority to negotiate any discounts when he is buying a helmet or a hammer, or is that a price control also?

I am happy to yield further to the gentleman to respond to that.

Mr. CANTOR. Again, I think that the Secretary of Defense and any other agency that negotiates on behalf of its agencies, its employees, has a mission. But we are talking about negotiating on behalf of the public and people out there that have different needs.

We are a market-based country. We are a country where people have the option to choose for themselves. We are not living in a country where I think, one would think, the government can decide which medicine, which prescription drugs you ought to have and which you ought not to have.

Mr. DAVIS of Florida. Mr. Speaker, reclaiming my time, I find it incredulous that the gentleman believes that the Federal Government should not take advantage of negotiating some discount, just as Sam's Club does to buy discounts on behalf of its customers, or just as the Secretary of Defense does. This is a disservice to the taxpayers of this country and the Medicare beneficiaries.

This is the type of debate we should be having in this body, as to how to develop an affordable Medicare benefit.

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

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

Mr. Speaker, just to follow up on that, again, it goes to the fundamental difference between the two parties here, whether you think the government ought to be in there for you negotiating prices, or whether you ought to let the private sector and the plans that have an incentive to attract customers and attract seniors into the plan to make their formularies more attractive, if we are talking about prescription drugs, to give the market the incentive to do that for seniors. Let the seniors choose which plan is better for them, because if you have got the government doing it, there will be no choice. There will be a one-size-fits-all, government-run plan.

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

The SPEAKER pro tempore (Mr. NUNES). The gentleman from Florida (Mr. DAVIS) has the right to close and has 1½ minutes remaining, and the gentleman from Virginia (Mr. CANTOR) has 15 minutes remaining.

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

Mr. Speaker, I would say to the gentleman and the Members on the other side, I have enjoyed the debate. I think it is always a healthy experience for this body and the country to have an active discussion on very important issues.

I happen to think that the Medicare reform bill that we hopefully will be voting on soon is probably one of the most important things we will do in our careers in this body, because it does affect so many people. It impacts them in an area of their lives in which everybody is concerned, and that is health care. So I appreciate the debate.

I would just like to underscore, once again, the bill that we have in place and that we have passed out of this body is a bill designed to shore up the failing actuarial numbers in Medicare and the fact that we are on a road to ultimate bankruptcy of the system if we do not do something to reform it and if we do not do something to allow seniors to continue to enjoy that benefit.

The way that this House has spoken, the way we will do that, hopefully, is through inviting in competition from the private sector, allowing seniors to choose health plans that best fit their own family and their own health care needs.

We also, as we have discussed, have in this H.R. 1 provisions which protect seniors and which ensure that they will have access to quality health care, and, at the same time, protection that there is never going to be any denying of the entitlement of Medicare to seniors.

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

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

Mr. Speaker, I think this has been a civil, productive debate as well. The purpose of the premium support provision is to try to reduce the cost of the Medicare program to the benefit of Medicare beneficiaries and the taxpayers, and that goal is a worthy goal.

We have heard debate tonight about one of the ways that can be achieved, by trying to negotiate discounts in terms of the price of prescription drugs. I think the argument on the other side is a philosophical argument, that somehow the government should not be involved in that, even though it works for the Secretary of Defense, it works for the VA, in a fashion that no one is questioning.

So where the debate ultimately ends up tonight is should we reduce the cost of Medicare on the back of that Medicare beneficiary who has been rejected by a private health care plan, by giving them a voucher that will not get them through the end of the week or the end of the month?

I think the answer is clearly no, and there has yet to be a single Member of Congress who has stood on the floor of this House and tried to squarely confront that question. And to say to that Medicare beneficiary, this is why you are on your own, this is why, as the chief actuarial of the Federal Government has said, your premium is going up 25 percent, you are on your own, there is not a humane acceptable answer to that.

This is not a Democrat or Republican proposition. This is about humanity. This is about whether Medicare as we know it is going to continue to address that person at a very difficult time in their life. We owe our seniors a choice, but not a false choice. We should respect them by being honest about what this bill does.

Mr. Speaker, I would urge adoption of the motion to instruct to reject the premium support provision of this bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Florida (Mr. DAVIS).

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

Mr. DAVIS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

CONTINUATION OF EMERGENCY POSED BY PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND THEIR DELIVERY SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–138)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the emergency posed by the proliferation of weapons of mass destruction and their delivery systems declared by Executive Order 12938 on November 14, 1994, as amended, is to continue in effect beyond November 14, 2003. The most recent notice continuing this emergency was signed on November 6, 2002, and published in the *Federal Register* on November 12, 2002 (67 Fed. Reg. 68493).

Because the proliferation of weapons of mass destruction and the means of delivering them continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, I have determined the national emergency previously declared must continue in effect beyond November 14, 2003.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 29, 2003.*

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO SUDAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–139)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent the enclosed notice, stating the Sudan emergency is to continue in effect beyond November 3, 2003, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on October 31, 2002 (67 Fed. Reg. 66525).

The crisis between the United States and Sudan constituted by the actions and policies of the Government of Sudan that led to the declaration of a national emergency on November 3, 1997, has not been resolved. These actions and policies are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. Therefore, I have determined it is necessary to continue the national emergency declared with respect to Sudan and maintain in force the comprehensive sanctions against Sudan to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 29, 2003.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

(Mr. BURGESS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

LETTERS FROM CONSTITUENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, 1838, former President, then-Congressman, John Quincy Adams came to the House floor because he was prohibited, as were the other Members of Congress, from debating the most important issue of the day.

Conservative leadership in the House of Representatives between 1838 and 1842 had passed a rule prohibiting and banning the discussion of slavery on the floor of the House of Representatives. Then-Congressman John Quincy Adams came to the floor, day after day, week after week, sharing letters from his constituents, many of them from women who could not vote in those days, sharing letters from his constituents asking, pleading with the House, that they debate the issue of slavery and that they ban and wipe away that blot on American history.

In some ways similarly today, Members of this House have not had the opportunity to debate the issues of Iraq, of keeping our troops safe in Iraq, of providing and supplying our troops, of the corruption and the incompetence in the Pentagon and in the Bush administration in supplying the troops and turning over so many public dollars to private contractors.

As a result, I would like to share some of those concerns. Since we are not debating the issues on the House floor, I would like share some of the concerns with letters from my constituents.

Sabba, from Richfield, Ohio, writes, ''The Bush administration had no concrete evidence confirming the weapons of mass destruction in Iraq. Bush completely disregarded the United Nations' dissenting opinion.''

You can see in letter after letter I am receiving in Ohio, and my colleagues, the gentleman from Ohio (Mr. STRICKLAND), the gentleman from Ohio (Mr. RYAN), the gentleman from Ohio (Mr. KUCINICH), the gentlewoman from Ohio (Ms. KAPTUR), the gentlewoman from Ohio (Ms. JONES) and Members from both parties in Ohio are receiving from all over the country, people's concerns that the President and the administration may not have leveled with the American people about all of these issues.

□ 2100

Margaret of Strongsville writes, ''Please don't throw money into a vast pit which will affect us all for another several generations.''

Margaret is referring to the $1 billion a week that the President is already spending in Iraq, a third of that money unaccounted for, going to private contractors, many of them the President's friends, and that is where she and so many others believe there is so much waste and so much pork.

Marvin of Akron, Ohio, says, ''The request must be carefully scrutinized and unnecessary expenditures removed.''

Thomas of Akron, Ohio, writes, ''How much debt is acceptable?''

What he is writing about is he understands, as most Members of this House do, I think, on both sides of the aisle, that the $87 billion is put on a government credit card. We are going to spend our children's and our grandchildren's money, in large part, because Congress has voted a tax cut for the wealthiest Americans. The average millionaire in this country, as Thomas knows from his letter, the average millionaire in this country gets a $93,000 tax cut. Half of Ohioans get no tax cut at all. Yet, we are not going to rescind that tax cut for the richest of Americans, for the American millionaires

that get $93,000; we are going to put this war on a credit card so that that $87 billion plus the $80 billion that Congress has already spent, plus the tens of billions more that we know President Bush will ask for, will be paid for by our children and our grandchildren.

Crystal of Akron writes, ''Please think long and hard before you spend $87 billion. To what end?'' We hear that over and over and over.

When I read these letters, Mr. Speaker, one thing also that comes out is people understand that of this $1 billion a week we are spending in Iraq, one-third of it goes to private contractors. Most of those private contracts are unbid contracts, and most of that money is going to friends of the President. Halliburton, Bechtel, corporation after corporation, if you look at FEC reports, you see those corporations, the employees of those corporations are giving hundreds of thousands and, in some cases, millions of dollars to the President's campaign. And to make that even worse, Mr. Speaker, Halliburton, the company where the former CEO is now the Vice President of the United States, DICK CHENEY, Halliburton has received over $2 billion in government contracts, over $1 billion in unbid, unaccounted for contracts; and Halliburton is still paying Vice President CHENEY, still paying Vice President CHENEY $13,400 a month. Vice President CHENEY is receiving $13,000, more than $13,000 a month, $160,000 a year, from this company that gets unbid contracts of taxpayer dollars to fix Iraq, to supply the troops, to do whatever that Halliburton is supposedly doing.

Halliburton's profits have gone sky high while they have the go on these contracts, while they have paid the Vice President of the United States. It is just amazing to me. All of us in this body should be incredulous that we are spending this kind of money, giving this money to a company like Halliburton, with unbid contracts, literally hundreds of millions of dollars a week, and then this company turns around and pays Vice President CHENEY $13,000 a month.

Mr. Speaker, I close with the last letter, Anthony from Akron, Ohio: ''Bush needs to face up to these facts. I am 16 years old. I myself feel that growing up in America will now be tougher because of all of these things that are going on.''

Mr. Speaker, end the corruption, end the incompetence of the Bush administration in Iraq, do it right. Fix Iraq the right way. Stop the corruption. Stop the incompetence.

WASHINGTON WASTE WATCHERS

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, I rise again this week as cofounder of the Washington Waste Watchers, a Republican effort designed to bring the disinfectant of sunshine into the shadowy corners of the wasteful Washington bureaucracy.

Last week, the Treasury Department reported the current fiscal year deficit, excluding Social Security receipts, closed at $535 billion, one of the largest deficits ever. Faced with this growing budget deficit and obvious unparalleled homeland security needs, surely we must do something.

Now, Democrats say the only way to cut the deficit is to yet again raise taxes on the American family. I disagree. We do have a historically large deficit, but not because the American people are taxed too little. It is because Washington spends too much.

Since 1998, just 5 years ago, Federal spending has increased 22 percent and the amount the Federal Government spends per household has increased from $16,000 to $21,000 per household. This is a 5-year spending binge, the likes of which we have not seen since World War II. But the binge did not start just yesterday. The Federal budget has been growing seven times faster than the family budget for the last 2 generations. This assault on the family budget is unfair, unsustainable, and unconscionable.

Mr. Speaker, much of the spending in Washington is also pure waste, fraud, and abuse. And by attacking it every day, we can begin to reduce this deficit. That is why the Washington Waste Watchers are here.

Mr. Speaker, tonight, let us just look at a few questionable examples of spending in one Federal agency, the National Institutes of Health, or NIH. NIH is funding a 6-year grant to study American Indian and native Alaskan lesbian-gay, bisexual, transgender, and ''two-spirited'' individuals. This study is estimated to cost the American taxpayer over $3 million. Part of the purpose of this study is to ''facilitate future goals of designing and evaluating interventions to address the urgent needs of two spirits.''

We are fighting a war on terrorism and this is urgent? And, even worse, Democrats want to raise our taxes to pay for more of this?

NIH is also paying approximately $276,000 for a 4-year study on the sexual behavior of 80- and 90-year-old men. What are we supposed to do with this information? NIH has also handed out over $107,000 to fund a research on mediums or, in their words, ''individuals who regularly enter altered states of consciousness as part of a religious ritual.'' Combined, that is $383,000 of the American people's hard-earned tax dollars. And Democrats want to raise our taxes to pay for more of this?

NIH is also funding studies on reactions to pornography, sexual risk-taking, and they also chipped in for a conference on sexual arousal, all of which will end up costing the American taxpayer an estimated $650,000 over 2 years. Mr. Speaker, $650,000, and Democrats want to raise our taxes to pay for more of this?

They are spending an estimated $1.2 million over 6 years on Chinese panda research, and we have no native pandas in America. They are also spending $4.6 million on sexologists.

Mr. Speaker, the few items I just mentioned are from just one government agency, and it will waste over $10 million of the American taxpayers' money.

Now, tonight I wish I could say these were unique examples but, unfortunately, this type of waste has been going on in this city for years and years. Now, Mr. Speaker, I certainly support scientific research, and NIH has done some very great work, especially in the area of cancer research. But where are our priorities? Where is our common sense? Where is the accountability? Does anybody really believe at a time of historically large deficits, with enormous homeland security needs, that we need to be spending over $10 million of hard-earned American family money on sexologists and Chinese panda research? If these are the grants that are approved by NIH, I would hate to see the ones they turn down.

Mr. Speaker, there are so many different ways that we can save money in Washington without cutting any needed services and without raising taxes on hard-working Americans. Because when it comes to funding programs in Washington, it is not how much money Washington spends; it is how Washington spends the money.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. ROSS) is recognized for 5 minutes.

(Mr. ROSS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

(Ms. MILLENDER-MCDONALD addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

(Mr. PENCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

(Mr. MCDERMOTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

PASS ENERGY BILL NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. TERRY) is recognized for 5 minutes.

Mr. TERRY. Mr. Speaker, I think back, somewhat romantically, to when I turned 16, got my driver's license, and my dad let me drive that 1970 rusted-out brown station wagon to Northwest High School in Omaha, Nebraska. I have a not-so-romantic memory of that 1970 station wagon, waiting in line on Fort Street in a line about two blocks long to get gas, and wondering if those who remember that second oil crisis in the late 1970s, around 1977, if you share this memory too of waiting in lines blocks long to pull up to the gas pump, wondering if when you get up there, there is not going to be that white piece of notebook paper up there saying ''out of gas.'' And gas prices doubled and tripled.

Well, since those days in the 1970s, we were about 35 percent dependent on foreign oil; and as we stand here tonight in this Chamber, we are about 58 percent dependent on foreign oil for our energy needs in this country. When we look at those last 20 and 30 years and we see how our economy is growing and has grown, mirrored to that is our energy needs and use in this country. Our energy sector represents 300 billion, a 300 billion piece of the American economy, and it is that that powers America and powers our economy.

Now, I remembered or thought back to that oil crisis in the late 1970s, but there are a lot of people that just have to remember back to last year when oil prices reached record highs of $40 per barrel. In Omaha, Nebraska, we were seeing gas stations with $2-plus per gallon cost for gasoline.

Now, a lot of people that rely on natural gas to heat their homes in the winter saw a nearly 60 percent increase in natural gas. For electrical generation, most peaking plants and a lot of new generation plants rely on natural gas, so that 60 percent increase in natural gas is certainly passed on to the consumers.

Here is just a couple of interesting facts about what our future holds in America and how we are going to power ourselves and our economy. The U.S. energy use has increased by 33 percent over those last 30 years that I mentioned, while domestic energy production has increased 12 percent. America now imports, as I said, 58 percent, and that is expected to grow as high as 75 percent by 2010 to 2015. The Department of Energy expects that by the year 2020, the U.S. energy consumption will increase 50 percent for natural gas, 45 percent for electricity, 35 percent for petroleum, and 22 percent for coal.

Mr. Speaker, we face an incredibly important issue for this country. There is not a person listening here that does not understand the impact of energy on how we do business in America, how we work with our families in our homes, but also how it impacts foreign policy decisions. I think there is probably a lot of us in this House that would love to diminish our dependence on Saudi Arabian oil. Just our imaginations can run wild with how that may free a great deal of our foreign policy. But yet, as I stand here tonight, we have a problem in the United States Congress between two chairmen whose bickering refuses to pass out of conference an energy bill.

See, back in June and July, this House did its business and passed a very comprehensive energy bill that I thought dealt appropriately with our current needs and future demands. Likewise, the Senate had difficulty passing their bill and took up last session's bill, put it on the floor to get it to conference. And I am very disturbed that we cannot get that bill accomplished. I certainly encourage our House leadership to take control of that conference, the Senate leadership to take control of that conference and get it done. This is too important for our Nation to allow pettiness to deteriorate progress to this point so that we cannot pass a bill.

□ 2115

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SHUSTER) is recognized for 5 minutes.

(Mr. SHUSTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

(Ms. CORRINE BROWN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

(Mrs. MALONEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

(Mr. STRICKLAND addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE DISMANTLEMENT OF OUR MANUFACTURING AND ECONOMIC BASE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 30 minutes as the designee of the minority leader.

Ms. KAPTUR. Mr. Speaker, this evening I would like to address the issue of the economy in our country and the dismantling of our manufacturing and economic base.

President Bush owns the worst record of job creation since the Presidency of Herbert Hoover. More than 3.2 million Americans have lost their jobs since this President was installed in office.

The Bush administration's destruction of jobs across our country indeed has spread like wildfire. From Massachusetts to the Carolinas, from the Midwest to California. Now, they have even tried to take away our overtime pay. Isn't enough enough?

Accelerating job loss under this administration is the norm, not the exception. Indeed, in less than 3 years the Republicans have lost 3.2 million jobs and at the same time added $3.3 trillion to our national debt. Today 9 million of our citizens are out of work and cannot find a job.

The gentlewoman from Oregon (Ms. HOOLEY) has a discharge petition in this House, so that we can extend unemployment benefits to those who simply cannot find work inside the boundaries of this country. That bill should not require a discharge petition. It should come to this floor immediately because it is necessary for those who will lose their benefits by the end of this year.

President Bush has the worst record of job creation, actually he has created no new net jobs, of any President since Herbert Hoover during the great depression. Every President since World War II has created jobs but for this President.

This year, the United States is going to lose more manufacturing jobs. It will mark job loss in the manufacturing sector every single year of his Presidency. And if you look at the accelerating loss of manufacturing jobs, this has never happened since World War II in our country. We have lost 2.5 million manufacturing jobs.

The Great Lakes States are being hollowed out in the steel industry, in

the machine tool industry, in the automotive parts industry. The Carolinas are being hollowed out in furniture, in textiles. Massachusetts has suffered enormously, as much as any other State in our Union.

There seems to be no end to the job killing across our country. More bad news on job losses hit California today. And more people are looking longer to find work. Mr. Speaker, 5 million people are working part time because they cannot find a full-time job.

So the Bush administration's record on jobs is abysmal. But the rich are getting richer thanks to President Bush's massive tax breaks for millionaires. But half of America's families get nothing from his tax package.

And the middle class is getting squeezed as usual. In return for meager tax cuts, they are facing enormous increases in local and State property taxes, gas taxes, special levies. And tuition rate increases for college students are going up across our country and going off the charts. In Ohio, for instance, our State has raised tuition 40 percent. It has recently suspended new entrants into what is called the Ohio Tuition Tax Authority, the 529 program, that allows parents to save for their children's college education. They do not want any more people in the program because there is not any money for it.

Our State is closing libraries on Sundays and forcing the burden of paying for libraries not on the general tax duplicate for the whole State, but they are pushing it down on property taxes.

So the middle class has had a net increase in taxes since this President took office. The middle class is getting squeezed as State and local governments rack up record levels of debt, cut important services, and raise taxes and user fees.

This Congress just approved an enormous amount of money for Iraq and yet not a single dime was approved for our States and localities that are running record deficits and are being forced to cut services. More pressure on our families, more pressure on our workers.

Listen to these numbers. Nine million Americans out of work, the most in a decade. Almost 4 million Americans, 4 million, out of unemployment compensation. That is 13 million Americans right there. 151,800 manufacturing jobs lost in Ohio under this President's watch. 145,300 manufacturing jobs lost in North Carolina. 297,700 manufacturing jobs lost in California. 215,300 more unemployed people in New York since Bush took office.

We witness daily the real and deepening crisis in manufacturing. Between January 1998 and August of 2003, U.S. manufacturing employment dropped by 3 million persons. During the Bush years, the pace of job washout has accelerated dramatically. In fact, manufacturing share of our Gross Domestic Product fell below 14 percent last year. As the Economic Policy Institute notes, the manufacturing sector occupies a special place in U.S. economy because productivity growth in manufacturing has historically outpaced the rest of our economy, driving real increases in our standard of living. We know that well in our part of the country, the Midwest.

Good paying jobs in factories with good benefits are the key to our great middle class, the key to achieving the American dream, to buying a home, to putting your kids through college. Manufacturing fosters supply and demand growth, providing the basis for durable economic growth for the wider economy. But total employment in manufacturing in the United States used to be about 18 million workers, ranging between 16.5 and 19.5 million. However, that has plummeted to 14.6 million workers as of August of this year.

This record low level of manufacturing employment in our country coincides with the largest trade deficits our country has ever recorded. For the first time in almost 40 years, despite an increasing population, we have record low employment in manufacturing. The net result is a lower standard of living, greater economic pressure on our families, a fracturing of communities, a diminished tax base for schools, local governments and angry citizens, among other things.

The jobs did not just disappear like the horse and buggy. They have gone to other countries. Americans are still driving cars, but American workers enjoy less of a market share compared to foreign companies. Americans still use refrigerators, but they are more often made in Mexico or China, rather than Iowa.

I present this particular chart this evening on the U.S. trade deficit, the balance, because every single year it has gotten worse and worse and worse until this past year of 2002 and this year of 2003 we are hovering at half a trillion dollars in more imports coming into our country than exports going out.

And just in that one year alone, that level of trade deficit translates into an additional 1 million lost jobs. Because for every billion dollars of trade deficit, of more imports coming in here than exports going out, you lose 20,000 jobs. So multiply $500 billion by 20,000 and what do you come out with? An additional million lost jobs.

We have never hemorrhaged jobs and income to this extent. Americans still use steel for bridges and buildings and vehicles and appliances, but our steel industry is under siege from dumped steel and foreign competition.

Americans still eat food, but more and more of our food is coming from foreign countries as farmers across this country bite the dust. And the average age of farmers in our Nation is now 58 years of age. Americans still use telephones and electronic equipment. They still watch television, but those products are now made in Mexico or Asia. Our demand has not changed, in fact, it is greater than ever, but the problem is on the supply side. Our factories have lost market share, which translates into fewer orders, which translates into fewer jobs, which translates into greater unemployment and the dismantling of our mighty industrial and agriculture economy.

How long can this go on? Can America regain its competitive edge? The staggering rise in this U.S. trade deficit, particularly with China, claims millions and millions of more jobs. And these are the figures for China. The U.S. trade deficit with China alone this year will rise to over $103 billion. That means 2 million lost jobs just related to China. And it is no surprise if you think about your own experience when you go to the store, look at the tag. Where is it from? That job is being created somewhere else at slave-level wages, but it certainly is not being created in this country. And that creates a siphoning off of income by our citizens somewhere else.

The staggering rise in the U.S. trade deficit with China, I mean look at this, it is absolutely gigantic, never experienced before in our Nation's history, is claiming millions and millions of more jobs every year. It is a product of bad deals, bad deals, bad trade deals such as NAFTA and the World Trade Organization and most favored nation status for China, giveaways on the part of the U.S. Congress, and the Bush and Clinton administrations.

Selling American workers and our companies down the river has been a bipartisan effort by some here in Washington, but the bill is coming due. Between the first quarter of 1995 and the second quarter of 2003, the overall trade deficit skyrocketed to over $411 billion, dominated by over $408 billion in the deficit in manufactured goods.

Since 2000, the year Congress approved permanent normal trade relations with China, a communist country, the largest U.S. trade deficit in American history has been amassed with China. The deficit with China exceeded $100 billion last year alone, and this year shows no sign of slowing.

The manufacturing trade deficit, according to the Economic Policy Institute, alone for all of the nations from which we are importing goods reached $491 billion by the end of 2002. The Bush administration says it wants to solve the problem with China alone by manipulating currency rates, and I can tell them it will not work. Because it never worked with Japan.

I can remember back in the 1980s when they patted me on the head in a very patronizing way as a young Member of Congress and they said, Marcy, do not worry about the trade deficit with Japan. When the yen-dollar relationship reaches maybe 90 yen to the dollar, everything will work out. You know what? It never did. It did not matter whether the yen was 90 to the dollar or 230 to the dollar. When you have a controlled economy and you

prohibit imports, and you have Keiretsu supplier chains into which other country's companies cannot bid, you will never balance the trade accounts of this country because other nations do not play by the same rules.

And so Americans still buy cars and trucks, and still drive cars and trucks, and still buy refrigerators and stoves, and televisions and computers and DVD players, and still consume vastly more than any other people in the world, but we are losing manufacturing jobs at a record pace. And it is dragging down our entire economy. Have you noticed?

Mr. Speaker, this is not just a regional issue. It is not just about the Midwest, although we in the Midwest understand the importance of manufacturing to our economy. Earlier this week on Capitol Hill, a Republican polster told a briefing that the jobs in the Midwest are going and they are not coming back, and he explicitly mentioned Ohio. I refuse to accept that. And I know my dear colleague, the gentleman from Ohio (Mr. BROWN) refuses to accept that because we know we cannot withstand the loss of millions more of our manufacturing jobs and this type of hemorrhage, and turn this republic over to our children and grandchildren in better condition that we found it.

Mr. Speaker, I have some comments I want to make about when these countries get these dollars from the United States, what they end up doing with our dollars, but I would be very happy to yield to my colleague, the gentleman from Ohio (Mr. BROWN) who fought with us so valiantly in our efforts to amend NAFTA before its passage and to deny this kind of trade access to China without getting something on the other end.

□ 2130

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman, my fellow Ohioan, with whom I share one county, Lorraine County. I appreciate the good work the gentlewoman does there and throughout our State and especially the leadership that the gentlewoman from Ohio (Ms. KAPTUR) has shown. People that watch C–SPAN and people who have followed these issues know that the gentlewoman from Toledo has done more for justice and trade agreements than perhaps any Member of this body. Way before my time when we started working together against NAFTA in 1993, she was doing this for the decade before that also. So I thank her for that.

The gentlewoman has done a particularly good job in talking about the big picture. I want to talk a bit about Ohio and what it means in a State of our size, the seventh biggest State in the country, I believe, and a State that has been hit, not quite the hardest but darn near the hardest of any State in the country in terms of lost manufacturing jobs. One out of six manufacturing jobs in Ohio is gone. That means for every six people in manufacturing, the day that George Bush put up his right hand and took the oath of office, one out of those six people across my State, our State, has lost his or her job in manufacturing.

Those are the best-paying industrial jobs. They are the jobs that send kids to college. They are the jobs that buy homes. They are the jobs that buy cars. They are the jobs that put food on the table.

At the same time, we have seen this economy managed by President Bush go from a major budget surplus to now a $500 billion budget deficit. And that is not counting the $87 billion that the President is pushing through the Congress to spend on Iraq, where one-third of that money goes to private contractors and much of that money goes to unbid contracts to the President's friends. Halliburton, the largest contractor in Iraq, is still paying Vice President CHENEY $13,000 a month. It boggles the mind. While Americans are suffering, jobs are lost, the manufacturing basis is worst than decimated, literally, that we are helping to enrich a company with private contracts where it is still paying the Vice President of the United States $13,000 a month.

When you talk about the trade deficit the gentlewoman mentioned, we now have a $450 billion-a-year trade deficit. The trade deficit for August of this year was greater than the trade deficit for the entire year of 1992. In 1992 we had a trade deficit, if I recall, of about $39 billion. The trade deficit of a couple of months ago, 1 month was $42 billion.

As the gentlewoman said, every billion dollars in a trade deficit translates into 20,000 lost jobs. So when we are talking about a trade deficit of $40 billion, $45 billion a month, you are talking about hundreds of thousands, millions of jobs certainly in the course of a year, we are losing in manufacturing; $100 million trade deficit with China in about a decade ago. Now we have a $100 billion trade deficit with China, a thousand times greater than just about a decade ago.

President Bush's answer is always more tax cuts for the most privileged. The average millionaire in this country gets a $90,000 tax cut. Half of Ohioans got zero dollars in tax cuts; $90,000 for millionaires, zero for half of Ohioans, and only a few dollars for most of the rest of Ohioans, while one out of six Ohioans who worked in manufacturing has lost his or her job.

The President's answer, tax breaks for the most privileged and more trade agreements. The President is now in the middle, as the gentlewoman knows, working to negotiate an expansion of NAFTA. He wants to expand NAFTA to Central America, something called CAFTA, the Central America Free Trade Agreement. He then wants to expands CAFTA and NAFTA to the FTAA, Free Trade Act of the Americas. That will double the size of NAFTA. It will quadruple the number of low-income workers in the free trade area, the Western Hemisphere area.

What does that mean? That means a continued hemorrhaging of jobs. We know we have lost in our State, I believe the gentlewoman said, 150,000 manufacturing jobs. We have lost 150,000 manufacturing jobs in Ohio. It is not like a normal recession that this President helped to cause. It is not a normal recession where people get their jobs back after 6 months or a year. These jobs are lost. They are in Mexico. They are in China. They are in these places that the gentlewoman was pointing out.

When the President's answer to every economic problem is more tax cuts to the most privileged on the one hand, and more trade agreements that hemorrhage jobs to Mexico and China on the other, it troubles me to think what our future is.

It is so clear what we need to do in terms of restoring American manufacturing, but it is so wrong what the President has decided to do. More tax cuts for millionaires, $90,000 on the average; more trade agreements, expanding NAFTA to Latin America and continuing to hemorrhage thousands, hundreds of thousands in the case of our State, manufacturing jobs south of the border, east of the border, across the ocean or wherever.

Ms. KAPTUR. Mr. Speaker, I want to thank the gentleman for raising several critical issues this evening, including the disparity between those Americans who are losing their jobs and certainly very privileged people in this country including the Vice President of this Nation.

Mr. Speaker, I want to follow up on what the gentleman was saying about the compensation that the Vice President receives from his former corporation, Halliburton Corporation. The gentleman is absolutely correct in what he says; and in addition to the figures he has placed on the record, the Congressional Research Service issued a report that the other body requested, including not just the funds that the gentleman mentioned for the Vice President, but also deferred salary and stock options, 433,333 of them to be exact, and Halliburton stock owned by the Vice President. And here is what these benefits pay him.

In deferred salary, according to this report, in 2001 Vice President CHENEY received $205,298 from Halliburton while he is serving as Vice President and permitting no-bid contracts to go from the Department of Defense to this Vice President. In 2002 he received $162,392; and similar payments are to be made in 2003, 2004, and 2005. So there is an ongoing corporate obligation paid to him in company funds.

In addition, he has these stock options, 433,333 of them in three different traunches. The value of those stock options today alone are valued at over $26,674,990. It is not as though he does not have an interest in what happens

to that company. And this is in addition to a $20 million retirement package paid to him by Halliburton after only 5 years of employment that he held with that company and a $1.4 million cash bonus paid to him in Halliburton in 2001, and additional millions of dollars of compensation paid to him while he was employed by the company.

Now, compare that to the people in our country who are losing their jobs and those we are having to fight for here on this floor to get extensions of unemployment benefits. One of the aspects of the job loss in our country and related to the trade deficit with China and with all of the nations is the fact that when these countries, the people in these countries sell us goods, financially our dollars go back to that country and the companies in that country. And it is very interesting what they do with their dollars. First of all, they purchase pieces of us so that the brain of the corporation is no longer located in this country, but rather wherever those companies are located which means that we become a derivative economy.

Secondly, those dollars that end up in the hands of foreign interests are being used to purchase our public debt. And one of the hidden aspects of this horrendous trade deficit that we are racking up is that countries like Japan and China and the Middle Eastern oil kingdoms are buying larger and larger pieces of us. In fact, they now own well over a trillion dollars of our debt on which we are paying them interest.

Is that not a fine how do you do?

According to the latest year for which I have figures, we paid over $85 billion in interest to these foreign creditors to the United States, the largest being Japan. In 2001, we paid her $26.1 billion of our tax money. Those are dollars we did not pay to our citizens. We did not sell savings bonds to our citizens and ask them to pay the interest to them. We paid the interest to Japan, which will not open our markets to their products and continues to exclude our suppliers in their automotive supply chain, but we paid them $26.1 billion.

We paid China and Hong Kong, this was back in 2001, before this deficit was going up as much as it is now. It was horrendous back then, but it is getting worse. We paid China back then over $10 billion, $10 billion. So just China and Japan alone we had over $36.5 billion in interest. That is more money than we put into NASA. In one year NASA's budget is about $14.5 billion. We could run three NASAs for what we are paying just in interest to Japan and China.

Now, to the oil kingdoms we paid over $6.7 billion, $6.7 billion. Could that not put a lot of our young people through college? Could that not educate new doctors for the future for free, for free? We could pay for their tuition and ask them to serve in the underserved areas of this country.

We paid Korea and Taiwan $5.6 billion. So if you total everything up, $85 billion in interest as of 2 years ago to these foreign creditors, people who are buying our debt because we cannot self-finance anymore. The hole of the debt is getting bigger and bigger. We cannot even buy it ourselves. We are pawning it off to foreign interests. Literally, it has gotten so bad that nearly half of the Treasury securities that are sold every year in our country are being purchased by foreign interests.

So the share of foreign ownership of our debt is growing every year. Because when these countries that are responsible for our trade deficit end up getting our dollars, they buy a piece of us. Think about that; $85 billion dollars, we could take care of all the disability compensation for our veterans. We could increase hazard pay for our young men and women in the Armed Forces who are giving their lives every day. We had a measure on the floor last week for $1,500 which was defeated despite our objections. We could triple it.

We could take care of TRICARE for our Guard and Reserve and the families who are part of that system. The Republican leadership will not allow that bill on the floor. We could create a real whole health care system for not just active duty but for our Guard and Reserve across this country.

We could build new water systems all over this country for $85 billion. Only a portion of that would it take to modernize water systems under every city in this country. So the cost of this kind of trade deficit with China, with all of the other countries, the lost jobs here at home, and then the insidious erosion of our own financial independence, because of the transfer of those dollars to others would then essentially weaken us because we end up owing them rather than paying bills when they come due.

Mr. Speaker, in closing this evening I think it is important to place on the record our deep concerns about the Bush administration wanting to expand NAFTA to include all of Latin America. As the gentleman from Ohio (Mr. BROWN) has indicated, if we had a balanced trade account with Mexico and with Canada as a result of NAFTA, would it not make sense to do that? But, in fact, after NAFTA's passage, we went into a gigantic deficit with Mexico, the largest in our history, the same with Canada, which means that we are sucking in imports with these countries when, in fact, they promised us with NAFTA that we would be creating jobs in our country by exporting to those countries. That is not happening. It is working exactly the reverse, both in industry and in agriculture.

Now the Bush administration wants to use that flawed template in order to expand to a larger portion of the hemisphere. In whose interest is that? When the original NAFTA is not working, why would you want to expand it? Why do you not fix it so that we do not continue to hemorrhage more jobs and continue to fritter away our financial independence as a Nation?

CAFTA will be considered here before the end of the year or perhaps before next June, we are not sure; but we ought to think hard about not making the same mistake again and think about how we are go to repair these big holes of deficit that we are building both on the trade front and on the deficit front for our Treasury accounts.

Mr. Speaker, we will have more to say on the condition of the economy of the United States in the days and months ahead; but surely the Bush administration cannot be proud of its record, and surely we need leadership, new leadership here in Washington, to help us get our Nation in a stronger situation for the future generations than we have found it.

MANUFACTURING JOBS LOST: STATE-BY-STATE, SEPTEMBER 2003

State	Manufacturing jobs lost in September	Jobs lost since Jan. 2001
Alabama	.....	39,500
Alaska	3,500	.....
Arizona	.....	35,700
Arkansas	.....	29,500
California	.....	297,700
Colorado	1,700	38,900
Connecticut	900	33,500
Delaware	.....	3,700
D.C	.....	700
Florida	900	59,200
Georgia	1,100	66,100
Hawaii	.....	1,600
Idaho	.....	6,400
Illinois	1,800	125,800
Indiana	2,200	67,200
Iowa	.....	26,600
Kansas	300	22,000
Kentucky	.....	33,600
Louisiana	.....	21,600
Maine	.....	15,500
Maryland	1,000	20,500
Massachusetts	.....	78,500
Michigan	8,200	127,000
Minnesota	.....	48,100
Mississippi	.....	35,500
Missouri	600	40,900
Montana	100	3,900
Nebraska	.....	9,600
Nevada	.....	400
New Hampshire	500	21,700
New Jersey	.....	63,500
New Mexico	100	6,400
New York	4,000	132,700
North Carolina	3,800	145,300
North Dakota	1,200	1,300
Ohio	5,800	151,800
Oklahoma	.....	25,900
Oregon	.....	28,900
Pennsylvania	2,200	132,500
Puerto Rico	.....	17,700
Rhode Island	200	12,000
South Carolina	1,400	55,200
South Dakota	1,600	6,400
Tennessee	200	57,700
Texas	900	156,200
Utah	.....	15,000
Vermont	700	9,500
Virginia	2,200	51,400
Washington	900	65,100
West Virginia	400	9,000
Wisconsin	3,200	73,100
Wyoming	100	1,200
Virgin Islands	.....	300

□ 2145

HOW WILL YOU KNOW YOUR VOTE COUNTED ON ELECTION DAY?

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. HOLT) is recognized for 30 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. HOLT. Mr. Speaker, I ask unanimous consent that all Members may

have 5 legislative days within which to revise and extend their remarks and insert extraneous material on the subject of this special order.

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

There was no objection.

Mr. HOLT. Mr. Speaker, I am pleased to be joined this evening by my colleague the gentlewoman from Ohio (Ms. KAPTUR) and my colleague the gentleman from Ohio (Mr. BROWN).

Let me begin with a question. On Election Day, how will you know if your vote is properly counted? In many precincts, in many States around this country, the answer is you will not. Imagine, it is election day and you enter your polling place to cast your vote on a brand new electronic touchscreen voting machine. The screen is large; it is well lit; it is accessible if you have physical disabilities. Your choices are clearly spelled out before you. In fact, it looks as easy to use as the ATM at your bank. You breathe a sigh of relief that you no longer have to figure out a complicated butterfly ballot. It seems more modern than the old lever machines.

So you make your choice and you touch the submit button and cast your vote. The screen says your vote has been counted. You exit the polling place with a sense of satisfaction, and then you begin to wonder. How do I know if the machine actually recorded my vote the way I intended? The fact is you do not. You have to trust the software in the machine to be error free.

After the 2000 election, we in Congress recognized that we had to act to restore the integrity and reliability of our electoral system by making dimpled chads and other voting irregularities things of the past. Last October, we passed the Help America Vote Act, known as HAVA. It is groundbreaking election reform legislation that is currently helping States throughout the country replace antiquated and unreliable punch cards and other machines.

However, HAVA is having an unintended consequence. HAVA has done some good things. It is giving people with disabilities access, access that they have been denied for years. In fact, they have always been denied. HAVA is doing some great things, but it is leading a headlong rush by States and localities to purchase computer voting systems that suffer from a serious flaw. All models, even the most convenient and accessible, have the problem that once the voter touches the button, the voter has no way of knowing whether the vote has been counted as the voter intended. No one will ever know. It is a secret ballot and must be secret.

This uncertainty, this lack of confidence can be disastrous to voter confidence and can prevent an accurate recount and can be a step on the way to the undoing of our democracy. I am not an anti-technology Luddite. I am a physicist. I am something of a techie. I see real advantages in these electronic machines.

There are several important advantages such as their accessibility if you have physical disabilities. Their speed and efficiency, so that the results will be communicated to the county clerk quickly. They are probably more reliable than the county clerk. I certainly had an experience with the clerk in my county when she awarded one precinct to my opponent by a margin of 9,000 votes when there were not 9,000 people who lived in that precinct. It was a simple pencil and paper clerical area. The electronic machines will do away with that, but there is one fundamental problem. They are inherently unverifiable.

To again make the point that this is not the concern of an anti-technology Luddite, I would say that hundreds of nationally renowned computer scientists have raised a cry of alarm, saying that unless there is an independent verification method to safeguard the accuracy and the integrity of the voting process there will be, might not might be, these computer scientists say there will be problems. There might be accidental software errors. There might be, God forbid, malicious hacking, and if there are concerns, if the voter is uncertain, if the candidate is uncertain whether the votes have been recorded the way they were cast, a recount is meaningless. The computer that has a faulty tally 2 minutes after the polls closed will have the same faulty tally a day later when the recount is held or the next month when the judge opens it up. If there are errors, they will go unnoticed and unknown.

The history of progress in our system of self-government here in America is in many ways a history of increasing the franchise, extending the right to vote and the ability to vote, increasing accessibility and reliability of the process of voting, but we still have some problems. We see declining voter turnout, and we have all heard, my colleagues here from Ohio I am sure have heard, constituents say, well, my vote does not count. Some people when they say that mean that special interests dominate the process and overwhelm my vote in secret back room deals. And we all work hard to see that that concern is removed, but they often mean something else when they say my vote does not count. They mean, literally, my vote does not count, my vote will not be counted.

The level of concern around the country is astounding. The Internet is burning up with back and forth chat of concerns about our voting process, and the loss of confidence in the process leads to a loss of failure to vote, leads to a cheapening and eventual breakdown of our democracy.

Every voter who stays home, whether it is because the voting places are physically inaccessible to them or because of a lack of trust in the voting process is a loss to democracy. We must find, we must find a way to keep the voter directly connected to the verification process so the voter knows that her vote or his vote is the vote that is counted.

It is not good enough to give them reassurance that the manufacturer says the machine works fine. Without taking steps to return the verification to the voter and to restore trust in the process, we face a crisis, pure and simple.

I have with me someone who has paid close attention to the electoral process. My colleague, the gentleman from Ohio (Mr. BROWN), was the Secretary of State of Ohio, and one of his responsibilities, as I believe, was to ensure the accuracy and the reliability of the voting system. And I think he understands, as well as anyone, the potential crisis we face or maybe it is not even potential anymore. I would be pleased to yield to my friend from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from New Jersey. I do not have the technical expertise that the gentleman, the physicist, has.

I, for 8 years, ran Ohio's election system, then the sixth largest election system in the country, an election system where we saw in Presidential elections 4.6 million Ohioans go to the polls. In gubernatorial years, we might see 3.2, 3.3 million people go to the polls. In primary and special elections, elections in odd number, mayoral years, township trustee year, we would see fewer people, but what underlined all of that, and I think my friend from New Jersey (Mr. HOLT) spoke this very well, was how important confidence in the system is and whether it is everyone for everyone, confidence in an accurate count is paramount.

The confidence as far as the voter is concerned that my vote will be counted is paramount. Confidence that the candidates running for office or the advocates for the issues on the ballot or the opponents to the issues on the ballot, but all of the stakeholders, the players, the candidates, the participants they must be confident that the elections are held fairly and honestly. The media which cover the elections, which write about the elections, which analyze the elections, it is equally as important that the media have full confidence in the electoral process, that every vote is counted.

While the technology is different from my career in the 1980s, from 1983 up through 1990, certainly the technology is different, I also saw technology evolve during those 8 years I was Secretary of State. In some counties, when I began, they used a simple paper ballot. Some counties used a machine. Some counties used that punch card. We began to see new technologies, counties using different methods of casting votes and counting votes, but in every one of those cases, in every one of those counties, what stayed paramount was the confidence that the votes would be counted properly so that the voter had confidence,

the candidates had confidence and the media had confidence that this was a fair operation.

They were confident because we, as election officials, there were people that ran the State election system, that ran each local precinct, each polling place, each local board of election, we could show to them that votes, in fact, were counted fairly. We had paper trails. No matter how they were voting we were able to show that, yes, the votes were counted correctly.

We had plenty of people protest. We would have recounts, but during the recounts, people would be able to watch representatives of both sides to make sure the votes were counted fairly, and they always were in the end, and this is what my concern is.

I am not a Luddite anymore than my physicist friend from New Jersey is. I am not against progress. I do not have any of those fears, but I am concerned as I hear people in my District in both parties express those concerns that we are voting on computers, and we do not have paper trails in some of this equipment.

Then I hear some sort of irresponsible statements made by some executives from some companies who are active participants in these elections, and I hear comments from people I know around my State that that scares a little bit, and I do not think this is a question of fear, but it is a question of concern, and I am just asking this Congress to pay special attention to this whole process so that people can continue to have confidence in the election system.

Every election is a big election. This election next year, I think we will see the highest voter turnout we have had in decades because I think people have such strong feelings on all sides about the way the country is being run today, and I want to be able to say in good conscience, say next October as we lead into the November election, that I have full confidence in the way that votes will be cast and full confidence in the way that votes will be counted. It is what we owe the people. It is what our republic is based on, one person, one vote, and one person, one vote only works if every one of those one voters have the confidence in the election that they need to have.

So I thank my friend from New Jersey for his yeoman's work and leadership on this.

Mr. HOLT. Mr. Speaker, I thank my colleague for his insight, and he makes this important distinction about having confidence in the way the votes are cast and having confidence in the way the votes are counted, and it is not necessarily the same thing. It is the electronics inside the machine that connects those two, and it is that gap which makes them inherently unverifiable.

□ 2200

I have legislation that would, I believe, overcome this shortcoming. But before I talk about the details, and I will not go through all the details, but before I outline that legislation, I would be pleased to yield to my friend, the gentlewoman from Ohio (Ms. KAPTUR), who has deep and strong concerns about this.

Ms. KAPTUR. I want to thank the gentleman from New Jersey (Mr. HOLT) for his extraordinary leadership on this very, very important piece of legislation that he has introduced, H.R. 2239, taking his great intelligence and experience as a physicist and wedding it to his legislative experience here in the Congress and trying to help our Nation improve on the voting systems that we have, but to do so in a way that every voter will be confident that when they cast their ballot that their vote is really in there, in that machine.

In fact, I begin with that statement because one of the leading election officials in my own district said to me, Congresswoman, I do not have confidence that in what is being done right now that I can answer to the citizens of this county that their vote will be in there. How do they know it's in there? Give me the confidence that I know it's in there. I said, I am supporting Congressman HOLT's bill so that we get an auditable paper trail at every precinct.

I would say that in addition to being a U.S. Representative, which I was elected to rather later in life, the very first office I was ever elected to and still hold is precinct committeewoman in my own home precinct. Ohio is unlike some of the other States in the Union, but we value every vote at the precinct level. We count the votes at the precinct level. Under Ohio law when you cast your vote and there is a paper trail currently in every precinct in our county, over 500 of these precincts, the votes in that precinct are counted right there. They are not taken to another location. Both Democrats and Republicans count these votes together, and there are actual documents that they have to handle, physically handle and then tally and then those votes are both sent to the board of elections in a central location, but also posted on the door outside that precinct. Any voter can go and take that tally at the end of the day. We have a very transparent system, one in which our major parties have confidence. Every tally that is done in the voting logs that are assembled in every precinct, they are added up. Sometimes mistakes are made in the precincts in terms of the tallies but then those are caught at the central board of elections, and we try to really assure that the count is as fair as possible. If it is not, if people have any concern, if there is a one-vote margin in an election, you can go back to the paper trail and you can go back and see what was done in every single precinct in the county.

I wanted to say to the gentleman, I think that this verification is so extraordinarily important. What happened in Florida at the moment could not happen in Ohio because in Florida they move their ballots to a counting station. They do not count in every precinct. Speaking as a Buckeye, speaking as an Ohioan, I do not want our rights taken away from us at the precinct level. I also would, if the gentleman will allow me, wish to place in the RECORD this evening for every election official in this country, at every county in the country, at every precinct, at every board of election, I have found great confusion as to what the Help America Vote Act actually requires and the Federal Election Commission on its Web site has what is required by the Federal law, every single year.

And indeed it is not until January 1, 2006, that every State and jurisdiction is required to comply with the voting systems requirements of the Help America Vote Act that we passed last year. Some people are under the impression that they have to have everything done by next year. They do not. They can get a waiver that they have to file with the Federal Election Commission this coming January. The secretaries of state of our country should have notified counties of this. But I can tell you, as I go out into my Ohio counties, the local boards of election simply do not know this. There is great concern and there is great consternation. I will place this in the RECORD.

I would also like to say to the gentleman from New Jersey, in addition to his bill which I hope we can pass expeditiously, I would urge our State legislatures to adopt no-fault absentee voting, that if there is any concern next year at any precinct or a doubt about the integrity of that machine, that voters can have an alternate way of casting a vote in that county through no-fault absentee voting or indeed even paper ballots at the same precincts, so that people have confidence that their vote will be counted.

Mr. HOLT. So that the voter can vote. If there is any question about eligibility or other questions about the vote, those will be settled later and the voter will be able to cast the vote on election day. That is what the gentlewoman means, I believe, by no-fault voting.

Ms. KAPTUR. That is what I mean. If I might just take one additional moment of the gentleman and then complete my remarks. One of the reasons I think this is important is when we passed the Help America Vote Act, the Bush administration was to have appointed an election commission that would set Federal standards for the development of the technologies that you know are so critical. They have not done that. In fact, the commission does not even exist, so there are no Federal regulations.

Mr. HOLT. The appointments have been made, but the other body has not acted and the commission does not yet exist.

Ms. KAPTUR. So there are no Federal standards. I can tell the gentleman

that in Ohio our secretary of state displayed five different technologies in our State House. I sent down a computer security team from our region in the State from all of our major universities and said, please assess the machines. These were all people involved in computer security. They came back and reported to me that of the five systems under review in Ohio, not a single one they would rate either excellent or very good in terms of both ease of use to the voter and security. That was a devastating finding to me.

Even though I voted for HAVA, I went back to the drawing boards and looked at what was going on in my State. My State at this point has received the $41 million to buy machines, to buy technology which is probably not enough money to get an optical scanner and a paper trail, but it has not received the larger amount of money it should have received, $117 million, to do the voter education and all of the work that is necessary to bring up these new systems. So even though we voted for this law, just Ohio is $66 million short in trying to bring these technologies up by next year. I wanted to place this on the RECORD.

Timing is vital.

While communities are waiting to find out exactly how much money they may be getting, and some others do not want to move on acquiring equipment until they are sure of how much money they will be receiving, it is important to keep in mind:

While HAVA does state that new election machines should be in place for 2004; it is possible to get an extension until the first federal election held after January 1, 2006;

But in order to get this extension, an application must be submitted no later than January 1, 2004, at this point, to the General Services Administration, providing good cause for why the exemption should be granted;

GSA did send a letter to every governor and state election director when the initial Title I money was provided last year. However, they have not yet sent out a reminder of the impending deadline.

So far, only Illinois has applied for the extension, and this request was approved last week.

Other reasons why the extension should be requested:

Gives more time to make sure that the right machines are acquired, if new machines are acquired;

Gives more time to test and verify the machines;

More importantly, it gives more time for the vote verification provisions of the Holt bill to be implemented in a fashion that will be the most efficient with respect to any new voting machine system.

And it gives more time for people to decide whether or not they actually want to buy new machines, because while HAVA provides for new machines, it does not mandate them if current voting systems can demonstrate that they meet the integrity requirements of HAVA.

HELP AMERICA VOTE ACT TIMELINE

Days/months after enactment	Date	Activity
45 days	December 13, 2002	Section 101: GSA establish grant program for payments to States to improve election administration.
45 days	December 13, 2003	Section 102: GSA establish grant program for payments to States to replace punch card or lever voting machines.
	January 1, 2003	States must be ready to accept materials from individuals who register by mail. Section 303(b).
90 days	January 27, 2003	Chief State election officials transmit notice to FEC Chair (and/or EAC) containing name of State election official and local election official selected to serve on Standards Board.
120 days	February 26, 2003	Appointment of 4 EAC Commissioners.
	March 31, 2003	State NVRA Reports for 2001–2002 due to FEC.
6 months	April 29, 2003	Last date on which States may submit certification to GSA for Section 101 payments.
6 months	April 29, 2003	Last date on which States may submit certification to GSA for Section 102 payments.
	June 30, 2003	2001–2002 NVRA report submitted to Congress.
	October 1, 2003	EAC adopts recommendations and voluntary guidance on Section 302 Provisional Voting Requirements.
	October 1, 2003	EAC adopts recommendations and voluntary guidance on Section 303 provisions on computerized statewide voter registration list requirements and mail registration requirements.
12 months	October 29, 2003	EAC submits Human Factors Report to the President and Congress. (Section 243).
12 months	October 29, 2003	EAC submits to Congress report on free absentee ballot postage. (Section 246).
	January 1, 2004	Deadline for States to qualify for waiver of computerized statewide voter registration databases.
	January 1, 2004	Last date for States applying for waiver of deadline for replacement of punchcard or lever voting machines using Section 102 payments.
	January 1, 2004	States not participating in the grant programs shall certify to the EAC that the State has established an administrative complaint procedures (Section 402), or has submitted a compliance plan to the U.S. Attorney General.
	January 1, 2004	Effective date for Section 302 provisional voting and voting information requirements.
	January 1, 2004	States and jurisdictions required to comply with Section 303 requirements pertaining to computerized statewide voter registration lists (unless qualified for a waiver) and 1st time voters who register by mail.
	January 1, 2004	EAC adopts voluntary guidance recommendations relating to Section 301 Voting Systems Standards requirements.
	January 1, 2004	Effective date of new Section 706 UOCAVA amendments prohibiting States from refusing to accept registration and absentee ballot applications on grounds of early submission.
	January 1, 2004	EAC submits first Annual Report to Congress.
18 months	March 29, 2004	EAC (in conjunction with FVAP) submits to the President and Congress a report and recommendations for facilitating military and overseas voting. (Section 242).
20 months	May 29, 2004	EAC submits to House and Senate a report on the issues and challenges presented by incorporating communication and internet technology into the election process. (Section 245).
	November 2, 2004	All punchcard and lever machines replaced in States accepting Section 102 payments, unless qualified for waiver.
	March 31, 2005	State NVRA Reports for 2003–2004 due to EAC.
	June 1, 2005	EAC submits report to President and Congress on voters who register by mail. (Section 244).
	June 1, 2005	EAC (in conjunction with SSA) reports to Congress on the feasibility and advisability of using SSN or other such information to establish registration or other election eligibility and ID requirements. (Section 244).
	June 30, 2005	2003–2004 NVRA report submitted to Congress.
	January 1, 2006	Each State and jurisdiction required to comply with the voting systems requirements in Section 301.
	January 1, 2006	Deadline for States to implement computerized Statewide voter registration database if qualified for waiver.
	First election for Federal office after January 1, 2006.	All punchcard and lever machines replaced in States accepting Section 102 payments who qualified for a waiver of the original deadline.
	January 1, 2007	Voting systems purchased with Title II requirements payments must meet disability access standards in section 201.

[From the Washington Times, Oct. 29, 2003]

TOUCH-SCREEN VOTING READY, OFFICIALS SAY

(By Arlo Wagner)

Officials overseeing four of the five municipal elections Tuesday in Montgomery and Prince George's counties said yesterday they are confident that their electronic touch-screen voting machines are secure, despite lingering concerns that the machines are vulnerable to hackers and tampering.

''It's actually more secure than it was before,'' said Barry Smith, manager of election technology for Gaithersburg, one of the cities that used the Diebold AccuVote-TS in its elections two years ago.

Voters in Gaithersburg had an opportunity to try out the machines yesterday at three of the city's five polling places. Few voters, however, came out to the Asbury Methodist Village polling place, where, historically, the highest percentage of voters cast paper ballots.

Election officials said the low turnout could indicate that voters in that precinct were satisfied with the touch-screen machines last time.

''This is better than the old system,'' said Sarah Paxton, administrative secretary to Gaithersburg's city manager. ''It may take a voter only 30 seconds to vote.''

Registered voters must show identification to get a computerized card, which they then insert into the base of the machine. Once the card is in the machine, the names of all candidates are displayed on the screen.

Voters touch the names they are selecting. If they touch too many names, the screen will go blank and voters will have to start over. Once the preferred candidates are chosen, the machine will eject the card. The voters then must turn the card over to one of the judges who is overseeing the process.

Montgomery was one of three counties in Maryland to use the computerized voting machines in 2001. In July, a team of researchers at Johns Hopkins University in Baltimore found that the underlying computer code in the machines was vulnerable to outside parties.

After the Hopkins analysis, Gov. Robert L. Ehrlich Jr., a Republican, ordered San Diego-based Science Application International Corp. (SAIC) to review the system. Last month, SAIC reported that the system, ''as implemented in policy, procedure and technology, is at high risk of compromise.''

Mr. Ehrlich and state election officials decided the flaws identified by SAIC could be corrected before the presidential primary election in March. Maryland agreed to purchase $55.6 million worth of machines just days before SAIC released its findings this summer. The machines are expected to be installed in 19 of Maryland's 23 counties.

Last week, several members of the Maryland's General Assembly asked for its own ''independent'' analysis that would, among

other things, examine issues about the electronic voting machines. That report is scheduled to be concluded before the General Assembly convenes in January.

Despite prior reviews of the system, officials in the four of the five cities that will be using the machines Tuesday say they had no problems with them last Election Day. Those cities holding elections are Takoma Park, Rockville, Gaithersburg, Greenbelt and College Park.

''We had no problems in the last election,'' said Catherine Waters, city clerk of Takoma Park, where voters next week will use the touch-screen machines to select a mayor and six city Council members.

Voters in Greenbelt will use a different computerized voting machine when they elect all five members to the City Council.

''I don't think anyone is batting an eye,'' Greenbelt City Clerk Kathleen Gallagher said.

However, voters in College Park will not use the touch-screen machines when they go to the polls to choose a mayor and four council members.

''We will be using paper ballots,'' which might be old-fashioned but are familiar to about 10,000 registered voters, said Yvette Allen, of the City Clerk's Office.

The municipal elections in Montgomery and Prince George's counties are dominated by unopposed incumbents.

In Rockville, voters will decide whether to elect a mayor and City Council every four years, instead of two. This will be the 59th city election in the city's 116-year history, said Neil Greenberger, the city's public information officer.

Voters in Gaithersburg will be electing three of the five council members.

Mr. HOLT. I thank the gentlewoman, and I think her insertions in the RECORD will be very useful to people. I thank her for her insightful comments.

I would make the point that even though HAVA does not require action immediately, the sooner we implement HAVA, the better. There are many people with physical disabilities who have been denied the privilege and the satisfaction of voting in person and in private. HAVA would correct that. But we must not let HAVA lead us to unverifiable voting. That is why I am proposing legislation that would, I think, correct this problem. It would require that all voting systems produce a paper record, an audit trail that is verified by the voter. In other words, each voter will see and verify a paper record of the vote. That will allow manual audits. It will mean that recounts actually mean something. This would be the vote of record. It would be kept safely with the election records for recounts.

My legislation would do some other things such as banning undisclosed software and would accelerate the date by which the provisions for people with disabilities would have to be met. But the fundamental point I wanted to make is that voting should not be an act of faith as my colleagues have said. It should be an act of record. It is also important to make the point that what I am talking about here is nonpartisan. It is preserving the sanctity of the ballot. This is not a Republican matter or a Democratic matter. It is fundamental to the American system.

I am sorry to say that the Internet is buzzing with conspiracy theories. In other words, voters are afraid that something is afoot. It was reported in this week's Newsweek by Steven Levy that suspicions, as he says, run even higher when people learn that some of those in charge of the voting technology, the manufacturers of the voting machines, are themselves partisan. The CEO of a major company is a major fund-raiser for the Presidential reelection campaign. He recently said that he was ''committed to helping Ohio deliver its electoral votes for the President next year.'' According to this article, he later clarified that he was not talking about rigging the machines.

Whew. That is actually Mr. Levy's expression. Whew.

By the proposal that I have, the legislative proposal I have, the printout would be at the voting machine at the time that the voter votes, available for the voter's inspection and verification. And it would go into a secure lockbox. If there is a need for a recount, the paper ballots would be tallied. It may not be a perfect system, but it is a way to assure the voters that the process is honest.

It is troubling that this is not getting as much attention here in this body as it should. An article appeared in the New Zealand Herald a few days ago. The article begins, ''The possibility of flaws in the electoral process is not something that gets discussed much in the United States Congress. The attitude seems to be, we are the greatest democracy in the world, so the system must be fair.''

That is not good enough. We are a great country because we constantly try to do better, because we constantly try to increase the franchise, increase accessibility to democracy, increase the reliability of the process. That is what we need to do. Yet from all over the country, I get e-mails. For instance, from Georgia: ''If we can't verify our elections, then we can't verify our freedom.''

From Idaho someone writes: ''Those who cast the votes decide nothing. Those who count the votes decide everything.''

From Michigan: ''The act of voting is the most essential issue. This issue is the most essential issue our representatives will vote on and they should be judged accordingly.''

From North Carolina: ''A paper trail is the only reasonable solution to any computer-mediated transaction. As a corporate system security analyst, I find the electronic devices as they now stand without this verifiable backup simply irresponsible.''

From North Dakota: ''There is no confidence nor integrity without it.''

From Ohio: ''I work with computers every day. We need to check that what goes in is what comes out.''

From Oregon: ''Without this, I will no longer view this country as a democracy.''

From Tennessee: ''If there is no accountability in election, there is no reason to vote and we descend into anarchy.''

From Wisconsin: ''If voters perceive,'' the key word here is perceive, ''that their votes are being miscounted and are meaningless, they will simply stop voting.''

That gives you some sense of the seriousness that voters assign to this issue. It is very important. This body should turn its attention to restoring the voters' trust in every way we can. One important way we can do that is by making sure that they have confidence in the process that makes this democracy work, the process of voting and then, of course, the process by which we fulfill the trust that they place in us.

As I have talked about this with people, I have run into a number of opinions. I was talking with an election official from another State who said, Well, we've had these electronic machines for several years now and we've had no problems. To which I said, How do you know?

□ 2215

He did not have an answer. We have to help him get that answer.

Mrs. JONES of Ohio. Mr. Speaker, I rise today in support of every American's basic right to vote and to have that voted counted.

As it stands, voters have no way of knowing what is actually recorded, once they vote. H.R. 2239, the bill introduced by my colleague from New Jersey, would make certain the process of voting is not in any way a leap of faith.

This act would ensure our constituents see a record of verification for the votes they cast. When Americans go to the bank, they receive some manner of documented record, ensuring that their money is going where they intended. Likewise, Americans who use voting machines deserve a documented record confirming their vote was recorded correctly.

Nine percent of the U.S. population records their votes electronically. These numbers greatly vary from State to State. Twelve percent of Ohio votes are recorded electronically. Eighty percent of Kentucky voters use electronic ballots. Without an adequate confirmation method, mechanical misvotes could have a drastic impact on close elections. The problem would go unnoticed.

H.R. 2239 would also accelerate the deadline for compliance with voting systems standards from January 1, 2006 to the regularly scheduled November 2004 general Federal election. In order to guarantee accurately recorded votes for next year's election cycle, Congress must act now. We cannot put the basic rights of our constituents on hold.

The right to vote is a right every citizen of this country deserves. As Members of Congress, we all have an obligation to make sure all of our constituents' votes are counted through the most fair and accurate means available. Not just the blacks. Not just the whites. Not just the browns. Not just the yellows. Not just the Christians. Not just the Jews. Not just the Muslims. Not just the Atheists. Not just the Republicans. Not just the Democrats. The right to vote should not be reserved for just most of our constituents, but for all of our constituents.

WAR PROFITEERING IN IRAQ

The SPEAKER pro tempore (Mr. GARRETT). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes.

Mr. PALLONE. Mr. Speaker, earlier this month Congress approved an $87 billion supplemental for the war and reconstruction efforts in Iraq. While I believe it is critically important that we get our military troops all the resources they need to safely complete their mission in Iraq, I do not support rubber-stamping this legislation so the Bush administration gets a free ride from Congress.

The Bush administration must account for its war strategy. The Bush administration must also answer the tough questions regarding questionable no-bid contracts, contracts that benefit Vice President DICK CHENEY's former employer, an employer that continues to pay CHENEY hundreds of thousands of dollars each year in deferred salary, contracts that are free of any oversight from Congress.

Mr. Speaker, right now Halliburton holds a monopoly on Iraq. The company's no-bid contract was first negotiated in secret and originally intended for the sole purpose of extinguishing oil fires that could result from the war. Once again in secret last spring, that contract was extended with the Army to include the reconstruction and repair of Iraq's oil infrastructure. The administration did not allow other companies an opportunity to bid on this reconstruction.

Now, today, Mr. Speaker, just today, Halliburton faces no competition and no oversight. And today also the Bush administration announced the contract would be extended longer than expected, blaming sabotage of oil facilities for delays in replacement contracts.

Up to this point, Halliburton has been free to spend the American taxpayer's money at will and Congressional Republicans who, night-in-and-night-out, come to this House floor to complain about waste in the Federal Government, have been silent. I think that is outrageous.

In fact, many of my colleagues on the other side of the aisle try to compare our reconstruction efforts in Iraq to those efforts included in the Marshall Plan at the end of World War II. But what my Republican colleagues neglect to say is that President Franklin Roosevelt stood up against war profiteers when he said, ''I don't want to see a single war millionaire created in the United States as a result of this world disaster.''

President Bush and House Republicans, who have never been shy about their efforts to help the wealthy expand their wealth, certainly do not share Franklin Roosevelt's sentiment.

After World War II, Congress also refused to neglect its role in overseeing taxpayer money when the Senate unanimously created a special committee headed by then Senator Harry Truman to root out waste, corruption, inside trading and mismanagement in the Nation's defense industries. But, today, the Senate and the House, both controlled by Republicans, have turned a blind eye to possible waste and mismanagement. Congressional Republicans refuse to even question the Bush administration on the billions of dollars of taxpayer money now going to Halliburton, much less create a special committee to oversee these funds.

I ask you, Mr. Speaker, what are my Republican colleagues afraid of? Why do they refuse to hold Halliburton accountable for the billions it now spends in Iraq? Could it be Congressional Republicans do not want to draw much attention to the fact that the company profiting from the reconstruction of Iraq, Halliburton, continues to pay Vice President CHENEY hundreds of thousands of dollars each year?

The Vice President tried to squash such a story when he appeared on Meet the Press on September 14. The Vice President stated, ''And since I left Halliburton to become George Bush's Vice President, I have severed all my ties with the company, gotten rid of all my financial interests. I have no financial interest in Halliburton of any kind, and haven't had now for over 3 years.''

Well, despite the Vice President's claims, the Congressional Research Service issued a report several weeks later concluding that because CHENEY receives a deferred salary and continues to hold stock interests, he still has a financial interest in Halliburton. In fact, if the company were to go under, the Vice President could lose the deferred salary, a salary he is expected to continue to receive this year, next year and on into 2005. While losing around $200,000 a year would not put a big dent in the Vice President's wallet, he clearly still has a stake in the success of Halliburton.

It is possible that Halliburton is the right company to do this work in Iraq, but how then does the Bush administration and the Republican Congress explain why there is so much secrecy surrounding the whole deal? Could it be that the Republican Congress and the Bush administration are concerned that the more light that is shed on Halliburton's use of taxpayer money would be more examples of waste and mismanagement that would likely be exposed?

Despite the fact that Halliburton now goes about its business in Iraq without any Federal oversight, my colleagues on the Democratic side, the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. WAXMAN), exposed the outrageous fact that Halliburton seems to be inflating gasoline prices at a great cost to American taxpayers.

In a letter to OMB Director Joshua Bolton, the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. WAXMAN) wrote that the independent experts they consulted have been appalled to learn that the U.S. Government has paid Halliburton $1.62 to $1.70 to import gasoline into Iraq. According to these experts, the price that Halliburton is charging for gasoline is outrageously high, potentially a huge rip-off and a highway robbery. During the relative period, the average wholesale cost of gasoline in the Mideast was around 71 cents per gallon, meaning that Halliburton was charging 90 cents per gallon just to transport the fuel into Iraq. According to the experts, such an exorbitant transportation charge is inflated many times over. Compounding the cost to the taxpayers, this expensive gasoline is then sold to Iraqis at a price of just 4 to 15 cents per gallon; 4 to 15 cents per gallon.

Now, Iraq has the second largest oil reserves in the world, but the U.S. taxpayers are, in effect, subsidizing over 90 percent of the cost of gasoline sold in Iraq.

In light of this new information, the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. WAXMAN) requested that OMB Director Bolton provide copies of all contracts, task orders, invoices and related documents issued to date regarding Halliburton's work in Iraq so Congress can conduct its own independent investigation of these issues on behalf of the U.S. taxpayer.

This request from my Democratic colleagues seems reasonable. After all, if Halliburton is grossly overcharging the American taxpayer for the transportation of oil, what else might the company be overcharging the Federal Government for?

Once again, my Republican colleagues are silent on the issue. Those waste-watchers that come down here periodically and talk about waste in the Federal Government, those Republicans who come down to the floor periodically to rail against waste, a government they currently control, I might add, you do not see them coming down to the floor to rail about Halliburton's gauging of the Federal purse. They are silent. You do not see any Republicans expressing the need for more Congressional oversight of the current contracts going to Halliburton and others.

It appears to be another example of how the House Republicans have taken this House away from the people and handed it over to an elite few, the corporate executives and other special interests.

Mr. Speaker, I could go on, but I see that many of my colleagues on the Democratic side have joined me here. So I would like to yield at this time to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. I want to thank the gentleman from New Jersey (Mr. PALLONE) for putting this special order together this evening so we can place on the record a number of our deepest concerns about the way in which contracting is being handled relative to

the war in Iraq, and particularly some of what appears to be war profiteering by some of the highest officials in our government and some of the private firms with which they have had association.

I came down here this evening because as a member of the Committee on Appropriations, when funds were being debated for Iraq and Afghanistan, I was denied the opportunity, and I emphasize, denied the opportunity to even offer an amendment to require competitive bidding in any contract associated with this war effort. I could not believe that I was not even allowed to offer the amendment. I remember I was told, ''Well, you know, Congresswoman, they are going to take care of that over on the Senate side,'' I mean, ''in the other body.''

I said, ''Oh, are they?''

Then I found out the way they are going to take care of it is only to allow a provision to be offered for reporting back. That means once the horse was out of the gate, maybe some contracts would be reported back, but there would be no competitive bidding. Then I learned this last month that only the contracts after March 1 might be reported back.

I said, ''No, no, no, what about the contracts for Halliburton and Bechtel that preceded March 1? That is what is at issue in the current supplemental that is working its way through this Congress.''

I thought, oh, that is very interesting.

So I cannot get competitive bidding considered as a real amendment. Even in the reporting-back amendments it is everything that comes after March of this year, maybe, and we closed the door on what happened before March 31 of this year.

So my question is, who is trying to hide what? Who is trying to hide what?

So I come down here as a disgruntled Member tonight, because I should have been allowed the opportunity. We are not talking about tiddly-winks here. We are talking about the largest supplemental in American history. $87 billion was just voted out of this House, and yet there were no requirements for competitive bidding, and the reporting-back requirements are flawed. We need to know who got how much money and we need to understand who is benefiting from the taxpayers' largess and who is profiteering.

The gentleman from New Jersey (Mr. PALLONE) has put on the record some very important information, and it has to do with the amount of money that Halliburton is being paid to move petroleum and gasoline from Kuwait to Iraq. Now, remember, Iraq has the second-largest oil reserves in the world, and it is estimated that it would normally cost 70 to 98 cents for a gallon of gasoline to move from Kuwait to Iraq.

Well, how come Halliburton is charging upwards of $1.78, anywhere from $1.48 to $1.78 a gallon, and the American people then are paying for that differential? How is that happening in all of this?

There is an estimate that Halliburton is actually making from this anywhere between $300 million and $900 million, because about a third of the dollars they are getting relate to the transport of fuel from Kuwait to Iraq. So this is not something small. This is not a little asterisk or a little tiddlywink or whatever. This is a huge amount of the additional funds that we were requested to spend as a Congress.

The U.S. Army Corps of Engineers reported that as of September 18, last month, the United States had paid Halliburton over $300 million to import approximately 190 million gallons of gasoline into Iraq, and that meant that on a per-gallon basis for that tranche of shipment of fuel, Halliburton charged the United States an average price of $1.59 a gallon to import gasoline into Iraq. And that did not include Halliburton's additional fee of 2 percent to 7 percent, which increases the cost to our taxpayers to $1.62 to $1.70 per gallon for fuel that should move at a rate in that region of anywhere between 73 cents, as I said, and 98 cents a gallon.

Somebody is making an awful lot of money. Halliburton has received over $3 billion in task orders relating to the war and reconstruction in Iraq, and most of that is not competitively bid. When did we ever have contracts of that magnitude not competitively bid?

I would just like to place on the record, if I might this evening, information on the amount of compensation that Vice President CHENEY, who had been the chief executive officer of Halliburton, is receiving.

Vice President CHENEY made a statement on national television that he was not receiving any compensation, had no financial interest in Halliburton, and I would beg to say I think he has forgotten some pretty important facts, even that his own financial disclosure forms reveal. For example, a special report done for the Congressional Research Service indicates that he is in fact receiving deferred salary and holding 433,333 Halliburton stock options. I wish to place on the record tonight what he is receiving in deferred salary and what he is receiving in stock options and other benefits.

Let me start with deferred salary. Deferred salary paid by Halliburton to Vice President CHENEY in 2001 equalled $205,298. I think when you have that much money and you are getting your salary as Vice President, my question is, why do you not donate it? Why do you even take this money?

In 2002, his deferred salary from Halliburton was $162,392. Halliburton is scheduled to make similar payments to him in 2003, 2004, and 2005, and he has an ongoing corporate relationship from company funds that are being paid.

□ 2230

In terms of stock options, his financial disclosure form stated he continued to hold these stock options, and they are in three categories. There are 100,000 shares valued at $54.50 a share, so for that tranche of shares, that value is $5,450,000. He then has 333,333 shares, and I wonder how that number was picked, valued at $28.12, and then he has 300,000 shares. Imagine. I mean, I do not know how many people here own stock, but 300,000 shares valued at $39.50 is a huge amount of money. The total value of these shares right now is over $26,674,990.

So to say that the Vice President has no interest in Halliburton's future, one would have to be a fool, or not be able to read, even to hold that position. He absolutely has a financial interest in this company. His family has a huge financial interest, and it is a gross interest. It is not some side issue. The Vice President's deferred compensation and stock option benefits are in addition to a $20 million retirement package paid to him by Halliburton after only 5 years of employment. I would like to know how many Americans listening tonight have a $20 million retirement package for only working 5 years.

I think of how many of our people have lost their retirement packages. I have people in my district struggling to hold on to benefits and are paying more for health insurance from the retirement programs they had been promised. A third of the private sector plants in this country have gone belly up or have been cut. I can see why this Vice President cannot identify with the pain of unemployment or the pain of 45 million Americans without health insurance, or the pain of Americans who cannot afford prescription drugs. He is not even living in the same world. Halliburton paid him $1.4 million in cash bonus in 2001, and that does not include the millions of dollars of compensation paid to him while he was employed by the company.

So I wanted to thank the gentleman from New Jersey (Mr. PALLONE) for putting this Special Order together tonight. What was interesting about the no-bid contracts that Halliburton received when we had Hurricane Isabel and that made the front pages all over the country, including here in Washington, the Bush-Cheney administration slipped in an additional $300 million in no-bid contracts to Halliburton, and it was placed, I do not know, on page 27 or 35; it was buried somewhere in the paper that weekend. But, literally, that brought the total amount of taxpayer dollars paid to Halliburton to over $2.25 billion, of which $1.25 billion, and this is not million, even million would be a lot, but this is $1.25 billion from the no-bid exclusive contract given to Halliburton.

Mr. Speaker, I am really pleased tonight to be down here to help place this on the record as one Member who was denied the ability in her own committee and on this floor to offer a competitive bidding amendment for all contracts related to the war effort.

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman. I appreciate the detail that she went into there with respect to the Vice President's compensation and his interest in Halliburton. I was frankly not aware of the level or the magnitude of the stocks and the pension plan and all of the other details. It is incredible what it adds up to. I mean, if I had to add that all up, it comes to maybe $50 million, between the deferred compensation, the stocks and the retirement plan, over $50 million. It is outrageous to think that with that kind of compensation and interest, that the government where he is the Vice President would give out these no-bid contracts. I thank the gentlewoman.

I yield to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I thank my colleague and good friend, the gentleman from New Jersey, and I appreciate the participation in this effort tonight.

Mr. Speaker, it is a good thing that our government is handing out no-bid contracts for minor purposes such as rebuilding the country of Iraq, because if the government was giving out no-bid contracts for important things like buying stationery at the county courthouse through a no-bid contract, somebody would be going to jail.

Now, like many of us serving in the United States Congress today, I began my career as a local government official. I was a county judge in Texas in charge of the budget and the finances of the county. In Harrison County, Texas, if we needed a piece of equipment for the road and bridge department or fuel for the county, or if we needed any kind of equipment for the county; if we even needed a case of stationery, Mr. Speaker, do my colleagues know how we got that property for the government? We got it through a competitive bid process. That is the law.

Now, in examining competitive bids in Texas, the law says to consider several factors, among them the vendor's price, the quality of goods and services, and past performance of contracts. Mr. Speaker, we considered those things in Texas because it was and is the law. But more than that, requiring bids is fiscally responsible and guarantees that we get the best deal for the taxpayer dollar. Additionally, it guarantees that we get the best service and the best quality product.

Mr. Speaker, in all of my years in local government, I never had one constituent or one company complain about the bid process. It was the law, it was expected, it was proper, it was good business. It is good for government. It is good for the taxpayers, and it is good for American business. That is why, Mr. Speaker, I was shocked and my constituents who I have heard from have been appalled to learn that our Federal Government is awarding no-bid contracts. Now, this is no-bid contracts, not for stationery, no, not for stationery or a few thousand dollars, but no-bid contracts for billions of dollars to rebuild Iraq. No bid, no competition, no oversight, no nothing, Mr. Speaker.

Mr. Speaker, the United States has the finest construction experts in the world. We have the best education, the best technology, the best expertise, the best equipment and workers that the world has ever seen. Products made in America are the finest quality products made anywhere. Our workers, our products can stand any test, can stand any bid. That is why we do not need no-bid contracts. We do not need these secret deals. We do not need smoky back-room politics for billions of dollars.

Now, we do need transparency. According to the Associated Press today, the government issued a noncompetition, no-bid contract to Halliburton for $1.59 billion to help rebuild Iraq. Now, why was there no bid? Why these secret deals, Mr. Speaker? Why are there back-room politics for billions of dollars? Also today, the AP announced that the contract was extended at a cost of $400 million. Again, why no bid? Why secret deals? Why do we have these back-room politics?

Mr. Speaker, Halliburton and its subsidiaries are some of the top construction companies in the world. They can clearly compete for these contracts on their own merits, on their own past. They do not need no-bid contracts. They do not need back-room deals. They can do it on their own. And the same could be said of Bechtel, which has been granted a multibillion dollar monopoly franchise on infrastructure reconstruction contracts. Bechtel too is a top-rate company with top-rate abilities and top-rate employees. They can make it on their own and they want to, and they have. So this is not really a criticism of Halliburton and Bechtel. No-bid contracts, Mr. Speaker, are really good work if you can get them. That is some good work. No, this is a criticism of an administration which makes billions of no-competition, no-bid contracts available. It is a criticism of an administration that has a personal financial interest in government contracts.

Mr. Speaker, it has been reported extensively in the press that the Vice President currently receives compensation from Halliburton. The Vice President has said that not all of those reports are true, and he said that he has no financial interest in Halliburton. We have heard our colleague, the gentlewoman from Ohio (Ms. KAPTUR), read into the RECORD information concerning compensation to the Vice President and, importantly, the amount of stock and options he owns.

Now, there is an easy way to put this to rest. The Vice President should state unequivocally that he receives no compensation from Halliburton, no deferred compensation from Halliburton, he owns no stock, receives no dividends, owns no options, has absolutely no financial interest of any sort which would include both him and his family. That would put an end to this issue permanently. That would be the end of it. I think everyone in this House and everyone in the American public would agree that the administration and members of the administration should not have any personal interest whatsoever in government contracts, period. And we have to abide by those rules in the House.

Next, we should establish a policy to bid out these contracts and award the bids to the best bidder, taking into account cost, quality, and past performance. I am sure Halliburton and Bechtel would get some of these contracts. I am sure they can. But that is the process we go through. In other words, let us take a business-like approach. I believe that is what Halliburton and Bechtel and the others really want. They want contracts. They do not want politics. They do not want criticism. That is our obligation to the American taxpayer. Because do we know who is paying these exorbitant prices for these no-bid contracts? It is you and me. It is the American taxpayer. Many of us in this body support making at least some of the rebuilding funds to Iraq as a loan to be repaid. Many of us believe that Iraq should at least use some of its own oil to rebuild its own country. But this administration says no. They say we have to give the money away, and, on top of that, waste it with no-bid contracts, the money that we are giving away.

Now, Mr. Speaker, we all agree that the United States has a part to play in rebuilding Iraq, and that is a laudable goal. Of course, many of us also believe that we have a part to play in rebuilding America, and we should pay just as much attention to rebuilding American schools and American roads and American infrastructure; that is our first obligation. Let us get started on that today.

But, Mr. Speaker, we can bet that the contracts in America will be done by bid. That is the proper way to do business, and everybody in this House on both sides of the aisle knows it. It is the proper way to do business. It saves money. It is good for us all. We should expect no less than that in Iraq, and we should expect no less than that of our current administration.

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman. Again, I just think it is incredible to think that as the gentleman said on a local level or a county level, even down to the stationery that is purchased, you have to have competitive bidding. Yet, here at this level, with billions of dollars at stake, it is not happening. I think most Americans would probably be shocked to find out that that is true, but it is.

I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from New Jersey, my friend, and I appreciate hearing the comments from the gentleman from Texas (Mr. SANDLIN) and the gentlewoman from Ohio (Ms. KAPTUR), and I

thank the gentleman from New Jersey (Mr. PALLONE) for his night after night work on exposing the kinds of corruption that we have seen in this whole process.

We all know about this corruption. We know that we are spending $1 billion a week in Iraq. We know that $300 million, 30 percent of that $1 billion a week is going to private contractors, most of them friends of the President, most of them major contributors to the President. One of them, Halliburton, used to be the company where the Vice President was CEO and a company that still pays the Vice President $13,000 a month. We know all of that. We know about the corruption. We know about the waste. We know it continues. But what bothers me, what bothers me probably the most about that is what Halliburton and these private contractors are not doing.

Last month, early this month, I had a meeting with 25 families in Akron, Ohio, in my district on a Saturday morning. It was going to be about an hour and a half meeting and ended up being over 3 hours, with 25 families who had loved ones in Iraq. What I heard was how our government, and our government, unfortunately, now includes a privatized military worth $300 million out of $1 billion that goes to Halliburton, and our government has simply failed these service men and women. The stories are legion; we are all hearing them in our districts. I heard them for 3 hours that day. We do not have safe drinking water for our troops. Hundreds, thousands of our troops are getting, have gotten dysentery. We do not have sufficient antibiotics in many cases. We do not have, and this is the most shocking and the most troubling, we do not have enough body armor for our men and women in uniform. One-fourth of servicemen and -women lack the body armor they need; and that body armor will not be available until December, we are told by Mr. Bremer, the person the White House has hired, that President Bush has hired to oversee the rebuilding of Iraq, and by Mr. Rumsfeld.

Mr. Speaker, I am incredulous that we are spending $1 billion a week, 30 percent of that money going to the President's friends, and many of it, much of it in an unbid contract, as the gentlewoman from Ohio (Ms. KAPTUR) has shown us; yet we cannot find enough money to provide safe drinking water for our troops. We cannot supply and protect our troops sufficiently. We do not have enough money, or the wherewithal to get the antibiotics to them that they need, and we do not have sufficient body armor when President Bush knew we were going to war at least a year ago, and still cannot have enough body armor for our men and women there.

So I do not get it. We have seen this kind of corruption and incompetence on the part of the President, the White House, the military, the civil authority, the military leaders. We are seeing brave men and women over there. But the people who are running this operation, we are seeing corruption and we are seeing incompetence, and we are seeing a small number of companies get incredibly rich. We are seeing the President's campaign chest fatten every day.

Tomorrow the President is going to be in Columbus, Ohio, in my State, raising several hundred thousand dollars, maybe $1 million. We are hearing that every week he is going out on a funding trip. Vice President CHENEY, about the only time he is in public is for a fund-raising trip. They always raise money from Halliburton and Bechtel and these contractors.

□ 2245

So, I mean, think of this circle. We are spending $87 billion this Congress is about to appropriate. We are already spending a billion dollars a week. A third of that money goes to private contractors who are friends of the President, who give money to the President's campaign. Yet where is the focus on protecting and supplying our troops? I guess it is not criminal, but it is just incredible to me that the President of the United States is so intent on fundraising and so intent on feeding his political friends and getting these political contributions in return, that this White House, and this administration, and the military brass and the civilian leaders that the President has appointed to run Iraq have taken their eye off the ball. They have lost focus on the most important thing over there and that is the supplying and protecting of our troops.

I would like to see some answers. We apparently are not getting them. I hope tonight, if some people from some of the top brass of the Pentagon are watching, some people at the White House, maybe they can give us answers. I asked Mr. Bremer at committee questions about this. We do not seem to be getting any answers there.

I am nonplussed by it all, Mr. Speaker. I hope that this administration can do better so that our troops have safe drinking water, our troops have the body armor they need, our troops have the antibiotics they need.

We can simplify this reconstruction of Iraq so we are not wasting huge amounts of money, so we are not doing it through unbid private contracts, so that we are doing it through a competitive bid process so Americans can feel more comfortable that our troops can be safer so that this operation will work better.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Before you continue, taking all comments into consideration, the Chair will remind all Members that it is not in order to accuse the Vice President or President of unethical behavior or corruption either directly or by innuendo.

Mr. BROWN of Ohio. Mr. Speaker, if I may, may I say the actions of the administration are corrupt and incompetent?

The SPEAKER pro tempore. A Member may criticize the administration, but may not personally accuse the President or Vice President of corruption.

Mr. BROWN of Ohio. Mr. Speaker, I mean, it is not the Clinton administration, although we still seem to hear that from time to time. It is the Bush administration. May I say that?

The SPEAKER pro tempore. It is appropriate to discuss ''the administration'' but Members may not make personal accusations against the President or Vice President.

Mr. BROWN of Ohio. Mr. Speaker, I appreciate that.

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. BROWN) for his comments. I know we want to emphasize these no-bid contracts, but you are bringing up the fact that this money that is being spent on these no-bid contracts, at the same time is depriving money that could be spent for the troops, I think is very well-placed.

Many of my constituents talk about how so much of this reconstruction effort goes to Iraq and so little of the same type of thing is being done here in the United States.

Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for gathering us here tonight to talk about an issue that is very much in the minds of the American people. Where is our $87 billion going?

And I do not know if the gentleman has seen Newsweek this week. The cover story is ''Bush's $87 Billion Mess. Special Investigation. Waste, Chaos and Cronyism: The Real Cost of Rebuilding Iraq.'' And I thought I would just refer to some of this.

Now, I know that the President has cautioned us not to believe what we read and that we should not emphasize the negative, but we should look for the positive and that you cannot believe all these negative news reports. And I do not know if he is necessarily questioning this Newsweek investigative report, but I thought, in any case, that because it is a reputable magazine that I might refer to some of the findings here.

The headline of the story is ''The $87 Billion Money Pit. It is the boldest reconstruction project since the Marshall Plan. And we cannot afford to fail. But where are the billions really going,'' is the question that it asks.

So let me just read a little bit of this. This says, ''No doubt, reconstructing postwar Iraq is a brutally hard and hazardous task. Sabotage has already destroyed some 700 power transmission towers. But George W. Bush, who has staked his Nation's credibility and perhaps his Presidency on success in Iraq, has no choice but to set things right.

''Iraqis like to point out that after the 1991 war, Saddam restored the badly destroyed electricity grid in only 3 months. Some 6 months after Bush declared an end to major hostilities, a much more ambitious and costly American effort has yet to get to that point. It is only in recent weeks that the coalition amped up the power generation level that Saddam achieved last March; 4400 megawatts for the country, though it has since dropped back.''

I just wanted to emphasize that point because we are told now that electricity is at the level that Saddam had but, in fact, it has dropped back.

''True, Saddam did not have a guerilla war to contend with, and his power infrastructure was in much better shape than the Americans found it, but he also had fewer resources.

''Six months ago the administration decided to cut corners on normal bidding procedures and hand over large contracts to defense contractors like Bechtel and Halliburton on a limited bid or no-bid basis. It bypassed the Iraqis and didn't worry much about accountability to Congress. The plan was for 'blitzkrieg' reconstruction. But by sacrificing accountability for speed,'' Newsweek says, ''America is not achieving either very well right now. For months no one has seemed to be fully in charge of postwar planning. There has been so little transparency that even at the White House, 'it was almost impossible to get a sense of what was happening,' on the power problems, says one official privy to the discussions.

''Numerous allegations of overspending, favoritism and corruption have surfaced. Halliburton, a major defense contractor once run by Vice President Dick Cheney,'' as earlier statements indicated, he still is benefiting from his relationship to Halliburton, ''Halliburton has been accused of gouging prices on imported fuel, charging $1.59 a gallon while the Iraqis 'get up to speed,' when the Iraqi national oil company says it can now buy it at no more than 98 cents a gallon. The difference is about $300 million. Cronies of Iraqi exile leader Ahmad Chalabi, Newsweek has learned, were recently awarded a large chunk of a major contract for mobile telecommunications networks.''

So it is a really interesting article. There is a lot in here. But one of the other things that it has is some charts. ''What critics say. Waste not.'' This is in a chart. It says, ''Congressional Democrats are raising eyebrows at price tags.'' Some examples: Repair. U.S. engineers estimated $15 million for repairs on a cement plant in northern Iraq. The project was given to local Iraqis instead. Remember it was $15 million was the estimate from the U.S. contractors. It was done by local Iraqis for $80,000. $15 million; $80,000.

Rebuild. Big business contractors refurbished 20 police stations in Basra for $25 million. An Iraqi official contends locals could have done it for $5 million.

Also talks about Iraqis versus U.S. jobs, local labor. It is cheaper to hire Iraqis for reconstruction projects. Unequal pay. Non-Iraqi security guards make $1,200 a day working for U.S. companies in Iraq, 144 times that of Iraqi guards who make $250 a month. So for a British or U.S. security guard $1,200 per day, an Iraqi security guard, $8.33 a day.

Then it talks about the Iraq's luxury items. These are some of the expenditures. I think we actually may have cut some of them out, but these were the proposals. They are talking about a kind of feeding frenzy going on for contractors in Iraq. At the same time, and I am glad that the gentleman from Ohio pointed out a number of things that are being shortchanged, like body armor for our soldiers, but a proposal that we may be still going through in our $87 billion, I am not sure, $33,000 per pickup truck, or $2.64 million for 80 vehicles, $9 million to create zip codes, a numbered postal system throughout the country. $6,000 per radio or phone. That added up to $3.6 million. $50,000 per prison bed, way more than we spend here in the United States. $400 million for two new 4,000-bed prisons. And it goes on and on.

A couple more things I just wanted to point out, if I could, there is a section called waste, fraud, and abuse. It says American companies are barred by law from paying bribes or taking kickbacks abroad, but Iraq is still largely a lawless place. And one company director for a British firm doing business in Baghdad said that makes all the difference. Quote, ''I have never seen corruption like this by expatriate businessmen. It is like a feeding frenzy,'' he says. One prominent Iraqi businessman said he was told he had to raise his bid by $750,000 to get a major contract so long as he kicked back that amount to the contractors rep. The businessman refused to identify the contractor, but did say, quote, ''No Iraqi would ask for a bribe that big,'' unquote.

At the very least, Americans have a right to know exactly what is going on, how is our money being spent, a completely transparent process. Because if we are going to send our young men and women over there who put their lives at risk every day without the proper equipment that could save their lives, and all of these billions and billions of dollars are going to private contractors who are responsible for taking care of them and providing what is needed in Iraq in some cases, that is part of what we hire some contractors for, then for heaven's sakes, we want accounting of that.

If it is too much, then we have got to cut that price. I mean, $87 billion, no wonder the American people had sticker shock and no wonder when they read stories like this they are saying why should we be handing this check to this administration when they cannot even be trusted to take care of our young men and women in uniform but they are more than taking care of and padding the pockets of their good friends at Halliburton and Bechtel and still not getting the job done and still not providing the electricity and still not making Iraq more safe for the Iraqi people yet.

Now that may be happening but at what cost to the American people. We just want to know. And I thank the gentleman from New Jersey (Mr. PALLONE) for letting us ask that question.

Mr. PALLONE. Well, again, I thank the gentlewoman from Illinois (Ms. SCHAKOWSKY) but I just think most Americans will be shocked to find out that there is no accountability, that there is all these no-bid contracts. The kinds of things that you are asking for would seem to be basic. It is essentially the right to know what we are spending our money on.

And, again, I just think it is outrageous that we do not have the accountability, that we have the no-bid contracts. Every effort, as the gentlewoman from Ohio (Ms. KAPTUR) said, to try to include that in this supplemental was basically rejected by the Republican leadership.

Mr. Speaker, I yield to the gentleman from Florida (Mr. MEEK.)

□ 2300

Mr. MEEK of Florida. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE). I want to commend the gentleman and all of the other Members who have taken time from their schedule, their late evening schedule, to be here to share with the American people about what is going on in this government.

We are not being here tonight to be accusatory and say, well, since we are Monday morning quarterbacks, the administration likes to call any Member of Congress that questions their activities critics. I think it is important that the administration understands that this is a democracy. This is not kingdom politics. We want to come together as a people's government to be able to bring about the questions that need to be answered; and, hopefully, some outcome measures will happen.

I will state that what is very disturbing is national publications that are out saying, ''$87 Billion Mess.'' Other publications, newspapers are talking about the waste in Iraq. Meanwhile, on the other side of the aisle, we have individuals that are trying to find other ways to be deficit hawks but not really paying attention to what the President and others are doing as it relates to this administration's mishandling of these dollars.

We talk about troop protection. We cannot even do that correctly. And I am not talking about individuals in uniform. I am talking about individuals in shirts and ties that are making bad decisions here today.

Halliburton. We can go into tomorrow morning if the rules would allow us to be able to do so talking about the mismanagement and the no-bid contracts that have been given.

I watch some of the Sunday shows, and I cannot believe the Secretary of State. I cannot believe the Vice President of the United States. I cannot believe Condoleezza Rice. I cannot believe what the President is saying at the press conference as though he says, well, we are going to bid. Well, they are not bidding now. They have not bid in the past, and in my opinion we are not going to have good bidding and good competition in the future. I do not care what the administration may say. I believe that this will continue.

I know the gentleman's kids are asleep right now. My kids are asleep. They have to go to school tomorrow, but we need to go in their bedroom and take a real good look at them like we usually do before we go to bed. I think any parent or grandparent can really appreciate what I am talking about.

I think we need to understand this $87 billion and then seeing the waste and seeing the loose contracting requirement that this administration has allowed to go on in Iraq. This $87 billion on top of the billions of dollars that we gave earlier this year comes out to about $166 billion, which feeds not only into the deficit beyond $400 trillion, but I think also it is important that we remember that it is $28 million dollars a week in interest.

Now, I have said that before on the floor and I think it is important while you are looking at your children and grandchildren, looking at this deficit. I do not know, maybe the gentleman can share, I believe the Democrats have come to the floor to just get a child tax credit for individuals that work every day that make under $26,000 a year, and we cannot get the other side to allow those individuals to receive their child tax credit.

Mr. PALLONE. Mr. Speaker, we have brought up a motion on a weekly bases to instruct the conferees to bring up that child tax credit for the lower-income Americans, and the conference has not even met. They have not even had a meeting to discuss trying to bring the two Houses together. They have no intention, Republicans have no intention of doing anything on the issue.

Mr. MEEK of Florida. Can I also say that the gentleman from Texas (Mr. DELAY) has said that it is not going to happen, the majority leader of this House.

Mr. PALLONE. Absolutely that is what he said.

Mr. MEEK of Florida. That is quite disturbing. We see some of the cost overruns that have been pointed out here tonight and this is factual. This is not fiction. This is not something that one may say, well, they are just Democrats that are upset. There are Republicans that are upset, but they are not going to say anything about it because they fear the administration and that is going to happen. And I think it is important that we raise these questions.

I think it is important on behalf of the children of this country, on behalf of veterans, on behalf of those individuals that stood in the line of fire for us to be able to have the freedom to speak here tonight on this floor and this free country. We cannot allow this to continue to happen, and I believe that the American people are going to understand this sooner rather than later.

I want to also say that I think it is important, Mr. Speaker, it is important that we continue to share these facts with the American people. And I want the American people to ask their Members of Congress, Democrat and Republican, Members of the other body also, ask them about the accountability of the $87 billion, ask them about the fact that we are not loaning dollars, but we are granting dollars.

I am from south Florida, and I have a city in my district, North Miami Beach, a well-run, well-operated city; but they are having budget problems. They are having to cut programs on behalf of homeland security, doing what this government asked them to do, protect the power plant, protect the water plant; but meanwhile, they are looking for some help from this Federal Government. And they are not receiving it. And we are giving, not loaning, giving dollars.

There are students right now that are studying at many of our institutions of higher learning right now, not only studying to try to pass the exam at the end of the week or at the beginning of next week; they are also trying to figure out how they are going to pay back their student loans with interest. And they are giving these dollars away to companies that are watching the New York Stock Exchange and NASDAQ for their numbers for their investors. I will not call it criminal, but it is close to it to even look at this.

I think it is important that we continue to take time out, and I want to commend the gentleman from New Jersey (Mr. PALLONE) and the other Members that have joined us here tonight in bringing this to the attention of the American people. Think about it, $128 million a week in interest, and then on top of that, mismanagement and no bid contracts.

I join with my other colleagues saying, if this is progress, I do not even know if we can take any more of it, financially, fiscally, and also on behalf of protecting our troops.

Mr. PALLONE. Mr. Speaker, I think it is very important, as the gentleman brought out and others have tonight, what the consequences are of these actions of these no-bid contracts and driving up costs. It means that we do not have money for other programs, whether it is for the troops as the gentleman from Ohio (Mr. BROWN) mentioned, or it is for other domestic concerns here at home. There is no question about it, the deficit is, what, 4 or $500 billion now? A few years ago we had no deficit in the last few years of the Clinton administration. So there is a huge cost for taxpayers and to the future of the country that is being incurred here in order to pad these contracts.

I just wanted to end tonight by pointing out that although we are concentrating on Halliburton and the no-bid contracts this evening, there are a lot of other ways that Republicans are making profits on the reconstruction effort in Iraq. Last month the New York Times had a front page story entitled ''Washington Insiders, New Firm Consults on Contracts in Iraq.'' And according to this September 30 article, a group of businessmen linked by their close ties to President Bush, his family and his administration has set up a consulting firm to advise companies that want to do business in Iraq, including those who are seeking pieces of taxpayer-financed reconstruction projects. This firm, called New Bridge Strategies, is headed by Joe Albaugh, President Bush's campaign manager in 2000 and director of the Federal Emergency Management Agency until last March.

The article states that other directors included Edward Rogers, Jr., and Lanny Griffith, who were both assistants to the first President George Bush and now have close ties to the White House.

The company's Web site. Which you can look up yourself says, ''The opportunities evolving in Iraq today are of such an unprecedented nature and scope that no other existing firm has the necessary skills and experience to be effective both in Washington, D.C. and on the ground in Iraq.''

So not only is this administration helping CHENEY'S friends at Halliburton, the administration is also helping some of its own, giving them a leg up, working with other future contractors in Iraq.

If you are a contractor, think about it, why would you not want to go to these guys? They can probably tell you who you can get a contract from where you do not have to disclose where you are spending the money. It has got to be music to the President's corporate friends' ears. Unfortunately, it is also another major hit to American taxpayers. This is another way of padding the bills.

You do not hear the Republican Waste Watchers that come here frequently and talk about the waste of the Federal Government, they do not talk about this.

Mr. Speaker, throughout the debate on the Iraq supplemental, Democrats have attempted to shed some light on these issues by offering a substitute that required a detailed report from the President describing how funds in the previous war supplemental have been spent. It also required the notification of noncompetitive contracting and tightened public disclosure requirements.

So we have been out there actually offering the substitute to the supplemental that would get rid of these no-bid contracts; but, of course, it did not pass. The Republicans voted against it.

So I think the only thing we can do is do what we are doing tonight. Ask the tough questions. With the extension of this Halliburton contract today, I do not think we can wait any longer to see how this company is spending the taxpayers' money.

I naively thought that the contract was going to end today and it would not be extended; and when I read that it was going to be extended, I just could not believe it. The process continues. And I think we just have to be here every night or as often as we can to point out how outrageous this is and what the administration is doing.

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Mr. Speaker, I yield to the gentleman from Florida (Mr. MEEK).

Mr. MEEK of Florida. Mr. Speaker, just really when we think about it, we are making millionaires basically. We are making millionaires out of Iraq, not only out of the supplemental but out of the Iraq appropriations as it relates to private contracting. That is what is happening.

So we hear speeches from the administration how we want to empower Iraqis and how we want them to take control of their own government and their own economy, and the reality is it is not happening. I do not care if an individual is an Independent, a Republican, a Democrat. I am talking about an American voter. That is very simple. Individuals who have set up shop, not only here in the Beltway with higher connections in the administration, to be able to say I will give you the edge, I do not think there is a lobbying firm set up to help Iraqis get the edge.

So I cannot help but question that, and I think that as we continue to talk about this and as the media continues to reveal what we are talking about here tonight, once again, I just want to clarify. These are not just proud, card-carrying Democrats who say, hey, let us take a shot at the Republicans. We are not talking about that. We are talking about facts, not fiction. We are talking about kids and our grandchildren having to pay for what we are doing here today.

This Congress did not even have the gumption to say, okay, if we believe that we have to send an additional $87 billion in a supplemental of borrowed money, that we will find a way to be able to pay for today, that it will not be on the backs of our grandchildren and our children. That did not happen, and right now, the House and the other body will come together in some sort of conference committee, and I am not a betting person, but I can pretty much guess that we are going to end up giving Iraq the money, and we are going to have shortfalls.

Every Member of this body will end up having fewer dollars to be able to take back to their Districts to be able to build our economy, to build an economy that will create jobs, not an economy that individuals will just say, okay, I need to tuck this away and put it away, but individuals will actually be hired, that jobs will be looking for people and people will not have to look for jobs.

Mr. PALLONE. Mr. Speaker, I just hope that somehow our bringing this to light will make a difference. I know it will not in that $87 billion supplemental because they are going to bring that back tomorrow or the next day, and all these no-bid contracts and the other things we are talking about are going to continue, but I think if we continue to bring it to light, ultimately there will be some changes.

So I want to thank the gentleman again and all my colleagues for being here tonight.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CASE (at the request of Ms. PELOSI) for today after 5:00 p.m. and the balance of the week on account of official business in the Middle East with a congressional delegation.

Mr. ORTIZ (at the request of Ms. PELOSI) for today after 4:00 p.m. on account of official business.

Mr. AKIN (at the request of Mr. DELAY) for today after 5:00 p.m. and the balance of the week on account of leading a congressional delegation to Iraq.

Mr. MCCOTTER (at the request of Mr. DELAY) for today after 5:00 p.m. and the balance of the week on account of traveling with an official delegation to inspect reconstruction efforts in Iraq.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. ROSS, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. TERRY) to revise and extend their remarks and include extraneous material:)

Mr. PENCE, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, November 5.

Mr. TERRY, for 5 minutes, today.

Mr. SHUSTER, for 5 minutes, today.

ADJOURNMENT

Mr. MEEK of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 13 minutes p.m.), the House adjourned until tomorrow, Thursday, October 30, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4973. A letter from the Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Additional Registration and Other Regulatory Relief for Commodity Pool Operators and Commodity Trading Advisors; Past Performance Issues (RIN: 3038–AB97) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4974. A letter from the Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Denomination of Customer Funds and Location of Depositories (RIN: 3038–AB31) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4975. A letter from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule—Food Stamp Program: Non-Discretionary Quality Control Provisions of Title IV of Public Law 107–171 (RIN: 0584–AD31) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4976. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Karnal Bunt; Regulated Areas [Docket No. 02–037–2] received October 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4977. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegatable Programs, Department of Agriculture, transmitting the Department's final rule—Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Increased Assessment Rate [Docket No. FV03–945–1 FR] received October 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4978. A letter from the Deputy General Counsel. Office of Financial Assistance, Small Business Administration, transmitting the Administration's final rule—Business Loans and Development Company Loans (RIN: 3245–AE68) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4979. A letter from the Secretary, Department of the Treasury, transmitting a six-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997, as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003; to the Committee on International Relations.

4980. A letter from the Assistant Secretary for Legislative Affairs, Department of State,

transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 03–39), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4981. A letter from the Director, Office of Human Resources Mangement, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4982. A letter from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule—Exclusions from Income and Net Worth Computations (RIN: 2900–AJ52) received October 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4983. A letter from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule—Co-payments for Inpatient Hospital Care Provided to Veterans Enrolled in Priority Category 7 (RIN: 2900–AL35) received October 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4984. A letter from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule—Veterans Education: Independent Study Approved for Certificate Programs and Other Miscellaneous Issues (RIN: 2900–AL34) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4985. A letter from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule—Disease Associated with Exposure to Certain Herbicide Agents: Chronic Lymphocytic Leukemia (RIN: 2900–AL55) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

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. YOUNG of Alaska: Committee of Conference. Conference report on H.R. 2115. A bill to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes (Rept. 108–334). Ordered to be printed.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 421. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–335). Referred to the House Calendar.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 422. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes (Rept. 108–336). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. KELLER (for himself, Mr. MILLER of Florida, Mr. PUTNAM, Mr. WILSON of South Carolina, and Mr. CRENSHAW):

H.R. 3385. A bill to amend the Higher Education Act of 1965 to prevent sex offenders subject to involuntary civil commitments from receiving Federal student financial aid; to the Committee on Education and the Workforce.

By Ms. LEE (for herself, Mrs. CHRISTENSEN, Mr. WYNN, Mr. PAYNE, Mr. THOMPSON of Mississippi, Ms. JACKSON-LEE of Texas, Mr. CUMMINGS, Ms. MILLENDER-MCDONALD, Mr. WEXLER, Mr. CONYERS, Mr. OWENS, and Ms. CORRINE BROWN of Florida):

H.R. 3386. A bill to provide assistance to combat infectious diseases in Haiti and to establish a comprehensive health infrastructure in Haiti, and for other purposes; to the Committee on International Relations.

By Mr. EVANS (for himself and Mr. RODRIGUEZ):

H.R. 3387. A bill to amend title 38, United States Code, to improve health care programs of the Department of Veterans Affairs and to extend certain expiring authorities; to the Committee on Veterans' Affairs.

By Mr. TANCREDO (for himself, Mr. MOORE, and Mr. MORAN of Virginia):

H.R. 3388. A bill to amend title 10, United States Code, to provide for the issuance of a military service medal to each member of the Armed Forces who served honorably during the Cold War, and for other purposes; to the Committee on Armed Services.

By Mr. MILLER of North Carolina (for himself and Ms. HART):

H.R. 3389. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations; to the Committee on Science.

By Mr. SCHROCK (for himself, Ms. GINNY BROWN-WAITE of Florida, Mr. SIMMONS, Mrs. CAPITO, Mr. FORBES, Mr. MILLER of Florida, Mr. HAYES, Mrs. JO ANN DAVIS of Virginia, and Mrs. WILSON of New Mexico):

H.R. 3390. A bill to amend title 10, United States Code, relating to prescription drug benefits for Medicare-eligible enrollees under defense health care plans; to the Committee on Armed Services.

By Mr. CANNON (for himself, Mr. BISHOP of Utah, and Mr. MATHESON):

H.R. 3391. A bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project; to the Committee on Resources.

By Mr. EVANS (for himself and Mr. MICHAUD):

H.R. 3392. A bill to amend title 38, United States Code, to make certain improvements in the procedures for adjudication of claims for benefits under laws administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. BALLENGER:

H.R. 3393. A bill to amend title 40, United States Code, to add Catawba and Cleveland Counties, North Carolina to the Appalachian region; to the Committee on Transportation and Infrastructure.

By Mr. BOEHLERT (for himself, Mr. HOUGHTON, Mr. JOHNSON of Illinois, Mr. BLUNT, Mrs. KELLY, and Mr. SWEENEY):

H.R. 3394. A bill to clarify the lands over which Indian tribes shall have jurisdiction or exercise governmental power; to the Committee on Resources.

By Mr. HERGER (for himself and Mr. MATSUI):

H.R. 3395. A bill to amend the Internal Revenue Code of 1986 to clarify the definition of contribution in aid of construction; to the Committee on Ways and Means.

By Mr. KING of Iowa:

H.R. 3396. A bill to direct the Secretary of Health and Human Services to establish a process under which a provider of services or other health care provider under the Medicare Program may petition the Secretary for an adjustment of the rate of payment made to that provider under the Medicare Program based on a significant inequity between the rate of payment applicable to that provider, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCRERY:

H.R. 3397. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for contributions to individual investment accounts, and for other purposes; to the Committee on Ways and Means.

By Ms. MILLENDER-MCDONALD:

H.R. 3398. A bill to amend title 23, United States Code, to establish a goods movement program to improve the productivity, security, and safety of freight transportation gateways; to the Committee on Transportation and Infrastructure.

By Mr. MURTHA:

H.R. 3399. A bill to suspend temporarily the duty on electron guns for certain cathode ray tubes, liquid crystal display panel assemblies for use in liquid crystal display projection type televisions, and plasma display panel assemblies for use in plasma flat panel screen televisions; to the Committee on Ways and Means.

By Mr. OTTER (for himself, Mr. CANNON, Mr. SIMPSON, Mr. NUNES, Mr. OSE, and Mr. PEARCE):

H.R. 3400. A bill to amend the reclamation laws to clarify that certain man-made facilities that receive water from a Bureau of Reclamation Project are not navigable waters; to the Committee on Resources.

By Mr. PALLONE:

H.R. 3401. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish therapeutic equivalence requirements for generic drugs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PETERSON of Minnesota (for himself, Mr. JANKLOW, and Mr. MCINTYRE):

H.R. 3402. A bill to establish permanent authority for the Secretary of Agriculture to quickly assist agricultural producers who incur crop losses as a result of damaging weather or related condition in federally declared disaster areas, to provide emergency disaster assistance to agricultural producers for qualifying crop losses for the 2001, 2002, or 2003 crops, to continue the livestock assistance program, and for other purposes; to the Committee on Agriculture.

By Mr. RADANOVICH (for himself, Mr. BLUNT, Mr. CANTOR, Mr. CARDOZA, Mrs. BONO, Mr. DOOLITTLE, Mrs. EMERSON, Mr. GALLEGLY, Mr. HERGER, Mr. HUNTER, Mr. ISSA, Mr. KINGSTON, Mr. LEWIS of Kentucky, Mr. MCCOTTER, Mr. OSE, Mr. OTTER, Mr. POMBO, Mr. PUTNAM, Mr. SHIMKUS, Mr. STEARNS, Mr. UPTON, and Mr. WHITFIELD):

H.R. 3403. A bill to amend the Clean Air Act to modify certain provisions regarding methyl bromide, and for other purposes; to the Committee on Energy and Commerce.

By Mr. REGULA:

H.R. 3404. A bill to authorize the conveyance of the former Army Reserve Training Center in Wooster, Ohio; to the Committee on Armed Services.

By Mr. WEINER (for himself and Mr. KING of New York):

H.R. 3405. A bill to amend section 4002 of the Emergency Wartime Supplemental Appropriations Act, 2003 to provide that the same temporary extended unemployment benefits which are available to certain former employees of domestic air carriers be extended to former employees of foreign air carriers who are similarly situated, and for other purposes; to the Committee on Ways and Means.

By Mrs. MCCARTHY of New York (for herself, Ms. NORTON, Ms. CARSON of Indiana, Ms. MILLENDER-MCDONALD, Ms. MCCARTHY of Missouri, Ms. LEE, and Mrs. CHRISTENSEN):

H. Con. Res. 314. Concurrent resolution expressing the sense of Congress regarding women with bleeding disorders; to the Committee on Energy and Commerce.

By Mr. WELDON of Pennsylvania:

H. Con. Res. 315. Concurrent resolution expressing the sense of Congress that construction by the Russian Federation of a dam in the Kerch Strait region raises major concerns for the territorial integrity of Ukraine, and for other purposes; to the Committee on International Relations.

By Mr. WOLF (for himself, Mr. DELAY, Mr. SMITH of New Jersey, Mr. ROHRABACHER, Mr. LANTOS, Mr. GREEN of Wisconsin, Mr. PITTS, Mr. KIRK, Mr. FRANKS of Arizona, Ms. ROS-LEHTINEN, Mr. BARTLETT of Maryland, Mr. TOWNS, Mr. BELL, Mr. DOOLITTLE, Mr. RAMSTAD, Mr. FOLEY, Mr. ADERHOLT, Mr. BAKER, Mr. KENNEDY of Rhode Island, Mr. JONES of North Carolina, Mr. TERRY, Mr. MCGOVERN, and Mr. DEMINT):

H. Res. 423. A resolution recognizing the 5th anniversary of the signing of the International Religious Freedom Act of 1998 and urging a renewed commitment to eliminating violations of the internationally recognized right to freedom of religion and protecting fundamental human rights; to the Committee on International Relations, and in addition to the Committees on the Judiciary, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. NEUGEBAUER.

H.R. 111: Mr. MORAN of Virginia.

H.R. 251: Mr. OWENS.

H.R. 333: Mr. FARR, Mr. WEINER, and Mr. CLYBURN.

H.R. 375: Mr. NETHERCUTT.

H.R. 442: Mr. BISHOP of Georgia.

H.R. 490: Mr. HOLT.

H.R. 570: Mr. PORTER.

H.R. 594: Mr. SCHROCK, Mr. BERRY, and Mr. RENZI.

H.R. 661: Mr. JANKLOW.

H.R. 687: Mr. DEFAZIO.

H.R. 709: Mr. HOLT.

H.R. 713: Mr. LANTOS, Mr. TURNER of Ohio, Mr. BERRY, Mr. HASTINGS of Washington, Ms. KILPATRICK, and Mr. KILDEE.

H.R. 791: Ms. DELAURO, and Mr. GREEN of Texas.

H.R. 806: Mrs. KELLY, Mrs. BLACKBURN, and Mr. HOYER.

H.R. 834: Ms. DUNN.

H.R. 852: Ms. JACKSON-LEE of Texas and Mr. BAIRD.

H.R. 857: Mr. DAVIS of Illinois, Mr. WAXMAN, and Ms. SOLIS.

H.R. 885: Mr. SHADEGG.

H.R. 898: Mr. LINDER.

H.R. 942: Mr. FRANK of Massachusetts, Mr. PETRI, and Mr. FILNER.

H.R. 1117: Mr. ISSA and Mr. GINGREY.

H.R. 1229: Mr. WELDON of Pennsylvania.

H.R. 1245: Mr. LANTOS.

H.R. 1258: Mr. EMANUEL.

H.R. 1301: Mrs. CAPPS.

H.R. 1336: Ms. HART, Mr. FOSSELLA, Mr. GRAVES, Mr. BRADY of Texas, Mr. HILL, Mr. BAKER, and Mr. BURTON of Indiana.

H.R. 1502: Ms. MCCARTHY of Missouri.

H.R. 1513: Mrs. JONES of Ohio and Mr. MCINNIS.

H.R. 1532: Mr. GREENWOOD and Mr. MILLER of North Carolina.

H.R. 1582: Mr. LARSEN of Washington and Ms. DUNN.

H.R. 1671: Mr. KING of Iowa.

H.R. 1710: Mr. BOSWELL.

H.R. 1735: Mr. CLAY.

H.R. 1738: Mr. CONYERS.

H.R. 1824: Mr. ROGERS of Michigan.

H.R. 1873: Mr. DEMINT and Mr. GARY G. MILLER of California.

H.R. 1943: Mr. BOOZMAN.

H.R. 2032: Mr. ABERCROMBIE, Ms. WOOLSEY, Mrs. MCCARTHY of New York, and Mr. RAHALL.

H.R. 2045: Mr. STEARNS, Mr. HULSHOF, and Mr. GINGREY.

H.R. 2094: Mr. BARTLETT of Maryland.

H.R. 2127: Mr. ISRAEL.

H.R. 2131: Mr. DELAY, Mr. OSBORNE, Mr. BAKER, and Mr. TERRY.

H.R. 2133: Mr. MORAN of Virginia.

H.R. 2203: Mr. HONDA.

H.R. 2214: Mr. SHAW.

H.R. 2216: Mr. LIPINSKI and Mr. BISHOP of Georgia.

H.R. 2239: Ms. JACKSON-LEE of Texas and Mr. BRADY of Pennsylvania.

H.R. 2262: Ms. MCCARTHY of Missouri and Ms. BERKLEY.

H.R. 2314: Mr. ALLEN and Mr. DAVIS of Illinois.

H.R. 2405: Mr. GOODE.

H.R. 2426: Mr. PASTOR.

H.R. 2455: Mr. GONZALEZ.

H.R. 2494: Mr. MCGOVERN.

H.R. 2615: Ms. LEE and Mrs. CAPPS.

H.R. 2626: Ms. SLAUGHTER.

H.R. 2705: Mr. MCNULTY.

H.R. 2720: Mr. OWENS, Mr. GUTKNECHT, Mr. SENSENBRENNER, Mr. BLUMENAUER, Mr. BURTON of Indiana, Mr. HOLDEN, Mr. WEINER, Mr. NADLER, Mr. FATTAH, Mr. MURPHY, Mr. DOYLE, and Mrs. ENGEL.

H.R. 2735: Mr. KING of Iowa.

H.R. 2764: Mr. MCDERMOTT and Mr. BAIRD.

H.R. 2771: Mr. MCNULTY.

H.R. 2821: Mr. WOLF, Mr. GRIJALVA, Mr. RYAN of Ohio, and Mr. DEAL of Georgia.

H.R. 2839: Mr. DINGELL, Mr. DAVIS of Tennessee, Mr. MILLER of Florida, and Mr. RYAN of Wisconsin.

H.R. 2839: Mr. GARRETT of New Jersey.

H.R. 2863: Mr. BISHOP of Georgia, Mr. MCDERMOTT, Mr. DEMINT, Mr. BACA, Ms. LINDA T. SANCHEZ of California, Mr. STARK, Ms. LEE, Mr. GEORGE MILLER of California, Ms. HARMAN, Mr. BARRETT of South Carolina, Mr. BAIRD, Mr. GREENWOOD, and Mr. DEUTSCH.

H.R. 2866: Mr. KINGSTON.

H.R. 2897: Mr. WYNN, Mr. DEUTSCH, and Mr. JEFFERSON.

H.R. 2900: Mr. HERGER, Mr. WILSON of South Carolina, and Mr. CARSON of Oklahoma.

H.R. 2916: Ms. ESHOO, Mr. DOYLE, and Ms. SCHAKOWSKY.

H.R. 2928: Mr. LARSON of Connecticut, Mr. MARIO DIAZ-BALART of Florida, Mr. HASTINGS of Florida, and Mr. HOLDEN.

H.R. 2945: Mr. BOSWELL.

H.R. 2959: Mr. QUINN, Mr. GRIJALVA, and Mr. DAVIS of Tennessee.

H.R. 2967: Mr. TOM DAVIS of Virginia.

H.R. 2972: Mr. BRADY of Texas.

H.R. 3002: Mr. SAXTON and Mr. MILLER of Florida.

H.R. 3019: Ms. LINDA T. SANCHEZ of California, Mr. STRICKLAND, and Mr. FRANK of Massachusetts.

H.R. 3035: Mr. QUINN and Ms. ROYBAL-ALLARD.

H.R. 3058: Mr. MCCOTTER.

H.R. 3103: Mr. RAMSTAD.

H.R. 3124: Mr. SIMPSON.

H.R. 3125: Mr. SHUSTER, Mr. GINGREY, and Mr. EVERETT.

H.R. 3154: Mr. MCINTYRE.

H.R. 3180: Ms. ESHOO.

H.R. 3190: Mr. KING of Iowa, Mrs. JO ANN DAVIS of Virginia, Mrs. MUSGRAVE, and Mr. KINGSTON.

H.R. 3194: Mr. GONZALEZ.

H.R. 3195: Mr. CASE.

H.R. 3228: Mr. STUPAK.

H.R. 3237: Ms. WATSON, Mr. CUMMINGS, Mr. EVANS, Mr. FILNER, Mr. ABERCROMBIE, Mr. OWENS, Mr. WAXMAN, and Mr. MARKEY.

H.R. 3242: Mrs. CAPPS, Mr. UPTON, Mr. DINGELL, Ms. HARRIS, Mr. CAMP, Mr. RODRIGUEZ, Mr. LUCAS of Kentucky, and Mr. POMBO.

H.R. 3243: Ms. ROS-LEHTINEN.

H.R. 3244: Mr. OWENS, Ms. KILPATRICK, Mr. BISHOP of Georgia, Mr. WAXMAN, and Mr. SPRATT.

H.R. 3246: Mr. LEWIS of Kentucky, Mr. GARY G. MILLER of California, and Mr. BALLENGER.

H.R. 3257: Mr. STRICKLAND.

H.R. 3263: Mr. BEAUPREZ, Mrs. BLACKBURN, Mr. BOEHLERT, Mr. BRADLEY of New Hampshire, Mr. BURGESS, Mr. BURNS, Mr. CAMP, Mr. CARTER, Mr. CHABOT, Mr. COLE, Mr. CRENSHAW, Mr. ENGLISH, Mr. GILCHREST, Mr. GOODE, Mr. HOBSON, Mr. HOUGHTON, Mr. KING of Iowa, Mr. KLINE, Mrs. MILLER of Michigan, Mr. OSBORNE, Mr. PEARCE, Mr. REYNOLDS, Mr. SCHROCK, Mr. TIAHRT, Mr. WICKER, Mr. WILSON of South Carolina, Ms. DUNN, and Mr. TERRY.

H.R. 3266: Mrs. MILLER of Michigan.

H.R. 3276: Mr. GREEN of Texas, Mr. BROWN of Ohio, and Mr. MCINTYRE.

H.R. 3277: Ms. ROYBAL-ALLARD.

H.R. 3281: Mr. MEEHAN and Mrs. JOHNSON of Connecticut.

H.R. 3294: Mr. REYNOLDS.

H.R. 3318: Mr. MCKEON.

H.R. 3323: Mr. CARDOZA.

H.R. 3329: Mr. DEMINT and Mr. TERRY.

H.R. 3334: Mr. LEWIS of California and Mr. ISSA.

H.R. 3344: Mr. MARKEY, Mr. GRIJALVA, and Ms. BORDALLO.

H.R. 3350: Mr. FORD.

H.R. 3352: Mr. MEEHAN.

H.R. 3353: Mr. DAVIS of Alabama, Mr. MCNULTY, Mr. OWENS, Mr. TOWNS, and Mr. CLYBURN.

H.R. 3365: Mr. KLINE, Mr. BISHOP of Georgia, Ms. LINDA T. SANCHEZ of California, Mr. STRICKLAND, and Mr. PORTER.

H.R. 3369: Mr. RAMSTAD.

H.R. 3371: Mr. KILDEE.

H. Con. Res. 87: Mrs. CAPPS.

H. Con. Res. 126: Mr. REHBERG.

H. Con. Res. 213: Mr. BRADY of Pennsylvania.

H. Con. Res. 240: Mr. MCGOVERN.

H. Con. Res. 247: Mr. SNYDER and Ms. ESHOO.

H. Con. Res. 276: Ms. SLAUGHTER.

H. Con. Res. 285: Mr. MARSHALL, Mr. MCINTYRE, Mr. LOBIONDO, and Mr. CAMP.

H. Con. Res. 302: Mr. STARK, Mr. HOEFFEL, Mr. DAVIS of Illinois, Mr. CARDOZA, and Mr. KING of New York.

H. Con. Res. 307: Mr. FEENEY.

H. Con. Res. 310: Mr. FORBES and Mr. KINGSTON.

H. Res. 38: Mr. SANDERS and Mr. FRANK of Massachusetts.

H. Res. 42: Mr. CHOCOLA.

H. Res. 320: Mrs. CAPPS, Mrs. KELLY, Ms. LEE, and Mr. FILNER.

H. Res. 348: Mr. PAYNE.

H. Res. 373: Mr. GUTIERREZ.

H. Res. 390: Mr. MCCOTTER, Mr. HOEFFEL, Mr. DELAHUNT, and Mr. JANKLOW.

H. Res. 393: Mr. MICHAUD, Mr. LEACH, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. SMITH of Michigan, Mr. WELLER, Ms. HARRIS, Mr. BERMAN, Mr. BLUMENAUER, Mr. OSBORNE, Mr. RADANOVICH, Mr. BROWN of Ohio, Mr. GALLEGLY, Mr. MCHUGH, Mr. TANCREDO, Mr. MENENDEZ, Mr. WAMP, and Mrs. JO ANN DAVIS of Virginia.

H. Res. 412: Mr. BAIRD, Mr. BALLENGER, Mr. BOOZMAN, Mr. CANNON, Mr. HERGER, Mr. LARSEN of Washington, Mr. MCINNIS, Mr. PORTMAN, Mr. ROGERS of Kentucky, and Mr. WALDEN of Oregon.

H. Res. 414: Mr. WICKER, Mr. CHOCOLA, Mr. TERRY, Mrs. JOHNSON of Connecticut, Mr. GINGREY, Mr. HOEKSTRA, and Mr. MCCOTTER.

DELETIONS OF SPONSORS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1626: Mr. CARSON of Oklahoma.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2443

OFFERED BY: MR. ENGEL

AMENDMENT NO. 10: Page 43, after line 2, insert the following:

SEC. . SECURITY ASSESSMENT OF INDIAN POINT ENERGY CENTER.

Not later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall—

(1) conduct a vulnerability assessment under section 70102(b) of title 46, United States Code, of the navigable waters adjacent to Indian Point Energy Center, located in Westchester County, New York; and

(2) submit a report on that assessment to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.

H.R. 2443

OFFERED BY: MR. HOSTETTLER

AMENDMENT NO. 11: At the end of title II (page 22, after line 5) insert the following:

SEC. . ASSIGNMENT OF OFFICER TO NATIONAL WAR COLLEGE.

(a) IN GENERAL.—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

"§ 152. Assignment of officer to National War College

''The Commandant shall assign an officer in the grade of captain to serve as the Coast Guard's Service Chair at the National War College.''.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 7 of title 14, United States Code, is amended by adding at the end the following:

''152. Assignment of officer to National War College.''.

H.R. 2443

OFFERED BY: MR. DEFAZIO

AMENDMENT NO. 12: Page 21, line 9, strike the close quotation marks and the following period.

Page 21, after line 9, insert the following:

''(e) RESTRICTION ON LOCATION.—The museum established under this section may not be located on any property that has been condemned or taken by eminent domain by the Federal Government, by a State or local government, or by any other person acting under a delegation of authority from a State or local government.''.