United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, WEDNESDAY, OCTOBER 6, 2004 *No. 125*

House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
October 6, 2004.

I hereby appoint the Honorable JOHNNY ISAKSON to act as Speaker pro tempore on this day.

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

PRAYER

The Reverend John J. Ryan, Pastor, St. Brendan Roman Catholic Church, Ormond Beach, Florida, offered the following prayer:

Almighty and Eternal God, from all time and through eternity You guide those You have created in every endeavor.

You place Your own hopes and dreams in the hearts of men and women, so that people of every race, language, and way of life might advance in the ways of peace and justice.

As we navigate the seas of life, guard us, defend us, and be with us. Give us clear direction.

Grant that Your spirit of prudence and wisdom fill our hearts and minds to accomplish Your works and lead us safely to the shores of goodness and justice.

Gracious God, we thank You for every blessing we enjoy, for every goodness we know.

As You have led us over the waters of the ages, lead us to that freedom which does not end and is perfected in You who art our refuge, our strength, our help in ages past, and our hope for years to come. 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 Illinois (Mr. SHIMKUS) come forward and lead the House in the Pledge of Allegiance.

Mr. SHIMKUS 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 with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4175. An act to increase, effective as of December 1, 2004, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested.

S. 2484. An act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.

S. 2895. An act to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of breast cancer awareness month.

S. 2896. An act to modify and extend certain privatization requirements of the Communications Satellite Act of 1962.

WELCOMING THE REVEREND JOHN J. RYAN

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

Mr. MICA. Mr. Speaker, this morning, it is my distinct pleasure and really and truly an honor to welcome father John J. Ryan to the United States House of Representatives.

Father Ryan is the pastor of St. Brendan Roman Catholic Church in Ormond Beach, Florida, which is part of my district. He is a member of the presbyterate of the Diocese of Orlando and has served as a priest for 30 years.

Originally from New Jersey, Father Ryan has spent the majority of his priesthood ministering in the Orlando diocese.

Father Ryan has been a forerunner in the civic and ecumenical communities. In 2001, he gathered over 2,000 people of various faiths to mark the first anniversary of September 11.

In this service, he assembled Protestant, Jewish, Muslim, Catholic, and Orthodox religious leaders at his parish as well as representatives of every part of the civic community, from mayors, police chiefs, fire chiefs and every branch of the military service.

Father Ryan is no stranger to bringing together people of every race and every religion to share their common bond as members of the human society. He embodies the perfect blend of civic pride and religious faith.

Mr. Speaker, the Congress of the United States is privileged and honored today by the visit of a humble and great man, Father John J. Ryan of Ormond Beach, Florida.

ENSURING FAIR AND FREE ELECTIONS IN BELARUS

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

Printed on recycled paper.

Mr. SHIMKUS. Mr. Speaker, in October, we will have fair and free elections in Afghanistan. Ten million Afghans are registered to vote, one-half being women. When they go to the polls. There will be threats, intimidation and violence, but the Afghans will go.

Compare that to other elections in October held in the European country of Belarus. Candidates have been intimidated, but the people will still go to the polls. The problem is, the dictator will count the votes and the ballots.

If the international community can help ensure fair and free elections in Afghanistan and Iraq, surely they can help enforce fair and free elections in the Nation of Belarus. I call upon them to do so, and I hope they will ensure fair and free elections in Belarus.

CONGRATULATING SENATOR JOHN EDWARDS FOR SUCCESSFUL DEBATE

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

Mr. ETHERIDGE. Mr. Speaker, I rise this morning to congratulate my friend, Senator JOHN EDWARDS, for his outstanding performance in last night's debate. Once again, he has done us proud.

JOHN EDWARDS grew up the son of a mill worker in rural North Carolina. He understands the challenges that ordinary people face in these tough economic times. Simply put, he gets it when it comes to the problems, challenges, aspirations and dreams of hardworking families. That is why he will make an outstanding Vice President.

During last night's debate, JOHN EDWARDS clearly stated why the Bush-Cheney administration's stubborn refusal to admit mistakes is so wrong for America. The Bush-Cheney record of failed policies, broken promises, and tired excuses is a strong change in our national leadership. JOHN EDWARDS articulated that case very strongly last night.

Mr. Speaker, JOHN EDWARDS and JOHN KERRY have a better plan to strengthen middle-class families, to create good jobs, provide targeted tax relief for middle-class families and invest in jobs for tomorrow for the broader future of America. We need new leadership in America. JOHN EDWARDS demonstrated last night that he and JOHN KERRY are ready to take our country in a new and better direction.

KERRY DOES NOT GET IT ON IRAQ

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

Mr. PITTS. Mr. Speaker, on the one hand, Mr. KERRY calls Iraq a mistake. On the other hand, he says our soldiers are not dying for a mistake. He has failed time and again to make sense of his flip-flops. And while he looked good in the debate last week, he sounded like the same old candidate with 57 varieties of stances on Iraq. His call for a timetable to get troops out of Iraq sends a message that terrorists can outlast us. It is a fancy way to spin the fact that he wants to retreat.

His repeated statements that Iraq is a ''quagmire,'' ''the wrong war in the wrong place at the wrong time,'' repels allies; it does not rally them to our cause. And, talking about real coalitions is a fancy way to spin the fact that, under his watch, other nations would dictate the deployment of our military, and it insults our coalition partners and the Iraqi forces who are risking their lives every day for freedom.

JOHN KERRY just does not get it.

ADMINISTRATION MUST ADMIT MISTAKES

(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, here are a few headlines from the last 24 hours: ''Iraqi Arms Threat Was Waning,'' the definitive government report saying there was a diminishing threat from Iraq and its weapons of mass destruction; ''France Was Ready To Send Troops to Iraq,'' 15,000, but did not because of the relationship with President Bush; ''Bremmer Criticizes Troop Levels,'' Paul Bremmer now says we never had enough troops on the ground; ''White House Embraced Disputed Arms Intelligence,'' the White House claimed Iraq was buying aluminum tubes to facilitate uranium enrichment even though their own experts told them otherwise; ''Funds To Build Iraq Are Drifting Away From Target,'' only 27 cents on the dollar are going to rebuild Iraq.

This does not even include what Secretary of Defense Rumsfeld acknowledged yesterday, that there was no relationship between Iraq and al Qaeda.

Mr. Speaker, their house of cards that was the case for going to war and how to prosecute this war have collapsed. In going to war, this administration allowed ideology to trump reality. Iraq was not an imminent threat, there was no impending mushroom cloud. With the costs and casualties, candor would be a welcome addition to this White House.

You cannot fix a problem if you do not acknowledge that you have one.

PRESIDENT BUSH HAS A RECORD OF LEADERSHIP

(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, last night, Americans saw the choice of DICK CHENEY and JOHN EDWARDS. It is being debated now who prevailed.

Where people know JOHN EDWARDS best, his and my home, birth State of South Carolina and his home State of North Carolina, the people are overwhelmingly supporting DICK CHENEY to continue his service with President Bush to best protect American families in the war on terrorism.

Senator KERRY has a 20-year record in the Senate of voting against every major weapons system that won the Cold War and that our troops are using today. Senator KERRY has proposed budget cuts in intelligence even after the first World Trade Center bombing. He voted against the first Gulf War; he voted for the current war in Iraq and then against the funding to give our troops the body armor needed to fight the war. This is not the kind of record Americans expect in a commander in chief.

President Bush and Vice President CHENEY have a strong and clear record of leading our Nation in the war on terror. President Bush has shown he will take the fight to the terrorists wherever they are, protecting American families from future terror attacks here at home.

In conclusion, may God bless our troops. We will never forget September 11.

NOW IS NOT THE TIME TO CUT VETERANS' BENEFITS

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

Mr. STRICKLAND. Mr. Speaker, I have a message for America's veterans and the families who love them.

As reported in Sunday's Washington Post, Staff Sergeant Gene Westbrook, 35, of Lawton, Oklahoma, was deployed to Iraq in January as a drill sergeant, sent to train Iraqi Army recruits. While on duty on April 28, south of Sadr City in Baghdad, he was hit by a mortar shell, and the shrapnel severed his spine. He is now paralyzed from the chest down, has limited movement in his right arm and battles constant infections. His wife takes care of him full-time.

''I love the military,'' said Staff Sergeant Westbrook. ''That was my life. But I do not believe they are taking care of me now.''

He has received no disability benefits because his paperwork is missing. He is supporting his wife and three children on his regular military pay of $2,800 a month as he awaits a ruling on whether he will receive $6,500 from the VA for his disability.

At the same time, President Bush's budget for 2005 calls for cutting the Department of Veterans' Affairs staff that handles disability claims. What is the President thinking, cutting the budget for this vital function while our disabled servicemen wait for justice?

HONORING DARRELL WALTRIP

(Mrs. BLACKBURN asked and was given permission to address the House

for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today I rise to honor one of my constituents, someone that many of my colleagues may know, Darrell Waltrip. My colleagues might know him by his 84 racing victories, third best victory in NASCAR circuit or from his newest career in broadcasting. In middle Tennessee, we also know that he is a successful businessman.

But to those suffering with Multiple Sclerosis, he is more; he is a hero.

This year, Darrell is being honored by the Mid South Chapter of the National MS Society with the MS Hope Award for his outstanding dedication to helping end this devastating disease.

Darrell has given of his time and of his heart to educate the public on what we can do to help eradicate MS, and his support of the Mid South Chapter has been to expand the advocacy and research.

Today, I want to join those honoring Darrell Waltrip and thank him for his continuing fight against MS.

REPUBLICAN RHETORIC DOES NOT MATCH REALITY

(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, well, the Republican rhetoric about the economy does not match the reality on this issue either. New figures show U.S. companies announced layoffs of more than 100,000 people last month.

If that is not bad enough, the pace of new job postings plunged in September to a mere 16,000. This is the President's economic equivalent of Mission Accomplished. Over the third quarter, job layoffs topped a quarter of a million workers. That is 20 percent worse than the last quarter, and they call it progress. The September figure for layoffs was the largest number in 8 months, and they call it progress.

They cannot create a job, so they create a sound bite. They do the same thing in Iraq every day. Things are getting better, they explain, while the rest of America looks at the nightly news and wonders what in the world these people are talking about. Every night, they deny what is before their eyes.

They have not done the job. The record is clear, and so is the outcome. In 27 days, the American people will give the President and the Vice President bus fare out of town.

□ 1015

HONORING HAROLD ZINKIN

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

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Mr. Harold Zinkin of Fresno, California, posthumously for his service to his community and generous good will. Mr. Zinkin recently passed away on September 22, 2004.

Harold Zinkin was born in San Francisco, California, in 1922. As the son of Russian immigrants, this first-generation American lived a life that was nothing short of achieving the American Dream.

As a young man, Mr. Zinkin enlisted in the U.S. Navy in response to the attack on Pearl Harbor. Later he became a champion bodybuilder and was one of the patriarchs of California's fitness movement that rose out of the famed Muscle Beach. Mr. Zinkin's vision for the future of health and wellness came to fruition through his creation of revolutionary fitness equipment called the Universal Gym Machine. He was also instrumental in creating one of the most dynamic and successful shopping and entertainment complexes throughout California's Central Valley.

Mr. Speaker, I rise today to recognize Harold Zinkin for his tremendous service to his community, California's Central Valley and worldwide.

FAILING ECONOMIC HEALTH OF OUR NATION

(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, as Americans head to the polls in 4 weeks, we should ask ourselves, Are we better off now than we were 4 years ago?

The answer lies in the facts, and the facts do not lie. Eight million people are looking for work and 1.4 million people lost their health insurance last year; 4.3 million people have slipped into poverty since President Bush took office, and a projected 10-year $5.6 trillion budget surplus has turned into a $422 billion annual deficit.

Families in my district are all too aware of the sad state of our economy. Unemployment they say is at its lowest at 5.4 percent; but unemployment in my district, in East Los Angeles and the San Gabriel Valley in Los Angeles County, is well above the norm. Just look at the schedule here. East Los Angeles, South El Monte, 9.8 percent, double-digit unemployment and it has been that way for the last 3½ years.

We know in my district that it is time for a change in leadership. We want jobs here. We want investments in America. We want to lift those boats.

150TH ANNIVERSARY OF THE REPUBLICAN PARTY

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

Mr. COX. Mr. Speaker, this year is the 150th anniversary of the founding of the Republican Party. Over a century and a half, from the abolition of slavery, to the establishments of women's right to vote, to freeing millions of people in the Soviet Union, Afghanistan and Iraq, the Republican Party has been the most effective political organization in the history of the world in advancing the cause of freedom.

The right of American women to vote is a uniquely Republican accomplishment advanced by Republicans, opposed by Democrats. All of the leading suffragists, including Lucretia Mott, Elizabeth Cady Stanton, and Susan B. Anthony were Republican. The first woman elected to this House was Republican.

Today marks the birth of Mary Louise Smith in 1914, elected to be the first woman to chair the Republican National Committee. Each day of the year the Republican Freedom Calendar, prepared by the Republican Policy Committee, records an important achievement, an important milestone in the Republican Party's history of advancing the civil rights of every American. The calendar is available at policy.house.gov on the Internet.

LARGE CIVIL AIRCRAFT AGREEMENT

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

Mr. DICKS. Mr. Speaker, this morning the United States filed a World Trade Organization dispute settlement case against the European Union regarding billions of dollars in unfair subsidies provided to Airbus by European governments. The U.S. has also exercised its rights to immediately terminate the 1992 U.S.-EU agreement on large civil aircraft. That agreement placed limits on certain government support, including limiting it to one-third of the costs of developing a new character aircraft.

The time has come for the American Government to recognize the damage that has occurred to our economy and to take firm action to curtail what I believe is both unfair and illegal foreign competition. These subsidies from four European governments, which include aircraft launch assistance, capital injections, debt forgiveness, have enabled Airbus to develop and range market airliners well below cost. Unless this practice is checked, I am afraid it will threaten to drive the Boeing Company, Airbus' only remaining worldwide competitor and our largest net exporter, out of the commercial airline manufacturing business altogether.

Over the last few years Airbus has grown to dominate the large commercial aircraft industry, out-delivering Boeing for the first time in history in 2003. I want to support Ambassador Zellig's action. He has courageously filed this case on behalf of our government.

ARE WE BETTER OFF

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

Ms. BERKLEY. Mr. Speaker, are we better off today than we were 4 years ago? If you live in Nevada, the answer is no. The number of Nevadans living in poverty has increased by 11,000. The family income in Nevada has dropped by $1,511; 82,000 Nevadans lost their health insurance. There are now 400,000 Nevadans who live every day without health insurance. They pray they do not get sick. Those who are lucky enough to have health insurance saw their premiums go up by an average of 3,229. What working family can afford that?

Gas prices in Nevada are the highest in the Nation; 26,717 Nevadans filed bankruptcy in 2003. That is a 48 percent increase since Bush became President. Nevada has the strongest economy in the United States. So if people are suffering in the State of Nevada, can you just imagine what is going on in the rest of the country.

After 4 years it is time for new leadership in the White House who will fight for all Nevadans and who will fight for you.

BAD MEMORY

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

Mr. PALLONE. Mr. Speaker, last night Vice President CHENEY was let out of his bunker for the night, and it seems all that time in an undisclosed location has confused him a bit about the facts. Last night he said he had never publicly stated that there was a connection between al Qaeda and Iraq. Does he forget his interview with Tim Russert last year in which he said just that? Does he also forget now it is a common statement in his political stump speeches where he tries to invoke fear in Americans?

I think he has determined his record with Bush is so bad that the only thing he can do is strike fear in the American people.

Vice President CHENEY also said last night that he had never met Senator EDWARDS before. That is simply not true. Just turn on any news outlet today and you will see the proof, pictures of CHENEY and EDWARDS standing side by side at a prayer breakfast last year. I suspect as the day goes on we will see more and more of these pictures.

Mr. Speaker, Vice President CHENEY and President Bush cannot lead this country if they continue to mislead the American people.

THE RIGHT THING TO DO

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

Mr. GEORGE MILLER of California. Mr. Speaker, last night Vice President CHENEY said he was proud of the record in Iraq, and this is exactly what he said: ''We did in Iraq what was exactly the right thing to do, and I recommend it all over again, I would.''

And yet in today's Washington Post we learned that the most definitive accounts of Iraq's arms programs will show that Saddam Hussein possessed a diminishing threat at the time the United States invaded and did not possess or have concrete plans to develop nuclear, chemical, or biological weapons.

This investigation found that the state of Hussein's weapon development program and knowledge was less advanced in 2003 when the war began than it was in 1998 when the international inspectors left Iraq. The fact of the matter is over 1,000 Americans have died in this war; thousands and thousands of Americans have been wounded; thousands and thousands of Iraqis have been killed and wounded, and they have been killed or wounded in a war of choice because Iraq was not an imminent threat to the United States. But this administration chose, in spite of all of the evidence to go to war, to put our young people at risk and to lose their lives because they wanted to manipulate the evidence. They wanted to manipulate the war on terror, and they wanted to frighten this Nation.

Mr. Vice President, if you had to do it all over again, I hope you would not.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair would remind Members that remarks should be addressed to the Chair and not to the Vice President.

AID FOR HAITI

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

Ms. LEE. Mr. Speaker, I rise to discuss very briefly the devastation of Tropical Storm Jeanne on Haiti. The lack of infrastructure and our failed United States policies quite frankly helped contribute to leaving the Haitian people vulnerable to the devastation of Tropical Storm Jeanne which took the lives of over 2,000 Haitians. In Haiti's flood-torn cities, children sleep on tin roofs because flood waters have not subsided; gun shots are heard in darkness as thieves and thugs continue to steal from the people and cheat them of their chance for protection and peace. Men and women dig mass graves scrambling to identify the bodies of lost loved ones. Children are not going to school. Women do not have food for their families.

With so many causalities and so many sick, so many still missing and much despair, what can we do? What can the greatest superpower, the wealthiest country in the world do for our neighbors next door? We must provide a real commitment to help Haitians. We must provide a way to help with the basic services of food and shelter as well as the restoration of democracy. We must support $500 million to build the region, to take a more comprehensive and democratic approach to our policies toward Haiti.

FLORIDA VOTER SUPPRESSION

(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, as the time is nearing, as we have listened to the candidates for office of President and Vice President of the United States, we are reminded that this may be in fact the most important election in our history. It may begin to change the course of history for this Nation and begin to put us on the right course.

So today I rise, Mr. Speaker, to remind Americans that every vote is precious. Why again in the State of Florida has voter suppression risen again as has been raised by my colleagues from Florida, particularly the gentleman from Florida (Mr. HASTINGS), the gentleman from Florida (Mr. MEEK), and the gentlewoman from Florida (Ms. BROWN).

Again we have the State of Florida attacking individuals who are trying to vote and to register to vote. Now we find out in the State of Florida that even after thousands have registered to vote, what do you have but the government suggesting that those registration cards will be deemed illegal and will be deemed where the voters will not be able to vote. Why? Because somebody did not check a box, an unnecessary box, a box that the law does not say that they have to check.

I do not understand, Mr. Speaker, why again we have Florida in the center of the eye of the storm, unfortunately, the eye of the storm of suppressing voters in the United States of America. We are all going to be in Florida. We are all going to make sure that people are able to vote, and we are all going to make sure that this is an election that is fair. Our lives depend on it.

MENTAL HEALTH AWARENESS WEEK

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

Mr. KENNEDY of Rhode Island. Mr. Speaker, this week is Mental Health Awareness Week and still the mental health parity legislation supported by 249 representatives, 70 Senators and 369 national organizations is bottled up.

The leadership of this House, which refuses to bring up this popular legislation for a vote, is sentencing millions of Americans to joblessness and underemployment. Mental illnesses are treatable and individuals with mental illnesses are frequently able to hold down good jobs as productive members of society, but only if they are treated.

As the Chicago Tribune reported several years ago, employees who are depressed are twice as likely to take time off for health reasons as employees who are not depressed and are seven times more likely to be less productive on the job.

President Bush's New Freedom Commission on Mental Health found a shocking 90 percent unemployment rate among individuals with serious mental illnesses, while also finding that most of them could work with just modest supports.

The American Dream is not just for those lucky enough to live free of disease and disability. During this mental health awareness week, I call on this House to finally at long last pass mental health parity.

□ 1030

DISASTER RELIEF

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

Mr. HASTINGS of Florida. Mr. Speaker, later today we will take up the Emergency Supplemental Appropriations Act for the year 2005. It is a help, but it is simply not enough. From today's newspapers, we learn that the four hurricanes which struck over 6 weeks have wiped out thousands of jobs and billions of dollars' worth of property. Economists estimate that that is the case.

The hurricanes caused parts of 10 eastern States from Florida to Vermont to be declared Federal disaster areas. The storms destroyed or seriously damaged many hotels, restaurants, stores, factories and other businesses while temporarily closing seaports, harbors, theme parks and other tourist destinations. Insurance payments will be as much as $23 billion.

I call on the House of Representatives to get past this set of disasters and realize that there will be others, and to establish in this Congress a disaster relief fund and a separate jurisdiction dealing specifically with disaster relief from drought to fires, to storms, to earthquakes and whatever may occur in our Nation.

IRAQI ARMS THREAT

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

Ms. DELAURO. Mr. Speaker, today's Washington Post reports that at the time this administration brought us to war in Iraq, Saddam Hussein posed not the gathering threat that President Bush and Vice President CHENEY continue to claim he was, but rather, a diminishing one.

The findings of the chief U.S. weapons inspector in Iraq are but one more example of a President and a Vice President intent on misleading the American people into war and blind to the realities of Iraq today. This comes one day after the startling admission by the former head of the Coalition Provisional Authority in Iraq, Paul Bremer, that we did not have enough troops on the ground after the invasion to guard sensitive areas like weapons stockpiles. Today, those very weapons are being used against our troops by militants and by terrorists.

At every step of the way, determining the threat level posed by Saddam, how much the war would cost, how many casualties America would bear, George Bush and DICK CHENEY have been consistent, consistently wrong. As we saw last night and last Thursday in the debates, George Bush and DICK CHENEY are incapable of fixing Iraq because they refuse to see the mess that they have created there.

They refuse to see the mess that they have created in the U.S. economy.

The American people? They see it every single day.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair must remind all Members that remarks in debate may not engage in personalities toward the President and the Vice President or the acknowledged candidates for those offices. Policies may be addressed in critical terms, but personal references of an offensive or accusatory nature are not proper.

READY FOR CHANGE

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

Mr. DAVIS of Illinois. Mr. Speaker, I must confess that I am not surprised that the Vice President did not know that he knew Senator EDWARDS, because it seems to me that there are a lot of things that they know but do not say.

They did not know that there were no weapons of mass destruction in Iraq, but we went to war anyway. They did not know that trickle-down would not solve the Nation's economic problems. They promote it anyway. They did not know that senior citizens need a real prescription drug program, but they sham it anyway.

They may not know that the American people are ready for change, but they are, and we shall see in a little bit.

PROVIDING FOR CONSIDERATION OF H.R. 5107, JUSTICE FOR ALL ACT OF 2004

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 823 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 823

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5107) to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Sensenbrenner of Wisconsin or his designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for twenty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. 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, this morning the Rules Committee met and granted a modified closed rule for H.R. 5107, the Justice for All Act. The measure is a combination of a House-passed bill, H.R. 3214, expanding DNA testing to catch more criminals and to allow wrongly convicted people a chance to prove their innocence, and a Senate-passed bill, S. 2329, that improves victims' rights.

I am also very pleased that the gentleman from Wisconsin (Mr. SENSENBRENNER) included a manager's amendment to address Members' concerns and the Department of Justice, as well as victims' rights groups' concerns. H.R. 3214 passed the House in November, 2003, by a 357–67 margin. S. 2329 passed the Senate in April 2004 on a 96–1 vote.

Regarding the crimes victims portion of this bill, the legislation seeks to remedy the apparent disparity between

the great number of rights and protections afforded to a person accused of a crime, but the relatively few rights and remedies for victims. The bill amplifies the existing rights for victims and sets forth an explicit enforcement mechanism. Additionally, H.R. 5107 provides funding for legal counsel for victims to assist them in the process and to ensure that these rights are enforced.

On the DNA side of this bill, it seeks to position DNA testing so it can finally reach its enormous potential.

Unfortunately, the current Federal and State DNA collection and analysis system suffers from a variety of problems. In many cases public crime laboratories are overwhelmed by backlogs of unanalyzed DNA samples, samples that could be used to solve violent crimes if the States had the funds to eliminate this backlog.

In my home State of North Carolina, the number of unprocessed DNA samples is 7,000 and the number of unprocessed DNA rape kits is estimated to be 6,000. North Carolina authorities say that the processing and entering of the DNA backlog could solve hundreds of crimes.

This legislation will authorize a significant increase in resources to better use DNA in solving crimes, taking dangerous people off the streets and sparing many innocent Americans from further crimes. To that end, I urge my colleagues to support the rule and the underlying legislation.

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding me this time, and I yield myself such time as I may consume.

I rise in strong support of the underlying legislation. I commend our colleagues on the Committee on the Judiciary for their excellent bipartisan work. Perhaps this should be a model to all of us here in the House of Representatives.

Mr. Speaker, the underlying bill makes DNA technology available to our criminal justice system in order to enhance its efficiency and certainty in exonerating the innocent as well as identifying and convicting the guilty.

News stories praising the successful use of DNA to solve crimes are plentiful. To give just an example, consider the following: After 14 years on Florida's death row, Frank Lee Smith died of cancer on January 30, 2000, before he was exonerated of rape and murder. An autopsy revealed that the victim had been raped and sodomized. Through shaky eyewitness descriptions, the police put together a composite sketch that set off Frank Lee Smith's arrest on April 29, 1985. The prosecution relied on the identification of Smith by the victim's mother and Smith's criminal history. The jury unanimously recommended the death penalty.

Mr. Speaker, only after Smith's death was a blood sample from him obtained by the State prosecutor's office which was then tested against a semen sample taken from the victim. The samples were sent to the FBI laboratory, which reported that Frank Lee Smith was excluded as the depositor of the semen. On December 15, 2000, 11 months after his death and 14 years after his 1986 conviction, Frank Lee Smith was exonerated based on exculpatory DNA testing results. These results not only cleared Smith of the crime, but also identified Eddie Lee Mosley, a convicted rapist and murderer, as the true perpetrator.

The case of Frank Lee Smith is not unique. Since 1976, 111 people in 25 States have been released after spending years on death row for crimes they did not commit. DNA testing was responsible for exonerating 12 of the people freed from death row and another 126 who were wrongfully convicted of serious crimes. In at least 34 of these cases, the same tests that exonerated an innocent person led to the apprehension of the real perpetrator.

Despite DNA's enormous potential, the current Federal and State DNA collection and analysis system suffers from a variety of problems. In many instances, public crime laboratories are overwhelmed by backlogs of unanalyzed DNA samples, as pointed out by my colleague and friend from North Carolina (Mrs. MYRICK). In addition, many of the laboratories are illequipped to handle the increasing flow of DNA samples and evidence.

Furthermore, the problems of backlogs and the lack of up-to-date technology result in significant delays in the administration of justice. For example, some estimates indicate that DNA evidence from at least 300,000 rape crime scenes have been collected but never analyzed in a crime lab.

As you can imagine, Mr. Speaker, the cases of those exonerated by DNA testing have revealed disturbing fissures and trends in our criminal justice system. They confirm that our criminal justice system is fallible. Judges, juries, police, defense attorneys and prosecutors are all human and all make mistakes.

But we have the means at our disposal to minimize this. The underlying legislation could have an immediate and direct effect, and I urge my colleagues to support its passage. With our action today, many crimes can be solved, many guilty people can be taken off the streets, and many victims can be spared from further crimes.

Mr. Speaker, I ask my colleagues to vote for this rule and the underlying bill.

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

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Illinois (Mr. LAHOOD), the original author of the House bill who has been working on this issue for a long, long time.

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

Mr. LAHOOD. I thank the gentlewoman from North Carolina for yielding me this time.

Mr. Speaker, I have been a part of a group of people that have worked on this bill. Primarily my friend from Massachusetts (Mr. DELAHUNT) and I some 5 years ago started working on this bill.

This is a very good bill. I urge Members to support the rule and to support the bill.

□ 1045

We have been down this path a few times before in the House, and we are trying to find a way to get our friends in the other body to come along with us. But I got involved in this as a proponent of the death penalty and somebody who supports the death penalty, but also as a result of a group of students at Northwestern University several years ago, who did a study of those sitting on death row and found that of those who were on death row that had been given the death sentence, 12 of them were actually innocent and were released by the governor of the State of Illinois because they were innocent, which means that there were 12 people out on the street who had actually committed the crimes.

This bill allows for the ability of people who have the responsibility for prosecuting these cases to have 100 percent certainty, through the use of DNA testing, through the use of providing that competent counsel is provided to defendants, people that really know how to deal with capital cases. And it is a very important way to really fix a flawed criminal justice system, a system that has allowed for innocent people to sit on death row and guilty people to be out on the street.

It is a very good bill, and I want to really congratulate the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary, for his willingness to look at this bill and to do some things that he felt were important; and also the gentleman from Massachusetts (Mr. DELAHUNT) for hanging in there with us on this.

I think we have a chance to pass this this year. And it would be a very good fix, to fix a flawed system in our country and really give a sense of opportunity to people that innocent people are not going to be convicted, and guilty people are going to be found and tracked down and locked up and, in some instances, be given the death penalty for serious crimes.

I thank the gentlewoman for yielding me this time, and I look forward to the House passing this bill today.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me, first of all, add my appreciation to the cosponsors of this legislation, particularly the gentleman

from Illinois and the gentleman from Massachusetts. Americans cannot imagine how important this legislation is. And as I do that, let me recite some of the elements of the bill that are very important and to be able to congratulate them on that.

The bill would increase the authorized funding levels for the DNA analysis backlog elimination program to $151 million per year for the next 5 years. This will help eliminate the large backlog of DNA evidence that has not been analyzed and provide resources to remedy the lack of training, equipment, technology, and standards for handling DNA and other forensic evidence.

This bill also authorizes funding for training for law enforcement, correctional court and medical personnel on the use of DNA evidence, and authorizes grant programs to reduce other forensic science backlog, research, new DNA technology, and promotes the use of DNA technology to identify missing persons and provides funds for the FBI and the administration of DNA programs.

I wanted to list that because this is an act of love and respect for justice. It includes respect for the rights of the States who protect the injured and the victims. At the same time, it has the approval and support of the Innocence Project, which has worked with many of us around the Nation, but particularly, Mr. Speaker, in the State of Texas.

Let me tell the Members why this legislation is so crucial, and particularly for States like mine.

Over the last 2 years we have had a complete collapse of the DNA laboratory in the State of Texas, but let me specifically cite Harris County. Unfortunately, unlike the two legislators who have cosponsored this legislation, in Texas, of course, we have not had the kind of reasonable response by our district attorney and our lab is still in collapse.

This funding and this sort of guide will help local jurisdictions, including State governments and county governments who have the responsibility to prosecute on behalf of the victims, to get it right. We have not been able to get it right. And, frankly, in not getting it right, we have seen the 12 that have been on the streets in Illinois and the many victims in the State of Texas.

For example, Josiah Sutton was an individual whose DNA had not been appropriately reviewed, and, therefore, he was convicted and sentenced to many years for rape he did not do. This legislation helps to bring that into focus and to be able to suggest that we can handle justice for the victims, but as well, justice for the unfortunately accused.

Let me also say what this DNA legislation will do. It will provide the standards that are necessary and the guidelines that prosecutors need to adhere to. In our State, Senator Rodney Ellis has called for a moratorium of any executions, particularly coming out of Harris County, because we have a faulty DNA. The tragedy, of course, is that it has not been listened to.

I hope with the successful passage of this legislation we will be able to send a loud message. I would have wanted, however, a fuller open rule on this legislation, but my sensitivity to the importance of it would suggest that even without the open rule, we should move forward.

But let me suggest that there are many other aspects of DNA that can be used effectively. My legislation that has been enthusiastically embraced by John Walsh of ''America's Most Wanted'' had to do with providing a DNA bank for child predators. We know that over the years this House has been in a flurry around the incidences of abducted children, where children have been abducted. The tragedy that occurred in Utah with respect to Ms. Smart, I had her father testify before our committee dealing with issues on child abduction.

And let me just say that having a DNA bank that banks those who have been convicted of acts against children, violent acts, sexual acts against children, would also help our law enforcement across the Nation be able to both find the culprit and also relieve the innocent of the burden of being convicted falsely. We know in that case one of the individuals that was incarcerated ultimately died and happened not to be the particular perpetrator in that case.

But let me just say that I am hoping that the legislation will find legs as we might move into the next Congress.

But I do want to stand and support this legislation, Justice for All Act of 2004, and say to my constituents, and particularly the district attorney of Harris County, it is time to wake up. It is time to recognize new technology. It is time to embrace this legislation as it helps our local jurisdiction. And I might say that at the passage of this legislation today, I hope my district attorney, District Attorney Rosenthal, will recognize the importance of a moratorium on executions as they did in Illinois.

I ask my colleagues to support the rule and to support this legislation.

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 822 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 822

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, 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 (Mr. ISAKSON). 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, this is a standard rule for consideration of an appropriations conference report, and H. Res. 822 provides for the consideration of the conference reports for H.R. 4850, the District of Columbia Appropriations Act of 2005. The rule waives all points of order against the conference report and against its consideration. It also provides that the conference report shall be considered as read.

Mr. Speaker, the House Committee on Appropriation continues to work hard to complete the work on the remaining appropriations bills in order to fund the responsibilities of the Federal Government. It has passed 12 of 13 regular appropriations bills and continues to work with the House and Senate leadership and the Senate Appropriations Committee to complete the appropriations process.

While the 108th Congress has passed a continuing resolution funding the government through November 20, I am pleased that the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the District of Columbia Subcommittee of the Committee on Appropriations today presents the House with another individual appropriations conference report to send to the President.

Mr. Speaker, I believe that the details of a bill should principally be discussed during a general debate on this legislation. However, I did want to note that the fiscal year 2005 D.C. Appropriations bill will provide funding for the new Bioterrorism and Forensics Lab and will provide full funding for the school improvement program, including $13 million for public school improvements, $13 million for charter schools, and $14 million for opportunity scholarships to promote academic achievement and school choice.

I support these efforts to assist the District of Columbia students whose opportunities for success and growth are undermined simply because they reside in one of the least effective school districts in America.

Mr. Speaker, the Committee on Rules has reported a good rule for consideration of this conference report, and I urge my colleagues to support it so that we may proceed with the general debate and consideration of this bipartisan legislation.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Georgia (Mr. LINDER) for yielding me the customary time.

Mr. Speaker, this rule is typical of that for most conference reports, and I will not oppose it.

Mr. Speaker, there is no perfect legislation and certainly not when it comes to funding matters. The underlying conference report providing appropriations for the District of Columbia in fiscal year 2005 includes a variety of provisions that are controversial and detrimental to the District's residents and, frankly, the country as a whole.

I do not have to tell my colleagues about the uniqueness of the District of Columbia as a Federal city. It is the only place in the Nation where constitutionally Congress can exercise micromanagement at the highest and lowest of levels.

Taking into consideration the fact that the District of Columbia has no voting representation in Congress, we should be mindful of this privileged duty and careful not to put our parochial agendas on the table when considering this conference report.

As the gentleman from Georgia mentioned, the report approves the expenditure of a total of $8.3 billion in local funds for the District and directly appropriates $560 million for various District programs and projects. It includes $25.6 million for a tuition assistance program for college-bound students, $3 million for improvements to the Anacostia waterfront area, $6 million for a new public school library initiative, and $5 million to improve foster care in the District.

While there are many quality programs funded by the conference report, such as the ones I just mentioned, the report also includes legislative riders that are a smorgasbord of controversy. The report prohibits the use of funds for abortions, registering same-sex couples, and for the distribution of clean needles and syringes. None of these prohibitions were sought by the District, and they represent nothing more than the ideological impositions of the majority.

Furthermore, deep down inside the conference report is what the majority has dubbed a three-pronged school choice program. This program is heralded by school voucher advocates as a way to improve academic performance while promoting school choice. The reality is, however, the approach is a direct cut in Congress' funding commitment to the District's public schools.

□ 1100

That, Mr. Speaker, is an embarrassment to this institution.

Our education system will never improve if we continue to divert our attention away from improving public schools, the schools that are free of cost and guaranteed to every child in America. Our public schools will never improve if we continue to underfund the No Child Left Behind Act. If the majority wants to point fingers at who is to fault for failures in our education system, then it ought to stop pointing fingers at the District of Columbia and start pointing them at all of our districts that have failing schools.

In less than 3 years after its passage, the No Child Left Behind Act has been underfunded by President Bush and Congressional Republicans by more than $27 billion. Let me repeat that. In less than 3 years after its passage, the No Child Left Behind Act has been underfunded by President Bush and Congressional Republicans by more than $27 billion.

If we want to have a real discussion about education, then let's have one. But let us be honest with the American people about what we are doing to the entire Nation's education system. Let us start telling the American people the truth and stop using the District as a petri dish of ideological shortcomings when considering the needs and lives of the residents of the Nation's Capital.

It is high time that we as lawmakers in this great body stop playing political chess games with our responsibility to this process. We should allow the people of Washington, D.C., to govern themselves, and they should have a voting privilege in the House of Representatives.

Funding for the education of the Nation's children and overall healthy well-being of its citizens should be our primary focus and goal. The D.C. appropriations bill is not the stage to act out our experimental projects that will not necessarily prove beneficial in the end.

We must be mindful of the District's citizens that we have been given charge over. They are silenced in this process by the Constitution, and we must be responsible in our actions on their behalf.

I urge my colleagues to consider this responsibility when voting on the underlying conference report.

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 7 minutes to my good friend, the gentlewoman from the District of Columbia (Ms. NORTON), the non-voting Delegate that should be voting like all of us, especially on this subject, who on behalf of this community has pursued outstanding legislation.

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me time. I thank the gentleman for his graciousness in respecting the independence of the people of the District of Columbia, citizens of the United States entitled to the same rights that all other Americans have.

I appreciate that the Committee on Rules, its chairman, its ranking member, Members who come forward today with this bill, have brought forward a conference report and a rule that enables the District of Columbia to get its own money out, and the money that is due it from the Federal Government, on time.

I think that we should be apologizing to the American people that, at a time when all but two of our appropriations are not out, as we get ready to go home, we are having to spend time on the budget of a local jurisdiction. It must be hard to make people back home understand what we are doing, working on the taxpayer-raised budget of the District of Columbia and its Federal funds, rather than on the large Federal appropriations that await conference reports and the President's signature.

At the same time, I am grateful for the timeliness of this conference report. Of the 13 appropriations bills, only two, Defense and D.C., will be signed by the President when we leave to go home at the end of this week. In a real sense, this turns on its head the practice in recent years and, certainly, since the Republican majority has been in control.

D.C., irrelevant, literally irrelevant, to Members of the House and Senate, because almost all of the money is raised by our own local residents and taxpayers, D.C., the smallest, has traditionally been the most troublesome of the appropriations; the last out, the appropriation that caused more Members to come to the floor with amendments. Amendments that had to do with the District of Columbia? Absolutely not. Amendments that were of special interest to that Member but of no relevance to the District of Columbia.

The opposite has been the case this year, and it is because of the leadership of the appropriators and of the authorizers. There are no new riders. Three were threatened, but the appropriators and the authorizers worked together so that those riders did not come forward to be voted on on this floor. It is not that these Members are omnipotent, it is that, when leaders exercise leadership and discourage extraneous material, particularly on the appropriation of a local jurisdiction, an independent jurisdiction, their leadership can and this year has proved to be critical.

At the same time, I must take strong exception to the riders that remain; not new riders, but riders that remain. They are particularly inexcusable.

First, the needle-exchange rider, which makes D.C. alone in the United States of America. Hundreds of jurisdictions use their own money to pay for the exchange of dirty needles for clean needles, in accordance with all of the scientific evidence, and, I may say, all of the great scientific organizations, official and private, that say you save lives when you do not allow dirty needles to be passed around so that you spread HIV-AIDS.

So I should thank the Congress of the United States in the name of the people of the District of Columbia that, because of the needle-exchange admonition and bar in our appropriation, we have the highest HIV-AIDS rate in the country.

The interference with needle exchange, of course, is very different from other interference, because it costs lives. It is why we have so many men, women and children who otherwise would not be anywhere close to the AIDS epidemic with AIDS today. That calamity is laid at the feet of this Congress and essentially at the feet of this House, because the Senate asked that the District be able to spend its own local money for needle exchange. It was the House that refused to let the conference report come forward if, in fact, that was included.

There are, of course, other old riders in this bill. The old rider that says all the rest of you in the United States of America can spend your money for abortions for poor women, but not the residents of the District of Columbia. They are American citizens, but we are not about to treat them as first-class citizens. Remember, they are second-class citizens. So they can't spend their own money for abortions for their own poor women.

Perhaps as a matter of ordinary democracy, the most shameful rider says that the District can't spend its own money to lobby for its own rights. This House, not the Senate, the Senate has said, we are not on that boat, let them spend their own money if they want to spend their own money to get full and equal rights in the House and in the Senate, and we think that is their right and prerogative as Americans, but the House said, ''Oh, no, that is not for the District. In my district, we better be able to spend our own money to lobby for anything we want to. Not in the Nation's Capital.''

This is a time of war, this is a time of great and urgent matters in our country. This is not the time when we ought to be considering this appropriation at all. At the same time, I am grateful that, if it had to be here, that before we went home this appropriation was out of Congress; that I am not here in November, that I am not here in December, trying to get my own money out of this Congress.

In past years, the House has been critical of the management of the District of Columbia without conceding that not allowing the District to spend its own money on time has wrapped the District in knots as it tries to balance on last year's budget while waiting for the Congress to release its own money.

The appropriators, the gentleman from New Jersey (Mr. FRELINGHUYSEN), the gentleman from Pennsylvania (Mr. FATTAH), our authorizer, the gentleman from Virginia (Mr. TOM DAVIS), have gone very far in helping us to meet this burden. I appreciate that the Committee on Rules has taken taking us to the next step and making us one of two appropriations to clear the Congress before we clear out of here.

Mr. HASTINGS of Florida. Mr. Speaker, I have no further requests for time, and 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 on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5107.

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

There was no objection.

JUSTICE FOR ALL ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 823, I call up the bill (H.R. 5107), to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 823, the bill is considered read for amendment.

The text of H.R. 5107 is as follows:

H.R. 5107

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 ''Justice for All Act of 2004''.

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

Sec. 1. Short title; table of contents.
TITLE I—SCOTT CAMBELL, STEPHANIE ROPER, WENDY PRESTON, LOUARNA GILLIS, AND NILA LYNN CRIME VICTIMS' RIGHTS ACT
Sec. 101. Short title.
Sec. 102. Crime victims' rights.
Sec. 103. Increased resources for enforcement of crime victims' rights.
Sec. 104. Reports.
TITLE II—DEBBIE SMITH ACT OF 2004
Sec. 201. Short title.
Sec. 202. Debbie Smith DNA Backlog Grant Program.
Sec. 203. Expansion of Combined DNA Index System.
Sec. 204. Tolling of statute of limitations.
Sec. 205. Legal assistance for victims of violence.
Sec. 206. Ensuring private laboratory assistance in eliminating DNA backlog.
TITLE III—DNA SEXUAL ASSAULT JUSTICE ACT OF 2004
Sec. 301. Short title.
Sec. 302. Ensuring public crime laboratory compliance with Federal standards.
Sec. 303. DNA training and education for law enforcement, correctional personnel, and court officers.
Sec. 304. Sexual assault forensic exam program grants.
Sec. 305. DNA research and development.
Sec. 306. National Forensic Science Commission.
Sec. 307. FBI DNA programs.
Sec. 308. DNA identification of missing persons.
Sec. 309. Enhanced criminal penalties for unauthorized disclosure or use of DNA information.
Sec. 310. Tribal coalition grants.
Sec. 311. Expansion of Paul Coverdell Forensic Sciences Improvement Grant Program.
Sec. 312. Report to Congress.
TITLE IV—INNOCENCE PROTECTION ACT OF 2004
Sec. 401. Short title.
Subtitle A—Exonerating the innocent through DNA testing
Sec. 411. Federal post-conviction DNA testing.
Sec. 412. Kirk Bloodsworth Post-Conviction DNA Testing Grant Program.
Sec. 413. Incentive grants to States to ensure consideration of claims of actual innocence.
Subtitle B—Improving the quality of representation in State capital cases
Sec. 421. Capital representation improvement grants.
Sec. 422. Capital prosecution improvement grants.
Sec. 423. Applications.
Sec. 424. State reports.
Sec. 425. Evaluations by Inspector General and administrative remedies.
Sec. 426. Authorization of appropriations.
Subtitle C—Compensation for the wrongfully convicted
Sec. 431. Increased compensation in Federal cases for the wrongfully convicted.
Sec. 432. Sense of Congress regarding compensation in State death penalty cases.

TITLE I—SCOTT CAMBELL, STEPHANIE ROPER, WENDY PRESTON, LOUARNA GILLIS, AND NILA LYNN CRIME VICTIMS' RIGHTS ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act''.

SEC. 102. CRIME VICTIMS' RIGHTS.

(a) AMENDMENT TO TITLE 18.—Part II of title 18, United States Code, is amended by adding at the end the following:

''CHAPTER 237—CRIME VICTIMS' RIGHTS

''Sec.
''3771. Crime victims' rights.

''§ 3771. Crime victims' rights

''(a) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

''(1) The right to be reasonably protected from the accused.

''(2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.

''(3) The right not to be excluded from any such public court proceeding, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at that proceeding.

''(4) The right to be reasonably heard at any public proceeding involving release, plea, or sentencing.

''(5) The reasonable right to confer with the attorney for the Government in the case.

''(6) The right to full and timely restitution as provided in law.

''(7) The right to proceedings free from unreasonable delay.

''(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

''(b) RIGHTS AFFORDED.—In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). Before denying a crime victim the right described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

''(c) BEST EFFORTS TO ACCORD RIGHTS.—

''(1) GOVERNMENT.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

''(2) ADVICE OF ATTORNEY.—The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a).

''(3) NOTICE.—Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

''(d) ENFORCEMENT AND LIMITATIONS.—

''(1) RIGHTS.—The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in subsection (a). A person accused of the crime may not obtain any form of relief under this chapter.

''(2) MULTIPLE CRIME VICTIMS.—In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

''(3) MOTION FOR RELIEF AND WRIT OF MANDAMUS.—The rights described in subsection (a) shall be asserted in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred. The district court shall take up and decide such motion forthwith. If the district court denies the relief sought, the movant may petition the court of appeals for a writ of mandamus. The court of appeals may issue the writ on the order of a single judge pursuant to circuit rule or the Federal Rules of Appellate Procedure. The court of appeals shall take up and decide such application forthwith within 72 hours after the petition has been filed. In no event shall proceedings be stayed or subject to a continuance of more than five day, or affect the defendant's right to a speedy trial, for purposes of enforcing this chapter.

''(4) ERROR.—In any appeal in a criminal case, the Government may assert as error the district court's denial of any crime victim's right in the proceeding to which the appeal relates.

''(5) LIMITATION ON RELIEF.—In no case shall a failure to afford a right under this chapter provide grounds for a new trial, or to reopen a plea or a sentence, except in the case of restitution as provided in title 18.

''(6) NO CAUSE OF ACTION.—Nothing in this chapter shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the United States or any of its officers or employees could be held liable in damages. Nothing in this chapter shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction.

''(e) DEFINITIONS.—For the purposes of this chapter, the term 'crime victim' means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative.

''(f) PROCEDURES TO PROMOTE COMPLIANCE.—

''(1) REGULATIONS.—Not later than 1 year after the date of enactment of this chapter, the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

''(2) CONTENTS.—The regulations promulgated under paragraph (1) shall—

''(A) designate an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

''(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

''(C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

''(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.''.

(b) TABLE OF CHAPTERS.—The table of chapters for part II of title 18, United States Code, is amended by inserting at the end the following:

''237. Crime victims' rights ..... 3771''.

(c) REPEAL.—Section 502 of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10606) is repealed.

SEC. 103. INCREASED RESOURCES FOR ENFORCEMENT OF CRIME VICTIMS' RIGHTS.

(a) CRIME VICTIMS LEGAL ASSISTANCE GRANTS.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404C the following:

''SEC. 1404D. CRIME VICTIMS LEGAL ASSISTANCE GRANTS.

''(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public and private entities, to develop, establish, and maintain programs for the enforcement of crime victims' rights as provided in law.

''(b) PROHIBITION.—Grant amounts under this section may not be used to bring a cause of action for damages.

''(c) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d) of the Victims of Crime Act of 1984, there are authorized to be appropriated to carry out this title—

(1) $2,000,000 for fiscal year 2005 and $5,000,000 for each of fiscal years 2006, 2007, 2008, and 2009 to United States Attorneys Offices for Victim/Witnesses Assistance Programs;

(2) $2,000,000 for fiscal year 2005 and $5,000,000 in each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for enhancement of the Victim Notification System;

(3) $300,000 in fiscal year 2005 and $500,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for staff to administer the appropriation for the support of organizations as designated under paragraph (4);

(4) $7,000,000 for fiscal year 2005 and $11,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of organizations that provide legal counsel and support services for victims in criminal cases for the enforcement of crime victims' rights in Federal jurisdictions, and in States and tribal governments that have laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code; and

(5) $5,000,000 for fiscal year 2005 and $7,000,000 for each of fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of—

(A) training and technical assistance to States and tribal jurisdictions to craft state-of-the-art victims' rights laws; and

(B) training and technical assistance to States and tribal jurisdictions to design a variety of compliance systems, which shall include an evaluation component.

(c) INCREASED RESOURCES TO DEVELOP STATE-OF-THE-ART SYSTEMS FOR NOTIFYING CRIME VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404D the following:

''SEC. 1404E. CRIME VICTIMS NOTIFICATION GRANTS.

''(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public or private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments relating to the criminal

proceedings at issue in a timely and efficient manner, provided that the jurisdiction has laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code.

''(b) INTEGRATION OF SYSTEMS.—Systems developed and implemented under this section may be integrated with existing case management systems operated by the recipient of the grant.

''(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d), there are authorized to be appropriated to carry out this section—

''(1) $5,000,000 for fiscal year 2005; and

''(2) $5,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009.

''(d) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.''.

SEC. 104. REPORTS.

(a) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Administrative Office of the United States Courts, for each Federal court, shall report to Congress the number of times that a right established in chapter 237 of title 18, United States Code, is asserted in a criminal case and the relief requested is denied and, with respect to each such denial, the reason for such denial, as well as the number of times a mandamus action is brought pursuant to chapter 237 of title 18, and the result reached.

(b) GOVERNMENT ACCOUNTABILITY OFFICE.—

(1) STUDY.—The Comptroller General shall conduct a study that evaluates the effect and efficacy of the implementation of the amendments made by this title on the treatment of crime victims in the Federal system.

(2) REPORT.—Not later than 4 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees a report containing the results of the study conducted under subsection (a).

TITLE II—DEBBIE SMITH ACT OF 2004

SEC. 201. SHORT TITLE.

This title may be cited as the ''Debbie Smith Act of 2004''.

SEC. 202. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by amending the heading to read as follows:

''SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or units of local government'' after ''eligible States''; and

(ii) by inserting ''or unit of local government'' after ''State'';

(B) in paragraph (2), by inserting before the period at the end the following: '', including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect''; and

(C) in paragraph (3), by striking ''within the State'';

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or unit of local government'' after ''State'' both places that term appears; and

(ii) by inserting '', as required by the Attorney General'' after ''application shall'';

(B) in paragraph (1), by inserting ''or unit of local government'' after ''State'';

(C) in paragraph (3), by inserting ''or unit of local government'' after ''State'' the first place that term appears;

(D) in paragraph (4)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking ''and'' at the end;

(E) in paragraph (5)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

''(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''The plan'' and inserting ''A plan pursuant to subsection (b)(1)'';

(ii) in subparagraph (A), by striking ''within the State''; and

(iii) in subparagraph (B), by striking ''within the State''; and

(B) in paragraph (2)(A), by inserting ''and units of local government'' after ''States'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''or local government'' after ''State'' both places that term appears; and

(B) in paragraph (2), by inserting ''or unit of local government'' after ''State'';

(6) in subsection (f), in the matter preceding paragraph (1), by inserting ''or unit of local government'' after ''State'';

(7) in subsection (g)—

(A) in paragraph (1), by inserting ''or unit of local government'' after ''State''; and

(B) in paragraph (2), by inserting ''or units of local government'' after ''States''; and

(8) in subsection (h), by inserting ''or unit of local government'' after ''State'' both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting ''(1) or'' before ''(2)''; and

(B) by inserting at the end the following:

''(4) To collect DNA samples specified in paragraph (1).

''(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.'';

(2) in subsection (b), as amended by this section, by inserting at the end the following:

''(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).'';

(3) by amending subsection (c) to read as follows:

''(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

''(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

''(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

''(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

''(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

''(ii) the population in the jurisdiction; and

''(iii) the number of part 1 violent crimes in the jurisdiction.

''(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

''(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

''(A) For fiscal year 2005, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(B) For fiscal year 2006, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(C) For fiscal year 2007, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(D) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(E) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).'';

(4) in subsection (g)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.'';

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

''(1) $151,000,000 for fiscal year 2005;

''(2) $151,000,000 for fiscal year 2006;

''(3) $151,000,000 for fiscal year 2007;

''(4) $151,000,000 for fiscal year 2008; and

''(5) $151,000,000 for fiscal year 2009.''; and

(6) by adding at the end the following:

''(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

''(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

''(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

''(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

''(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

''(C) to support future capacity building efforts; and

''(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally

recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

''(1) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.''.

SEC. 203. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking ''of persons convicted of crimes;'' and inserting the following: ''of—

''(A) persons convicted of crimes;

''(B) persons who have been indicted or who have waived indictment for a crime; and

''(C) other persons whose DNA samples are collected under applicable legal authorities, provided that DNA profiles from arrestees who have not been indicted and DNA samples that are voluntarily submitted solely for elimination purposes shall not be included in the Combined DNA Index System;''; and

(2) in subsection (d)(2)—

(A) by striking ''if the responsible agency'' and inserting ''if—

''(i) the responsible agency'';

(B) by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(ii) the person has not been convicted of an offense on the basis of which that analysis was or could have been included in the index, and all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.''.

(b) FELONS CONVICTED OF FEDERAL CRIMES.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

''(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

''(1) Any felony.

''(2) Any offense under chapter 109A of title 18, United States Code.

''(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

''(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).''.

(c) MILITARY OFFENSES.—Section 1565(d) of title 10, United States Code, is amended to read as follows:

''(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

''(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

''(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).''.

(d) KEYBOARD SEARCHES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(e) AUTHORITY FOR KEYBOARD SEARCHES.—

''(1) IN GENERAL.—The Director shall ensure that any person who is authorized to access the index described in subsection (a) for purposes of including information on DNA identification records or DNA analyses in that index may also access that index for purposes of carrying out a one-time keyboard search on information obtained from any DNA sample lawfully collected for a criminal justice purpose except for a DNA sample voluntarily submitted solely for elimination purposes.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'keyboard search' means a search under which information obtained from a DNA sample is compared with information in the index without resulting in the information obtained from a DNA sample being included in the index.

''(3) NO PREEMPTION.—This subsection shall not be construed to preempt State law.''.

SEC. 204. TOLLING OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3297. Cases involving DNA evidence

''In a case in which DNA testing implicates an identified person in the commission of a felony, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3297. Cases involving DNA evidence.''.

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section if the applicable limitation period has not yet expired.

SEC. 205. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting ''dating violence,'' after ''domestic violence,'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

''(A) the length of the relationship;

''(B) the type of relationship; and

''(C) the frequency of interaction between the persons involved in the relationship.''; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting ''dating violence,'' after ''domestic violence,'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting '', dating violence,'' after ''between domestic violence''; and

(ii) by inserting ''dating violence,'' after ''victims of domestic violence,'';

(B) in paragraph (2), by inserting ''dating violence,'' after ''domestic violence,''; and

(C) in paragraph (3), by inserting ''dating violence,'' after ''domestic violence,'';

(4) in subsection (d)—

(A) in paragraph (1), by inserting '', dating violence,'' after ''domestic violence'';

(B) in paragraph (2), by inserting '', dating violence,'' after ''domestic violence'';

(C) in paragraph (3), by inserting '', dating violence,'' after ''domestic violence''; and

(D) in paragraph (4), by inserting ''dating violence,'' after ''domestic violence,'';

(5) in subsection (e), by inserting ''dating violence,'' after ''domestic violence,''; and

(6) in subsection (f)(2)(A), by inserting ''dating violence,'' after ''domestic violence,''.

SEC. 206. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to read as follows:

''(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

''(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services.

''(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

''(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).''.

TITLE III—DNA SEXUAL ASSAULT JUSTICE ACT OF 2004

SEC. 301. SHORT TITLE.

This title may be cited as the ''DNA Sexual Assault Justice Act of 2004''.

SEC. 302. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:

''(2) prepared by laboratories that—

''(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2004, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

''(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and''.

SEC. 303. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence.

(b) ELIGIBLE ENTITY.—For purposes of subsection (a), an eligible entity is an organization consisting of, comprised of, or representing—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $12,500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 304. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs;

(D) State sexual assault coalitions;

(E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and

(F) victim service providers involved in treating victims of sexual assault.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 305. DNA RESEARCH AND DEVELOPMENT.

(a) IMPROVING DNA TECHNOLOGY.—The Attorney General shall make grants for research and development to improve forensic DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall make grants to appropriate entities under which research is carried out through demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 306. NATIONAL FORENSIC SCIENCE COMMISSION.

(a) APPOINTMENT.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the ''Commission''), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under subsection (b).

(b) RESPONSIBILITIES.—The Commission shall—

(1) assess the present and future resource needs of the forensic science community;

(2) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(3) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(4) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(5) disseminate, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(6) examine additional issues pertaining to forensic science as requested by the Attorney General;

(7) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(8) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in paragraph (7) to ensure—

(A) the appropriate use and dissemination of DNA information;

(B) the accuracy, security, and confidentiality of DNA information;

(C) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(D) that any other necessary measures are taken to protect privacy; and

(9) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in paragraphs (1) through (8).

(c) PERSONNEL; PROCEDURES.—The Attorney General shall—

(1) designate the Chair of the Commission from among its members;

(2) designate any necessary staff to assist in carrying out the functions of the Commission; and

(3) establish procedures and guidelines for the operations of the Commission.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 307. FBI DNA PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of fiscal years 2005 through 2009 to carry out the DNA programs and activities described under subsection (b).

(b) PROGRAMS AND ACTIVITIES.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 308. DNA IDENTIFICATION OF MISSING PERSONS.

(a) IN GENERAL.—The Attorney General shall make grants to States and units of local government to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 309. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

''(c) CRIMINAL PENALTY.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $100,000. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.''.

SEC. 310. TRIBAL COALITION GRANTS.

(a) IN GENERAL.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

''(d) TRIBAL COALITION GRANTS.—

''(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

''(A) increasing awareness of domestic violence and sexual assault against Indian women;

''(B) enhancing the response to violence against Indian women at the tribal, Federal, and State levels; and

''(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence.

''(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

''(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against Indian women; and

''(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against Indian women.

''(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).''.

(b) TECHNICAL AMENDMENT.—Effective as of November 2, 2002, and as if included therein as enacted, Public Law 107–273 (116 Stat. 1789) is amended in section 402(2) by striking ''sections 2006 through 2011'' and inserting ''sections 2007 through 2011''.

(c) AMOUNTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 402(2) of Public Law 107–273, as amended by subsection (b)) is amended by amending subsection (b)(4) (42 U.S.C. 3796gg–1(b)(4)) to read as follows:

''(4) 1/54 shall be available for grants under section 2001(d);''.

SEC. 311. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) FORENSIC BACKLOG ELIMINATION GRANTS.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking ''shall use the grant to carry out'' and inserting ''shall use the grant to do any one or more of the following:

''(1) To carry out''; and

(B) by adding at the end the following:

''(2) To eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence.

''(3) To train, assist, and employ forensic laboratory personnel, as needed, to eliminate such a backlog.'';

(2) in subsection (b), by striking ''under this part'' and inserting ''for the purpose set forth in subsection (a)(1)''; and

(3) by adding at the end the following:

''(e) BACKLOG DEFINED.—For purposes of this section, a backlog in the analysis of forensic science evidence exists if such evidence—

''(1) has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility; and

''(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.''.

(b) EXTERNAL AUDITS.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.''.

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(G) $20,000,000 for fiscal year 2007;

''(H) $20,000,000 for fiscal year 2008; and

''(I) $20,000,000 for fiscal year 2009.''.

(d) TECHNICAL AMENDMENT.—Section 1001(a) of such Act, as amended by subsection (c), is further amended by realigning paragraphs (24) and (25) so as to be flush with the left margin.

SEC. 312. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this Act and the amendments made by this Act.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as ''CODIS'');

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this Act are carried out;

(3) the distribution of grant amounts under this Act among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 303 and 304;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 305;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 306;

(7) the use of funds by the Federal Bureau of Investigation under section 307;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 308;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under the amendments made by section 311;

(10) State compliance with the requirements set forth in section 413; and

(11) any other matters considered relevant by the Attorney General.

TITLE IV—INNOCENCE PROTECTION ACT OF 2004

SEC. 401. SHORT TITLE.

This title may be cited as the ''Innocence Protection Act of 2004''.

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 411. FEDERAL POST-CONVICTION DNA TESTING.

(a) FEDERAL CRIMINAL PROCEDURE.—

(1) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 228 the following:

''CHAPTER 228A—POST-CONVICTION DNA TESTING

''Sec.
''3600. DNA testing.
''3600A. Preservation of biological evidence.

''§ 3600. DNA testing

''(a) IN GENERAL.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the 'applicant'), the court that entered the judgment of conviction shall order DNA testing of specific evidence if—

''(1) the applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

''(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

''(B) another Federal or State offense, if—

''(i)(I) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

''(II) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

''(ii) in the case of a State offense—

''(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

''(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense;

''(2) the specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

''(3) the specific evidence to be tested—

''(A) was not previously subjected to DNA testing and the applicant did not knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2004; or

''(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing;

''(4) the specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing;

''(5) the proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices;

''(6) the applicant identifies a theory of defense that—

''(A) is not inconsistent with an affirmative defense presented at trial; and

''(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

''(7) if the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial;

''(8) the proposed DNA testing of the specific evidence—

''(A) would produce new material evidence to support the theory of defense referenced in paragraph (6); and

''(B) assuming the DNA test result excludes the applicant, would raise a reasonable probability that the applicant did not commit the offense;

''(9) the applicant certifies that the applicant will provide a DNA sample for purposes of comparison; and

''(10) the applicant's motion is filed for the purpose of demonstrating the applicant's actual innocence of the Federal or State offense, and not to delay the execution of the sentence or the administration of justice.

''(b) NOTICE TO THE GOVERNMENT; PRESERVATION ORDER; APPOINTMENT OF COUNSEL.—

''(1) NOTICE.—Upon the receipt of a motion filed under subsection (a), the court shall—

''(A) notify the Government; and

''(B) allow the Government a reasonable time period to respond to the motion.

''(2) PRESERVATION ORDER.—To the extent necessary to carry out proceedings under this section, the court shall direct the Government to preserve the specific evidence relating to a motion under subsection (a).

''(3) APPOINTMENT OF COUNSEL.—The court may appoint counsel for an indigent applicant under this section in the same manner as in a proceeding under section 3006A(a)(2)(B).

''(c) TESTING PROCEDURES.—

''(1) IN GENERAL.—The court shall direct that any DNA testing ordered under this section be carried out by the Federal Bureau of Investigation.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the court may order DNA testing by another qualified laboratory if the court makes all necessary orders to ensure the integrity of the specific evidence and the reliability of the testing process and test results.

''(3) COSTS.—The costs of any DNA testing ordered under this section shall be paid—

''(A) by the applicant; or

''(B) in the case of an applicant who is indigent, by the Government.

''(d) TIME LIMITATION IN CAPITAL CASES.—In any case in which the applicant is sentenced to death—

''(1) any DNA testing ordered under this section shall be completed not later than 60 days after the date on which the Government responds to the motion filed under subsection (a); and

''(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the court shall order any post-testing procedures under subsection (f) or (g), as appropriate.

''(e) REPORTING OF TEST RESULTS.—

''(1) IN GENERAL.—The results of any DNA testing ordered under this section shall be simultaneously disclosed to the court, the applicant, and the Government.

''(2) NDIS.—The Government shall submit any test results relating to the DNA of the applicant to the National DNA Index System (referred to in this subsection as 'NDIS').

''(3) RETENTION OF DNA SAMPLE.—

''(A) ENTRY INTO NDIS.—If the DNA test results obtained under this section are inconclusive or show that the applicant was the source of the DNA evidence, the DNA sample of the applicant may be retained in NDIS.

''(B) MATCH WITH OTHER OFFENSE.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant results in a match between the DNA sample of the applicant and another offense, the Attorney General shall notify the appropriate agency and preserve the DNA sample of the applicant.

''(C) NO MATCH.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant does not result in a match between the DNA sample of the applicant and another offense, the Attorney General shall destroy the DNA sample of the applicant and ensure that such information is not retained in NDIS if there is no other legal authority to retain the DNA sample of the applicant in NDIS.

''(f) POST-TESTING PROCEDURES; INCONCLUSIVE AND INCULPATORY RESULTS.—

''(1) INCONCLUSIVE RESULTS.—If DNA test results obtained under this section are inconclusive, the court may order further testing, if appropriate, or may deny the applicant relief.

''(2) INCULPATORY RESULTS.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the court shall—

''(A) deny the applicant relief; and

''(B) on motion of the Government—

''(i) make a determination whether the applicant's assertion of actual innocence was false, and, if the court makes such a finding, the court may hold the applicant in contempt;

''(ii) assess against the applicant the cost of any DNA testing carried out under this section;

''(iii) forward the finding to the Director of the Bureau of Prisons, who, upon receipt of such a finding, may deny, wholly or in part, the good conduct credit authorized under section 3632 on the basis of that finding;

''(iv) if the applicant is subject to the jurisdiction of the United States Parole Commission, forward the finding to the Commission so that the Commission may deny parole on the basis of that finding; and

''(v) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

''(3) SENTENCE.—In any prosecution of an applicant under chapter 79 for false assertions or other conduct in proceedings under this section, the court, upon conviction of the applicant, shall sentence the applicant to a term of imprisonment of not less than 3 years, which shall run consecutively to any other term of imprisonment the applicant is serving.

''(g) POST-TESTING PROCEDURES; MOTION FOR NEW TRIAL OR RESENTENCING.—

''(1) IN GENERAL.—Notwithstanding any law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a motion for a new trial or resentencing, as appropriate. The court shall establish a reasonable schedule for the applicant to file such a motion and for the Government to respond to the motion.

''(2) STANDARD FOR GRANTING MOTION FOR NEW TRIAL OR RESENTENCING.—The court shall grant the motion of the applicant for a new trial or resentencing, as appropriate, if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by a preponderance of the evidence that a new trial would result in an acquittal of—

''(A) in the case of a motion for a new trial, the Federal offense for which the applicant is under a sentence of imprisonment or death; and

''(B) in the case of a motion for resentencing, another Federal or State offense, if—

''(i) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

''(ii) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or a new sentencing proceeding.

''(h) OTHER LAWS UNAFFECTED.—

''(1) POST-CONVICTION RELIEF.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other law.

''(2) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.

''(3) APPLICATION NOT A MOTION.—An application under this section shall not be considered to be a motion under section 2255 for purposes of determining whether the application or any other motion is a second or successive motion under section 2255.

''§ 3600A. Preservation of biological evidence

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

''(b) DEFINED TERM.—For purposes of this section, the term 'biological evidence' means—

''(1) a sexual assault forensic examination kit; or

''(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

''(c) APPLICABILITY.—Subsection (a) shall not apply if—

''(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

''(2) the defendant knowingly and voluntarily waived the right to request DNA testing of such evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2004;

''(3) the defendant is notified after conviction that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice; or

''(4)(A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

''(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing.

''(d) OTHER PRESERVATION REQUIREMENT.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

''(e) REGULATIONS.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2004, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

''(f) CRIMINAL PENALTY.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

''(g) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 228 the following:

''228A. Post-conviction DNA testing .. 3600''.

(b) SYSTEM FOR REPORTING MOTIONS.—

(1) ESTABLISHMENT.—The Attorney General shall establish a system for reporting and tracking motions filed in accordance with section 3600 of title 18, United States Code.

(2) OPERATION.—In operating the system established under paragraph (1), the Federal courts shall provide to the Attorney General any requested assistance in operating such a system and in ensuring the accuracy and completeness of information included in that system.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that contains—

(A) a list of motions filed under section 3600 of title 18, United States Code, as added by this Act;

(B) whether DNA testing was ordered pursuant to such a motion;

(C) whether the applicant obtained relief on the basis of DNA test results; and

(D) whether further proceedings occurred following a granting of relief and the outcome of such proceedings.

(4) ADDITIONAL INFORMATION.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this Act, and any recommendations the Attorney General may have relating to future legislative action concerning that section.

(c) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect to any offense committed, and to any judgment of conviction entered, before, on, or after that date of enactment.

SEC. 412. KIRK BLOODSWORTH POST-CONVICTION DNA TESTING GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General shall establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program to award grants to States to help defray the costs of post-conviction DNA testing.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

(c) STATE DEFINED.—For purposes of this section, the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 413. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 303, 305, 307, and 412 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 303, 305, 307, or 412, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act (or extended or renewed after such date), to any person convicted after trial and under a sentence of imprisonment or death for a State offense, in a manner that ensures a meaningful process for resolving a claim of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act, or under a State rule, regulation, or practice, to any person under a sentence of imprisonment or death for a State offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act, in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

Subtitle B—Improving the Quality of Representation in State Capital Cases

SEC. 421. CAPITAL REPRESENTATION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) DEFINED TERM.—In this section, the term ''legal representation'' means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) USE OF FUNDS.—Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) EFFECTIVE SYSTEM.—As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation; or

(C) pursuant to a statutory procedure enacted before the date of the enactment of this Act under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E) monitor the performance of attorneys who are appointed and their attendance at training programs, and remove from the roster attorneys who fail to deliver effective representation or who fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; and

(F) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

SEC. 422. CAPITAL PROSECUTION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) USE OF FUNDS.—

(1) PERMITTED USES.—Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

(2) PROHIBITED USE.—Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

SEC. 423. APPLICATIONS.

(a) IN GENERAL.—The Attorney General shall establish a process through which a State may apply for a grant under this subtitle.

(b) APPLICATION.—

(1) IN GENERAL.—A State desiring a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 421(d)(1)(C), a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this subtitle shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this subtitle; and

(ii) allocated in accordance with section 426(b).

SEC. 424. STATE REPORTS.

(a) IN GENERAL.—Each State receiving funds under this subtitle shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

(b) CAPITAL REPRESENTATION IMPROVEMENT GRANTS.—With respect to the funds provided under section 421, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 421(d)(1)(A), an entity described in section 421(d)(1)(B), or selection committee or similar entity described in section 421(d)(1)(C); and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 421(d)(1)(C), to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 421(d)(2)(A);

(ii) establish and maintain a roster of qualified attorneys in accordance with section 421(d)(2)(B);

(iii) assign attorneys from the roster in accordance with section 421(d)(2)(C);

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 421(d)(2)(D);

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 421(d)(2)(E); and

(vi) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 421(d)(2)(F), including a statement setting forth—

(I) if the State employs a public defender program under section 421(d)(1)(A), the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 421(d)(1)(B), the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 421(d)(1)(C), an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

(c) CAPITAL PROSECUTION IMPROVEMENT GRANTS.—With respect to the funds provided under section 422, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 422(b)(1)(A);

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(B);

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(C);

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 422(b)(1)(D);

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 422(b)(1)(E); and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

(d) PUBLIC DISCLOSURE OF ANNUAL STATE REPORTS.—The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

SEC. 425. EVALUATIONS BY INSPECTOR GENERAL AND ADMINISTRATIVE REMEDIES.

(a) EVALUATION BY INSPECTOR GENERAL.—

(1) IN GENERAL.—As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this title, the Inspector General of the Department of Justice (in this section referred to as the ''Inspector General'') shall—

(A) after affording an opportunity for any person to provide comments on a report submitted under section 424, submit to Congress and to the Attorney General a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations for corrective action.

(2) PRIORITY.—In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of noncompliance.

(3) DETERMINATION FOR STATUTORY PROCEDURE STATES.—For each State that employs a statutory procedure described in section 421(d)(1)(C), the Inspector General shall submit to Congress and to the Attorney General, not later than the end of the first fiscal year for which such State receives funds, after affording an opportunity for any person to provide comments on a certification submitted under section 423(b)(2)(D), a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

(b) ADMINISTRATIVE REVIEW.—

(1) COMMENT.—Upon receiving the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

(2) CORRECTIVE ACTION PLAN.—If the Attorney General, after reviewing the report under subsection (a)(1) or the determination under subsection (a)(3), determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall, within 30 days, direct the State to take corrective action to bring the State into compliance.

(3) REPORT TO CONGRESS.—Not later than 90 days after the earlier of the implementation of a corrective action plan or a directive to implement such a plan under paragraph (2), the Attorney General shall submit a report to Congress as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

(c) PENALTIES FOR NONCOMPLIANCE.—If the State fails to take the prescribed corrective action under subsection (b) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 421 and 422 and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this subtitle in another fiscal year.

(d) PERIODIC REPORTS.—During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) ADMINISTRATIVE COSTS.—Not less than 2.5 percent of the funds appropriated to carry out this subtitle for each of fiscal years 2005 through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) SPECIAL RULE FOR ''STATUTORY PROCEDURE'' STATES NOT IN SUBSTANTIAL COMPLIANCE WITH STATUTORY PROCEDURES.—

(1) IN GENERAL.—In the case of a State that employs a statutory procedure described in section 421(d)(1)(C), if the Inspector General submits a determination under subsection (a)(3) that the State is not in substantial compliance with the requirements of the applicable State statute, then for the period beginning with the date on which that determination was submitted and ending on the date on which the Inspector General determines that the State is in substantial compliance with the requirements of that statute, the funds awarded under this subtitle shall be allocated solely for the uses described in section 421.

(2) RULE OF CONSTRUCTION.—The requirements of this subsection apply in addition to, and not instead of, the other requirements of this section.

SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR GRANTS.—There are authorized to be appropriated $100,000,000 for each of fiscal years 2005 through 2009 to carry out this subtitle.

(b) RESTRICTION ON USE OF FUNDS TO ENSURE EQUAL ALLOCATION.—Each State receiving a grant under this subtitle shall allocate the funds equally between the uses described in section 421 and the uses described in section 422, except as provided in section 425(f).

Subtitle C—Compensation for the Wrongfully Convicted

SEC. 431. INCREASED COMPENSATION IN FEDERAL CASES FOR THE WRONGFULLY CONVICTED.

Section 2513(e) of title 28, United States Code, is amended by striking ''exceed the sum of $5,000'' and inserting ''exceed $100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and $50,000 for each 12-month period of incarceration for any other plaintiff''.

SEC. 432. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

The SPEAKER pro tempore. After one hour of debate on the bill, it shall be in order to consider the amendment printed in House Report 108–737 if offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) or his designee, which shall be considered read and shall be debatable for 20 minutes, equally divided and controlled by the proponent and an opponent.

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

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

Mr. Speaker, I rise today in support of H.R. 5107, the Justice for All Act of 2004. This bill is called ''justice for all'' because it will enhance the rights and protections of all persons who are involved in the criminal justice system.

It does this through two different but complimentary mechanisms. First, a new set of statutory victims' rights that are both enforceable in a court of law and supported by fully-funded victims-assistance programs; and, two, a comprehensive DNA bill that seeks to ensure that the true offender is caught and convicted of the crime.

Victims of crime have long complained that theirs are the forgotten voices in the criminal justice system. For example, Roberta Roper, whose daughter Stephanie was kidnapped, brutally raped, tortured and murdered in 1982, testified before the Subcommittee on the Constitution that, unlike her daughter's killers, she had no right to be informed, no rights to attend the trial and no rights to be heard before sentencing.

□ 1115

Her experience, and that of many others like her, have led victims' rights advocates to push for a victims' rights statute to counterbalance the rights provided to the accused under the Constitution.

The victims' rights portion of this bill originated with S. 2329, which passed the Senate on April 22, 2004, by a vote of 96 to 1. Like S. 2329, this bill contains eight enumerated rights for the victim, including the right to be reasonably protected from the accused, the right to timely notice of public court proceedings involving the crime, the right not to be excluded from such public court proceedings, the right to be reasonably heard at those proceedings, the reasonable right to confer with the prosecutor, the right to restitution, the right to proceedings free from unreasonable delay and the right to be treated with fairness and respect.

Each of these rights is enforceable by both the prosecutor and the crime victim. The crime victim and the prosecutor may assert the crime victim's right and, if necessary, seek a stay of any proceedings in which the victim's rights are being denied. The government or the crime victim can then seek a writ of mandamus from the appropriate Court of Appeals to ensure that the crime victim's rights are protected.

In addition, the Justice for All Act contains important provisions to ensure that the criminal justice system will continue to operate in an efficient manner and that there will be an appropriate level of finality to all proceedings.

Finally, this legislation will provide funds for victims' assistance programs at both the Federal and State level. Of particular importance are funds to support programs that provide legal counsel for crime victims. These funds will help to develop a body of laws to protect the rights of victims in the Federal courts. The National Crime Victim Law Institute is but one example of an organization that provides the type of legal counsel envisioned by the bill.

The bill is not identical to the Senate-passed bill, but it is close. Since Senate passage, the committee has worked with many interested parties on these issues. That process resulted in H.R. 5107 which, as introduced, addressed many of the concerns raised by S. 2329. However, at the Committee on the Judiciary's markup, I stated that we will continue to work on this bill until we have the best bill possible. After several more weeks of negotiations, I believe that the manager's amendment, which I will offer in a bit, moves even further in the right direction and now represents that best possible bill.

The second important element of the Justice for All Act contained in titles II through IV pertains to the use of DNA technology. These provisions come from H.R. 3214 which passed the House by a vote of 357 to 67 on November 5, 2003, but continues to await action in the Senate. The DNA portion of the Justice for All Act as introduced was identical to the version of H.R. 3214 passed by the House last November.

Titles II through IV of the Justice for All Act seek to resolve another problem that victims face, the frustration and depression over the length of time it takes to track down and apprehend the attacker. DNA samples can help to quickly apprehend offenders and solve crimes if law enforcement agencies have access to the most up-to-date testing capabilities. Additionally, DNA technology is increasingly vital to ensuring accuracy and fairness in the criminal justice system. DNA can identify criminals with incredible accuracy when biological evidence exists, and DNA can be used to clear suspects and exonerate persons mistakenly accused or convicted of crimes.

The current Federal and State DNA collection and analysis system needs improvement. The Justice for All Act will provide the necessary funding to ensure these critical programs have access to the necessary equipment and training. It will provide funds to eliminate the backlog of DNA samples in need of testing and provide greater access to potentially exculpatory evidence to those who may have been wrongfully convicted of a crime.

However, as we did with the victims' rights portion of the bill, we have continued to work with all parties to address concerns relating to the DNA testing portions of the bill. Those changes, which are reflected in the manager's amendment, greatly improve the bill, and I will describe them in greater detail when the amendment comes up.

As I mentioned earlier, this bill has been the process of lengthy negotiations among many different parties. Most of the parties have worked to get this result, and I think they now believe that this is a good product. Unfortunately, however, the Department of Justice was unable to come to this conclusion. I, and the other cosponsors of this legislation, bent over backwards to satisfy their concerns. No matter how much we bent, nothing would satisfy them. As chairman of the committee with the authorizing jurisdiction over the department, I am very disappointed with its position on this bill. This bill contains many, many good things for the department, and its absolute obstinence despite many, many efforts to compromise is completely unreasonable.

This reminds me of the debate over the breakup of the Immigration and Naturalization Service in 2002, a clearly dysfunctional agency that needed reform. Out of blind bureaucratic inertia, the department opposed that much-needed legislation until the very last moment. In short, Mr. Speaker, I sincerely hope that the department will come to its senses, throw off its blinders and endorse this good and important legislation.

I would finally like to thank those who did cooperate in this process. The chairman of the Subcommittee on the Constitution, the gentleman from Ohio (Mr. CHABOT) has been a tireless advocate for victims' rights, as well as the gentleman from Michigan (Ranking

Member CONYERS), the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Wisconsin (Mr. GREEN), the gentleman from Illinois (Mr. LAHOOD), the gentlewoman from New York (Mrs. MALONEY), and all of the other important cosponsors for this important bill.

In addition, I want to thank my own staff, Katy Crooks, and general counsel, Philip Kiko, Jay Apperson, and Stewart Jeffries, as well as staffers of the gentleman from Massachusetts (Mr. DELAHUNT), Mark Agrast and Christine Leonard. This would not have happened without their tireless work. I urge my colleagues to support this very good bill.

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

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

Mr. Speaker, as the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) just indicated, this is really the culmination of an extraordinary bipartisan effort towards a common goal. I would echo his kudos for so many Members on both sides of the aisle, as well as staff. My colleague, the gentleman from Illinois (Mr. LAHOOD) who has been here from the beginning; this has been an odyssey, if you will, of some 4 or 5 years. On our side of the aisle, I want to make particular note of the efforts of the gentleman from New York (Mr. WEINER), the gentleman from California (Mr. SCHIFF), the gentleman from Virginia (Mr. SCOTT), the gentlewoman from New York (Mrs. MALONEY) and, of course, my friend who I serve with on the Committee on the Judiciary, my colleague, the gentleman from Wisconsin (Mr. GREEN). But it has to be stated that without the efforts of the distinguished chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), we would not be here today. It is really that simple, and I want to acknowledge his Herculean efforts.

This comprehensive legislation seeks to repair, if you will, the two sides of injustice when mistakes happen. I encourage my colleagues, Mr. Speaker, to consider today that the victims of the criminal justice system do not always look alike; they just get caught in this system in different ways. Think of victims like Debbie Smith of Virginia for whom title II of this bill is named. As she has said, and these are her words, ''It gives no comfort to the victims and their families to know that the wrong person is behind bars and the real perpetrator is free to walk the streets'' and commit that crime again.

Debbie Smith is a courageous advocate who has done so much to help her fellow survivors of sexual assault. Yet, it took 6 years for the DNA evidence to be tested in her case, evidence that ultimately led to the capture of that rapist. Only then was she free from what she has called an ''emotional prison.''

And there are other categories of victims in America today, individuals charged with false accusations and imprisoned based on wrongful convictions. Like my friend, Kirk Bloodsworth of Maryland, the first death row inmate to be exonerated by DNA testing after 10 years on death row. Kirk had to convince his lawyer to get the test. DNA established Kirk's innocence, and it also led to the identification and conviction of the real perpetrator, the real murderer, within this past year.

Debbie Smith and Kirk Bloodsworth are both among the innocent whom we seek to protect, Mr. Speaker. Think of the human costs when an innocent person is executed or spends long years in jail. Imagine the scars of a victim who waits years to know the identity of their assailant. Mr. Speaker, we are not talking about hypothetical scenarios here; we are talking about real people, ordinary Americans facing the most extreme miscarriages of justice.

Just this past week in Michigan, a murder case was thrown out of court after DNA evidence demonstrated that the defendant was innocent. Almost every week there is a news story about the use of DNA evidence to exonerate the innocent. Earlier this year in Texas, DNA exonerated Josiah Sutton. During Mr. Sutton's trial, he asked for a DNA test, but his attorney told him that he did not have enough money to obtain it. Mr. Sutton was convicted on charges of rape and sentenced to 25 years in prison.

Four and a half years into that sentence, Mr. Sutton benefited from a moment of serendipity, pure chance, if you will. Listening to the radio, his mother heard about an investigation into DNA testing problems at a Houston crime lab. She called reporters, who agreed to investigate. A UCLA professor conducted an analysis of the DNA evidence and concluded there was no basis for Mr. Sutton's conviction. Since then, he has been fully exonerated, and the crime lab has been shut down.

Well, this bill would help the States protect victims. This comprehensive legislation, as the chairman indicated, contains four titles. I will not review them now; the chairman has done a more than adequate job. It also includes the original bill that was filed by myself and the gentleman from Illinois (Mr. LAHOOD) entitled the Innocence Protection Act. And here, in the final hours of this legislative session, the version of the Innocence Protection Act that is included in this bill, it is not all that we wanted, but it is an important step forward, and as I just enumerated by pointing just to two different cases, it is long overdue.

Mr. Speaker, the criminal justice system is about the search for the truth, and like all human enterprises, it is fallible. Judges and jurors and police, eye witnesses, defense counsel and prosecutors are all human beings and all make mistakes. I served as a prosecutor for some 20 years. I made mistakes, and those mistakes are etched forever in my mind.

But we have the means now at our disposal to minimize the possibility of error, and especially where lives are at stake, we have no choice, we have no option, we must take advantage of them. Because this bill at its core is about restoring public confidence in the integrity of the American justice system, that system, which really does set us apart, sets our democracy apart among the family of nations, that makes us the viable, healthy democracy that we are.

So I would encourage my colleagues to accept the manager's amendment, to pass this bill, and, hopefully, in the course of the next several days, there will be an awakening, if you will, elsewhere in this city, and the bill should be signed before too long, because our system is at stake.

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

□ 1130

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the original author of the Innocents Protection Act, the gentleman from Illinois (Mr. LAHOOD).

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

Mr. LAHOOD. Mr. Speaker, I offer my thanks to the chairman of the committee for hanging in there with us and being so persistent about this important piece of legislation. My thanks to the gentleman from Massachusetts (Mr. DELAHUNT) for also hanging in there with us 5 years ago when he and I collaborated on this and introduced this bill. I think we had an idea it would take this long, but I think we are getting close. And if we can persuade the other body that this is the right approach and a good bill, I think we will have come a long way over the last 5 years to perfect a bill.

I really thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER). He really has helped us perfect this idea that there has to be 100 percent certainty in capital cases and in death penalty cases.

As a proponent of capital punishment, I believe very strongly that it can be a deterrent, but there has to be 100 percent certainty; and that is really what one of the titles the Innocents Protection Act's title of this bill really allows for and provides for. We could not be here today without really the leadership of the chairman. So I am grateful to him.

When we look in the eyes of people like Kirk Bloodsworth and Debbie Smith and to be able to tell them that we are getting close to solving some very serious problems and really trying to get to perfection in a flawed system. I am very proud of the students at the Northwestern University in Chicago for the work that they did that really highlighted the flaw in this system after a study where they looked at all death penalty cases in Illinois.

And as a result of their study, 12 people were released from death row because it was found that they were innocent. And at that point I think we all realized that there were 12 people on the street that were guilty of the crimes that were free people. And that kind of initiative and that kind of study really emboldened us to move ahead with this legislation. We could not have done it without them.

We could not have done it without the determination of people like Kirk Bloodsworth and Debbie Smith and the chairman and the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. Speaker, I have prepared remarks that really go into more detail, but I just wanted to be here today to say thanks to all those who have had the determination to make this happen. I ask all Members to support this bill.

Mr. Speaker, I rise today as a supporter of the death penalty, and supporter of this bill. In the 106th and 107th Congresses, I sponsored the Innocence Protection Act with Mr. DELAHUNT, which is now included as section 3 in the Justice For All Act.

I am a proponent of the death penalty, as a deterrent to violent crime, and this bill provides the materials necessary to repair our flawed system. I believe that those of us that support the death penalty have a responsibility to ensure it is applied fairly. As a just society, we must condemn the guilty, exonerate the innocent, and protect all Americans' fundamental right to truth. It is my belief that this legislation allows us to save the death penalty, to know that we are utilizing it in instances where we are confident of wrongdoing.

Mr. Speaker, we cannot afford one more innocent life to be lost due to inexperienced counsel, or unprocessed DNA kits. We must permit inmates access to post-conviction DNA testing to establish innocence and compensate those who have served time for crimes they did not commit.

In order to continue to rightfully punish our guilty, we must establish minimum standards of competency for counsel in capital cases. As long as innocent Americans are on death row, the guilty remain on our streets. This legislation would increase public confidence in our Nation's judicial system as it relates to the death penalty. Individuals have spent years on death row for crimes they did not commit.

A death sentence is the ultimate punishment. Its absolute finality commands that we be 100 percent certain of an individual's guilt. In protecting the innocent, we also make sure the guilty do not go free.

I applaud the chairman for his determination in crafting this bipartisan piece of legislation that assures fundamental accuracy and fairness in our judicial system.

Mr. DELAHUNT. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. SCHIFF), a distinguished colleague and prominent member of the House Committee on the Judiciary.

Mr. SCHIFF. Mr. Speaker, as a cosponsor of the Advancing Justice Through DNA Technology Act of 2003, which passed overwhelmingly in the House in November 2003, I rise in strong support of the bill on the floor today, the Justice For All Act, which I am also proud to be an original cosponsor of.

At the outset I want to compliment my colleague, the gentleman from Massachusetts (Mr. DELAHUNT). From the very beginning we spoke about this bill, two former prosecutors, and while I had been focused mainly on the power of DNA to solve unsolved crimes, to go after violent felons who still walk the streets, my good friend, the gentleman from Massachusetts (Mr. DELAHUNT), made the equally compelling point that DNA evidence has the power to exonerate those charged with the most serious crimes, to exonerate those on death row even; as has been proved the case, not merely calling into question evidence in an original trial, but rather proving conclusively the innocence of people who faced the ultimate penalty.

The DNA database improvements in this bill will help solve countless crimes and also exonerate innocent individuals wrongly imprisoned.

As a former prosecutor, I have witnessed the powerful force that DNA profiles have in solving crimes. The FBI's DNA database contains around 2 million DNA profiles and has yielded thousands of matches in criminal investigations, but thousands of additional matches can and should be made. For this reason I worked on legislation last year to increase the effectiveness of DNA databases. This legislation was aimed at replicating on a nationwide basis the tremendous State successes in solving crimes using DNA.

States have taken the lead in expanding DNA and crime-solving efforts. For example, in Virginia those efforts have yielded tremendous results with forensics officials making over a thousand cold hits, finally providing resolution to a great number of unsolved crimes. The legislation before us today makes important changes in Federal law in order to replicate these tremendous successes on a nationwide basis. These additional tools will provide additional database searching capabilities for Federal, State and local law enforcement agencies, helping to solve thousands of cold cases including unsolved murders and unsolved rape cases.

In addition, the authorization of much needed funding to eliminate the current backlog of unanalyzed DNA samples in the Nation's crime labs and the important Innocents Protection Provision will help ensure that inmates have access to DNA testing to establish their innocence.

I am pleased the House of Representatives is poised to approve these changes in a bipartisan fashion, and I hope this legislation will be approved by the Congress as a whole and quickly enacted into law.

In conclusion, I want to again thank my colleague, the gentleman from Massachusetts (Mr. DELAHUNT), for his pioneering efforts on the Innocents Protection Act for bringing really to this body an awareness of the power of DNA to exonerate those who have been wrongly convicted of the most devastating cases facing the ultimate penalty. We could not have more important work before this body.

I want to compliment the commitment of the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his superlative leadership in this legislation, without which we would not be here on the floor today.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I want to commend the chairman and thank him for his leadership, particularly the aspect of the bill which promotes and supports victims of crime.

Providing crime victims with dignity and respect through an established and enforceable set of rights ensures that justice is not reserved only for the accused but extends to those who have personally been affected by the crimes. And after all, we have thousands and thousands of people in this country that are affected in an adverse way by crime every single year.

The proposal before us today, the Justice For All Act, H.R. 5107, draws heavily from the Crime Victim's Rights legislation providing victims with substantive enforceable rights such as the right to be present during proceedings and the right to confront assailants at those proceedings and the right to be notified about the release or escape of the perpetrator from custody.

I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) also for including in the bill protections that DNA testing can afford families who may have members missing or their remains unidentified.

I want to particularly thank and recognize the courageous person in the greater Cincinnati area, that is Deborah Culberson, who lost her daughter, Keri, to a terrible murder, and the perpetrator is behind bars, but they have not been able to locate or identify her daughter's remains. And she has stepped forward and she has been just a very forceful person behind making sure that we have a DNA database which families who have lost loved ones may be able to identify and, therefore, provide at least some closure to that family. It is a terrible tragedy.

This may not directly benefit her, but it may benefit others in the future who face these tragedies in their own families.

There is no question that the rights afforded by H.R. 5107 are a positive step toward making certain justice is served not only for the accused but for the innocent victims. I would strongly encourage very strong bipartisan support for this legislation. It is important legislation. Some of it is a first step and many of us think we may in the future be able to go further. But I think this is a very positive step. I want to once

again thank and recognize the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership on this.

Mr. DELAHUNT. Mr. Speaker, I yield 3½ minutes to the gentleman from New York (Mr. WEINER), a member of the committee who has championed a particular title in this bill and who has brought to the attention of the Committee on the Judiciary the need to do something about testing for rape kits.

Mr. WEINER. Mr. Speaker, it is remarkable that in DNA people see this issue through many different prisms, all of them positive. For those of us in this Chamber who are concerned about law enforcement, DNA is truly a miracle. It is better than a fingerprint. It is better than a video tape. It is better than an eye witness. It is better than a lie detector. With DNA we can find out who did a crime, and as other speakers have spoken to here, we can also find out who did not do it.

But the prism I look at this issue through was formed early in my congressional career. The prism I look at DNA through is a series of cardboard boxes all stacked in a refrigerated warehouse in Long Island City. That is where I found rape kits that were evidence for crime scenes, completely anonymous except for the numbers written on the side of these cardboard boxes, 16,000 of them in early 1999 when I was first elected, all collected at crime scenes in New York City, all that had not been analyzed, all that had not been processed, all representing a victim that was awaiting justice.

That backlog is heartrending. That backlog does not represent a simple number on the box. That backlog represent an individual, an individual crime. And the mystery was that it was not being stored in that refrigerated warehouse because of any bureaucratic problem. It was not being stored there because of any legal loggerhead. It came down to one thing: money.

In 1999 I was proud to introduce in this House for the first time an authorization for congressional funding to help cities and states dig out of their backlog. With former Congressman Gilman and former Congressman McCollum we passed for the first time the Backlog Elimination Act. Because of that law, now localities across this country have been able to reduce their backlogs. They have not been eliminated. Also authorized in that law was a study that we learned the problem was not just in New York City; it was in small-town sheriffs' offices all around this country, in suburbs, in communities large and small.

The analysis of those rape kits did not just provide statistics; it provided hits on cold cases. In New York City alone 154 cold cases that had been put on the shelf literally and figuratively were solved. They got leads in more than 200 other cases.

Let us remember the nature of sexual assault. Experts tell us again and again that it is a recidivist crime. Someone that we are able to catch once and take off the street could conceivably not only solve several crimes but prevent several more from happening.

Last year the gentleman from Wisconsin (Mr. GREEN) and I tried to ramp up this issue one more time. And we realized that we had in partnership the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Illinois (Mr. LAHOOD), who also saw DNA testing as an enormous opportunity. I believe we have crafted under the guidance of the gentleman from Wisconsin (Mr. SENSENBRENNER), frankly, a bill that in anyone's prism would be seen as positive. There is no reason even in this moment of pitch partisanship in this House and in the other body, even in this time there is no reason why we should sit any longer on this legislation.

I would urge in the strongest possible terms that we pass this legislation. We have passed in similar ways out of the committee and on this floor before. We have unified this House behind the issue of using DNA to bring justice to those who did crimes, justice to those who did not do crimes, and justice to those victims of crimes and their families.

I would urge in the strongest terms possible that we not allow election-year politics to stop the other body from doing justice by this legislation. I urge passage of H.R. 5107.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Speaker, let me begin by joining my voice with others in saluting the chairman. Without his tireless efforts, quite simply we would not be here today, and also, of course, the gentlewoman from New York (Mrs. MALONEY), the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Illinois (Mr. LAHOOD), the gentleman from Ohio (Mr. CHABOT), and the gentleman from New York (Mr. WEINER). Their ideas have made this bill so much better, so much stronger and we are all in their debt.

Mr. Speaker, over 300,000 women and 92,000 men are raped each year in this country, the United States. Those numbers represent lives destroyed and families shattered. Today we fight back. We will put an end to headlines like this one from CNN dated June 29, 2004: ''A suspected serial rapist on the street while his DNA sat in the police crime lab for years.''

□ 1145

The rapist in that case reported assaulting upwards of 50 women since 1988, and yet his DNA sat untested for 2½ years in an Ohio crime lab. I wish I could tell my colleagues that that case was unique. Hardly.

There are thousands and thousands and thousands of untested crime scene DNA kits collecting dust on shelves. That means that there are likely innocent Americans wrongly sitting behind bars, and even more likely, guilty Americans still walking the streets. How can we not act and act today?

This bill will help. This bill will save lives.

Title II of the bill, the Debbie Smith Act, will provide grants to State and local authorities to get rid of their backlogs, to train more experts, to ensure better handling and processing of evidence.

In fact, some estimate that it could quickly lead to solving as many as 66,000 open rape and murder cases. That is 66,000 victims and their families who would finally have a little justice and, perhaps, just perhaps, a little peace of mind.

How can we not act on this measure? How can we not offer this lifeline to victims and their families? How can we not act to prevent future crimes by tracking down those who have already attacked and will most certainly attack again?

This is good work. It is important work. I urge my colleagues' support. Let us get this done.

Mr. DELAHUNT. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. NADLER), one of the leaders on the Democratic side on the House Committee on the Judiciary.

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

I rise in support of the Advancing Justice Through DNA Act. Although the science of DNA analysis has vastly improved our ability to identify the guilty and to exonerate the innocent, neither our laws nor the resources we have made available have allowed our criminal justice system to make full use of that technology. This legislation would go a long way toward correcting that terrible gap.

I want to congratulate, in particular, the gentleman from Massachusetts (Mr. DELAHUNT) who introduced the Innocence Protection Act several years ago and has worked tirelessly on this matter ever since. We all owe him a great debt of gratitude. No one whose innocence can be proved by DNA evidence should languish in prison because of procedural or financial obstacles to the use of that DNA evidence, and no one whose guilt can be proved by DNA evidence should remain unconvicted and free to menace others because of procedural or financial obstacles to the use of that DNA evidence.

It is imperative, in connection with one of the titles of this bill, that we eliminate the shameful backlog of untested rape kits, and this bill will go a long way towards that goal. I have worked with NOW, RAINN and Lifetime Television to raise awareness of this issue and to build consensus for decisive action. Together, we have pushed, prodded and demanded that Federal funding be provided to test these kits quickly. Today, we are one step closer to that goal.

I am pleased that this bill includes a provision very similar to the Rape Kit DNA Analysis Backlog Elimination

Act, which I introduced in March of 2002. That legislation would have provided $250 million to eliminate the rape kit backlog. I am also pleased that, like my bill and like the bill introduced by the gentleman from New York (Mr. WEINER) and the gentlewoman from New York (Mrs. MALONEY), this legislation adds funding specifically for rape kits.

But we are not there yet. These programs still need to be funded, and I am hopeful that we will not simply authorize funding for these programs, as this bill does and as I hope the Senate will go along with, but I am hopeful that we will also actually appropriate the money we are today acknowledging is needed to do the job right.

This issue is too important to ignore. Police departments must have the resources they need to solve crimes and put criminals behind bars.

This legislation represents a serious effort to combat crime, to locate and apprehend rapists, to use powerful evidence to put them in prison, and in the larger sense, it also represents a serious effort to take out of prison people who do not belong there in light of the capability of DNA evidence to prove their innocence.

We have adopted similar legislation before. I urge its adoption now, and I hope the Senate will go along.

I thank the gentleman for yielding me time.

Mr. DELAHUNT. Mr. Speaker, I yield 4½ minutes to the gentlewoman from New York (Mrs. MALONEY), who also has been a champion in terms of protecting the victims of rape and making an effort to secure the apprehension of those who perpetrated that particularly heinous crime.

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me time and for his leadership on so many important issues before this body.

Mr. Speaker, I rise in strong support of the Justice for All Act, and I would like to commend the truly heroic leadership of the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Michigan (Ranking Member CONYERS) and the efforts of many, the gentleman from New York (Mr. NADLER), the gentleman from New York (Mr. WEINER), the gentleman from Illinois (Mr. LAHOOD) and especially the gentleman from Massachusetts (Mr. DELAHUNT) for his tireless work on the Innocence Protection Act and for my colleague, the gentleman from Wisconsin (Mr. GREEN), who has worked selflessly on passing the Debbie Smith Act for many, many years.

This marks the second time this bill has passed this body this year, and I do not understand why both bodies cannot come together to pass the same legislation, which so many people support in a bipartisan manner, that will lock up the guilty and free the innocent. The longer we delay, the longer the victims of sexual assault and rape must wait to see their attackers put in prison.

This bill includes provisions to protect the rights of crime victims, as well as legislation, the Advancing Justice Through DNA Technology Act, which includes the Debbie Smith Act and the Innocence Protection Act; and the House overwhelmingly passed, last year, both of these to improve the use of DNA technology in prosecuting criminals.

DNA is accurate, it never forgets, it cannot be intimidated by a prosecutor; and we have to put this technology to use in convicting criminals and freeing the innocent.

In the 105th Congress, I offered legislation to provide funding to process the backlog of DNA evidence in rape cases. After holding a hearing, along with former Representative Steve Horn, with a courageous rape survivor, Debbie Smith, she recounted how in 1989 she was dragged from her kitchen and raped in her backyard while her husband was asleep upstairs. She lived in fear for years because the rapist said that he would come back and kill her. Then she finally learned after 6 years that, through DNA processing, they had found a cold hit identifying her assailant, who had been jailed 6 months after her assault for another crime, but for 6 long years she literally lived in agony.

It was because of Debbie Smith's story that I introduced the Debbie Smith Act, which would help combat the epidemic of violence against women in the United States, where a sexual assault occurs every 2 minutes.

We know that DNA processing techniques could serve as a conclusive proof in countless other rape cases, and many of us were outraged when we learned that there were hundreds of thousands of backlogged rape kits collecting dust across this country, but they did not have adequate support for the crime labs and adequate government funding to process them.

The bill would accomplish several critical objectives in Title II of the bill, the Debbie Smith Act, which includes providing funding to process the backlog of DNA evidence, setting national standards for DNA evidence collection, creating a national DNA file in the FBI for rapists and criminals who cross State lines, and providing grant money for a sexual assault forensic examiner program. The police tell us if they have the evidence from the same program, it almost always leads to a conviction. It also provides funding to train law enforcement authorities on the collection and handling of DNA evidence.

I want to say that the dismal reality in this country is that only 6 percent, according to the FBI, only 6 percent of women who have been raped will ever see their attacker spend a day in jail. Yet we know that each unprocessed DNA kit represents a life like Debbie Smith's, and it represents a rapist which the FBI tells us will attack, on the average, eight times. By processing this evidence, we may be able not only to convict rapists, but to prevent them from harming other men and women in our country.

So this is tremendously important legislation, and the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Illinois (Mr. LAHOOD) have talked about other aspects of it. We should all join in passing it. I hope that every Member of this body will join in supporting this important effort.

May I add that Lifetime Television started a national petition in support of this bill. Many, many organizations, RAINN and others, have worked tirelessly with this body to pass it. We thank them, too.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

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

I just want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for such hard work on this bill and for making the changes that they have made to it to make it a better bill. I also want to commend the gentleman from Massachusetts (Mr. DELAHUNT) for his untiring work on this issue over so many years, and certainly we need something like this bill. We need to make sure that those who are innocent have their day in court, all they need in court.

I do have some concerns about this bill. I feel compelled to note them. There are still some problematic areas here.

For example, H.R. 5107 contains a provision permitting post-conviction DNA testing of convicts who have pleaded guilty. Even though those convicts may have not even requested DNA testing that was available at the time of their trial, this will permit defendants to reopen cases, to retraumatize victims and waste resources, even if there is no reason to think that testing will change the outcome of the case.

The bill also contains a 5-year limitation on the duration of its proposed post-conviction DNA testing remedy, but it also contains a large loophole. A convicted inmate may seek new testing more than 5 years after the conviction if they can prove that it is in the interest of justice. This is an opportunity to flout the time limits and will undoubtedly attract lawyers to do so. There is no reason to permit this testing past the 5-year mark. To do so simply invites abuse and retraumatizes victims.

A person who is actually innocent, think about it, they have every reason to seek relief promptly, to request an available test immediately. Those who seek to delay that are simply looking to hide something. They are looking to delay until it is impossible for the government to retry the case. Think about it. Years later, if we have a case where eyewitness and other testimony might conflict or actually supplement or add to DNA testing there, it is impossible to retry a case 20 years later because witnesses may be gone, other evidence may be gone. So we need to make sure

that the remedies are sought early, not later.

With that, I hope that these other concerns are addressed with the other body so that we can have a good bill on this subject.

Mr. DELAHUNT. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. RUSH), my friend, who has championed justice throughout his career. And I would point out that it was in Illinois, through the efforts of some students at the Northwestern School of Journalism that first brought this to the attention of the country, and that a former governor in Illinois, George Ryan, had the courage to raise this issue, to make it a national issue and to bring it to the attention of those who are concerned about the search for truth.

Mr. RUSH. Mr. Speaker, I rise in support of the bill, H.R. 5107.

Mr. Speaker, I want to congratulate the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the full committee, and I certainly want to congratulate and commend the gentleman from Massachusetts (Mr. DELAHUNT).

□ 1200

The gentleman's tireless work, his dedicated work over the many years has certainly borne fruit in this legislation, and I want to extend my congratulations to all those who have played such a vital role in bringing this legislation to the floor here this morning.

Mr. Speaker, the legislation that we are considering provides grants, approximately $2 billion over 5 years, to States and local governments for DNA testing. This bill would help eliminate the backlog in the testing of DNA samples from criminal defendants and inmates, including those from rape kits. It would also enhance access to DNA analysis by inmates and improve the quality of legal representation in State capital cases. But, Mr. Speaker, more importantly, this bill will also provide victims of crimes with new rights, such as the right to a reasonable, accurate and timely notice of any public court proceeding involving the crime of or the release or the escape of the accused, so vital, so necessary for the victims of crime in our country today. It would also allow victims to be reasonably heard at any public proceeding involving the release, plea or sentencing of the accused.

Mr. Speaker, as it has been stated time and time again, something is wrong with our criminal justice system here in America. I believe that the criminal justice system here in America is broken. Time and time again we have seen innocent people spend years on death row for crimes that they did not commit.

Mr. Speaker, we can all agree that a death sentence is the ultimate punishment in the criminal justice system, and the imposition of such a sentence warrants absolute certainty, a 100 percent certainty that the person accused is guilty of the crime committed. That said, Mr. Speaker, all safeguards should be utilized, including DNA testing, before capital sentences are imposed.

Mr. Speaker, the gentleman from Massachusetts (Mr. DELAHUNT) and others have alluded to the actions of our State, our Governor, and, Mr. Speaker, I am proud to stand in support of this legislation. I think it is a testimony to his courage that the Congress is now considering this bill.

Mr. DELAHUNT. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), my friend and colleague and a leader on the Committee on the Judiciary.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I wish to offer my sincere applause to the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Illinois (Mr. LAHOOD). I know the work they have done and the effective work our chairman has done. The gentleman from Wisconsin (Mr. SENSENBRENNER) has done a very effective job, along with the gentleman from Michigan (Mr. CONYERS).

I mentioned in the rule the very important elements, and I want to again refer very quickly to those important elements of this legislation and to the legislation that I introduced, H.R.89, Save Our Children: Stop the Violent Predators Against Children DNA act of 2003. This legislation that we will be passing, and I hope we can work it out with the Senate, will lay the groundwork for legislation that will help enhance victims' rights and bring about justice.

I happen to represent an organization that I have worked with over a number of years, called Justice For All, a victims' rights organization, and this is a good day for them because it does have elements of protecting or respecting victims. As the co-chair and founder of the Congressional Children's Caucus, I have deeply been impacted by the negative violent acts against our children, and I believe the legislation I coauthored will be a wonderful complement to this.

We realize the important role that archived DNA evidence played in the case of Elizabeth Smart who was kidnapped from her bedroom at knifepoint in 2002 by Mitchell, 50, and his wife, Wanda Barzee. So we realize this can be an important component to this legislation.

We also know this legislation will be helpful to the DNA labs around the country. I have mentioned the Houston judicial system, which convicted Josiah Sutton in 1998 of the rape of a woman whose body was dumped in a Fort Bend County field. The court eventually granted him bail in March after an independent lab determined that he was sentenced to 25 years in prison for a rape he did not commit, but he stayed in prison for a very long period of time.

This DNA bill will help get us back on track for the victims and the innocent. Attorney Neufeld remarked that the most important question for the people of Houston and the people of Texas is what went wrong that allowed this young man to be convicted for a crime he did not commit?

Now, Mr. Speaker, let me indicate that I happen to think that the 5-year provision on filing a motion could be extended, but I am grateful that lawyers can show that, if there is compelling evidence or show that there is an added reason to go beyond the 5 years, that they will have it. I would have preferred a straight 10-year period, because, Mr. Speaker, I can assure you that people incarcerated do not have the resources, do not hear about it, do not know, and there are not all these lawyers running around to represent incarcerated persons. This balance is for the victims' families and the tragedy that comes about.

And the last thing I will say is that I hope we look at the standards so that we can be assured of the victims' rights but also the protection of this bill. Again, this is a blow against injustice. This is a strike for justice and fairness as relates to those incarcerated unfairly or charged unfairly and for our victims. And I ask my colleagues to support this legislation.

Mr. Speaker, I rise in support of this important legislation that is the result of much work and bi-partisan collaboration. Our work on this legislation, H.R. 5107, the Justice For All Act of 2004 will have far-reaching implications for victims of violent or sexual crimes, suspected perpetrators of these crimes, and individuals who have been wrongfully implicated for the commission of these crimes. Therefore, it is vital that we have good faith collaboration among our colleagues in passing it through this body and on the Floor of the Committee of the Whole.

While I am a co-sponsor of this legislation, as I was of one of its components, H.R. 3214, the Advancing Justice Through DNA Technology Act, I hope that I am able to work with my colleagues to incorporate important provisions of legislation that I introduced, H.R. 89, the "Save Our Children: Stop the Violent Predators Against Children DNA Act of 2003" into this legislation as we move to debate before the Committee of the Whole.

As co-founder and chair of the Congressional Children's Caucus, I am deeply committed to doing everything possible to ensure the safety of our children and the expeditious capture of predators that seek to do them harm. The thrust of my legislation is to create a DNA database of child sexual offenders, to supplement the database currently maintained by each of the 50 States, so that we can better protect America's children from these criminals.

I introduced this legislation, in part, as a result of the important role that property-kept and archived DNA evidence played in the case of Elizabeth Smart, who was kidnapped from her bedroom at knifepoint in 2002 by Mitchell, 50, and his wife Wanda Barzee, 58. The safe return of Elizabeth Smart has shown

us that the involvement of DNA evidence can help prevent what otherwise might have been a tragic ending.

The technological tool that this legislation employs must be improved because it plays such a key role in streamlining and expediting our criminal justice system. Our law enforcement agencies are becoming increasingly more reliant upon the analysis of deoxyribonucleic acid (DNA) to verify or rule out the identity of a suspect or a charged individual in processing criminal cases. The more reliant we become, the more our individual rights are at stake. We must, however, significantly raise the bar of our technology and the standards of review for DNA and ballistics crime lab accreditation to minimize mistakes that cost people years of their lives.

Provided that our bipartisan coalition is fortunate enough to pass this legislation today, as I stated before, I hope to engage with my colleagues to fashion the inclusion of provisions of my legislation in the bill as transmitted to the Committee of the Whole.

On July 7, I offered an amendment to H.R. 4754, the Commerce, Justice, and State Department Appropriations bill. The Jackson-Lee amendment called for a $10 million increase of the Community Oriented Policing Services (COPS) program that deals with DNA analysis and sought to minimize the margin of error that threatens individual liberties and rights.

CRIME LAB ACCREDITATION

The certification of our crime labs for conformance to our accepted standards is done by groups such as the American Society of Crime Laboratory Directors (ASCLD). The accreditation process is part of a laboratory's quality assurance program that should also include proficiency testing, continuing education and other programs to help the laboratory give better overall service to the criminal justice system. Certification and accreditation are done via a process of self-evaluation led by individual crime laboratory directors.

Our labs are not functioning at optimum levels, and this sub-par performance translates to the miscarriage of justice and prosecution of innocent people. Improvement of lab performance begins with tighter employment policies for the lab staff. For example, the ASCLD's Credential Review Committee has a DNA Advisory Board and codified standards for its technical staff. The following was taken from its website:

DNA Advisory Board Standard 5.2.1.1 provides a mechanism for waiving the educational requirements for current technical leaders/technical managers who do not meet the degree requirements of section 5.2.1 but who otherwise qualify based on knowledge and experience. Consequently, ASCLD has established this procedure for obtaining a waiver.

One waiver is available per laboratory if the current technical leader/technical manager does not meet the degree requirements of DAB Standard 5.2.1. Waivers are available only to current technical leaders/technical managers. Waivers are permanent and portable for the recipient individual. A laboratory may request a second waiver if the first recipient leaves the employ of the laboratory.

Although experience is quite important in selecting staff, formal education and increased resources are vital when it comes to technical performance and the legal implications of that performance. I hope that the State and local grant programs found in sections 204, 206, 304, 308, and 412 will help cities like Houston vastly improve the standards of its DNA/ballistics lab accreditation.

TEXAS LAW AND CRIME LAB ACCREDITATION

In 2001, Texas passed a law formalizing a process for post-conviction access to DNA testing. The Texas Court of Criminal Appeals, however, has not applied the law as it was designed to work and has denied access to testing in a number of cases.

The Texas House passed a bill in April of last year requiring crime laboratories that test DNA to meet accreditation standards, a law designed to prevent future scandals like the one that recently plagued the Houston Police Department.

The Houston Judicial System convicted Josiah Sutton in 1998 for the rape of a woman whose body was dumped in a Fort Bend County field. But the Court eventually granted him bail in March after an independent lab determined that he was sentenced to 25 years in prison for a rape he didn't commit. An audit and an ongoing series of retesting of DNA samples by the Texas Department of Public Safety and a crime lab professional from Tarrant County revealed potential contamination problems at the subject lab as well as poor working conditions and inadequate training.

Attorney Neufeld remarked that:

[t]he most important question for the people of Houston and the people of Texas is, ''What went wrong that allowed this young man to be convicted for a crime he didn't commit?''

And it is absolutely clear that what you have going on is a system of malpractice by the Houston crime laboratory that allows its criminalists to distort and conceal evidence.

What I fear about the dangers of poor training and placement of checks may be summed up by what Neufeld added:

One of the biggest problems of . . . [crime labs] is that they [are] much more concerned with being a servant to the police and prosecutors than they [are] to science . . . [a]nd if people want to pursue a career in science, the word science has to come before law enforcement.

The objectivity that is required to make forensic science effective must be divorced from the latitude exercised by some of our law enforcement personnel. Therefore, we must include adequate technology and resources to prevent injustice and the ruination of young lives like the young Houston man, Josiah Sutton.

Furthermore, other problems with DNA testing in criminal cases affect the inmate directly. The discretion with which the decision whether to use DNA testing leaves room for inconsistent adjudication and differential treatment of convicted persons. Statutory guidelines regarding when to order the test would exclude some cases that might not meet the standards but still might deserve testing. Moreover, some inmates who seek exoneration may request executive clemency. In addition to requiring very difficult measures to achieve justice, some argue that the tests administered are inadequate because they do not provide specific, clear, and fair procedures for inmates to bring claim of innocence.

In addition to negligent handling or unskilled analysis of DNA evidence, the backlog of cases causes our criminal justice system to crumble despite the level of sophistication of our technology. Houston police have turned over about 525 case files involving DNA testing to the Harris County district attorney's office, which has said that at least 25 cases warrant re-testing, including those of seven people on death row. The numbers will grow significantly as more files are collected and analyzed, according to the assistant district attorney supervising the project.

The Fort Worth police crime lab's serology/DNA unit has been criticized recently for a backlog that was slowing down court cases. The unit's performance suffers from understaffing and overworking.

My concern as to the practice of using these DNA tests is that the inmates' civil liberties and rights to due process are continually placed into jeopardy because of a lack of resources. Furthermore, our staffing and personnel problems threaten to undermine the benefits of technology.

Mr. Speaker, with this legislation, I hope that the problems that I have enumerated can be mitigated and addressed. I support this legislation and ask that my colleagues do the same.

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

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

Mr. Speaker, the issue raised by the gentleman from Arizona (Mr. FLAKE) was one of the most vexatious issues in the negotiations that are leading up to the manager's amendment, which I will offer shortly. And the most difficult of the issues that the manager's amendment deals with relates to the time limit for seeking post-conviction DNA testing.

On one side there were a group of people who wanted to have no time limit at all, and a motion could be made at any time as long as the defendant was still alive and in jail. On the other side, there were people who wanted to have a hard and fast limit, and the shorter the limitation possible they were in favor of. Those people said that defendants would simply game the system waiting until the witnesses had died and the DNA had evaporated and, consequently, there would not be enough evidence to conduct a retrial.

The compromise that was worked out, I think, is a fair one. For the first 5 years after conviction, there is a rebuttable presumption in favor of the test. After 5 years, there is a rebuttable presumption against the test, but the defendant can get a motion granted if the court finds that the applicant was incompetent at trial, there is newly discovered DNA evidence, or that denial of the motion to retest would result in manifest injustice or for good cause shown.

So, for the first 5 years, the burden is on the prosecution to show that the test should not be granted. After 5 years, the burden effectively is on the defendant to show that the test should be granted for the reasons that I have enumerated.

I believe that takes care of the concerns that the gentleman from Arizona (Mr. FLAKE) has expressed, and I would

urge adoption of the manager's amendment and overwhelming support of the bill.

Mr. Speaker, I ask unanimous consent that a letter from the National District Attorneys Association expressing support for the manager's amendment to H.R. 5107 be included in the RECORD.

NATIONAL DISTRICT ATTORNEYS ASSOCIATION,
Alexandria, VA, October 6, 2004.

Hon. JIM SENSENBRENNER,
Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

Hon. JOHN CONYERS Jr.,
Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER AND CONGRESSMAN CONYERS: As President of the National District Attorneys Association I want to express my support for the Managers Amendment that I understand has been offered to H.R. 5107 the ''Justice For All Act.''

The Amendment has addressed our major concerns with the ''Advancing Justice Through DNA Technology Act.'' The clear indication that Capital Resource Centers are not to be funded through federal funds is important as is the stipulation that the funding is to be used for training counsel in capital cases.

While the compromise standard for new trials does not reach our criteria of a ''preponderance'' it is a marked improvement over prior efforts.

The importance of DNA to our system of criminal justice cannot be over emphasized and the problems that our laboratories and courts are encountering are in our daily headlines. ''The Justice For All Act'' provides the resources desperately needed by the states to overcome serious impediments to the effective use of DNA to seek justice and truth in our criminal justice system.

Sincerely,

PAUL F. WALSH Jr.,
District Attorney, Bristol County, MA, President, National District Attorneys Association.

Ms. PRYCE of Ohio. Mr. Speaker, as a woman, a former prosecutor and judge, and Federal representative for Ohio's 15th district, I rise today in support of H.R. 5107, the Justice For All Act.

Sadly, for far too many women, the grief of rape and other forms of sexual assault is compounded by the lack of apprehension, prosecution and conviction of the perpetrator. As my community has recently witnessed first hand with the arrest of accused serial rapist Robert Patton, Jr. in the Columbus area, linking DNA obtained at rape scenes to the DNA of felons already convicted of crimes through the FBI's combined DNA Index System is often the best change we have to close a painful chapter in the lives of women who have been the victims of rape and sexual assault. It is also the best chance to put rapists behind bars before they have a chance to repeat their crimes.

Last year, the Federal government provided $100 million to speed up the processing of untested DNA through the Department of Justice and the DNA Index System. And recently, the House passed legislation to increase this amount by over 75 percent to $176 million—mirroring the President's budget request.

Funding is critical, but it is only part of the solution. Making needed improvements to the way the system operates is also essential.

That's why I signed on as an original cosponsor and plan to vote for the Justice for All Act today. This legislation will not only increase the amount of funding available for DNA analysis, but it will also lift some of the barriers that currently stand in the way of ensuring DNA technology is used effectively and efficiently. Specifically, it will focus on eliminating the backlog of DNA samples collected from crime scenes and convicted offenders and improving the DNA testing capacity of federal, state, and local crime laboratories. These two initiatives will have a direct effect on crime fighting in my state of Ohio, which has an extensive backlog of DNA samples that need to be tested.

I pledge to continue to work with my colleagues to further identify the gaps in our system and push for, and implement, effective solutions. And I call upon our partners at the state and local level to do the same. Together, with the support of law enforcement and the citizens in our community, we can put into place a speedier and fairer justice system for victims of rape and sexual assault, always keeping in mind our ultimate goal of preventing these heinous crimes in the first place.

Mr. ROYCE. Mr. Speaker, I am pleased that the Crime Victims' Rights Act was included in H.R. 5107, the Justice for All Act. I have long been an advocate of victim's rights. I am the author of the first State anti-stalking law in the country. At the Federal level, I introduced the Interstate Stalking Punishment and Prevention Act, which was signed into law, making it a felony to cross State lines to stalk someone.

As a State senator, I worked to establish rights for crime victims in California's state constitution as author and campaign co-chair of Proposition 115, the Crime Victims/Speedy Trial Initiative. I have been working for the passage of a Federal victims' rights bill for quite sometime. I introduced a victim's rights bill in the House and cosponsored the Chabot bill, included in H.R. 5107.

Because victims' rights vary from State to State, a Federal law would help ensure that all victims have at least a minimum level of rights in the criminal justice process. Our legal system must properly protect the rights of the accused and it should provide similar protection for the rights of victims. The bill establishes enhanced rights and protections for all victims of crime and spells out how these rights are to be enforced. In addition, the bill helps States implement and enforce victim's rights laws and retain their full power to protect victims in the ways most appropriate to local concerns and local needs.

This bill is a positive step forward for crime victims' rights and I look forward to it becoming law.

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

The SPEAKER pro tempore. All time for debate on the bill has expired.

AMENDMENT OFFERED BY MR. SENSENBRENNER

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

The SPEAKER pro tempore (Mr. TERRY). The Clerk will designate the amendment:

The text of the amendment is as follows:

Amendment offered by Mr. SENSENBRENNER:

Page 2, after line 7, in the item in the table of contents relating to TITLE I, strike ''CAMBELL'' and insert ''CAMPBELL''.

Page 3, line 1, strike ''CAMBELL'' and insert ''CAMPBELL''.

Page 4, line 12, insert after ''proceeding'' the following: '', or any parole proceeding,''.

Page 4, line 16, insert after ''the court'' the following: '', after receiving clear and convincing evidence,''.

Page 4, line 18, strike ''affected'' and insert ''altered''.

Page 4, line 21, insert after ''proceeding'' the following: ''in the district court''.

Page 4, lines 21–22, strike ''or sentencing'' and insert '', sentencing, or any parole proceeding''.

Page 5, line 10, strike ''Before'' and all that follows through ''the right'' on line 11 and inserting ''Before making a determination''.

Page 7, line 2, strike ''such motion'' and insert ''any motion asserting a victim's right''.

Page 7, line 12, strike ''day,'' and all that follows through ''trial,'' and insert ''days''.

Page 7, line 13, insert after the period the following: ''If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.''.

Page 7, line 20, strike '', or'' and all that follows through the end of line 22 and insert ''. A victim may make a motion to re-open a plea or sentence only if—

''(A) the victim has asserted the right to be heard before or during the proceeding at issue and such right was denied;

''(B) the victim petitions the court of appeals for a writ of mandamus within 10 days; and

''(C) in the case of a plea, the accused has not pled to the highest offense charged.

This paragraph does not affect the victim's right to restitution as provided in title 18, United States Code.''.

Page 15, strike line 4 and all that follows through the end of the bill (titles II, III, and IV) and insert the following new titles:

TITLE II—DEBBIE SMITH ACT OF 2004

SEC. 201. SHORT TITLE.

This title may be cited as the ''Debbie Smith Act of 2004''.

SEC. 202. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by amending the heading to read as follows:

''SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or units of local government'' after ''eligible States''; and

(ii) by inserting ''or unit of local government'' after ''State'';

(B) in paragraph (2), by inserting before the period at the end the following: '', including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect''; and

(C) in paragraph (3), by striking ''within the State'';

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or unit of local government'' after ''State'' both places that term appears; and

(ii) by inserting '', as required by the Attorney General'' after ''application shall'';

(B) in paragraph (1), by inserting ''or unit of local government'' after ''State'';

(C) in paragraph (3), by inserting ''or unit of local government'' after ''State'' the first place that term appears;

(D) in paragraph (4)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking ''and'' at the end;

(E) in paragraph (5)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

''(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''The plan'' and inserting ''A plan pursuant to subsection (b)(1)'';

(ii) in subparagraph (A), by striking ''within the State''; and

(iii) in subparagraph (B), by striking ''within the State''; and

(B) in paragraph (2)(A), by inserting ''and units of local government'' after ''States'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''or local government'' after ''State'' both places that term appears; and

(B) in paragraph (2), by inserting ''or unit of local government'' after ''State'';

(6) in subsection (f), in the matter preceding paragraph (1), by inserting ''or unit of local government'' after ''State'';

(7) in subsection (g)—

(A) in paragraph (1), by inserting ''or unit of local government'' after ''State''; and

(B) in paragraph (2), by inserting ''or units of local government'' after ''States''; and

(8) in subsection (h), by inserting ''or unit of local government'' after ''State'' both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting ''(1) or'' before ''(2)''; and

(B) by inserting at the end the following:

''(4) To collect DNA samples specified in paragraph (1).

''(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.'';

(2) in subsection (b), as amended by this section, by inserting at the end the following:

''(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).'';

(3) by amending subsection (c) to read as follows:

''(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

''(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

''(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

''(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

''(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

''(ii) the population in the jurisdiction; and

''(iii) the number of part 1 violent crimes in the jurisdiction.

''(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

''(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

''(A) For fiscal year 2005, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(B) For fiscal year 2006, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(C) For fiscal year 2007, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(D) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(E) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).'';

(4) in subsection (g)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.'';

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

''(1) $151,000,000 for fiscal year 2005;

''(2) $151,000,000 for fiscal year 2006;

''(3) $151,000,000 for fiscal year 2007;

''(4) $151,000,000 for fiscal year 2008; and

''(5) $151,000,000 for fiscal year 2009.''; and

(6) by adding at the end the following:

''(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

''(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

''(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

''(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

''(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

''(C) to support future capacity building efforts; and

''(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

''(l) USE OF FUNDS FOR OTHER FORENSIC SCIENCES.—The Attorney General may award a grant under this section to a State or unit of local government to alleviate a backlog of cases with respect to a forensic science other than DNA analysis if the State or unit of local government—

''(1) certifies to the Attorney General that in such State or unit—

''(A) all of the purposes set forth in subsection (a) have been met;

''(B) a significant backlog of casework is not waiting for DNA analysis; and

''(C) there is no need for significant laboratory equipment, supplies, or additional personnel for timely DNA processing of casework or offender samples; and

''(2) demonstrates to the Attorney General that such State or unit requires assistance in alleviating a backlog of cases involving a forensic science other than DNA analysis.

''(m) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.''.

SEC. 203. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking ''of persons convicted of crimes;'' and inserting the following: ''of—

''(A) persons convicted of crimes;

''(B) persons who have been charged in an indictment or information with a crime; and

''(C) other persons whose DNA samples are collected under applicable legal authorities, provided that DNA profiles from arrestees who have not been charged in an indictment or information with a crime, and DNA samples that are voluntarily submitted solely for elimination purposes shall not be included in the National DNA Index System;''; and

(2) in subsection (d)(2)—

(A) by striking ''if the responsible agency'' and inserting ''if—

''(i) the responsible agency'';

(B) by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(ii) the person has not been convicted of an offense on the basis of which that analysis was or could have been included in the index, and all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.''.

(b) FELONS CONVICTED OF FEDERAL CRIMES.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

''(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

''(1) Any felony.

''(2) Any offense under chapter 109A of title 18, United States Code.

''(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

''(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).''.

(c) MILITARY OFFENSES.—Section 1565(d) of title 10, United States Code, is amended to read as follows:

''(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

''(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

''(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).''.

(d) KEYBOARD SEARCHES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(e) AUTHORITY FOR KEYBOARD SEARCHES.—

''(1) IN GENERAL.—The Director shall ensure that any person who is authorized to access the index described in subsection (a) for purposes of including information on DNA identification records or DNA analyses in that index may also access that index for purposes of carrying out a one-time keyboard search on information obtained from any DNA sample lawfully collected for a criminal justice purpose except for a DNA sample voluntarily submitted solely for elimination purposes.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'keyboard search' means a search under which information obtained from a DNA sample is compared with information in the index without resulting in the information obtained from a DNA sample being included in the index.

''(3) NO PREEMPTION.—This subsection shall not be construed to preempt State law.''

(e) INCREASED PENALTIES FOR MISUSE OF DNA ANALYSES.—(1) Section 210305(c)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14133(c)(2)) is amended by striking ''$100,000'' and inserting ''$250,000, or imprisoned for a period of not more than one year, or both''.

(2) Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended by striking ''$100,000'' and inserting ''$250,000, or imprisoned for a period of not more than one year, or both''.

(f) REPORT TO CONGRESS.—If the Department of Justice plans to modify or supplement the core genetic markers needed for compatibility with the CODIS system, it shall notify the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives in writing not later than 180 days before any change is made and explain the reasons for such change.

SEC. 204. TOLLING OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3297. Cases involving DNA evidence

''In a case in which DNA testing implicates an identified person in the commission of a felony, except for a felony offense under chapter 109A, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3297. Cases involving DNA evidence.''.

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section if the applicable limitation period has not yet expired.

SEC. 205. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting ''dating violence,'' after ''domestic violence,'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

''(A) the length of the relationship;

''(B) the type of relationship; and

''(C) the frequency of interaction between the persons involved in the relationship.''; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting ''dating violence,'' after ''domestic violence,'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting '', dating violence,'' after ''between domestic violence''; and

(ii) by inserting ''dating violence,'' after ''victims of domestic violence,'';

(B) in paragraph (2), by inserting ''dating violence,'' after ''domestic violence,''; and

(C) in paragraph (3), by inserting ''dating violence,'' after ''domestic violence,'';

(4) in subsection (d)—

(A) in paragraph (1), by inserting '', dating violence,'' after ''domestic violence'';

(B) in paragraph (2), by inserting '', dating violence,'' after ''domestic violence'';

(C) in paragraph (3), by inserting '', dating violence,'' after ''domestic violence''; and

(D) in paragraph (4), by inserting ''dating violence,'' after ''domestic violence,'';

(5) in subsection (e), by inserting ''dating violence,'' after ''domestic violence,''; and

(6) in subsection (f)(2)(A), by inserting ''dating violence,'' after ''domestic violence,''.

SEC. 206. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to read as follows:

''(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

''(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services, even if the laboratory makes a reasonable profit for the services.

''(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a nonprofit or for-profit basis, by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

''(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).''.

TITLE III—DNA SEXUAL ASSAULT JUSTICE ACT OF 2004

SEC. 301. SHORT TITLE.

This title may be cited as the ''DNA Sexual Assault Justice Act of 2004''.

SEC. 302. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:

''(2) prepared by laboratories that—

''(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2004, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

''(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and''.

SEC. 303. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) IN GENERAL.—The Attorney General shall make grants to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $12,500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 304. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs;

(D) State sexual assault coalitions;

(E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and

(F) victim service providers involved in treating victims of sexual assault.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 305. DNA RESEARCH AND DEVELOPMENT.

(a) IMPROVING DNA TECHNOLOGY.—The Attorney General shall make grants for research and development to improve forensic

DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall make grants to appropriate entities under which research is carried out through demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 306. NATIONAL FORENSIC SCIENCE COMMISSION.

(a) APPOINTMENT.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the ''Commission''), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under subsection (b).

(b) RESPONSIBILITIES.—The Commission shall—

(1) assess the present and future resource needs of the forensic science community;

(2) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(3) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(4) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(5) disseminate, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(6) examine additional issues pertaining to forensic science as requested by the Attorney General;

(7) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(8) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in paragraph (7) to ensure—

(A) the appropriate use and dissemination of DNA information;

(B) the accuracy, security, and confidentiality of DNA information;

(C) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(D) that any other necessary measures are taken to protect privacy; and

(9) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in paragraphs (1) through (8).

(c) PERSONNEL; PROCEDURES.—The Attorney General shall—

(1) designate the Chair of the Commission from among its members;

(2) designate any necessary staff to assist in carrying out the functions of the Commission; and

(3) establish procedures and guidelines for the operations of the Commission.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 307. FBI DNA PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of fiscal years 2005 through 2009 to carry out the DNA programs and activities described under subsection (b).

(b) PROGRAMS AND ACTIVITIES.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 308. DNA IDENTIFICATION OF MISSING PERSONS.

(a) IN GENERAL.—The Attorney General shall make grants to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) REQUIREMENT.—Each State or unit of local government that receives funding under this section shall be required to submit the DNA profiles of such missing persons and unidentified human remains to the National Missing Persons DNA Database of the Federal Bureau of Investigation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 309. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

''(c) CRIMINAL PENALTY.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $250,000, or imprisoned for a period of not more than one year. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.''.

SEC. 310. TRIBAL COALITION GRANTS.

(a) IN GENERAL.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

''(d) TRIBAL COALITION GRANTS.—

''(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

''(A) increasing awareness of domestic violence and sexual assault against American Indian and Alaska Native women;

''(B) enhancing the response to violence against American Indian and Alaska Native women at the tribal, Federal, and State levels; and

''(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to American Indian women victimized by domestic and sexual violence.

''(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

''(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against American Indian and Alaska Native women; and

''(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian and Alaska Native women.

''(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).''.

(b) TECHNICAL AMENDMENT.—Effective as of November 2, 2002, and as if included therein as enacted, Public Law 107–273 (116 Stat. 1789) is amended in section 402(2) by striking ''sections 2006 through 2011'' and inserting ''sections 2007 through 2011''.

(c) AMOUNTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 402(2) of Public Law 107–273, as amended by subsection (b)) is amended by amending subsection (b)(4) (42 U.S.C. 3796gg–1(b)(4)) to read as follows:

''(4) 1/54 shall be available for grants under section 2001(d);''.

SEC. 311. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) FORENSIC BACKLOG ELIMINATION GRANTS.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking ''shall use the grant to carry out'' and inserting ''shall use the grant to do any one or more of the following:

''(1) To carry out''; and

(B) by adding at the end the following:

''(2) To eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence.

''(3) To train, assist, and employ forensic laboratory personnel, as needed, to eliminate such a backlog.'';

(2) in subsection (b), by striking ''under this part'' and inserting ''for the purpose set forth in subsection (a)(1)''; and

(3) by adding at the end the following:

''(e) BACKLOG DEFINED.—For purposes of this section, a backlog in the analysis of forensic science evidence exists if such evidence—

''(1) has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility; and

''(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.''.

(b) EXTERNAL AUDITS.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.''.

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(G) $20,000,000 for fiscal year 2007;

''(H) $20,000,000 for fiscal year 2008; and

''(I) $20,000,000 for fiscal year 2009.''.

(d) TECHNICAL AMENDMENT.—Section 1001(a) of such Act, as amended by subsection (c), is further amended by realigning paragraphs (24) and (25) so as to be flush with the left margin.

SEC. 312. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this title and the amendments made by this title.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as ''CODIS'');

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this title are carried out;

(3) the distribution of grant amounts under this title among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 303 and 304;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 305;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 306;

(7) the use of funds by the Federal Bureau of Investigation under section 307;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 308;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under the amendments made by section 202;

(10) State compliance with the requirements set forth in section 313; and

(11) any other matters considered relevant by the Attorney General.

TITLE IV—INNOCENCE PROTECTION ACT OF 2004

SEC. 401. SHORT TITLE.

This title may be cited as the ''Innocence Protection Act of 2004''.

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 411. FEDERAL POST-CONVICTION DNA TESTING.

(a) FEDERAL CRIMINAL PROCEDURE.—

(1) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 228 the following:

''CHAPTER 228A—POST-CONVICTION DNA TESTING

''Sec.
''3600. DNA testing.
''3600A. Preservation of biological evidence.

''§ 3600. DNA testing

''(a) IN GENERAL.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the 'applicant'), the court that entered the judgment of conviction shall order DNA testing of specific evidence if the court finds that all of the following apply:

''(1) The applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

''(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

''(B) another Federal or State offense, if—

''(i) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

''(ii) in the case of a State offense—

''(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

''(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense.

''(2) The specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1).

''(3) The specific evidence to be tested—

''(A) was not previously subjected to DNA testing and the applicant did not—

''(i) knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2004; or

''(ii) knowingly fail to request DNA testing of that evidence in a prior motion for postconviction DNA testing; or

''(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing.

''(4) The specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing.

''(5) The proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices.

''(6) The applicant identifies a theory of defense that—

''(A) is not inconsistent with an affirmative defense presented at trial; and

''(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1).

''(7) If the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial.

''(8) The proposed DNA testing of the specific evidence may produce new material evidence that would—

''(A) support the theory of defense referenced in paragraph (6); and

''(B) raise a reasonable probability that the applicant did not commit the offense.

''(9) The applicant certifies that the applicant will provide a DNA sample for purposes of comparison.

''(10) The motion is made in a timely fashion, subject to the following conditions:

''(A) There shall be a rebuttable presumption of timeliness if the motion is made within 60 months of enactment of the Justice For All Act of 2004 or within 36 months of conviction, whichever comes later. Such presumption may be rebutted upon a showing—

''(i) that the applicant's motion for a DNA test is based solely upon information used in a previously denied motion; or

''(ii) of clear and convincing evidence that applicant's filing is done solely to cause delay or harass.

''(B) There shall be a rebuttable presumption against timeliness for any motion not satisfying subparagraph (A) above. Such presumption may be rebutted upon the court's finding—

''(i) that the applicant was or is incompetent and such incompetence substantially contributed to the delay in the applicant's motion for a DNA test;

''(ii) the evidence to be tested is newly discovered DNA evidence;

''(iii) that applicant's motion is not based solely upon the applicant's own assertion of innocence and, after considering all relevant facts and circumstances surrounding the motion, a denial would result in a manifest injustice; or

''(iv) upon good cause shown.

''(C) For purposes of this paragraph—

''(i) the term 'incompetence' has the meaning as defined in section 4241 of title 18, United States Code;

''(ii) the term 'manifest' means that which is unmistakable, clear, plain, or indisputable and requires that the opposite conclusion be clearly evident.

''(b) NOTICE TO THE GOVERNMENT; PRESERVATION ORDER; APPOINTMENT OF COUNSEL.—

''(1) NOTICE.—Upon the receipt of a motion filed under subsection (a), the court shall—

''(A) notify the Government; and

''(B) allow the Government a reasonable time period to respond to the motion.

''(2) PRESERVATION ORDER.—To the extent necessary to carry out proceedings under this section, the court shall direct the Government to preserve the specific evidence relating to a motion under subsection (a).

''(3) APPOINTMENT OF COUNSEL.—The court may appoint counsel for an indigent applicant under this section in the same manner as in a proceeding under section 3006A(a)(2)(B).

''(c) TESTING PROCEDURES.—

''(1) IN GENERAL.—The court shall direct that any DNA testing ordered under this section be carried out by the Federal Bureau of Investigation.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the court may order DNA testing by another qualified laboratory if the court makes all necessary orders to ensure the integrity of the specific evidence and the reliability of the testing process and test results.

''(3) COSTS.—The costs of any DNA testing ordered under this section shall be paid—

''(A) by the applicant; or

''(B) in the case of an applicant who is indigent, by the Government.

''(d) TIME LIMITATION IN CAPITAL CASES.—In any case in which the applicant is sentenced to death—

''(1) any DNA testing ordered under this section shall be completed not later than 60 days after the date on which the Government responds to the motion filed under subsection (a); and

''(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the court shall order

any post-testing procedures under subsection (f) or (g), as appropriate.

''(e) REPORTING OF TEST RESULTS.—

''(1) IN GENERAL.—The results of any DNA testing ordered under this section shall be simultaneously disclosed to the court, the applicant, and the Government.

''(2) NDIS.—The Government shall submit any test results relating to the DNA of the applicant to the National DNA Index System (referred to in this subsection as 'NDIS').

''(3) RETENTION OF DNA SAMPLE.—

''(A) ENTRY INTO NDIS.—If the DNA test results obtained under this section are inconclusive or show that the applicant was the source of the DNA evidence, the DNA sample of the applicant may be retained in NDIS.

''(B) MATCH WITH OTHER OFFENSE.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant results in a match between the DNA sample of the applicant and another offense, the Attorney General shall notify the appropriate agency and preserve the DNA sample of the applicant.

''(C) NO MATCH.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant does not result in a match between the DNA sample of the applicant and another offense, the Attorney General shall destroy the DNA sample of the applicant and ensure that such information is not retained in NDIS if there is no other legal authority to retain the DNA sample of the applicant in NDIS.

''(f) POST-TESTING PROCEDURES; INCONCLUSIVE AND INCULPATORY RESULTS.—

''(1) INCONCLUSIVE RESULTS.—If DNA test results obtained under this section are inconclusive, the court may order further testing, if appropriate, or may deny the applicant relief.

''(2) INCULPATORY RESULTS.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the court shall—

''(A) deny the applicant relief; and

''(B) on motion of the Government—

''(i) make a determination whether the applicant's assertion of actual innocence was false, and, if the court makes such a finding, the court may hold the applicant in contempt;

''(ii) assess against the applicant the cost of any DNA testing carried out under this section;

''(iii) forward the finding to the Director of the Bureau of Prisons, who, upon receipt of such a finding, may deny, wholly or in part, the good conduct credit authorized under section 3632 on the basis of that finding;

''(iv) if the applicant is subject to the jurisdiction of the United States Parole Commission, forward the finding to the Commission so that the Commission may deny parole on the basis of that finding; and

''(v) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

''(3) SENTENCE.—In any prosecution of an applicant under chapter 79 for false assertions or other conduct in proceedings under this section, the court, upon conviction of the applicant, shall sentence the applicant to a term of imprisonment of not less than 3 years, which shall run consecutively to any other term of imprisonment the applicant is serving.

''(g) POST-TESTING PROCEDURES; MOTION FOR NEW TRIAL OR RESENTENCING.—

''(1) IN GENERAL.—Notwithstanding any law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a motion for a new trial or resentencing, as appropriate. The court shall establish a reasonable schedule for the applicant to file such a motion and for the Government to respond to the motion.

''(2) STANDARD FOR GRANTING MOTION FOR NEW TRIAL OR RESENTENCING.—The court shall grant the motion of the applicant for a new trial or resentencing, as appropriate, if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by compelling evidence that a new trial would result in an acquittal of—

''(A) in the case of a motion for a new trial, the Federal offense for which the applicant is under a sentence of imprisonment or death; and

''(B) in the case of a motion for resentencing, another Federal or State offense, if evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or a new sentencing proceeding.

''(h) OTHER LAWS UNAFFECTED.—

''(1) POST-CONVICTION RELIEF.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other law.

''(2) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.

''(3) NOT A MOTION UNDER SECTION 2255.—A motion under this section shall not be considered to be a motion under section 2255 for purposes of determining whether the motion or any other motion is a second or successive motion under section 2255.

''§ 3600A. Preservation of biological evidence

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

''(b) DEFINED TERM.—For purposes of this section, the term 'biological evidence' means—

''(1) a sexual assault forensic examination kit; or

''(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

''(c) APPLICABILITY.—Subsection (a) shall not apply if—

''(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

''(2) the defendant knowingly and voluntarily waived the right to request DNA testing of the biological evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2004;

''(3) after a conviction becomes final and the defendant has exhausted all opportunities for direct review of the conviction, the defendant is notified that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice;

''(4)(A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

''(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing; or

''(5) the biological evidence has already been subjected to DNA testing under section 3600 and the results included the defendant as the source of such evidence.

''(d) OTHER PRESERVATION REQUIREMENT.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

''(e) REGULATIONS.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2004, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

''(f) CRIMINAL PENALTY.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

''(g) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 228 the following:

''228A. Post-conviction DNA testing ... 3600''.

(b) SYSTEM FOR REPORTING MOTIONS.—

(1) ESTABLISHMENT.—The Attorney General shall establish a system for reporting and tracking motions filed in accordance with section 3600 of title 18, United States Code.

(2) OPERATION.—In operating the system established under paragraph (1), the Federal courts shall provide to the Attorney General any requested assistance in operating such a system and in ensuring the accuracy and completeness of information included in that system.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that contains—

(A) a list of motions filed under section 3600 of title 18, United States Code, as added by this title;

(B) whether DNA testing was ordered pursuant to such a motion;

(C) whether the applicant obtained relief on the basis of DNA test results; and

(D) whether further proceedings occurred following a granting of relief and the outcome of such proceedings.

(4) ADDITIONAL INFORMATION.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this title, and any recommendations the Attorney General may have relating to future legislative action concerning that section.

(c) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect to any offense committed, and to any judgment of conviction entered, before, on, or after that date of enactment.

SEC. 412. KIRK BLOODSWORTH POST-CONVICTION DNA TESTING GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General shall establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program to award grants to States to help defray the costs of post-conviction DNA testing.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

(c) STATE DEFINED.—For purposes of this section, the term ''State'' means a State of the United States, the District of Columbia,

the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 413. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 303, 305, 308, and 412 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 303, 305, 308, or 412, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act (or extended or renewed after such date), to persons convicted after trial and under a sentence of imprisonment or death for a State felony offense, in a manner that ensures a reasonable process for resolving claims of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act, or under a State rule, regulation, or practice, to persons under a sentence of imprisonment or death for a State felony offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act, in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

Subtitle B—Improving the Quality of Representation in State Capital Cases

SEC. 421. CAPITAL REPRESENTATION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) DEFINED TERM.—In this section, the term ''legal representation'' means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) USE OF FUNDS.—Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) APPORTIONMENT OF FUNDS.—

(1) IN GENERAL.—Of the funds awarded under subsection (a)—

(A) not less than 75 percent shall be used to carry out the purpose described in subsection (c)(1)(A); and

(B) not more than 25 percent shall be used to carry out the purpose described in subsection (c)(1)(B).

(2) WAIVER.—The Attorney General may waive the requirement under this subsection for good cause shown.

(e) EFFECTIVE SYSTEM.—As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation; or

(C) pursuant to a statutory procedure enacted before the date of the enactment of this Act under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E)(i) monitor the performance of attorneys who are appointed and their attendance at training programs; and

(ii) remove from the roster attorneys who—

(I) fail to deliver effective representation or engage in unethical conduct;

(II) fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; or

''(III) during the past 5 years, have been sanctioned by a bar association or court for ethical misconduct relating to the attorney's conduct as defense counsel in a criminal case in Federal or State court; and

(F) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

SEC. 422. CAPITAL PROSECUTION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) USE OF FUNDS.—

(1) PERMITTED USES.—Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

(2) PROHIBITED USE.—Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

SEC. 423. APPLICATIONS.

(a) IN GENERAL.—The Attorney General shall establish a process through which a State may apply for a grant under this subtitle.

(b) APPLICATION.—

(1) IN GENERAL.—A State desiring a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 421(e)(1)(C), a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this subtitle shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this subtitle; and

(ii) allocated in accordance with section 426(b).

SEC. 424. STATE REPORTS.

(a) IN GENERAL.—Each State receiving funds under this subtitle shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

(b) CAPITAL REPRESENTATION IMPROVEMENT GRANTS.—With respect to the funds provided under section 421, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 421(e)(1)(A), an entity described in section 421(e)(1)(B), or a selection committee or similar entity described in section 421(e)(1)(C); and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 421(e)(1)(C), to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 421(e)(2)(A);

(ii) establish and maintain a roster of qualified attorneys in accordance with section 421(e)(2)(B);

(iii) assign attorneys from the roster in accordance with section 421(e)(2)(C);

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 421(e)(2)(D);

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 421(e)(2)(E); and

(vi) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 421(e)(2)(F), including a statement setting forth—

(I) if the State employs a public defender program under section 421(e)(1)(A), the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 421(e)(1)(B), the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 421(e)(1)(C), an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

(c) CAPITAL PROSECUTION IMPROVEMENT GRANTS.—With respect to the funds provided under section 422, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 422(b)(1)(A);

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(B);

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(C);

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 422(b)(1)(D);

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 422(b)(1)(E); and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

(d) PUBLIC DISCLOSURE OF ANNUAL STATE REPORTS.—The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

SEC. 425. EVALUATIONS BY INSPECTOR GENERAL AND ADMINISTRATIVE REMEDIES.

(a) EVALUATION BY INSPECTOR GENERAL.—

(1) IN GENERAL.—As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this subtitle, the Inspector General of the Department of Justice (in this section referred to as the ''Inspector General'') shall—

(A) submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations to the Attorney General for corrective action.

(2) PRIORITY.—In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of noncompliance.

(3) DETERMINATION FOR STATUTORY PROCEDURE STATES.—For each State that employs a statutory procedure described in section 421(e)(1)(C), the Inspector General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, not later than the end of the first fiscal year for which such State receives funds, a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

(4) COMMENTS FROM PUBLIC.—The Inspector General shall receive and consider comments from any member of the public regarding any State's compliance with the terms and conditions of a grant made under this subtitle. To facilitate the receipt of such comments, the Inspector General shall maintain on its website a form that any member of the public may submit, either electronically or otherwise, providing comments. The Inspector General shall give appropriate consideration to all such public comments in reviewing reports submitted under section 424 or in establishing the priority for conducting evaluations under this section.

(b) ADMINISTRATIVE REVIEW.—

(1) COMMENT.—Upon the submission of a report under subsection (a)(1) or a determination under subsection (a)(3), the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

(2) CORRECTIVE ACTION PLAN.—If the Attorney General, after reviewing a report under subsection (a)(1) or a determination under subsection (a)(3), determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall, within 30 days, issue guidance to the State regarding corrective action to bring the State into compliance.

(3) REPORT TO CONGRESS.—Not later than 90 days after the earlier of the implementation of a corrective action plan or the issuance of guidance under paragraph (2), the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

(c) PENALTIES FOR NONCOMPLIANCE.—If the State fails to take the prescribed corrective action under subsection (b) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 421 and 422 and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this subtitle in another fiscal year.

(d) PERIODIC REPORTS.—During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) ADMINISTRATIVE COSTS.—Not less than 2.5 percent of the funds appropriated to carry out this subtitle for each of fiscal years 2005

through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) SPECIAL RULE FOR ''STATUTORY PROCEDURE'' STATES NOT IN SUBSTANTIAL COMPLIANCE WITH STATUTORY PROCEDURES.—

(1) IN GENERAL.—In the case of a State that employs a statutory procedure described in section 421(e)(1)(C), if the Inspector General submits a determination under subsection (a)(3) that the State is not in substantial compliance with the requirements of the applicable State statute, then for the period beginning with the date on which that determination was submitted and ending on the date on which the Inspector General determines that the State is in substantial compliance with the requirements of that statute, the funds awarded under this subtitle shall be allocated solely for the uses described in section 421.

(2) RULE OF CONSTRUCTION.—The requirements of this subsection apply in addition to, and not instead of, the other requirements of this section.

SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR GRANTS.—There are authorized to be appropriated $75,000,000 for each of fiscal years 2005 through 2009 to carry out this subtitle.

(b) RESTRICTION ON USE OF FUNDS TO ENSURE EQUAL ALLOCATION.—Each State receiving a grant under this subtitle shall allocate the funds equally between the uses described in section 421 and the uses described in section 422, except as provided in section 425(f).

Subtitle C—Compensation for the Wrongfully Convicted

SEC. 431. INCREASED COMPENSATION IN FEDERAL CASES FOR THE WRONGFULLY CONVICTED.

Section 2513(e) of title 28, United States Code, is amended by striking ''exceed the sum of $5,000'' and inserting ''exceed $100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and $50,000 for each 12-month period of incarceration for any other plaintiff''.

SEC. 432. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

The SPEAKER pro tempore. Pursuant to House Resolution 823, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 10 minutes.

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

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

Mr. Speaker, on September 22, 2004, the Committee on the Judiciary met and considered this combined Victim Rights-DNA bill. It was reported voted favorably, without amendment, on a voice vote. At the time, I assured my colleagues who raised concerns about the legislation that we would work with them as well as the Department of Justice to address the concerns. I believe this amendment represents a positive compromise in our efforts to address those concerns while protecting victims and ensuring DNA testing will be available to exonerate the innocent and to identify the guilty.

In the victims' rights portion of the legislation, we worked out a number of provisions with the authors of that part of the bill and the victims' rights groups to address issues raised by the Department of Justice, the courts, and outside groups. The result was a compromise that I believe effectively addresses the needs of victims of crime to be more involved in the criminal justice process but will not result in delaying court proceedings nor infringing on the right of a defendant to a speedy trial.

To address privacy concerns raised about DNA databases, my amendment includes increased penalties for misuse of DNA analyses from $100,000 to $250,000, and the possibility of a year in prison to discourage any person who would seek to misuse DNA for personal gain.

The amendment also requires a report to Congress if the Justice Department plans to modify or supplement the core generic markers needed for compatibility with the national DNA database. This is essential to reassure those who raise civil liberty concerns that DNA samples entered into the combined database would not be used for inappropriate purposes.

The legislation authorizes a substantial amount of money to provide grants to States to eliminate their DNA backlogs. Some have raised the concern that there may be some States that do not have a substantial backlog and, thus, would not receive funds. To ensure that the States are effectively using their resources, the amendment allows a State that has no DNA backlog to apply for grants for other forensic sciences.

With regard to the provision relating to the post-conviction DNA testing, the amendment offers a compromise, as I have previously stated, between those who wish to have no time limit on the ability of convicted persons seeking DNA testing and those who insist on a limitation of time, lest convicted persons game the system by waiting until the witnesses have died or waiting until the evidence has evaporated, thus effectively preventing a retrial.

The compromise provides for a 5-year period in which there would be a rebuttable presumption in favor of granting the DNA test. After 5 years, there is a presumption against granting a test unless the court finds that the applicant was incompetent, there is newly discovered DNA evidence, denial would result in a manifest injustice, or for other good cause shown. The amendment also includes tighter language to ensure that defendants cannot make repetitive motions for relief.

Because some of my colleagues in the Department of Justice raised concern about the standard for granting a new trial, the amendment increases the standard for obtaining a new trial to require that there be compelling evidence that a new trial would result in an acquittal. This represents a compromise from the preponderance of evidence and clear and convincing evidence.

With respect to funding prosecution and defense representation in capital cases, the original bill and this amendment do not allow funds to be used directly or indirectly to fund representation in specific capital cases. Additionally, report language on the DNA provision prohibits the creation of capital resource centers.

This amendment tightens the provisions relating to the training and appointment of capital counsel. The amendment specifies that no less than 75 percent of the funds shall be used to carry out training for representation and the creation of an effective system at the trial court level. No more than 25 percent of the funds shall be used to carry out training and systems for appellate representation.

The amendment also reduces the authorization of grants to States to provide training to defense attorneys and prosecutors, and to establish a system of appointment of counsel in capital cases.

Finally, the amendment provides for notification 180 days before the destruction of biological evidence, and provides that the time period will not begin to run until any direct appeal of the conviction was complete. This will ensure that the evidence in the case is preserved to benefit both the defendant and the government if the conviction is reversed.

I believe this amendment represents a good compromise package which will help ensure justice for all. I urge my colleagues to support it.

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

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume, and I support the amendment offered by the chairman for the reasons that he has enumerated.

□ 1215

I would also make the observation, Mr. Speaker, in line with the points made by the gentleman from Wisconsin (Mr. GREEN), the gentlewoman from New York (Mrs. MALONEY), and particularly the gentleman from New York (Mr. WEINER) regarding the ability of law enforcement to identify sexual predators in the aftermath of the efforts made in New York City to reduce that backlog of DNA tests in those boxes that were sitting in that cold storage warehouse somewhere in Long Island.

I would remind those that are concerned about removing sexual predators from the streets of our communities in this country, and particularly let me remind our colleagues in government at the Department of Justice, the passage of this bill will undoubtedly lead, not to hundreds but to thousands of rapists and other sexual predators being identified. And as the gentleman from New York indicated, there is a likelihood, particularly in this category of criminals who tend to have a

high rate of recidivism, that they are committing these crimes again all over this country.

Let me suggest that this particular act, Justice for All, is and will be, if signed by the President, one of the most effective means of reducing the incidence of sexual violence in this country. We have an opportunity here to defend women and others that are victims of sexual predators. I would think that that fact alone would compel those who are in opposition to this bill, whoever they may be, to rethink their position and support it.

Let me conclude by saying again to the gentleman from Wisconsin (Mr. SENSENBRENNER), this has been a remarkable effort, and to you, Mr. Speaker. This proposal before us today, this resolution, really does reflect a good-faith effort to address concerns raised by victims organizations, lawyers, civil liberties groups, prosecutors, and all those who have an interest in justice.

I urge the passage of the manager's amendment.

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

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

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 823, the previous question is ordered on the bill and on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

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

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

The yeas and nays were ordered.

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

CONFERENCE REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, pursuant to House Resolution 822, I call up the conference report on the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to House Resolution 822, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 5, 2004 at page H8144.)

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 30 minutes.

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

GENERAL LEAVE

Mr. FRELINGHUYSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the conference report to accompany the bill, H.R. 4850, and that I may include tabular material on the same.

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

There was no objection.

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

Mr. Speaker, I bring before you today the fiscal year 2005 District of Columbia appropriations bill. First, Mr. Speaker, let me extend my particular thanks to the gentleman from Pennsylvania (Mr. FATTAH) for all his help and wise counsel and hard work and dedication to this city and to moving this bill forward in such an expeditious manner. He has been a pleasure to work with. May I also thank the other members of my committee on both sides of the aisle for their keen interest in this bill. I thank Chairman YOUNG for his guidance and support, and especially the staff. No bill moves without the dedication of a truly dedicated staff: Joel Kaplan, our subcommittee clerk on the majority side; Clelia Alvarado who works with him; Kathy Rowan who works with Joel Kaplan; Nancy Fox, my chief of staff. And on the minority side Martha Foley, the minority clerk, and working with her, Michelle Anderson-Lee who is dedicated as chief of staff to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. Speaker, this bill totals $8.3 billion in local funds, $7.2 billion of which are in operating funds and $1.1 billion in capital outlay funds, and $560 million for Federal payments to various District programs and projects. There is much to be proud of in this bill. I believe it reflects Congress's continuing commitment to helping our Nation's Capital. This is where we all work and many of us live.

Of the $560 million provided for Federal payments to various programs and projects in the District, $409 million is allocated for the District of Columbia courts, public defender services, and the Court Services and Offender Supervision Agency. These are District functions that the Federal Government assumed responsibility for in the National Capital Revitalization and Self-Government Improvement Act of 1997.

The remaining $151 million are for programs and projects that directly benefit the District. They include many city priorities sought by Mayor Williams, the city council, city residents and supported by Members of Congress and our committee.

They include $25.6 million for the very popular tuition assistance program for District college-bound students, $15 million to reimburse the District for added emergency planning and security costs related to the presence of the Federal Government in this city, $40 million for the three-prong school choice program. This is a program which helps more school children and gives more parents in this city choices about their child's education. $6 million to complete the construction of the new unified communications center, badly needed and sought by the city.

More money for the Anacostia waterfront initiative; and more dollars for the District of Columbia Water and Sewer Authority, which in fact improves the cleanliness of the Anacostia River. $6 million for a new public school library initiative. Many school libraries are lacking books and computers that work. $5 million to improve foster care in the District. More money for transportation assistance and for family literacy. And $8 million for a new bioterrorism and forensics laboratory, a long-sought facility which will expedite a lot of critical work.

These are all initiatives we can be proud to support. In particular, I want to take a minute just to highlight the continuing efforts at helping the children of the District. To help the children of the District, the bill includes $5 million for the recently established foster care improvement program; $1 million, as I said earlier, for the family literacy program; $6 million for a new library learning center initiative to be matched by the District; and $40 million for the school improvement program.

Mr. Speaker, in summary, the fiscal year 2005 District of Columbia appropriations bill is fiscally responsible, balanced and deserves bipartisan support. I am proud of our work together this year to expedite this bill so that the city can spend its own resources and better use ours.

Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. FATTAH) for his support.

DIVISION C--DISTRICT OF COLUMBIA APPROPRIATIONS BILL - FY 2005 (H.R. 4850)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	House	Senate	Conference	Conference vs. Enacted
TITLE I						
FEDERAL FUNDS						
Federal payment for Resident Tuition Support	16,900	17,000	25,600	21,200	25,600	+8,700
Federal payment for Emergency Planning and Security Costs in the District of Columbia	10,935	15,000	15,000	15,000	15,000	+4,065
Federal payment to the District of Columbia Courts	166,775	228,069	202,110	195,010	190,800	+24,025
Defender Services in District of Columbia Courts	31,811	41,500	41,500	34,500	38,500	+6,689
Federal payment to the Court Services and Offender Supervision Agency for the District of Columbia	167,441	187,490	183,490	182,490	180,000	+12,559
Federal payment to the District of Columbia Water and Sewer Authority	29,823	10,000	10,000	10,000	4,800	-25,023
Federal payment for Hospital Bioterrorism Preparedness in the District of Columbia	7,456	---	---	---	---	-7,456
Federal payment for the Anacostia Waterfront Initiative /1	4,971	3,000	3,000	3,000	3,000	-1,971
Federal payment to the Criminal Justice Coordinating Council	1,292	1,300	1,300	1,300	1,300	+8
Federal payment for the Unified Communications Center	---	7,000	---	---	6,000	+6,000
Federal payment for the D.C. Fire and Emergency Medical Services Department	---	10,000	---	---	---	---
Federal payment for Capital Development in the District of Columbia /2	8,102	---	7,000	7,000	---	-8,102
Federal payment for Public School Facilities	4,473	---	---	---	---	-4,473
Federal payment for Public School Libraries	---	---	6,000	---	6,000	+6,000
Federal payment for the Family Literacy Program	1,988	---	1,000	---	1,000	-988
Federal payment for Transportation Assistance	3,479	---	---	5,000	2,500	-979
Federal payment for Foster Care Improvements in the District of Columbia	13,917	---	5,000	5,000	5,000	-8,917
Federal Payment to the Office of the Chief Financial Officer of the District of Columbia	32,159	---	19,000	32,500	32,500	+341
Federal Payment for emergency personnel cross training	497	---	---	---	---	-497
Federal payment for School Improvement	39,764	40,000	40,000	40,000	40,000	+236
Bioterrorism and Forensics Lab	---	---	---	8,000	8,000	+8,000
Total, Federal funds to the District of Columbia	541,783	560,359	560,000	560,000	560,000	+18,217

1/ Funds are for the Anacostia Riverwalk and Trail construction.

2/ Funds are for the Unified Communications Center construction

DISTRICT OF COLUMBIA FUNDS						
Operating Expenses						
Governmental direction and support	(284,415)	(416,069)	(416,069)	(416,069)	(416,069)	(+131,654)
Economic development and regulation	(276,647)	(334,745)	(334,745)	(334,745)	(334,745)	(+58,098)
Public safety and justice	(745,958)	(797,423)	(797,423)	(798,723)	(797,423)	(+51,465)
Public education system	(1,157,841)	(1,223,424)	(1,223,424)	(1,266,424)	(1,223,424)	(+65,583)
Human support services	(2,360,067)	(2,533,825)	(2,533,825)	(2,533,825)	(2,533,825)	(+173,758)
Public Works	(327,046)	(331,936)	(331,936)	(331,936)	(331,936)	(+4,890)
Cash Reserve	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	---
Repayment of Loans and Interest	(311,504)	(347,700)	(347,700)	(347,700)	(347,700)	(+36,196)
Payment of Interest on Short-Term Borrowing	(3,000)	(4,000)	(4,000)	(4,000)	(4,000)	(+1,000)
Certificates of Participation	(4,911)	(11,252)	(11,252)	(11,252)	(11,252)	(+6,341)
Settlements and Judgments	(22,522)	(20,270)	(20,270)	(20,270)	(20,270)	(-2,252)
Wilson Building	(3,704)	(3,633)	(3,633)	(3,633)	(3,633)	(-71)
Workforce Investments	(22,308)	(38,114)	(38,114)	(38,114)	(38,114)	(+15,806)
Non-Departmental Agency	(19,639)	(13,946)	(13,946)	(13,946)	(13,946)	(-5,693)
Equipment Lease Operating	---	(23,109)	(23,109)	---	(23,109)	(+23,109)
Pay-As-You-Go Capital	(11,267)	(6,531)	(6,531)	(6,531)	(6,531)	(-4,736)
Pay-As-You-Go Capital Contingency	---	(43,137)	(43,137)	(43,137)	(43,137)	(+43,137)
Tax Increment Financing Program	(1,940)	---	(9,710)	(9,710)	(9,710)	(+7,770)
Medicaid Disallowance	(57,000)	---	---	---	---	(-57,000)
Total, operating expenses, general fund	(5,659,769)	(6,199,114)	(6,208,824)	(6,230,015)	(6,208,824)	(+549,055)
Enterprise and Other Funds						
Water and Sewer Authority	(259,095)	(275,289)	(275,289)	(287,206)	(287,206)	(+28,111)
Washington Aqueduct	(55,553)	(47,972)	(47,972)	(47,972)	(47,972)	(-7,581)
Stormwater Permit Compliance enterprise fund	(3,501)	(3,792)	(3,792)	(3,792)	(3,792)	(+291)
Lottery and Charitable Games enterprise fund	(242,755)	(247,000)	(247,000)	(247,000)	(247,000)	(+4,245)
Sports and Entertainment Commission	(13,979)	(7,322)	(7,322)	(7,322)	(7,322)	(-6,657)
District of Columbia Retirement Board	(13,895)	(15,277)	(15,277)	(15,277)	(15,277)	(+1,382)
Washington Convention Center enterprise fund	(69,742)	(77,176)	(77,176)	(77,176)	(77,176)	(+7,434)
National Capital Revitalization Corporation	(7,849)	(7,849)	(7,850)	(7,850)	(7,850)	(+1)
University of the District of Columbia	---	(85,102)	(85,102)	(85,102)	(85,102)	(+85,102)

DIVISION C--DISTRICT OF COLUMBIA APPROPRIATIONS BILL - FY 2005 (H.R. 4850)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	House	Senate	Conference	Conference vs. Enacted
Other Post Employee Benefits Trust Fund	---	(953)	(953)	(953)	(953)	(+953)
District of Columbia Public Library Trust Fund	---	(17)	(17)	(17)	(17)	(+17)
Unemployment Insurance Trust Fund	---	(180,000)	(180,000)	(180,000)	(180,000)	(+180,000)
Total, Enterprise Funds	(666,369)	(947,749)	(947,750)	(959,667)	(959,667)	(+293,298)
Total, operating expenses	(6,326,138)	(7,146,863)	(7,156,574)	(7,189,682)	(7,168,491)	(+842,353)
Capital Outlay						
General fund	(904,913)	(725,886)	(725,886)	(725,886)	(725,886)	(-179,027)
Water and Sewer Fund	(229,807)	(371,040)	(371,040)	(371,040)	(371,040)	(+141,233)
Total, Capital Outlay	(1,134,720)	(1,096,926)	(1,096,926)	(1,096,926)	(1,096,926)	(-37,794)
Total, District of Columbia funds	(7,460,858)	(8,243,789)	(8,253,500)	(8,286,608)	(8,265,417)	(+804,559)
Grand total:						
Federal Funds to the District of Columbia	541,783	560,359	560,000	560,000	560,000	+18,217
District of Columbia funds	(7,460,858)	(8,243,789)	(8,253,500)	(8,286,608)	(8,265,417)	(+804,559)

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

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume. I would like to thank the majority chairman of this committee. He has done extraordinary work in bringing to the floor a bill that has, I think, almost unanimous support in this House, not because it is a perfect bill but because it has been a perfect process, that is, a process that has been inclusive and that has been driven by the determined and public-spirited leadership of the chairman.

There are initiatives like the $6 million school library initiative and other initiatives that have the personal trademark of the chairman to try to improve the life chances of young people in this District. There are others that I will refer to momentarily.

I just want to thank the chairman for his extraordinary leadership and a process that has been perfect in terms of making sure that all of the issues that are important here in the District have been listened to and responded to. There has been a complete hearing process. I would like to thank the staff both on the Democratic side and on the majority side. Joel Kaplan has led the committee's work. Martha Foley. I would like to thank, obviously, Michelle Anderson on my staff and Rob Nabors for his excellent leadership and guidance as we have moved through this on the minority appropriations staff.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I want to thank my good friend, the gentleman from Pennsylvania, for yielding me this time. I begin with special thanks to the gentleman from New Jersey and the gentleman from Pennsylvania, if they will allow me to call them the engineers who have wrought this miracle. For those of us in the District of Columbia, it seems nothing short of that. I call them the engineers because they drove the train straight to the station with no unnecessary stops along the way. For the residents of the District of Columbia whose appropriation is now out, that has very special meaning.

I am also grateful to the chairman of the full committee, the gentleman from Florida (Mr. YOUNG), who I believe is term-limited and to the ranking member, the gentleman from Wisconsin (Mr. OBEY), because throughout their tenure on the committee, leading the committee, they have always understood that if the D.C. appropriation had to be here at all, it ought to be up and out. I appreciate their leadership throughout.

I cannot say enough about the leadership of the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH). Their leadership shines on the face of this conference report. They must be exceedingly proud that there are only two conference reports out, ready for the President's signature, and that, except for Defense, D.C. is the only one. We are very grateful that D.C. is one of those two. We are particularly grateful because these two leaders have understood that these are Federal funds that are very different from other Federal funds, that these are Federal funds for a city and not a Federal agency, and, therefore, when the funds of a city are held up, untold damage is done to the management of that city.

□ 1230

The Congress has been critical of the management of the District of Columbia over the years without understanding the role the Congress has played in those management difficulties.

Try running a big city when their appropriation is here 3, 4, 5 months later than in their own State or city and perhaps they will get an understanding of why, for the District, this has meant management disarray, in part its fault, no doubt, but certainly with the degree of responsibility in the Congress itself, with disarray from bills for school books that could not be paid so books would not come, or could not be delivered, to vital programs that could not be started.

This year something very important happened, and it is the second year that it has happened. The appropriators were able to allow D.C. to spend its own money on time. This is the rest of the money. This is the Federal money. This is the nontaxpayer-raised money. That D.C. was able to begin October 1 spending its own money is virtually unheard of, at least since the majority took control, and it is profoundly appreciated by the residents of the District of Columbia. Spending our own money, not at last year's levels, but at the approved levels of the Committee on Appropriations has made a world of difference already.

I must say that I think that the District deserves this treatment and respect. It deserves it with seven balanced budgets and surpluses. It deserves it because the city that 8 years ago had an investment bond rating that was below investment grade now has an A rating by all three agencies.

One of the reasons that it has not been able to get above A, as it strives to do, is because of the congressional process. The investment agencies have been very clear that the District's budget having to come here at all imports uncertainty, and that uncertainty has to be reflected in the interest that the District of Columbia taxpayers pay. Therefore, anything of the kind we have seen this year, where our appropriation gets out on time, first and foremost comes to the attention of the investment agencies. And that means that taxpayer-raised money in the District of Columbia can go for the real necessities of the District of Columbia instead of for increased interest.

We have the highest debt service. All of this is wound up in the unique structural difference between the District and other States and localities.

The gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) have recognized that to the extent that they could mitigate the burden that the congressional process brings to the District budget both in time and in extra cost, that it was their choice to try to do so. And I appreciate that they have done exactly that.

Few States can say that they ran 7 straight years of surpluses and balanced budgets. These were years of some hardship for States. The District of Columbia was in the same economy and in some sense worse, because of 9/11, because our largest industry, the tourist industry, was seriously affected, and yet those surpluses have come. The reason for that is, of course, extraordinary prudence. For that prudence it seems to me we all would want to commend the Council of the District of Columbia and the Mayor of the District of Columbia. They have had the highest reserve fund, and I appreciate and they appreciate that there have been small reductions that I think take into account the prudence with which they have run the city.

This appropriation process, rounding it out, completing it, was necessary because the Federal funds for State functions particularly are in this bill. And these are State functions, prisons, courts that no city carries. The Revitalization Act, therefore, takes up the cost of those State functions, and those State functions are there, and we are very grateful for that. Other non-D.C. funds, Federal funds, are here.

I am grateful that the Public Safety Reimbursement Act, the act I introduced some years ago, is now regularly funded in the President's budget. It is fully funded here. It reimburses the District for national events, everything from President Reagan's funeral to the huge Choice March here. All that expense used to fall to the residents of the District of Columbia, making it very difficult for the city to get toward the balance and the surpluses that it now insists upon.

I am grateful for the increase in the Tuition Access Act. Not every Member understands why the Federal Government should be funding this bill. I can understand their confusion. But the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) worked so closely with us. The gentleman from Virginia (Mr. TOM DAVIS), who was the lead sponsor of this bill with me, worked on this bill 5 years ago because the District of Columbia has no State university system the way every other Member here does.

All this bill does is put the District in the same position that other Members are in by allowing our residents to go to State colleges, State university systems, and elsewhere. And look what

it has done. In a region where one needs a college education to get any kind of decent job, we now have a 30 percent increase in young people going to college.

Most critical and what we have tried to do, the authorizers and the appropriators, is to put the District in the same position that any other city would be in. For us it means that taxpayers do not move out of the District when the children get to be 15, 16, and 17, because they can walk across the line into a region and get a low in-State tuition.

So this bill, besides its equity function, has been critical to keeping taxpayers in the District of Columbia. The large return to the Federal dollar is unspoken, but it cannot be denied.

I am grateful to the chairman. I am grateful to the ranking member, and I am grateful to the gentleman from Virginia (Mr. TOM DAVIS) that there were no riders on this bill. That is one of the reasons this bill was always last out, because we have to fight those riders, and that simply elongates, stretches out the time that this bill is on the floor.

I have seen this bill on the floor 8 and 10 hours. This is the smallest bill. This bill is irrelevant to every Member except me. With their eye focused on the prize, our appropriation, let us get it up and out; the appropriators have done their job to a fare-thee-well.

I regret that there are still riders on this bill that will not be on the bills in the Members' States, the rider that forbids us to pay using our local funds for abortions for poor women. That rider is perhaps always going to be controversial.

But the Senate removed two riders: the needle exchange rider, which would allow us to fund the exchange of dirty for clean needles and reduce the HIV/AIDS rate; and the rider, the shameless rider, that keeps us from lobbying for our own rights. Those, the Senate said, also should be eliminated from this bill. The House was not able to do so.

Finally, if I could once again thank the gentleman from New Jersey (Chairman FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) for the extraordinary job that they have done on this bill. Let me say that in a real sense, what they have done on this bill forecasts, is a prologue of what would happen if the budget autonomy bill that the gentleman from Virginia (Mr. TOM DAVIS) and I have pending before this House passes.

We think that there is a very decent chance of its passing in the session when we come back. It would automatically release our Federal funds, as my colleagues have had to do by act of the Committee on Appropriations. So they have, I think, demonstrated, by the way in which they have run the District of Columbia Subcommittee, something far larger; and that is how the House should move, to generally smooth the operation of the D.C. budget out of this House and into the hands of the people who raise the money, the people of the District of Columbia. They have my gratitude.

I know I expressed the gratitude of our elected officials in the District of Columbia and also of our residents, who have watched this bill this time pass through this House with what for us seems like lightning speed. It is the speed on the wings of the two leaders of our appropriation, and they have our thanks once again.

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

Let me thank the gentlewoman from the District of Columbia for her comments and her insight and assistance as we move through.

Let me conclude my remarks, and I will be prepared to yield back the balance of my time. But let me just state, there is a lot that I could talk about that is in this bill in terms of help and assistance and innovation and creativity, but I think that a lot has already been said about the advances in the District's fiscal health and a lot of work that has been done.

I want to highlight just the college assistance program, the resident tuition program, which I was one of the original cosponsors of with the gentleman from Virginia (Mr. TOM DAVIS) and the gentlewoman from the District of Columbia (Ms. NORTON) some 5 years ago. It is an amazing program. It has been very successful.

And I want to return to what I was saying about the chairman of this committee. He has visited schools and committees, been out in neighborhoods and at the waterfront in the District. He has been active and aggressive in terms of trying to have the insight necessary to make some of the decisions that have to be made in this process; and I want to publicly thank him for his leadership on the subcommittee. It has been a pleasure to work with him this year on this process.

And I want to thank, again, the staff.

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

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

Let me return the compliment to the gentleman from Pennsylvania (Mr. FATTAH) for his dedication and knowledge of the District's needs and priorities. He has been a great coworker with me on behalf of all the members of the committee, a keen interest in bettering the lives of the citizens of this city. And both of us are so proud of the gentlewoman from the District of Columbia (Ms. NORTON). We appreciate her pats on the back to us.

This is a great city. We are trying to make it better. I thank her for her strong advocacy as we go about our work trying to get this bill out and the money to the city, their money as well as Federal money, because we know it will be well spent.

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

The SPEAKER pro tempore (Mr. TERRY). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

passage of H.R. 5107;

adoption of the conference report to accompany H.R. 4850.

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

JUSTICE FOR ALL ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of the passage of the bill, H.R. 5107, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 393, nays 14, not voting 25, as follows:

[Roll No. 497]

YEAS—393

Abercrombie	Brown (SC)	Cunningham
Ackerman	Brown, Corrine	Davis (AL)
Aderholt	Brown-Waite, Ginny	Davis (CA)
Akin	Burns	Davis (FL)
Alexander	Burr	Davis (IL)
Allen	Burton (IN)	Davis (TN)
Andrews	Butterfield	Davis, Jo Ann
Baca	Buyer	Davis, Tom
Bachus	Calvert	Deal (GA)
Baird	Camp	DeFazio
Baker	Cannon	DeGette
Baldwin	Cantor	Delahunt
Ballenger	Capito	DeLauro
Bartlett (MD)	Capps	DeLay
Beauprez	Capuano	Deutsch
Bell	Cardin	Diaz-Balart, L.
Berkley	Cardoza	Diaz-Balart, M.
Berman	Carson (IN)	Dicks
Berry	Carson (OK)	Dingell
Biggert	Case	Doggett
Bilirakis	Castle	Dooley (CA)
Bishop (GA)	Chabot	Doolittle
Bishop (NY)	Chocola	Doyle
Bishop (UT)	Clay	Dreier
Blackburn	Clyburn	Dunn
Blumenauer	Coble	Edwards
Blunt	Cole	Ehlers
Boehner	Collins	Emanuel
Bonilla	Conyers	Emerson
Bonner	Cooper	Engel
Bono	Costello	English
Boozman	Cox	Eshoo
Boswell	Cramer	Etheridge
Boucher	Crane	Evans
Boyd	Crenshaw	Everett
Bradley (NH)	Crowley	Farr
Brady (PA)	Cubin	Fattah
Brady (TX)	Cummings	Feeney
Brown (OH)		Ferguson

Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
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
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
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
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
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—14

Barrett (SC)
Burgess
Carter
Culberson
Duncan
Flake
Garrett (NJ)
Granger
Hensarling
Johnson, Sam
Jones (NC)
Miller (FL)
Pence
Shadegg

NOT VOTING—25

Barton (TX)
Bass
Becerra
Boehlert
Chandler
DeMint
Gephardt
Hall
Houghton
Hyde
Istook
Kaptur
Kingston
Kleczka
Majette
Millender-McDonald
Nethercutt
Norwood
Paul
Sherwood
Slaughter
Tauzin
Towns
Wexler
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1307

Ms. GRANGER, Mr. GARRETT of New Jersey, and Mr. PENCE changed their vote from ''yea'' to ''nay.''

Mr. NEUGEBAUER changed his vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the bill, H.R. 4850.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 377, nays 36, not voting 19, as follows:

[Roll No. 498]

YEAS—377

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Barton (TX)
Beauprez
Becerra
Bell
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
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
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Gordon
Granger
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
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
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
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)

NAYS—36

Akin
Bartlett (MD)
Berry
Boswell
Brown-Waite, Ginny
Coble
Cubin
Duncan
Flake
Fossella
Franks (AZ)
Goode
Goodlatte
Graves
Green (TX)
Hayworth
Hefley
Hensarling
Jones (NC)
Manzullo

McHugh	Platts	Stearns
McIntyre	Royce	Taylor (MS)
Miller (FL)	Ryun (KS)	Tierney
Moore	Sensenbrenner	Toomey
Otter	Shadegg	
Petri	Smith (MI)	

NOT VOTING—19

Bass	Kingston	Paul
Boehlert	Kleczka	Sherwood
DeMint	Majette	Slaughter
Gephardt	Millender-McDonald	Tancredo
Houghton	Nethercutt	Tauzin
Hyde	Norwood	Towns
King (NY)		

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1318

So the conference report 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. WHITFIELD). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

SATELLITE HOME VIEWER EXTENSION AND REAUTHORIZATION ACT OF 2004

Mr. DELAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4518) to extend the statutory license for secondary transmissions under section 119 of title 17, United States Code, as amended.

The Clerk read as follows:

H.R. 4518

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

SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

(a) SHORT TITLES.—This Act may be cited as the ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' or the ''W. J. (Billy) Tauzin Satellite Television Act of 2004''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short titles; table of contents.

TITLE I—STATUTORY LICENSE FOR SATELLITE CARRIERS

Sec. 101. Extension of authority.
Sec. 102. Reporting of subscribers; significantly viewed and other signals; technical amendments.
Sec. 103. Statutory license for satellite carriers outside local markets.
Sec. 104. Statutory license for satellite retransmission of low power television stations.
Sec. 105. Definitions.
Sec. 106. Effect on certain proceedings.
Sec. 107. Statutory license for satellite carriers retransmitting superstation signals to commercial establishments.
Sec. 108. Expedited consideration of voluntary agreements to provide satellite secondary transmissions to local markets.
Sec. 109. Study.

TITLE II—FEDERAL COMMUNICATIONS COMMISSION OPERATIONS

Sec. 201. Extension of retransmission consent exemption.
Sec. 202. Cable/satellite comparability.
Sec. 203. Carriage of local stations on a single dish.
Sec. 204. Replacement of distant signals with local signals.
Sec. 205. Additional notices to subscribers, networks, and stations concerning signal carriage.
Sec. 206. Privacy rights of satellite subscribers.
Sec. 207. Reciprocal bargaining obligations.
Sec. 208. Unserved digital customers.
Sec. 209. Reduction of required tests.

TITLE I—STATUTORY LICENSE FOR SATELLITE CARRIERS

SEC. 101. EXTENSION OF AUTHORITY.

(a) IN GENERAL.—Section 4(a) of the Satellite Home Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103–369; 108 Stat. 3481) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2009''.

(b) EXTENSION FOR CERTAIN SUBSCRIBERS.—Section 119(e) of title 17, United States Code, is amended by striking ''December 31, 2004'' and inserting ''December 31, 2009''.

SEC. 102. REPORTING OF SUBSCRIBERS; SIGNIFICANTLY VIEWED AND OTHER SIGNALS; TECHNICAL AMENDMENTS.

Section 119(a) of title 17, United States Code, is amended—

(1) in paragraph (1)—

(A) in the paragraph heading, by striking ''AND PBS SATELLITE FEED'';

(B) in the first sentence, by striking ''(3), (4), and (6)'' and inserting ''(5), (6), and (8)'';

(C) in the first sentence, by striking ''or by the Public Broadcasting Service satellite feed''; and

(D) by striking the second sentence;

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''(3), (4), (5), and (6)'' and inserting ''(5), (6), (7), and (8)''; and

(B) by striking subparagraph (C) and inserting the following:

''(C) EXCEPTIONS.—

''(i) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in subparagraph (A) shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 CFR 76.51).

''(ii) STATES WITH ALL NETWORK STATIONS AND SUPERSTATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and superstations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under subparagraph (A) shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of tile 47 of the Code of Federal Regulations).

''(iii) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in subparagraph (A) shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

''(I) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

''(II) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

''(D) SUBMISSION OF SUBSCRIBER LISTS TO NETWORKS.—

''(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station—

''(I) a list identifying (by name and address, including street or rural route number, city, State, and zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households; and

''(II) a separate list, aggregated by designated market area (as defined in section 122(j)) (by name and address, including street or rural route number, city, State, and zip code), which shall indicate those subscribers being served pursuant to paragraph (3), relating to significantly viewed stations.

''(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), on the 15th of each month, the satellite carrier shall submit to the network—

''(I) a list identifying (by name and address, including street or rural route number, city, State, and zip code) any persons who have been added or dropped as subscribers under clause (i)(I) since the last submission under clause (i); and

''(II) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and zip code), identifying those subscribers whose service pursuant to paragraph (3), relating to significantly viewed stations, has been added or dropped.

''(iii) USE OF SUBSCRIBER INFORMATION.—Subscriber information submitted by a satellite carrier under this subparagraph may be used only for purposes of monitoring compliance by the satellite carrier with this subsection.

''(iv) APPLICABILITY.—The submission requirements of this subparagraph shall apply to a satellite carrier only if the network to which the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.'';

(3) by striking paragraph (8);

(4) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13), respectively;

(5) by redesignating paragraphs (3) through (7) as paragraphs (5) through (9), respectively;

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

''(3) SECONDARY TRANSMISSIONS OF SIGNIFICANTLY VIEWED SIGNALS.—

''(A) IN GENERAL.—Notwithstanding the provisions of paragraph (2)(B), and subject to

subparagraph (B) of this paragraph, the statutory license provided for in paragraphs (1) and (2) shall apply to the secondary transmission of the primary transmission of a network station or a superstation to a subscriber who resides outside the station's local market (as defined in section 122(j)) but within a community in which the signal has been determined by the Federal Communications Commission, to be significantly viewed in such community, pursuant to the rules, regulations and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

''(B) LIMITATION.—Subparagraph (A) shall apply only to secondary transmissions of the primary transmissions of network stations and superstations to subscribers who receive secondary transmissions from a satellite carrier pursuant to the statutory license under section 122.

''(C) WAIVER.—

''(i) IN GENERAL.—A subscriber who is denied the secondary transmission of the primary transmission of a network station under subparagraph (B) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station in the local market affiliated with the same network where the subscriber is located. The network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station shall be deemed to agree to the waiver request. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934 shall not constitute a waiver for purposes of this subparagraph.

''(ii) SUNSET.—The authority under clause (i) to grant waivers shall terminate on December 31, 2008, and any such waiver in effect shall terminate on that date.'';

(7) in paragraph (2)(B)(i), by adding at the end the following new sentence: ''The limitation in this clause shall not apply to secondary transmissions under paragraph (3).''.

SEC. 103. STATUTORY LICENSE FOR SATELLITE CARRIERS OUTSIDE LOCAL MARKETS.

Section 119 of title 17, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting after paragraph (3), as added by section 102 of this Act, the following:

''(4) STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—

''(A) RULES FOR SUBSCRIBERS UNDER SUBSECTION (e).—

''(i) FOR THOSE RECEIVING DISTANT SIGNALS.—In the case of a subscriber of a satellite carrier who is eligible to receive the secondary transmission of the primary transmission of a network station solely by reason of subsection (e) (in this subparagraph referred to as a 'distant signal'), and who, as of October 1, 2004, is receiving the distant signal of that network station, the following shall apply:

''(I) In a case in which the satellite carrier makes available to the subscriber the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network—

''(aa) if, within 60 days after receiving the notice of the satellite carrier under section 338(h)(1) of the Communications Act of 1934, the subscriber elects to retain the distant signal; but

''(bb) only until such time as the subscriber elects to receive such local signal.

''(II) Notwithstanding subclause (I), the statutory license under paragraph (2) shall not apply with respect to any subscriber who is eligible to receive the distant signal of a television network station solely by reason of subsection (e), unless the satellite carrier, within 60 days after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, submits to that television network a list, aggregated by designated market area (as defined in section 122(j)(2)(C)), that—

''(aa) identifies that subscriber by name and address (street or rural route number, city, State, and zip code) and specifies the distant signals received by the subscriber; and

''(bb) states, to the best of the satellite carrier's knowledge and belief, after having made diligent and good faith inquiries, that the subscriber is eligible under subsection (e) to receive the distant signals.

''(ii) FOR THOSE NOT RECEIVING DISTANT SIGNALS.—In the case of any subscriber of a satellite carrier who is eligible to receive the distant signal of a network station solely by reason of subsection (e) and who did not receive a distant signal of a station affiliated with the same network on October 1, 2004, the statutory license under paragraph (2) shall not apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same network.

''(B) RULES FOR OTHER SUBSCRIBERS.—In the case of a subscriber of a satellite carrier who is eligible to receive the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as a 'distant signal'), other than subscribers to whom subparagraph (A) applies, the following shall apply:

''(i) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network a list, aggregated by designated market area (as defined in section 122(j)(2)(C)), that identifies that subscriber by name and address (street or rural route number, city, State, and zip code) and specifies the distant signals received by the subscriber.

''(ii) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier of the distant signal of a station affiliated with the same network to that subscriber if—

''(I) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to provide pursuant to the statutory license under section 122 the secondary transmissions of the primary transmission of stations from the local market of such local network station; and

''(II) the satellite carrier, within 60 days after such date, submits to each television network a list that identifies each subscriber in that local market provided such a signal by name and address (street or rural route number, city, State, and zip code) and specifies the distant signals received by the subscriber.

''(C) FUTURE APPLICABILITY.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of a primary transmission of a network station to a person who—

''(i) is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004; and

''(ii) at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122.

''(D) OTHER PROVISIONS NOT AFFECTED.—This paragraph shall not affect the applicability of the statutory license to secondary transmissions under paragraph (3) or to unserved households included under paragraph (12).

''(E) WAIVER.—A subscriber who is denied the secondary transmission of a network station under subparagraph (C) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station in the local market affiliated with the same network where the subscriber is located. The network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station shall be deemed to agree to the waiver request. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934 shall not constitute a waiver for purposes of this subparagraph.

''(F) AVAILABLE DEFINED.—For purposes of this paragraph, a satellite carrier makes available a secondary transmission of the primary transmission of local station to a subscriber or person if the satellite carrier offers that secondary transmission to other subscribers who reside in the same zip code as that subscriber or person.''.

(2) Subsection (a) is amended by adding at the end the following:

''(14) WAIVERS.—A subscriber who is denied the secondary transmission of a signal of a network station under subsection (a)(2)(B) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station asserting that the secondary transmission is prohibited. The network station shall accept or reject a subscriber's request for a waiver within 30 days after receipt of the request. If a television network station fails to accept or reject a subscriber's request for a waiver within the 30-day period after receipt of the request, that station shall be deemed to agree to the waiver request and have filed such written waiver. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act

of 2004 under section 339(c)(2) of the Communications Act of 1934, and that was in effect on such date of enactment, shall constitute a waiver for purposes of this subparagraph.''.

(3) Subsection (b)(1) is amended by striking subparagraph (B) and inserting the following:

''(B) a royalty fee for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of each superstation or network station during each calendar month by the appropriate rate in effect under this section.''.

(4) Subsection (b)(1) is further amended by adding at the end the following flush sentence: ''Notwithstanding the provisions of subparagraph (B), a satellite carrier whose secondary transmissions are subject to statutory licensing under paragraph (1) or (2) of subsection (a) shall have no royalty obligation for secondary transmissions to a subscriber under paragraph (3) of such subsection.''.

(5) Subsection (c) is amended—

(A) by amending paragraph (1) to read as follows:

''(1) APPLICABILITY AND DETERMINATION OF ROYALTY FEES.—The appropriate fee for purposes of determining the royalty fee under subsection (b)(1)(B) shall be the appropriate fee set forth in part 258 of title 37, Code of Federal Regulations, as in effect on July 1, 2004, as modified under this subsection.'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''July 1, 1996,'' and inserting ''January 2, 2005,'';

(ii) in subparagraph (C)—

(I) in the heading, by inserting ''; PUBLIC NOTICE'' after ''AGREEMENTS'';

(II) in the first sentence, by striking ''Voluntary agreements'' and inserting ''(i) Voluntary agreements''; and

(III) by adding at the end the following:

''(ii)(I) Within 10 days after the publication in the Federal Register of a notice of the initiation of voluntary negotiation proceedings, parties who have reached a voluntary agreement may request that the royalty fees in that agreement be applied to all satellite carriers, distributors, and copyright owners without convening an arbitration proceeding pursuant to paragraph (3).

''(II) Upon receiving a request under subclause (I), the Librarian of Congress shall immediately provide public notice of the royalty fees from the voluntary agreement and afford parties an opportunity to state that they object to those fees.

''(III) The Librarian shall adopt the royalty fees from the voluntary agreement for all satellite carriers, distributors, and copyright owners without convening an arbitration proceeding unless a party with an intent to participate in the arbitration proceeding and a significant interest in the outcome of that proceeding objects under subclause (II).''; and

(iii) in subparagraph (D), by striking ''December 31, 1999,'' and inserting ''December 31, 2009'';

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking ''January 1, 1997,'' and inserting ''May 1, 2005,'';

(II) by striking ''who are not parties to a voluntary agreement filed with the Copyright Office in accordance with paragraph (2).'' and inserting ''and distributors— '';

''(i) in the absence of a voluntary agreement filed in accordance with paragraph (2) that establishes the royalty fees to be paid by all satellite carriers and distributors; or

''(ii) if an objection to the fees from a voluntary agreement submitted for adoption by the Librarian of Congress to apply to all satellite carriers, distributors, and copyright owners is received under paragraph (2)(C) from a party with an intent to participate in the arbitration proceeding and a significant interest in the outcome of that proceeding.'';

(ii) in the first sentence of subparagraph (B), by inserting after ''value of secondary transmissions'' the following: '', except that the Librarian of Congress and any copyright arbitration royalty panel shall adjust those fees to account for the obligations of the parties under any applicable voluntary agreements filed with the Copyright Office pursuant to paragraph (2).'' ; and

(iii) in subparagraph (C)(ii), by striking ''become effective as provided'' and all that follows through ''later'' and inserting ''be effective as of January 1, 2005''; and

(D) by striking paragraphs (4) and (5)

(6) Subsection (a)(7), as redesignated by section 102(5) of this Act, is amended—

(A) in subparagraph (A), by striking ''who does not reside in an unserved household'' and inserting ''who is not eligible to receive the transmission under this section'';

(B) in subparagraph (B), by striking ''who do not reside in unserved households'' and inserting ''who are not eligible to receive the transmission under this section''; and

(C) in subparagraph (D), by striking ''is for private home viewing to an unserved household'' and inserting ''is to a subscriber who is eligible to receive the secondary transmission under this section''.

SEC. 104. STATUTORY LICENSE FOR SATELLITE RETRANSMISSION OF LOW POWER TELEVISION STATIONS.

(a) IN GENERAL.—Section 119(a) of title 17, United States Code (as amended by sections 102 and 103 of this Act), is further amended by adding at the end the following:

''(15) CARRIAGE OF LOW POWER TELEVISION STATIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (2)(B), and subject to subparagraphs (B) through (F) of this paragraph, the statutory license provided for in paragraphs (1) and (2) shall apply to the secondary transmission of the primary transmission of a network station or a superstation that is licensed as a low power television station, to a subscriber who resides within the same local market.

''(B) GEOGRAPHIC LIMITATION.—

''(i) NETWORK STATIONS.—With respect to network stations, secondary transmissions provided for in subparagraph (A) shall be limited to secondary transmissions to subscribers who—

''(I) reside in the same local market as the station originating the signal; and

''(II) reside within 35 miles of the transmitter site of such station, except that in the case of such a station located in a standard metropolitan statistical area which has 1 of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20.

''(ii) SUPERSTATIONS.—With respect to superstations, secondary transmissions provided for in subparagraph (A) shall be limited to secondary transmissions to subscribers who reside in the same local market as the station originating the signal.

''(C) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

''(D) ROYALTY FEES.—Notwithstanding subsection (b)(1)(B), a satellite carrier whose secondary transmissions of the primary transmissions of a low power television station are subject to statutory licensing under this section shall have no royalty obligation for secondary transmissions to a subscriber who resides within 35 miles of the transmitter site of such station, except that in the case of such a station located in a standard metropolitan statistical area which has 1 of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20. Carriage of a superstation that is a low power television station within the station's local market, but outside of the 35-mile or 20-mile radius described in the preceding sentence, shall be subject to royalty payments under section (b)(1)(B).

''(E) LIMITATION TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—Secondary transmissions provided for in subparagraph (A) may be made only to subscribers who receive secondary transmissions of primary transmissions from that satellite carrier pursuant to the statutory license under section 122, and only in conformity with the requirements under 340(b) of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004.''.

SEC. 105. DEFINITIONS.

Section 119(d) of title 17, United States Code, is amended—

(1) in paragraph (2)(A), by striking ''a television broadcast station'' and inserting ''a television station licensed by the Federal Communications Commission'';

(2) by amending paragraph (9) to read as follows:

''(9) SUPERSTATION.—The term 'superstation' means a television station, other than a network station, licensed by the Federal Communications Commission, that is secondarily transmitted by a satellite carrier.'';

(3) in paragraph (10)—

(A) in subparagraph (B), by striking ''granted under regulations established under section 339(c)(2) of the Communications Act of 1934'' and inserting ''that meets the standards of subsection (a)(14) whether or not the waiver was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004''; and

(B) in subparagraph (D), by striking ''(a)(11)'' and inserting ''(a)(12)''; and

(4) by striking paragraphs (11) and (12) and inserting the following:

''(11) LOCAL MARKET.—The term 'local market' has the meaning given such term under section 122(j), except that with respect to a low power television station, the term 'local market' means the designated market area in which the station is located.

''(12) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power television as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ''low power television station'' includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.

''(13) COMMERCIAL ESTABLISHMENT.—The term 'commercial establishment'—

''(A) means an establishment used for commercial purposes, such as a bar, restaurant, private office, fitness club, oil rig, retail store, bank or other financial institution, supermarket, automobile or boat dealership, or any other establishment with a common business area; and

''(B) does not include a multi-unit permanent or temporary dwelling where private home viewing occurs, such as a hotel, dormitory, hospital, apartment, condominium, or prison.''

SEC. 106. EFFECT ON CERTAIN PROCEEDINGS.

Nothing in this title shall modify any remedy imposed on a party that is required by

the judgment of a court in any action that was brought before May 1, 2004, against that party for a violation of section 119 of title 17, United States Code.

SEC. 107. STATUTORY LICENSE FOR SATELLITE CARRIERS RETRANSMITTING SUPERSTATION SIGNALS TO COMMERCIAL ESTABLISHMENTS.

(a) IN GENERAL.—Section 119 of title 17, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by inserting ''or for viewing in a commercial establishment'' after ''for private home viewing'' each place it appears; and

(B) by striking ''household'' and inserting ''subscriber'';

(2) in subsection (b), by striking ''for private home viewing'' each place it appears;

(3) in subsection (d)(1)—

(A) by striking ''for private home viewing''; and

(B) by inserting ''in accordance with the provisions of this section'' before the period;

(4) in subsection (d)(6), by inserting ''pursuant to this section'' before the period; and

(5) in subsection (d)(8)—

(A) by striking ''who'' and inserting ''or entity that'';

(B) by striking ''for private home viewing''; and

(C) by inserting ''in accordance with the provisions of this section'' before the period.

(b) CONFORMING AMENDMENTS.— Subsections (a)(4) and (d)(1)(A) of section 111 of title 17, United States Code, are each amended by striking ''for private home viewing''.

SEC. 108. EXPEDITED CONSIDERATION OF VOLUNTARY AGREEMENTS TO PROVIDE SATELLITE SECONDARY TRANSMISSIONS TO LOCAL MARKETS.

Section 119 of title 17, United States Code, is amended by adding at the end the following:

''(f) EXPEDITED CONSIDERATION BY JUSTICE DEPARTMENT OF VOLUNTARY AGREEMENTS TO PROVIDE SATELLITE SECONDARY TRANSMISSIONS TO LOCAL MARKETS.—

''(1) IN GENERAL.—In a case in which no satellite carrier makes available, to subscribers located in a local market, as defined in section 122(j)(2), the secondary transmission into that market of a primary transmission of one or more television broadcast stations licensed by the Federal Communications Commission, and two or more satellite carriers request a business review letter in accordance with section 50.6 of title 28, Code of Federal Regulations (as in effect on July 7, 2004), in order to assess the legality under the antitrust laws of proposed business conduct to make or carry out an agreement to provide such secondary transmission into such local market, the appropriate official of the Department of Justice shall respond to the request no later than 90 days after the date on which the request is received.

''(2) DEFINITION.—For purposes of this subsection, the term 'antitrust laws'—

''(A) has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

''(B) includes any State law similar to the laws referred to in paragraph (1).''.

SEC. 109. STUDY.

No later than June 30, 2008, the Register of Copyrights shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the Register's findings and recommendations on the operation and revision of the statutory licenses under sections 111, 119, and 122 of title 17, United States Code. The report shall include, but not be limited to, the following:

(1) A comparison of the royalties paid by licensees under such sections, including historical rates of increases in these royalties, a comparison between the royalties under each such section and the prices paid in the marketplace for comparable programming.

(2) An analysis of the differences in the terms and conditions of the licenses under such sections, an analysis of whether these differences are required or justified by historical, technological, or regulatory differences that affect the satellite and cable industries, and an analysis of whether the cable or satellite industry is placed in a competitive disadvantage due to these terms and conditions.

(3) An analysis of whether the licenses under such sections are still justified by the bases upon which they were originally created.

(4) An analysis of the correlation, if any, between the royalties, or lack thereof, under such sections and the fees charged to cable and satellite subscribers, addressing whether cable and satellite companies have passed to subscribers any savings realized as a result of the royalty structure and amounts under such sections.

(5) An analysis of issues that may arise with respect to the application of the licenses under such sections to the secondary transmissions of the primary transmissions of network stations and superstations that originate as digital signals, including issues that relate to the application of the unserved household limitations under section 119 of title 17, United States Code, and to the determination of royalties of cable systems and satellite carriers.

TITLE II—FEDERAL COMMUNICATIONS COMMISSION OPERATIONS

SEC. 201. EXTENSION OF RETRANSMISSION CONSENT EXEMPTION.

Section 325(b)(2)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(2)(C)) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2009''.

SEC. 202. CABLE/SATELLITE COMPARABILITY.

(a) AMENDMENT.—Part I of title III of the Communications Act of 1934 is amended by inserting after section 339 (47 U.S.C. 339) the following new section:

''SEC. 340. SIGNIFICANTLY VIEWED SIGNALS PERMITTED TO BE CARRIED.

''(a) SIGNIFICANTLY VIEWED STATIONS.—In addition to the broadcast signals that subscribers may receive under section 338 and 339, a satellite carrier is also authorized to retransmit to a subscriber located in a community the signal of any station located outside the local market in which such subscriber is located, to the extent such signal—

''(1) has, before the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, been determined by the Federal Communications Commission to be a signal a cable operator may carry as significantly viewed in such community, except to the extent that such signal is prevented from being carried by a cable system in such community under the Commission's network nonduplication and syndicated exclusivity rules; or

''(2) is, after such date of enactment, determined by the Commission to be significantly viewed in such community in accordance with the same standards and procedures concerning shares of viewing hours and audience surveys as are applicable under the rules, regulations, and authorizations of the Commission to determining with respect to a cable system whether signals are significantly viewed in a community.

''(b) LIMITATIONS.—

''(1) ANALOG SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—With respect to a signal that originates as an analog signal of a network station, this section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions from that satellite carrier pursuant to section 338.

''(2) DIGITAL SERVICE LIMITATIONS.—With respect to a signal that originates as a digital signal of a network station, this section shall apply only if—

''(A) the subscriber receives from the satellite carrier pursuant to section 338 the retransmission of the digital signal of a network station in the subscriber's local market that is affiliated with the same television network; and

''(B) either—

''(i) the retransmission of the local network station occupies at least the equivalent bandwidth as the digital signal retransmitted pursuant to this section; or

''(ii) the retransmission of the local network station is comprised of the entire bandwidth of the digital signal broadcast by such local network station.

''(3) LIMITATION NOT APPLICABLE WHERE NO NETWORK AFFILIATES.—The limitations in paragraphs (1) and (2) shall not prohibit a retransmission under this section to a subscriber located in a local market in which there are no network stations affiliated with the same television network as the station whose signal is being retransmitted pursuant to this section.

''(4) AUTHORITY TO GRANT STATION-SPECIFIC WAIVERS.—Paragraphs (1) and (2) shall not prohibit a retransmission of a network station to a subscriber if and to the extent that the network station in the local market in which the subscriber is located, and that is affiliated with the same television network, has privately negotiated and affirmatively granted a waiver from the requirements of paragraph (1) and (2) to such satellite carrier with respect to retransmission of the significantly viewed station to such subscriber.

''(c) PUBLICATION AND MODIFICATIONS OF LISTS; REGULATIONS.—

''(1) IN GENERAL.—The Commission shall—

''(A) within 60 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004—

''(i) publish a list of the stations that are eligible for retransmission under subsection (a) (1) and the communities in which such stations are eligible for such retransmission; and

''(ii) commence a rulemaking proceeding to implement this section by publication of a notice of proposed rulemaking;

''(B) adopt rules pursuant to such rulemaking within one year after such date of enactment.

''(2) PUBLIC AVAILABILITY OF LIST.—The Commission shall make readily available to the public in electronic form, on the Internet website of the Commission or other comparable facility, a list of the stations that are eligible for retransmission under subsection (a) and the communities in which such stations are eligible for such retransmission. The Commission shall update such list within 10 business days after the date on which the Commission issues an order making any modification of such stations and communities.

''(3) MODIFICATIONS.—In addition to cable operators and television broadcast station licensees, the Commission shall permit a satellite carrier to petition for decisions and orders—

''(A) by which stations may be added to those that are eligible for retransmission under subsection (a), and by which communities may be added in which such stations are eligible for such retransmission; and

''(B) by which network nonduplication or syndicated exclusivity regulations are applied to the retransmission in accordance with subsection (e).

''(d) EFFECT ON OTHER OBLIGATIONS AND RIGHTS.—

''(1) NO EFFECT ON CARRIAGE OBLIGATIONS.—Carriage of a signal under this section is not mandatory, and any right of a station licensee to have the signal of such station carried under section 338 is not affected by the eligibility of such station to be carried under this section.

''(2) RETRANSMISSION CONSENT RIGHTS NOT AFFECTED.—The eligibility of the signal of a station to be carried under this section does not affect any right of the licensee of such station to grant (or withhold) retransmission consent under section 325(b)(1).

''(e) NETWORK NONDUPLICATION AND SYNDICATED EXCLUSIVITY.—

''(1) NOT APPLICABLE EXCEPT AS PROVIDED BY COMMISSION REGULATIONS.—Signals eligible to be carried under this section are not subject to the Commission's regulations concerning network nonduplication or syndicated exclusivity unless, pursuant to regulations adopted by the Commission, the Commission determines to permit network nonduplication or syndicated exclusivity to apply within the appropriate zone of protection.

''(2) LIMITATION.—Nothing in this subsection or Commission regulations shall permit the application of network nonduplication or syndicated exclusivity regulations to the retransmission of distant signals of network stations that are carried by a satellite carrier pursuant to a statutory license under section 119(a)(2)(A) or (B), with respect to persons who reside in unserved households, under 119(a)(4)(A), or under section 119(a)(12).

''(f) ENFORCEMENT.—

''(1) ORDERS AND DAMAGES.—Upon complaint, the Commission shall issue a cease and desist order to any satellite carrier found to have violated this section in carrying any television broadcast station. Such order may, if a complaining station requests damages—

''(A) provide for the award of damages to a complaining station that establishes that the violation was committed in bad faith, in an amount up to $50 per subscriber, per station, per day of the violation; and

''(B) provide for the award of damages to a prevailing satellite carrier if the Commission determines that the complaint was frivolous, in an amount up to $50 per subscriber alleged to be in violation, per station alleged, per day of the alleged violation.

''(2) COMMISSION DECISION.—The Commission shall issue a final determination resolving a complaint brought under this subsection not later than 180 days after the submission of a complaint under this subsection. The Commission may hear witnesses if it clearly appears, based on written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on written filings by the parties.

''(3) REMEDIES IN ADDITION.—The remedies under this subsection are in addition to any remedies available under title 17, United States Code.

''(4) NO EFFECT ON COPYRIGHT PROCEEDINGS.—Any determination, action, or failure to act of the Commission under this subsection shall have no effect on any proceeding under title 17, United States Code, and shall not be introduced in evidence in any proceeding under that title. In no instance shall a Commission enforcement proceeding under this subsection be required as a predicate to the pursuit of a remedy available under title 17.

''(g) NOTICES CONCERNING SIGNIFICANTLY VIEWED STATIONS.—Each satellite carrier that proposes to commence the retransmission of a station pursuant to this section in any local market shall—

''(1) not less than 60 days before commencing such retransmission, provide a written notice to any television broadcast station in such local market of such proposal; and

''(2) designate on such carrier's website all significantly viewed signals carried pursuant to section 340 and the communities in which the signals are carried.

''(h) ADDITIONAL CORRESPONDING CHANGES IN REGULATIONS.—

''(1) COMMUNITY-BY-COMMUNITY ELECTIONS.—The Commission shall, no later than April 30, 2005, revise section 76.66 of its regulations (47 CFR 76.66), concerning satellite broadcast signal carriage, to permit (at the next cycle of elections under section 325) a television broadcast station that is located in a local market into which a satellite carrier retransmits a television broadcast station pursuant to section 338, to elect, with respect to such satellite carrier, between retransmission consent pursuant to such section 325 and mandatory carriage pursuant to section 338 separately for each county within such station's local market, if—

''(A) the satellite carrier has notified the station, pursuant to paragraph (3), that it intends to carry another affiliate of the same network pursuant to this section during the relevant election period in the station's local market; or

''(B) on the date notification under paragraph (3) was due, the satellite carrier was retransmitting into the station's local market pursuant to this section an affiliate of the same television network.

''(2) UNIFIED NEGOTIATIONS.—In revising its regulations as required by paragraph (1), the Commission shall provide that any such station shall conduct a unified negotiation for the entire portion of its local market for which retransmission consent is elected.

''(3) ADDITIONAL PROVISIONS.—The Commission shall, no later than April 30, 2005, revise its regulations to provide the following:

''(A) NOTIFICATIONS BY SATELLITE CARRIER.—A satellite carrier's retransmission of television broadcast stations pursuant to this section shall be subject to the following limitations:

''(i) In any local market in which the satellite carrier provides service pursuant to section 338 on the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the carrier may notify a television broadcast station in that market, at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of—

''(I) each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market pursuant to this section during the next election cycle under such section of such regulations; and

''(II) for each such affiliate, the communities into which the satellite carrier reserves the right to make such retransmissions.

''(ii) In any local market in which the satellite carrier commences service pursuant to section 338 after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the carrier may notify a station in that market, at least 60 days prior to the introduction of such service in that market, and thereafter at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market during the next election cycle under such section of such regulations.

''(iii) Beginning with the 2005 election cycle, a satellite carrier may only retransmit pursuant to this section during the pertinent election period a signal—

''(I) as to which it has provided the notifications set forth in clauses (i) and (ii); or

''(II) that it was retransmitting into the local market under this section as of the date such notifications were due.

''(B) HARMONIZATION OF ELECTIONS AND RETRANSMISSION CONSENT AGREEMENTS.—If a satellite carrier notifies a television broadcast station that it reserves the right to retransmit an affiliate of the same television network during the next election cycle pursuant to this section, the station may choose between retransmission consent and mandatory carriage for any portion of the 3-year election cycle that is not covered by an existing retransmission consent agreement.

''(i) DEFINITIONS.—As used in this section:

''(1) LOCAL MARKET; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms 'local market', 'satellite carrier', 'subscriber', and 'television broadcast station' have the meanings given such terms in section 338(k).

''(2) NETWORK STATION; TELEVISION NETWORK.—The terms 'network station' and 'television network' have the meanings given such terms in section 339(d).

''(3) COMMUNITY.—The term 'community' means—

''(A) a county or a cable community, as determined under the rules, regulations, and authorizations of the Commission applicable to determining with respect to a cable system whether signals are significantly viewed; or

''(B) a satellite community, as determined under such rules, regulations, and authorizations (or revisions thereof) as the Commission may prescribe in implementing the requirements of this section.

''(4) BANDWIDTH.—The terms 'equivalent bandwidth' and 'entire bandwidth' shall be defined by the Commission by regulation.''.

SEC. 203. CARRIAGE OF LOCAL STATIONS ON A SINGLE DISH.

(a) AMENDMENTS.—Section 338 of the Communications Act of 1934 (47 U.S.C. 338(d)) is amended—

(1) by redesignating subsections (g) and (h) as subsections (j) and (k), respectively;

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

''(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE DISH.—

''(1) SINGLE DISH.—Each satellite carrier that retransmits the analog signals of local television broadcast stations in a local market shall retransmit such analog signals in such market by means of a single reception antenna and associated equipment.

''(2) EXCEPTION.—If the carrier retransmits signals in the digital television service, the carrier shall retransmit such digital signals in such market by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used for analog television service signals.

''(3) EFFECTIVE DATE.—The requirements of paragraphs (1) and (2) of this subsection shall apply on and after one year after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004.

''(4) NOTICE OF DISRUPTIONS.—A carrier that is providing signals of a local television broadcast station in a local market under this section on the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 shall, not later than

270 days after such date of enactment, provide to the licensees for such stations and the carrier's subscribers in such local market a notice that displays prominently and conspicuously a clear statement of—

''(A) any reallocation of signals between different reception antennas and associated equipment that the carrier intends to make in order to comply with the requirements of this subsection;

''(B) the need, if any, for subscribers to obtain an additional reception antenna and associated equipment to receive such signals; and

''(C) any cessation of carriage or other material change in the carriage of signals as a consequence of the requirements of this paragraph.''.

(b) CONFORMING AMENDMENTS: COMMISSION ENFORCEMENT OF SECTION; LOW POWER TELEVISION STATIONS.—

(1) Section 338(a) of such Act is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—Each satellite carrier providing, under section 122 of title 17, United States Code, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b).

''(2) REMEDIES FOR FAILURE TO CARRY.—In addition to the remedies available to television broadcast stations under section 501(f) of title 17, United States Code, the Commission may use the Commission's authority under this Act to assure compliance with the obligations of this subsection, but in no instance shall a Commission enforcement proceeding be required as a predicate to the pursuit of a remedy available under such section 501(f).

''(3) LOW POWER STATION CARRIAGE OPTIONAL.—No low power television station whose signals are provided under section 119(a)(14) of title 17, United States Code, shall be entitled to insist on carriage under this section, regardless of whether the satellite carrier provides secondary transmissions of the primary transmissions of other stations in the same local market pursuant to section 122 of such title, nor shall any such carriage be considered in connection with the requirements of subsection (c) of this section.''.

(2) Section 338(c)(1) of such Act is amended by striking ''subsection (a)'' and inserting ''subsection (a)(1)''.

(3) Section 338(k) of such Act (as redesignated by subsection (a)(1)) is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

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

''(4) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power television station as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ''low power television station'' includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.''.

SEC. 204. REPLACEMENT OF DISTANT SIGNALS WITH LOCAL SIGNALS.

Section 339(a) of the Communications Act of 1934 (47 U.S.C. 339(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

''(2) REPLACEMENT OF DISTANT SIGNALS WITH LOCAL SIGNALS.—Notwithstanding any other provision of paragraph (1), the following rules shall apply after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004:

''(A) RULES FOR GRANDFATHERED SUBSCRIBERS.—

''(i) FOR THOSE RECEIVING DISTANT SIGNALS.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station solely by reason of section 119(e) of title 17, United States Code (in this subparagraph referred to as a 'distant signal'), and who, as of October 1, 2004, is receiving the distant signal of that network station, the following shall apply:

''(I) In a case in which the satellite carrier makes available to the subscriber the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber—

''(aa) if, within 60 days after receiving the notice of the satellite carrier under section 338(h)(1) of this Act, the subscriber elects to retain the distant signal; but

''(bb) only until such time as the subscriber elects to receive such local signal.

''(II) Notwithstanding subclause (I), the carrier may not retransmit the distant signal to any subscriber who is eligible to receive the signal of a network station solely by reason of section 119(e) of title 17, United States Code, unless such carrier, within 60 days after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, submits to that television network the list and statement required by subparagraph (E)(i).

''(ii) FOR THOSE NOT RECEIVING DISTANT SIGNALS.—In the case of any subscriber of a satellite carrier who is eligible to receive the distant signal of a network station solely by reason of section 119(e) of title 17, United States Code, and who did not receive a distant signal of a station affiliated with the same network on October 1, 2004, the carrier may not provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber.

''(B) RULES FOR OTHER SUBSCRIBERS.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a 'distant signal'), other than subscribers to whom subparagraph (A) applies, the following shall apply:

''(i) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliate with the same network to that subscriber if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (E)(i).

''(ii) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

''(I) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

''(II) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (E)(ii).

''(C) FUTURE APPLICABILITY.—A satellite carrier may not provide a distant signal (within the meaning of subparagraph (A) or (B)) to a person who—

''(i) is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004; and

''(ii) at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338.

''(D) AUTHORITY TO GRANT STATION-SPECIFIC WAIVERS.—This paragraph shall not prohibit a retransmission of a distant signal (within the meaning of subparagraph (A) or (B)) of any distant network station to any subscriber to whom the signal of a local network station affiliated with the same network is available pursuant to section 338, if and to the extent that such local network station has affirmatively granted a waiver from the requirements of this paragraph to such satellite carrier with respect to retransmission of such distant network station to such subscriber.

''(E) NOTICES TO NETWORKS OF DISTANT SIGNAL SUBSCRIBERS.——

''(i) Within 60 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, each satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (A) or (B)(i) of this paragraph shall submit to each network—

''(I) a list, aggregated by designated market area, identifying each subscriber provided such a signal by—

''(aa) name;

''(bb) address (street or rural route number, city, State, and zip code); and

''(cc) the distant network signal or signals received; and

''(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (A) or (B)(i) of this paragraph.

''(ii) Within 60 days after the date a satellite carrier commences to carry pursuant to section 338 the signals of stations from a local market, such a satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (B)(ii) of this paragraph shall submit to each network —

''(I) a list identifying each subscriber in that local market provided such a signal by—

''(aa) name;

''(bb) address (street or rural route number, city, State, and zip code); and

''(cc) the distant network signal or signals received; and

''(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (B)(ii) of this paragraph.

''(F) OTHER PROVISIONS NOT AFFECTED.—This paragraph shall not affect the eligibility of a subscriber to receive secondary transmissions under section 340 of this Act or as an unserved household included under section 119(a)(12) of title 17, United States Code.

''(G) AVAILABLE DEFINED.—For purposes of this paragraph, a satellite carrier makes

available a local signal to a subscriber or person if the satellite carrier offers that local signal to other subscribers who reside in the same zip code as that subscriber or person.''.

SEC. 205. ADDITIONAL NOTICES TO SUBSCRIBERS, NETWORKS, AND STATIONS CONCERNING SIGNAL CARRIAGE.

Section 338 of the Communications Act of 1934 (47 U.S.C. 338) is further amended by inserting after subsection (g) (as added by section 203) the following new subsection:

''(h) ADDITIONAL NOTICES TO SUBSCRIBERS, NETWORKS, AND STATIONS CONCERNING SIGNAL CARRIAGE.—

''(1) NOTICES TO AND ELECTIONS BY SUBSCRIBERS CONCERNING GRANDFATHERED SIGNALS.—Any carrier that provides a distant signal of a network station to a subscriber pursuant section 339(a)(2)(A) shall—

''(A) within 60 days after the local signal of a network station of the same television network is available pursuant to section 338, or within 60 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, whichever is later, send a notice to the subscriber—

''(i) offering to substitute the local network signal for the duplicating distant network signal; and

''(ii) informing the subscriber that, if the subscriber fails to respond in 60 days, the subscriber will lose the distant network signal but will be permitted to subscribe to the local network signal; and

''(B) if the subscriber—

''(i) elects to substitute such local network signal within such 60 days, switch such subscriber to such local network signal within 10 days after the end of such 60-day period; or

''(ii) fails to respond within such 60 days, terminate the distant network signal within 10 days after the end of such 60-day period.

''(2) NOTICE TO STATION LICENSEES OF COMMENCEMENT OF LOCAL-INTO-LOCAL SERVICE.—

''(A) NOTICE REQUIRED.—Within 180 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the Commission shall revise the regulations under this section relating to notice to broadcast station licensees to comply with the requirements of this paragraph.

''(B) CONTENTS OF COMMENCEMENT NOTICE.—The notice required by such regulations shall inform each television broadcast station licensee within any local market in which a satellite carrier proposes to commence carriage of signals of stations from that market, not later than 60 days prior to the commencement of such carriage—

''(i) of the carrier's intention to launch local-into-local service under this section in a local market, the identity of that local market, and the location of the carrier's proposed local receive facility for that local market;

''(ii) of the right of such licensee to elect carriage under this section or grant retransmission consent under section 325(b);

''(iii) that such licensee has 30 days from the date of the receipt of such notice to make such election; and

''(iv) that failure to make such election will result in the loss of the right to demand carriage under this section for the remainder of the 3-year cycle of carriage under section 325.

''(C) TRANSMISSION OF NOTICES.—Such regulations shall require that each satellite carrier shall transmit the notices required by such regulation via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission.''.

SEC. 206. PRIVACY RIGHTS OF SATELLITE SUBSCRIBERS.

(a) AMENDMENT.—Section 338 of the Communications Act of 1934 (47 U.S.C. 338) is further amended by inserting after subsection (h) (as added by section 205) the following new subsection:

''(i) PRIVACY RIGHTS OF SATELLITE SUBSCRIBERS.—

''(1) NOTICE.—At the time of entering into an agreement to provide any satellite service or other service to a subscriber and at least once a year thereafter, a satellite carrier shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of—

''(A) the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

''(B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

''(C) the period during which such information will be maintained by the satellite carrier;

''(D) the times and place at which the subscriber may have access to such information in accordance with paragraph (5); and

''(E) the limitations provided by this section with respect to the collection and disclosure of information by a satellite carrier and the right of the subscriber under paragraphs (7) and (9) to enforce such limitations.

In the case of subscribers who have entered into such an agreement before the effective date of this subsection, such notice shall be provided within 180 days of such date and at least once a year thereafter.

''(2) DEFINITIONS.—For purposes of this subsection, other than paragraph (9)—

''(A) the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons;

''(B) the term 'other service' includes any wire or radio communications service provided using any of the facilities of a satellite carrier that are used in the provision of satellite service; and

''(C) the term 'satellite carrier' includes, in addition to persons within the definition of satellite carrier, any person who—

''(i) is owned or controlled by, or under common ownership or control with, a satellite carrier; and

''(ii) provides any wire or radio communications service.

''(3) PROHIBITIONS.—

''(A) CONSENT TO COLLECTION.—Except as provided in subparagraph (B), a satellite carrier shall not use any facilities used by the satellite carrier to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

''(B) EXCEPTIONS.—A satellite carrier may use such facilities to collect such information in order to—

''(i) obtain information necessary to render a satellite service or other service provided by the satellite carrier to the subscriber; or

''(ii) detect unauthorized reception of satellite communications.

''(4) DISCLOSURE.—

''(A) CONSENT TO DISCLOSURE.—Except as provided in subparagraph (B), a satellite carrier shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or satellite carrier.

''(B) EXCEPTIONS.—A satellite carrier may disclose such information if the disclosure is—

''(i) necessary to render, or conduct a legitimate business activity related to, a satellite service or other service provided by the satellite carrier to the subscriber;

''(ii) subject to paragraph (9), made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed;

''(iii) a disclosure of the names and addresses of subscribers to any satellite service or other service, if—

''(I) the satellite carrier has provided the subscriber the opportunity to prohibit or limit such disclosure; and

''(II) the disclosure does not reveal, directly or indirectly, the—

''(aa) extent of any viewing or other use by the subscriber of a satellite service or other service provided by the satellite carrier; or

''(bb) the nature of any transaction made by the subscriber over any facilities used by the satellite carrier; or

''(iv) to a government entity as authorized under chapters 119, 121, or 206 of title 18, United States Code, except that such disclosure shall not include records revealing satellite subscriber selection of video programming from a satellite carrier.

''(5) ACCESS BY SUBSCRIBER.—A satellite subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a satellite carrier. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such satellite carrier. A satellite subscriber shall be provided reasonable opportunity to correct any error in such information.

''(6) DESTRUCTION OF INFORMATION.—A satellite carrier shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under paragraph (5) or pursuant to a court order.

''(7) PENALTIES.—Any person aggrieved by any act of a satellite carrier in violation of this section may bring a civil action in a United States district court. The court may award—

''(A) actual damages but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher;

''(B) punitive damages; and

''(C) reasonable attorneys' fees and other litigation costs reasonably incurred.

The remedy provided by this subsection shall be in addition to any other lawful remedy available to a satellite subscriber.

''(8) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to prohibit any State from enacting or enforcing laws consistent with this section for the protection of subscriber privacy.

''(9) COURT ORDERS.—Except as provided in paragraph (4)(B)(iv), a governmental entity may obtain personally identifiable information concerning a satellite subscriber pursuant to a court order only if, in the court proceeding relevant to such court order—

''(A) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

''(B) the subject of the information is afforded the opportunity to appear and contest such entity's claim.''.

(b) EFFECTIVE DATE.—Section 338(i) of the Communications Act of 1934 (47 U.S.C. 338(i))

as amended by subsection (a) of this section shall be effective 60 days after the date of enactment of this Act.

SEC. 207. RECIPROCAL BARGAINING OBLIGATIONS.

(a) AMENDMENTS.—Section 325(b)(3)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(3)(C)) is amended—

(1) by striking ''Within 45 days'' and all that follows through ''1999, the'' and inserting ''The'';

(2) by striking the second sentence;

(3) by striking ''and'' at the end of clause (i);

(4) in clause (ii)—

(A) by striking ''January 1, 2006'' and inserting ''January 1, 2010''; and

(B) by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following new clauses:

''(iii) until January 1, 2010, prohibit a multichannel video programming distributor from failing to negotiate in good faith for retransmission consent under this section, and it shall not be a failure to negotiate in good faith if the distributor enters into retransmission consent agreements containing different terms and conditions, including price terms, with different broadcast stations if such different terms and conditions are based on competitive marketplace considerations.''.

(b) DEADLINE.—The Federal Communications Commission shall prescribe regulations to implement the amendments made by subsection (a)(5) within 180 days after the date of enactment of this Act.

SEC. 208. UNSERVED DIGITAL CUSTOMERS.

(a) INQUIRY REQUIRED.—Consistent with the digital television service rules of the Federal Communications Commission in effect on the date of enactment of this Act, and the propagation prediction models derived from Bulletin No. 69 of the Commission's Office of Engineering and Technology, the Commission shall initiate an inquiry to recommend the appropriate methodologies for determining which consumers are in locations where the consumer will be unable, on and after the date on which analog television services are discontinued pursuant to the provisions of section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)), to receive broadcast digital television service signals that are transmitted from a station's permanent digital television channel that are of sufficient intensity to be able to receive and display digital television service using receiving terrestrial outdoor antennas of reasonable cost and ease of installation. Such methodologies shall be based on the current field strength requirements for digital television stations in section 73.622(e)(1) of the Commission's regulations (47 CFR 622(e)(1)).

(b) REPORT REQUIRED.—The Federal Communications Commission shall submit a report on the results of the inquiry required by subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than December 31, 2005. Such report shall include—

(1) a proposal, using the best engineering practices for the broadcast television industry, for a predictive methodology for determining both which consumers—

(A) receive a digital signal of sufficient intensity to be able to receive and display digital television service using receiving terrestrial outdoor antennas of reasonable cost and ease of installation; or

(B) will receive such a signal after a local station begins transmitting on its permanent digital television channel;

(2) an analysis of whether it is possible to identify the areas of the country within which consumers will not, on and after the date on which analog television services are discontinued pursuant to the provisions of section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)), be able to receive a digital television signal of sufficient intensity to be able to receive and display digital television service using receiving terrestrial outdoor antennas of reasonable cost and ease of installation; and

(3) if possible, an identification, on a county-by-county or more localized basis, of such areas for each television network.

SEC. 209. REDUCTION OF REQUIRED TESTS.

Section 339(c)(4) of the Communications Act of 1934 (47 U.S.C. 339(c)(4)) is amended by inserting after subparagraph (C) the following new subparagraphs:

''(D) REDUCTION OF VERIFICATION BURDENS.—Within one year after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the Commission shall by rule exempt from the verification requirements of subparagraph (A) any request for a test made by a subscriber to a satellite carrier—

''(i) to whom the retransmission of the signals of local broadcast stations is available under section 338 from such carrier; or

''(ii) for whom the predictive model required by paragraph (3) predicts a signal intensity that exceeds the signal intensity standard in effect under section 119(d)(10)(A) of such title by such number of decibels as the Commission specifies in such rule.

''(E) EXCEPTION.—A subscriber in a local market in which the satellite carrier does not offer the signals of local broadcast stations under section 338 and whose household is predicted to meet or exceed the number of decibels specified by the Commission pursuant to subparagraph (D)(ii), may, at his or her own expense, authorize a signal intensity test to be performed pursuant to the procedures specified by the Commission in section 73.686(d) of title 47, Code of Federal Regulations, by a tester who is approved by the satellite carrier and by each affected network station, or who has been previously approved by the satellite carrier and by each affected network station but not previously disapproved. A tester may not be so disapproved for a test after the tester has commenced such test. The tester shall give 5 business days advance written notice to the satellite carrier and to the affected network station or stations. A signal intensity test conducted in accordance with the preceding sentence shall be determinative of the signal strength received at that household for purposes of determining whether the household is capable of receiving a Grade B intensity signal.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. DELAY) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the chairman of the Committee on Energy and Commerce, the gentleman from Texas (Mr. BARTON), and the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), each be allowed to control 10 minutes of the time currently under my control.

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. BARTON) and I be allowed to yield portions of the time that has been yielded to us by the majority leader.

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I thank the majority leader for calling up this bill which is appropriately named in tribute to our colleague, the gentleman from Louisiana (Mr. TAUZIN), who will retire at the end of this year after having served the citizens of Louisiana for more than a quarter century.

This bill is a product of a remarkable collaborative effort that has involved members of the Committee on the Judiciary and Committee on Energy and Commerce. I would like to especially thank the gentleman from Texas (Mr. BARTON) for his excellent cooperation through this entire process.

The manager's amendment to the bill, which the Committee on the Judiciary approved unanimously on July 7, 2004, incorporates H.R. 4501 which was the Committee on Energy and Commerce version of the bill reported on July 22.

The manager's amendment incorporates important refinements to both the copyright and communications acts. These provisions are designed to extend for an additional 5 years the license that permits satellite TV companies such as DirecTV and EchoStar to retransmit to their subscribers TV programming shown on distant network stations and superstations. The extension will ensure that Americans who live in rural areas where they have trouble receiving signals from the regular broadcast stations will continue to have access to network TV programming.

Significantly, this bill does not simply preserve the status quo for the statutory period. Instead, the bill changes both the copyright and communications acts to ensure, first, that consumers will have greater choice in programming; second, that satellite providers will have greater freedom to deliver the content consumers desire; third, that free, over-the-air local broadcasters will have the opportunity to serve needs that are specific to their communities; and, fourth, the copyright owners will enjoy the first compulsory royalty fee adjustment in nearly 5 years.

The amendments have been carefully negotiated and crafted. They have benefited from an open process which has involved at least four committee hearings, the introduction and mark-up of two committee-reported bills to the House, and a willingness to consider numerous refinements to achieve the right policy and to gain consensus.

As a result, the bill is supported by numerous organizations including the

National Association of Broadcasters, numerous local broadcast stations, and the Capital Broadcasting Company. In addition, the royalty provision contained in the judiciary title has been specifically endorsed by effective stakeholders. This is a culmination of a painstaking effort under the leadership of the gentleman from Texas (Mr. SMITH) and the ranking member, the gentleman from California (Mr. BERMAN), who encouraged affected parties to negotiate a voluntary agreement.

As a result, the section 119 rate provisions contained in the manager's amendment are now supported by the two largest DBS providers, DirecTV and EchoStar; their trade association, the Satellite Broadcasting and Communications Association, and major copyright owners including the Motion Picture Association and the Office of the Commission of Baseball. Together those entities represent the copyright owners who receive the overwhelming majority of copyright royalties paid under the license and the satellite carriers who make the vast majority of such payments.

In return for extending the license to satellite companies, the bill does require the beneficiaries to accept certain reporting requirements. These requirements are designed to protect the legitimate interests of copyright owners and free over-the-air broadcasters.

I would like to take a moment to acknowledge the contributions of the subcommittee chairman, the gentleman from Texas (Mr. SMITH). We could not have reached this point without his steady work. I also want to thank the gentleman from Texas (Mr. BARTON) for all his help and support during the process. Thanks also go to other key players, the gentleman from Michigan (Mr. UPTON), the gentleman from Michigan (Mr. CONYERS), the gentleman from California (Mr. BERMAN), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Massachusetts (Mr. MARKEY), all of whom have made significant contributions to this effort. I appreciate all their efforts.

I am pleased that we have been able to work together in developing this joint bill, and I look forward to building on this success next year. The bill promotes the interests of consumers, satellite providers, broadcasters, and copyright owners. It is a balanced bill and deserves the support of this House.

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

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. GONZALEZ) be allowed to control 10 minutes of my time.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 4518 and ask my colleagues to vote in favor of its passage. I am happy to join my friend from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee, the gentleman who rolled me yesterday, in supporting this legislation.

This bill is a must-pass piece of legislation. Its core provision re-authorizes the statutory license found in section 119 of the Copyright Act which is due to expire on December 31 of this year. The section 119 enables satellite television companies to retransmit distant superstation and network signals to the subscribers who cannot obtain comparable signals over the air.

Extension of the section 119 license is very important to many satellite TV subscribers who might otherwise lose access to a number of popular television stations. The section 119 license is also of great benefit to satellite TV companies as it provides them with the equivalent of a valuable government subsidy. It guarantees satellite companies the ability to retransmit copyrighted broadcast programming, without the permission of the copyright owners and to do so at a government set rate.

I support this extension of the section 119 license despite my longstanding opposition to statutory licensing of copyrighted works. Section 119 was originally enacted in order to help satellite television become competitive with cable television which benefits from an analogous license. With 22 percent of the pay TV market, it appears that satellite television has reached that goal. However, expiration of section 119 without simultaneous expiration of the analogous statutory license for cable television may upset that competitive balance. When Congress revisits this issue in 2009, it may reach a different conclusion or even decide to do away with both licenses. Until then, however, we should strive to maintain a competitive balance.

The legislation before us does far more than simply reauthorize the section 119 statutory license. It is a combination of two bills that emerged from the Committee on the Judiciary and the Committee on Energy and Commerce. As such, it is the culmination of a long, sometimes difficult but ultimately successful collaboration between our two committees.

I commend the chairmen of both committees, the Committee on Energy and Commerce and the Committee on the Judiciary, for their steady and inclusive stewardship throughout this collaborative effort. I leave it to my colleagues of the Committee on Energy and Commerce to describe the provisions of title II which fall in their jurisdiction. However, I do want to express my support for title II and in particular the single dish requirement contained therein.

This provision requires that satellite TV providers enable customers to obtain all local broadcast programming through a single satellite dish, rather than having to install two dishes. The one-dish requirement will prevent further de facto discrimination against broadcast stations carrying minority, religious, and public interest programming.

As for title I, I am pleased most of all by its royalty provisions. These provisions represent a marked improvement over the provisions found in the Judiciary-reported version of H.R. 4518. The bill before us today does not mandate any increase in royalty rates. Nor does it establish a specific royalty rate for the retransmission of distant signals. Rather, the royalty rate will be set through adoption of a voluntary industry agreement, or in the absence of an acceptable agreement, by a copyright arbitration royalty panel.

While I do not know its terms, I understand that a voluntary industry agreement on royalties has already been reached. EchoStar, DirecTV, the Satellite Broadcast Communications Associations, and the relevant copyright owners have written us a letter to this effect. The letter also expresses unequivocal support for the royalty provisions contained in the bill before us today. If no interested party raises a well-founded objection, the legislation directs the copyright office to expeditiously adopt the voluntary industry agreement.

The adoption of this agreement would represent perhaps the least contentious establishment of section 119 royalties since section 119 was first enacted. All involved deserve a great deal of credit for reaching a mutually acceptable agreement in such a compressed time frame.

Once again, Mr. Speaker, I note my support for H.R. 4518, as amended, and ask my colleagues to add their support.

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

Mr. BARTON of Texas. Mr. Speaker, do we have the time allocated equally on both sides, or do I need to yield time to the minority?

The SPEAKER pro tempore. The gentleman from Texas (Mr. BARTON) has 10 minutes, and the time has been distributed as agreed to.

Mr. BARTON of Texas. So the gentleman from Texas (Mr. GONZALEZ) have 10 minutes?

The SPEAKER pro tempore. Yes, sir. I might point out for further clarification, the gentleman from California (Mr. BERMAN) has 10 minutes and the gentleman from Texas (Mr. GONZALEZ) has 10 minutes.

Mr. BARTON of Texas. Mr. Speaker, I was under the impression that perhaps I needed to yield time to the gentleman from Texas (Mr. GONZALEZ), but apparently not, so I yield myself such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I will focus on what the gentleman from California (Mr. BERMAN) asked me to focus on, which is title II of H.R. 4518 which addresses a communications provision that originated in H.R. 4501.

Before I do that, I do want to say how appreciative I am that we have all agreed to name this after the former chairman of the committee, the gentleman from Louisiana (Mr. TAUZIN). It really is a tribute to him. He was an expert in telecommunications. He took a personal interest in telecommunications acts, and I am proud that my House colleagues have agreed that we can name the bill in his honor.

I would also like to inform the House that another of our colleagues, the gentleman from Georgia (Mr. NORWOOD), a distinguished member of the Committee on Energy and Commerce, did have a lung implant last evening, and he is doing well today in the hospital. When he came out from anesthesia, his first question was was his staff at work today. So he was obviously doing well.

□ 1330

Let me go to the issue at hand. Current law authorizes direct broadcast satellite operators, such as DirecTV and EchoStar, to provide the signals of distant broadcast network stations to a consumer who cannot receive an over-the-air signal from the local network stations. The Communications Act exempts satellite operators from having to obtain consent from a distant broadcaster to carry the signal into the local market. That exemption expires at the end of this year. The bill before us would extend that exemption to December 31, 2009.

Cable operators currently may carry certain out-of-market signals into a local market if the signals can be viewed by a significant number of people in the local market using over-the-air antennas. The bill would extend to satellite operators the authority to carry such significantly viewed signals on comparable terms as cable operators.

EchoStar currently uses two satellite dishes in some markets to provide local broadcast stations. Some broadcasters argue that this harms the ratings of stations on the second dish because not all customers are aware of, or want to install, that second dish. The bill before us would give EchoStar 1 year from date of enactment to provide all local stations in a market on a single satellite dish.

The bill would also require satellite operators to stop offering distant signals in markets where they carry local signals. It does, however, grandfather certain existing subscribers.

Although broadcasters are starting to transmit in digital, their digital signals do not yet reach all consumers over the air. As a result, many consumers could not receive a digital signal over the air even if they had a digital television. Once the digital television transition is complete, analog broadcasts will cease.

At that time, it will be important for satellite operators to be able to provide distant digital signals to consumers in so-called ''white areas,'' who cannot receive local digital signals over the air, just as satellite operators currently offer distant analog signals to subscribers who are unserved over the air.

The bill requires the Federal Communications Commission to submit a report to the House Committee on Energy and Commerce at the end of 2005 on how it would propose to implement a digital white air area once the DTV transition ends.

Mr. Speaker, I'm proud to bring before the House today H.R. 4518, the ''Satellite Home Viewer Extension and Reauthorization Act of 2004'', SHVERA. The bill will also be known as ''The W.J. 'Billy' Tauzin Satellite Television Act of 2004,'' in honor of our former House Energy and Commerce Committee chairman. He has done so much to foster the growth of satellite television, increase television service competition, and improve choices for consumers that it is only fitting that we name this bill after him. Chairman TAUZIN is currently recovering from a bout with cancer. My understanding is that he is doing so with his characteristic vigor and good humor, and is faring well. I am sure all join me in wishing him a speedy recovery.

The bill reauthorizes certain expiring provisions in the communications and copyright acts regarding satellite television. It also increases parity and enhances competition between satellite and cable operators by modernizing other provisions. Because the bill implicates both communications and copyright issues, the House Energy and Commerce Committee and the House Judiciary Committee have worked closely in drafting the legislation. Indeed, pursuant to a compromise between the House Energy and Commerce Committee and the House Judiciary Committee, H.R. 4518 has now been amended to combine its copyright provisions with the Communications Act provisions of H.R. 4501, which my committee reported 3 months ago.

H.R. 4501 resulted from an extensive examination of satellite television issues. The Subcommittee on Telecommunications and the Internet held an oversight hearing on March 10, 2004, and a legislative hearing on April 1, 2004. The subcommittee then marked up the legislation on April 28, 2004, and the full committee marked up the bill on June 3, 2004. I will focus the remainder of my remarks to title II of H.R. 4518, as amended, which addresses the Communications Act provisions that originated in H.R. 4501.

Current law authorizes direct broadcast satellite, DBS, operators, such as DirecTV and Echostar, to provide the signals of distant broadcast network stations to a consumer who cannot receive an over-the-air signal from the local network stations. The Communications Act exempts satellite operators from having to obtain consent from a distant broadcaster to carry the signal into the local market. That exemption expires at the end of this year. The bill would extend it to December 31, 2009.

Cable operators currently may carry certain out-of-market signals into a local market if the signals can be viewed by a ''significant number'' of people in the local market using over-the-air antennas. The bill would extend to satellite operators the authority to carry such significantly viewed signals on comparable terms as cable operators.

Echostar currently uses two satellite dishes in some markets to provide local broadcast stations. Some broadcasters argue that this harms the ratings of stations on the second dish because not all customers are aware of, or want to install, the second dish. The bill would give Echostar 1 year from enactment to provide all local stations in a market on a single satellite dish.

The bill also requires satellite operators to stop offering distant signals in markets where they carry local signals. It does, however, grandfather certain existing subscribers.

Although broadcasters are starting to transmit in digital, their digital signals do not yet reach all consumers over the air. As a result, many consumers could not receive a digital signal over the air even if they had a digital television. Once the digital television transition is complete, analog broadcasts will cease. At that time, it will be important for satellite operators to be able to provide distant digital signals to consumers in ''white areas'' who cannot receive local digital signals over the air, just as satellite operators currently offer distant analog signals to subscribers who are ''unserved'' over the air. The bill requires the Federal Communications Commission to submit a report to the House Energy and Commerce Committee at the end of 2005 on how it would propose to implement a digital white area once the LTV transition ends.

Since its introduction about a decade ago, satellite television service has become a significant facilities-based competitor to cable service. Satellite retransmission of broadcast programming is responsible for much of the growth. Satellite-delivered television service started as a way to serve consumers, particularly in rural areas, who could not get adequate over-the-air reception and did not have access to cable. But DBS does more than serve otherwise unserved areas. Its nationwide coverage allows it to compete against cable operators, and in so doing it improves consumer options. Indeed, the presence of satellite operators has caused cable operators to upgrade their infrastructure to allow consumers to receive high-quality video and more channels, as well as interactive, broadband, video-on-demand, and Internet telephony services.

By extending the expiring provisions, increasing parity, and promoting further competition, this legislation will continue to enhance service to consumers.

I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time, and I ask unanimous consent that the gentleman from Michigan (Mr. UPTON), the distinguished subcommittee chairman, control the balance of my time.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 4518, the Satellite Home Viewer Extension Reauthorization Act of 2004. I would like to thank the gentleman from Texas (Chairman BARTON) and the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Michigan (Ranking Member DINGELL) and the gentleman from Michigan (Ranking Member CONYERS) and the subcommittee chairmen and ranking

members for their hard work on this piece of legislation.

H.R. 4518 is a comprehensive, bipartisan bill crafted jointly by the Committee on Energy and Commerce and the Committee on the Judiciary that will preserve localism, protect consumer privacy and increase competition between cable and satellite companies.

Local broadcasters play a vital role in providing to the communities they serve local news and weather, information on community events and entertainment. In 1999, Congress recognized the important role of local broadcasters when it last authorized this act. Specifically, the act requires satellite companies to offer in a nondiscriminatory manner all local broadcast signals once the satellite carriers begin offering local-into-local service in a market. This requirement, dubbed ''carry one, carry all,'' was the cornerstone of the act.

Unfortunately, in several markets, one satellite company has refused to comply with this requirement. For several years, I have heard complaints from local Spanish language broadcasters that one particular satellite company has refused to carry Spanish language broadcasts on the same dish on which it carries the signals of the major television networks. In fact, in my own home State of Texas nine of the eleven stations bumped by that particular satellite company to a second dish are Spanish language stations.

In these two-dish markets, customers do not receive all of the channels for which they have paid if they do not ask that particular company for the second dish. This is unfair to consumers, and it harms the viability of local broadcasters because fewer people are watching their channels.

The negative effects of a two-dish practice are made even greater by a failure to inform many customers of a particular company of the need for a second dish. This practice is wrong. It undermines basic principles of localism by essentially giving Spanish language and other minority-themed stations a second-class status in their own home markets.

I thank my colleagues for including language in this bill that would put an end to this two-dish practice within 1 year. Forcing satellite providers to carry all local broadcast signals on one dish will finally ensure the equal treatment of all broadcasters.

Protecting the privacy of consumers who subscribe to satellite television is also very important. Although current law protects the privacy of persons who subscribe to cable television service, it does not protect those who subscribe to satellite service.

I commend the gentleman from Massachusetts (Mr. MARKEY) in particular for seeing to it that this bill extends to satellite subscribers the same privacy protections in effect for cable subscribers.

Finally, increasing competition between cable and satellite companies is an important goal of this act. Prior to the last reauthorization of the act, cable companies provided their customers with all of the local broadcast channels, but satellite companies were not permitted to do the same. Since Congress gave satellite companies the authority to provide local-into-local service in 1999, the number of subscribers to satellite has about doubled.

This legislation before us today makes further important strides in increasing parity which should lead to greater competition between cable and satellite. Right now, cable television companies can provide their subscribers with signals that are significantly viewed in a local market. Satellite television providers have no such authority. H.R. 4518 would fix this inequity by permitting satellite carriers of those same significantly viewed signals.

Mr. Speaker, this is a good bill that preserves local broadcasting, protects the privacy of satellite television service subscribers, and will provide a more level playing field for satellite companies on which to compete against cable providers. I support these goals and urge all Members to support this bill.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Courts, the Internet, and Intellectual Property.

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

Mr. SMITH of Texas. Mr. Speaker, first of all, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for yielding me time.

Mr. Speaker, I support the manager's amendment to H.R. 4518, the Satellite Home Viewer Extension and Reauthorization Act of 2004 which I introduced.

I, too, would like to acknowledge the contributions and support of the gentleman from Texas (Chairman BARTON) and our colleagues on the Committee on Energy and Commerce.

Without the hard work of the gentleman from Michigan (Mr. UPTON), sitting to my right, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Massachusetts (Mr. MARKEY), a bill this complex would not have been able to move under suspension.

Also, I want to especially thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his leadership, as well as recognize the personal effort and contributions of both the gentleman from Michigan (Mr. CONYERS) and the gentleman from California (Mr. BERMAN).

This bill will reauthorize the Copyrights Act's distant-signal license, which benefits the satellite industry. Because of this bill, Americans will continue to be able to receive television programming over satellite.

This legislation strikes a balance between the interests of intellectual property owners and the interests of the satellite providers who distribute copyrighted programming.

With time running out this session, it is now critically important that H.R. 4518 be enacted without delay.

The bill makes important changes to both the Copyright Act and the Communications Act to ensure that consumers will have greater choices in programming; that satellite providers have greater freedom to deliver the content consumers desire; that free over-the-air local broadcasters have the opportunity to serve needs that are specific to their communities; and that copyright owners receive the first adjustment to their compensation in 5 years.

In addition, the bill requires the Copyright Office to complete a study and provide recommendations on whether Congress should take further steps to create more parity with the cable compulsory license.

Mr. Speaker, I would also like to recognize the hard work and countless hours that were dedicated by the Copyright Office's Bill Roberts, as well as by David Whitney of my staff, Sampak Garg of the gentleman from Michigan's (Mr. CONYERS) staff, and Alec French from the gentleman from California's (Mr. BERMAN) staff.

Mr. Speaker, H.R. 4518 is a carefully crafted bill that promotes the interests of consumers, satellite providers, broadcasters and copyright owners. It is a fair and balanced bill that deserves the support of this House.

Mr. Speaker, I would like to insert a copy of the September 23 letter by DirecTV, EchoStar, the Motion Picture Association, Major League Baseball into the RECORD, as well as an October 5 letter by Eddie Fritts of the National Association of Broadcasters that endorses H.R. 4518 at this point.

NATIONAL ASSOCIATION OF BROADCASTERS,
Washington, DC, October 5, 2004.

DEAR REPRESENTATIVE: I understand that this week the House of Representatives will consider H.R. 4518, the Satellite Home Viewer Extension and Reauthorization Act. On behalf of your local television stations, I am writing to urge you to support this critical legislation, which will help preserve localism in television and protect the interests of the American viewer.

The legislation enjoys widespread, bipartisan support. The bill is the result of extensive compromise and negotiation between Members of the two Committees of jurisdiction, the Judiciary Committee and the Energy and Commerce Committee and is carefully crafted to address a range of satellite television issues in a pro-consumer fashion. For instance:

The bill would create incentives for satellite subscribers to gradually shift to selecting their local television stations in their programming packages.

It would phase-out a discriminatory ''2-dish'' practice which relegates some local television stations to a second dish, where they are all but invisible to satellite subscribers.

The bill would give satellite providers parity with cable by allowing them to import

''significantly viewed'' out-of-market stations from adjoining markets.

The legislation balances this new privilege with key safeguards ensuring such a practice is not abused to the detriment of local television and consumers.

The bill provides a long needed update to copyright rates, increasing compensation for copyright holders.

Some have argued the legislation should be modified to include a ''Digital White Areas'' provision, which would permit satellite companies to import national, distant, digital network digital networks from Los Angeles or New York into local television markets, supplanting local television stations. However, the vast majority of industry stakeholders, including local broadcast stations, the television networks, cable operators, and DirecTV have rejected this approach and are instead working to see local high-definition digital television available on cable and satellite systems. We urge you to reject the Digital White Areas proposal as well.

Ultimately, as the product of an open process of hearings and mark-ups in both Committees of jurisdiction, H.R. 4518 would reauthorize the Satellite Home Viewer Improvement Act in a manner consistent with broadcast television localism. I strongly urge you to pass H.R. 4518 as written. The measure will take import strides in protecting the interests of consumers and furthering localism in television.

Sincerely,

EDDIE FRITTS.

SEPTEMBER 23, 2004.

Re H.R. 4518, Satellite Home Viewer—Extension and Reauthorization Act of 2004.

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

Hon. LAMAR SMITH,
Chairman, Subcommittee on Courts, the Internet and Intellectual Property, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. JOHN CONYERS, Jr.,
Ranking Member, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. HOWARD L. BERMAN,
Ranking Member, Subcommittee on Courts, the Internet and Intellectual Property, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMEN: This letter is written on behalf of the undersigned representatives of those (1) copyright owners who receive the vast majority of the copyright royalties paid for the statutory licenses set forth in Section 119 of the Copyright Act, 17 U.S.C. §119; and (2) satellite carriers who pay the vast majority of the Section 119 royalties.

At your request, we undertook negotiations over the copyright royalty rates that satellite carriers should pay under Section 119 for the statutory license to retransmit superstations and network stations. As we are certain you understand, negotiations of this nature necessarily involve a number of difficult and competing considerations and strongly-held views. Nevertheless, we are pleased to report that, with the considerable assistance of you and your staff, our negotiations have been successful. We have entered into a voluntary agreement specifying the royalty fees that satellite carriers would pay for the Section 119 license during each of the years 2005 through 2009.

Our agreement is effective only if legislation is enacted into law, prior to January 1, 2005, with provisions that: (1) reauthorize 17 U.S.C. §119 for the five-year period ending December 31, 2009; (2) permit affected parties to enter into voluntary agreements as an alternative to a Copyright Arbitration Royalty Panel (''CARP'') proceeding; (3) provide for the convening, if necessary, of a CARP proceeding to adjust the royalty rates payable under 17 U.S.C. §119, provided that such provisions require the Librarian of Congress and any CARP to adjust any fees set by arbitration to account for the obligations of the parties under any applicable voluntary agreements filed with the Copyright Office; and (4) amend the Section 119 compulsory license to permit the retransmission of superstations to commercial establishments. These provisions are collectively referred to herein as the ''Section 199 Rate Provisions.''

If legislation containing each of these Section 119 Rate Provisions is enacted into law prior to January 1, 2005, we will submit to the Copyright Office our voluntary agreement that specifies the agreed-upon royalty rates, and this agreement will become binding on the parties. We will also jointly petition the Copyright Office to adopt these rates for all copyright owners, satellite carriers and distributors under Section 119.

Attachment A hereto describes in narrative form the changes that we believe must be made to H.R. 4518, as reported to the House of Representatives on September 7, 2004, for that bill to incorporate the above-identified Section 119 Rate Provisions. Attachment B provides specific suggested language amending H.R. 4518 to reflect the Section 119 Rate Provisions. Attachment C contains a red-lined version of H.R. 3518 showing the proposed Section 119 Rate Provisions.

There are a few additional points that we wish to emphasize. First, the rates to which the parties have agreed reflect multiple considerations and difficult compromises—including a desire to be responsive to your reasonable requests for a negotiated agreement and to avoid the costs and uncertainties of further controversy and political litigation. Accordingly, our agreement provides that its terms do not have any precedential value. Nevertheless, we firmly believe that it is in the best interests of all copyright owners and satellite carriers alike, as well as those consumers who receive the valuable copyrighted works offered under the Section 119 statutory license, for Congress to enact the Section 119 Rate Provisions—and for the Copyright Office ultimately to adopt the rates set forth in our voluntary agreement.

Second, nothing in our voluntary agreement prevents any party from supporting or opposing provisions other than those reflected in the attached Section 119 Rate Provisions.

Third, each of the Parties to this agreement (DIRECTV, EchoStar and the copyright owners) supports the attached Section 119 Rate Provisions. This is not to say, however, that each of the parties would support any legislative vehicle to which the Section 119 Rate Provisions could be attached. Each Party must base its decision on whether to support any such legislation on the totality of the provisions therein.

Finally, we wish to personally thank each of you and your staff for your continuing efforts in bring the parties together and assisting us to resolve our considerable differences in an amicable way that serves the best interests of all concerned. In particular, we wish to recognize the hard work of David Whitney, Alec French, Sampak Garg and Cameron Gilreath. We very much appreciated their professionalism, their diligence and their patience throughout the process. It is our fervent wish that all of these efforts bear fruit with the passage of legislation that resolves the Section 119 rate issues for the upcoming five-year period.

Sincerely,

Program Suppliers: Fritz Attaway, Executive Vice President and Washington Counsel, Motion Picture Association of America, Inc.

Joint Sports Claimants: Thomas J. Ostertag, Senior Vice President & General Counsel, Office of the Commissioner of Baseball.

DirecTV, Inc.: Daniel M. Fawcett, Executive Vice President and General Counsel.

EchoStar Satellite L.L.C.: David K. Moskowitz, Executive Vice President & General Counsel.

Satellite Broadcasting & Communications Association: Richard DalBello, President.

Mr. Speaker, finally and obviously, I urge all Members to support this good piece of legislation, and I appreciate in advance their support.

Mr. UPTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. BUYER), my friend and colleague, a member of the Subcommittee on Telecommunications and the Internet.

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

Mr. BUYER. Mr. Speaker, I appreciate the gentleman's good work on this.

The act we are approving today continues a strong policy of continuing local-to-local service. It also pushes the satellite industry to be as competitive as possible with cable.

For the first time, the bill will allow satellite carriers to deliver significantly viewed stations from nearby markets as cable now is able to do. In any given community, the significantly viewed stations that the direct broadcast service will be allowed to carry are exactly the same ones that cable can carry.

The act imposes a variety of limits designed to protect free, local, over-the-air broadcasting. For example, the only subscribers who can receive significantly viewed stations are those who are already receiving their own local stations by satellite.

Nor can the direct broadcast service company offer a digital signal of a significantly viewed affiliate of, say, CBS to a subscriber to which it offers only the analog feed of the local CBS station or carry the significantly viewed CBS station with more digital broadband than the local station.

There also are some pretty strong provisions in this. If the satellite carrier abuses this new regime by carrying an unauthorized station, it will be both subject to swift and severe penalties at the FCC and will forfeit its compulsory license under the Copyright Act which is conditioned on compliance with all applicable FCC rules regulations and authorization.

I had been impressed with the satellite industry and how it has created this industry, but they also now need to be fair players in the marketplace.

As Congress made clear when we passed the 1999 Satellite Home Viewer Improvement Act (''SHVIA''), it is far better for local communities if satellite carriers offer their customers local television stations—including network

stations—rather than TV stations from other cities. Put another way, local-to-local service is the right way, and—except when there is no other choice—distant network stations are the wrong way, to deliver broadcast programming by satellite. Local-to-local fosters localism and helps keep free, over-the-air television available to everyone, while delivery of distant network stations to households that can receive their own local stations (whether over the air or via local-to-local service) has just the opposite effect.

The pro-local-to-local policy of the 1999 SHVIA has been an astounding success. The satellite industry has grown spectacularly since then, spurred—as the satellite industry has many times reminded us—by the availability of local-to-local service. In fact, in the past year, the number of cable subscribers has actually shrunk, while satellite carriers continue to expand at a rapid clip.

Recognizing that local-to-local is not just good policy but good business, the DBS firms have expanded local-to-local service at a rate far faster than the industry predicted a few years ago. As to analog service, EchoStar recently announced that it was serving no fewer than 150 local markets, covering more than 90 percent of the television households in the United States. And for its part, DirecTV expects to offer local-to-local in at least 130 local markets by the end of 2004—and has committed to offering local-to-local in every market as soon as 2006, and no later than 2008.

I want to commend DirecTV for its commitment to provide service to all 210 Designated Market Areas. I hope that EchoStar is on a similar path and will provide more certainty as to when this might occur just as DirecTV has done. It is my hope that this service is provided sooner rather than later so that those satellite subscribers in Lafayette, Indiana will be able to receive their local affiliate station and achieve true local-into-local service.

But there is still more: DirecTV announced just a few weeks ago that it plans to offer high-definition local-to-local service in many markets over the next few years. With the first of its new satellites, DirecTV plans to offer during 2005 more than 500 local high-definition channels, enabling it to offer local HD programming to the majority of U.S. television households. And with the launch of still more new satellites, DirecTV will be able to add even more local HD markets in the future. Of course, in the highly competitive world of multichannel television providers, there is little doubt that DirecTV's competitors will be driven to try to match—or exceed—DirecTV's local-to-local offerings. And that is all to the good.

The Act we are approving today continues the strong policy of encouraging local-to-local service and pushing the satellite industry to be as competitive as possible with cable. For the first time, the bill will allow satellite carriers to deliver ''significantly-viewed'' stations from nearby markets, as cable is now able to do. In any given community, the ''significantly viewed'' stations that DBS will be allowed to carry are exactly the same ones that cable can carry. The Act imposes a variety of limits designed to protect free, local, over-the-air broadcasting: For example, the only subscribers who can receive significantly-viewed stations are those who already receive their own local stations by satellite. (Since cable always offers local stations, this rule ensures a level playing field.) Nor can a DBS company offer a digital signal of a significantly-viewed affiliate of, say, CBS, to a subscriber to which it offers only the analog feed of the local CBS station, or carry a significantly-viewed CBS station with more digital bandwidth than the local CBS station (unless the carrier offers the entire bandwidth of the local digital station).

If a satellite carrier abuses this new regime—by carrying unauthorized stations—it will both be subject to swift and severe penalties at the FCC, and will forfeit its compulsory license under the Copyright Act, which is conditioned on compliance with all applicable FCC rules, regulations, and authorizations.

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding time to me. And, Mr. Speaker, I am pleased to rise in strong support of this proconsumer legislation, the Satellite Home Viewers Extension and Reauthorization Act.

I also want to thank the chairman and ranking member of the Committee on Energy and Commerce for the manner in which this legislation moved through our committee. The Committee on Energy and Commerce moved through the process, it was completely open and bipartisan; and I thank the Chair for that.

The Satellite Home Viewer Improvement Act expires at the end of this year. Thus, we must act quickly to ensure our constituents continue to receive the services they enjoy.

This bill also does a great service to our communities by preserving and strengthening local broadcasting.

My interest in this legislation was piqued when I discovered that one of the two satellite companies was engaging in a discriminatory practice that forced 95 percent of their customers to pay for services they do not receive.

EchoStar's system requires two satellite dishes on a rooftop to be able to receive all of the local channels and other channels they offer. Nothing is wrong with that. It is how their technology works. However, EchoStar is discriminatory in choosing which local broadcasters would end up on the second dish which is inconvenient. Most often it is Spanish language, public and religious broadcasters.

On top of that, EchoStar does a poor job informing its customers of the need for a second dish, and the company requires a second technician to come out and install the second dish. The company states that only about 5 percent of their customers take the second dish, which means that 95 percent of customers are paying for services they do not receive.

This legislation requires all satellite companies to put all local channels on one of the two dishes. I think that is important, and I think it is a major breakthrough.

This provision is also key to the health of the satellite industry by setting the ground rules for providing local broadcast stations. Local-to-local has been a driving force in the satellite television industry's growth. In 1999, just prior to the establishment of the local-to-local compulsory license, the industry had 10.1 million subscribers. Only 4 years later, after the advent of local-to-local, the industry had more than doubled its subscriber base to 20.4 million.

Another key provision gives consumers of satellite TV service the same choices as cable subscribers. Specifically, the bill gives satellite the ability to import significantly viewed stations from adjoining markets. At the same time, the bill includes safeguards to ensure this new privilege is not abused to the detriment of local television and television viewers.

□ 1345

This means, for example, a satellite prescriber in Baltimore could soon be getting Washington, D.C., local stations if they are significantly viewed. For people who live in or near Baltimore and commute to D.C. to work, the traffic reports are obviously vital.

In closing, Mr. Speaker, this legislation enjoys widespread bipartisan support in Congress as well as the endorsement of nearly all key industry stakeholders, including local television stations, the television networks, cable operators, and DirecTV.

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

Mr. Speaker, today we are considering H.R. 4518, which is alternatively named the ''W.J. 'Billy' Tauzin Satellite Television Act of 2004,'' in honor of our former chairman, BILLY TAUZIN. It is particularly fitting that this is named after Boudreaux friend, BILLY TAUZIN, since he was the chief architect of the regulatory landscape which promoted the creation of a vibrant satellite TV industry to the benefit of so many consumers across the country.

Mr. Speaker, our prayers remain with BILLY TAUZIN as he continues his fight against cancer, and I know that he is fighting with the same vim and vigor that characterizes his very able public service.

This bill reauthorizes certain expiring provisions in the communications and copyright acts. It also modernizes other provisions to increase parity and enhance competition between satellite and cable operations. And given that this bill affects both communications and copyright issues, the Committee on Energy and Commerce worked very closely with the House Committee on the Judiciary on a bipartisan basis in putting this bill together.

Procedurally, this bill combines the elements of H.R. 4501, which was reported by the House Committee on Energy and Commerce, with elements of H.R. 4518, which was reported by the House Committee on the Judiciary. I want to commend my colleagues on both committees, on both sides of the aisle, for their cooperation and dedication of this mission, particularly the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary; the gentleman

from Texas (Mr. SMITH), chairman of the Subcommittee on Courts, the Internet, and Intellectual Property; and, obviously, the ranking member of the Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL) and the ranking member of the Subcommittee on Telecommunications and the Internet, the gentleman from Massachusetts (Mr. MARKEY), for their very active work on this legislation.

This bill resulted from an extensive examination of satellite TV issues in our committee. The subcommittee on Telecommunications and the Internet held an oversight hearing on March 10, a legislative hearing on April 1, subcommittee markup to legislation on April 28, and the full committee markup to legislation on June 3 that would become H.R. 4501. As I recall, that bill passed in both the subcommittee and full committee on a voice vote. It was extensively bipartisan from the very start. And without a doubt, by extending these expiring provisions, increasing parity between satellite TV and cable operators, promoting competition between satellite TV and cable, the bill will enhance consumer choice and service.

Mr. Speaker, this bill builds upon the solid foundation laid by our friend BILLY TAUZIN. I commend this bill to my colleagues on both sides of the aisle and urge its passage.

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

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

Just briefly again, Mr. Speaker, this is a bill that makes good business sense and is a good deal for the consumer, standing for the proposition those are not mutually exclusive concepts.

Mr. DINGELL. Mr. Speaker, I rise today in support of H.R. 4518, the Satellite Home Viewer Extension and Reauthorization Act of 2004. I congratulate Chairmen BARTON and SENSENBRENNER, Ranking Member CONYERS and the subcommittee chairmen and ranking members of their hard work on this legislation. The task of combining separate Energy and Commerce and Judiciary Committee bills into a single product is never easy, but I am pleased with this bipartisan bill before us today. Let us hope that the other body will act with due haste to ensure that this legislation becomes law this year.

I note that the bill before us incorporates the language of both H.R. 4501 and H.R. 4518 was solely referred to the Committee on Energy and Commerce. H.R. 4518 was referred solely to the Committee on the Judiciary. The members of both committees worked long and hard on their respective bills. Accordingly, the legislative history on H.R. 4518 includes the legislative history of H.R. 4501.

The bill before us achieves three very critical goals. First, it will increase regulatory parity between cable and satellite providers, thereby strengthen satellite companies' ability to compete in the multichannel video marketplace. Currently, cable providers can offer their subscribers out-of-market television signals that are "significantly viewed" in the subscribers' local communities. Satellite companies, however, are prevented by law from offering to their subscribers the same signals. This bill would change the law to provide satellite companies an equal right to provide their subscribers those "significantly viewed" signals. This increased parity should help spur greater competition between cable and satellite providers and ultimately benefit consumers in the form of lower prices and better service.

Second, the act will protect consumers and foster localism by ensuring that satellite customers receive all of their local broadcast signals when these signals become available via satellite. Local broadcasters provide their communities with important local programming. Whether it is local news, weather, or community events, these broadcasters are there, on the ground serving their friends and neighbors. This idea of localism was recognized and fostered by Congress during the last reauthorization of this statute in 1999, through a provision called "carry one, carry all." This policy mandates that a satellite provider, in a nondiscriminatory fashion, offer all local broadcast signals in a market if it offers one.

Finally, I am also pleased that this bill will help protect consumer privacy. This bill will force satellite carriers to comply with the same privacy obligations that already apply to cable television providers. Personally identifiable information will now be better protected.

Mr. Speaker, H.R. 4518 will encourage competition between cable and satellite. It also furthers the goal of localism and protects consumers. I urge my colleagues to support it.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation, of which I am an original cosponsor. I first would like to note the comity that went into drafting this bill. We worked with the Commerce Committee on addressing the relevant issues based on jurisdiction. Further, Chairman SENSENBRENNER and his staff worked diligently with us on drafting this legislation. I would particularly like to thank David Whitney, counsel to the majority, whose diligence and bipartisanship are the only reason we are here today.

In 1999, we passed the Satellite Home Viewer Improvement Act to allow satellite companies to retransmit distant network signals to customers who could not receive clear over-the-air television signals. Such companies have to pay a government-set rate to the broadcast copyright owners. While I had, and still have, hesitations about creating compulsory licenses that require content owners to sell their work for a set fee, I believe this license led to significant competition in programming distribution.

As a result of this policy decision, the satellite industry has dedicated significant technological and financial resources to expanding the choices available to consumers. I am certain we can all agree that is a good thing.

The 1999 law expires at the end of this calendar year, so we must reauthorize it. The bill before us extends the license for 5 years. Importantly, the bill goes beyond that in addressing the desires of consumers in that it permits the satellite companies to retransmit a significantly viewed local signal to a customer.

The bill also settles a gray area in terms of what satellite service customers can get when local-to-local satellite television is available. Under the new regime, current subscribers will be allowed to choose between the distant signal service or the local service. New customers would be provided with the local service.

Despite the benefits of this legislation and the work of the interested parties, much remains to be done in terms of providing complete television service across the country. I look forward to working with the content owners and satellite companies in making that happen.

I urge my colleagues to vote "yes" on this legislation.

Mr. TANCREDO. Mr. Speaker, I wish to express my views on the legislation before us today.

This legislation includes a requirement for Echostar, better known as Dish Network, to eliminate the solution it developed to serve more Americans with local service than any other satellite TV company. The legislation would eliminate its "two dish" solution within 12 months. This requirement will cause consumer inconvenience and hamper the rollout of local programming. The "two dish" remedy maximizes the number of television markets that can receive local channels by utilizing the scarce spectrum available.

I believe a better route to dealing with the lack of spectrum, which I know is a priority for you, is for this legislation to include a provision similar to that of the Senate Commerce Committee. That committee voted to allow satellite TV providers to offer High Definition TV service to markets where a local broadcaster is not even offering a digital signal. As noted in the Digital Transition Coalition letter which I will also enter into the RECORD, the freed-up spectrum could be redeployed to our Nation's first responders, auctioned to wireless companies eager to offer new advanced services, and raise funds that could be returned to the taxpayer or put to paying off the debt.

I look forward to our continuing work on this legislation.

DIGITAL TRANSITION COALITION,
Washington, DC, October 4, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
U.S. Capitol, Washington, DC.

DEAR SPEAKER HASTERT: The Digital Transition Coalition is writing to express its concern regarding the House reauthorization of the Satellite Home Viewer Improvement Act (SHVIA). While the legislation adopts rate increase adjustments for content owners and allows satellite companies to provide ''distant network signals'' to subscribers who cannot receive ''over-the-air'' broadcast signals, it fails to include the ''digital white area'' provision adopted by the Senate Commerce Committee which would accelerate the digital television transition. Without this provision, millions of Americans, especially consumers in rural areas, will have to wait even longer for digital and High-Definition television and be denied the world of innovation derived from freed-up spectrum.

H.R. 4501, approved by the Committee on Energy & Commerce, did not include an important provision to speed up the return of tens of billions of dollars of analog spectrum currently held by broadcasters. Despite the fact that Congress years ago set a 2006 deadline for broadcasters to return the analog spectrum (in exchange for tens of billions of dollars of free digital spectrum), it is clear that deadline will not be met. As a result, consumers in more than 39 million U.S. households (about 36 percent nationwide) will continue to be deprived of receiving all their network signals in digital.

As taxpayer groups, consumer advocates and technology leaders, our coalition has

strongly supported proposals to allow direct broadcast satellite providers to offer a distant digital network signal into local television markets where broadcasters are not transmitting a full-power digital signal. We believe such a measure is essential to provide market-based pressure on local broadcasters to complete the digital transition and return the public's valuable analog spectrum for other uses.

The satellite home viewer reauthorization legislation is the vehicle to address this issue. The Senate Commerce Committee, in its version of the satellite legislation, adopted a ''digital white area'' provision that will help provide the necessary impetus to speed up the digital transition and serve the needs of millions of television viewers who are disadvantaged by the current situation. In contrast, the House Commerce Committee bill requests a perfunctory report on the matter without any immediate remedy.

As such an important issue for consumers and the economy, we strongly urge that a digital white area provision be added to the House legislation. We appreciate your consideration of our request, and we look forward to continuing to work with the Congressional leadership, the committee chairmen and ranking members to further improve this legislation.

Sincerely,

Grover Norquist, Americans for Tax Reform; The Honorable Andrea Seastrand, The California Space Authority; Tom Schatz, Council for Citizens Against Government Waste; Charles Ergen, EchoStar Communications Corporation; George Landrith, Frontiers of Freedom; Andrew Jay Schwartzman, Media Access Project; Gigi Sohn, Public Knowledge; Richard DalBello, Satellite Broadcasting and Communications Association; Karen Kerrigan, Small Business Survival Committee.

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

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

The SPEAKER pro tempore (Mr. WHITFIELD). The question is on the motion offered by the gentleman from Texas (Mr. DELAY) that the House suspend the rules and pass the bill, H.R. 4518, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: ''A Bill to extend the statutory license for secondary transmissions by satellite carriers of transmissions by television broadcast stations under title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, and for other purposes.''.

A motion to reconsider was laid on the table.

WATER SUPPLY, RELIABILITY, AND ENVIRONMENTAL IMPROVEMENT ACT

Mr. POMBO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2828) to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Water Supply, Reliability, and Environmental Improvement Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Bay Delta program.
Sec. 104. Management.
Sec. 105. Reporting requirements.
Sec. 106. Crosscut budget.
Sec. 107. Federal share of costs.
Sec. 108. Compliance with State and Federal law.
Sec. 109. Authorization of appropriation.

TITLE II—MISCELLANEOUS

Sec. 201. Salton Sea study program.
Sec. 202. Alder Creek water storage and conservation project feasibility study and report.
Sec. 203. Folsom Reservoir temperature control device authorization.

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Calfed Bay-Delta Authorization Act''.

SEC. 102. DEFINITIONS.

In this title:

(1) CALFED BAY-DELTA PROGRAM.—The terms ''Calfed Bay-Delta Program'' and ''Program'' mean the programs, projects, complementary actions, and activities undertaken through coordinated planning, implementation, and assessment activities of the State agencies and Federal agencies as set forth in the Record of Decision.

(2) CALIFORNIA BAY-DELTA AUTHORITY.—The terms ''California Bay-Delta Authority'' and ''Authority'' mean the California Bay-Delta Authority, as set forth in the California Bay-Delta Authority Act (Cal. Water Code § 79400 et seq.).

(3) DELTA.—The term ''Delta'' has the meaning given the term in the Record of Decision.

(4) ENVIRONMENTAL WATER ACCOUNT.—The term ''Environmental Water Account'' means the Cooperative Management Program established under the Record of Decision.

(5) FEDERAL AGENCIES.—The term ''Federal agencies'' means—

(A) the Department of the Interior, including—

(i) the Bureau of Reclamation;

(ii) the United States Fish and Wildlife Service;

(iii) the Bureau of Land Management; and

(iv) the United States Geological Survey;

(B) the Environmental Protection Agency;

(C) the Army Corps of Engineers;

(D) the Department of Commerce, including the National Marine Fisheries Service (also known as ''NOAA Fisheries'');

(E) the Department of Agriculture, including—

(i) the Natural Resources Conservation Service; and

(ii) the Forest Service; and

(F) the Western Area Power Administration.

(6) FIRM YIELD.—The term ''firm yield'' means a quantity of water from a project or program that is projected to be available on a reliable basis, given a specified level of risk, during a critically dry period.

(7) GOVERNOR.—The term ''Governor'' means the Governor of the State of California.

(8) RECORD OF DECISION.—The term ''Record of Decision'' means the Calfed Bay-Delta Program Record of Decision, dated August 28, 2000.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(10) STATE.—The term ''State'' means the State of California.

(11) STATE AGENCIES.—The term ''State agencies'' means—

(A) the Resources Agency of California, including—

(i) the Department of Water Resources;

(ii) the Department of Fish and Game;

(iii) the Reclamation Board;

(iv) the Delta Protection Commission;

(v) the Department of Conservation;

(vi) the San Francisco Bay Conservation and Development Commission;

(vii) the Department of Parks and Recreation; and

(viii) the California Bay-Delta Authority;

(B) the California Environmental Protection Agency, including the State Water Resources Control Board;

(C) the California Department of Food and Agriculture; and

(D) the Department of Health Services.

SEC. 103. BAY DELTA PROGRAM.

(a) IN GENERAL.—

(1) RECORD OF DECISION AS GENERAL FRAMEWORK.—The Record of Decision is approved as a general framework for addressing the Calfed Bay-Delta Program, including its components relating to water storage, ecosystem restoration, water supply reliability (including new firm yield), conveyance, water use efficiency, water quality, water transfers, watersheds, the Environmental Water Account, levee stability, governance, and science.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) consistent with—

(i) the Record of Decision;

(ii) the requirement that Program activities consisting of protecting drinking water quality, restoring ecological health, improving water supply reliability (including additional storage, conveyance, and new firm yield), and protecting Delta levees will progress in a balanced manner; and

(iii) this title.

(B) MULTIPLE BENEFITS.—In selecting activities and projects, the Secretary and the heads of the Federal agencies shall consider whether the activities and projects have multiple benefits.

(b) AUTHORIZED ACTIVITIES.—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) in furtherance of the Calfed Bay-Delta Program as set forth in the Record of Decision, subject to the cost-share and other provisions of this title, if the activity has been—

(1) subject to environmental review and approval, as required under applicable Federal and State law; and

(2) approved and certified by the relevant Federal agency, following consultation and coordination with the Governor, to be consistent with the Record of Decision.

(c) AUTHORIZATIONS FOR FEDERAL AGENCIES UNDER APPLICABLE LAW.—

(1) SECRETARY OF THE INTERIOR.—The Secretary of the Interior is authorized to carry out the activities described in paragraphs (1) through (10) of subsection (d), to the extent authorized under the reclamation laws, the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(2) ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency is authorized to carry out the activities described in paragraphs (3), (5), (6), (7), (8), and (9) of subsection

(d), to the extent authorized under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), and other applicable law.

(3) SECRETARY OF THE ARMY.—The Secretary of the Army is authorized to carry out the activities described in paragraphs (1), (2), (6), (7), (8), and (9) of subsection (d), to the extent authorized under flood control, water resource development, and other applicable law.

(4) SECRETARY OF COMMERCE.—The Secretary of Commerce is authorized to carry out the activities described in paragraphs (2), (6), (7), and (9) of subsection (d), to the extent authorized under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(5) SECRETARY OF AGRICULTURE.—The Secretary of Agriculture is authorized to carry out the activities described in paragraphs (3), (5), (6), (7), (8), and (9) of subsection (d), to the extent authorized under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.

(d) DESCRIPTION OF ACTIVITIES UNDER APPLICABLE LAW.—

(1) WATER STORAGE.—

(A) IN GENERAL.—Activities under this paragraph consist of—

(i) planning and feasibility studies for projects to be pursued with project-specific study for enlargement of—

(I) the Shasta Dam in Shasta County; and

(II) the Los Vaqueros Reservoir in Contra Costa County;

(ii) planning and feasibility studies for the following projects requiring further consideration—

(I) the Sites Reservoir in Colusa County; and

(II) the Upper San Joaquin River storage in Fresno and Madera Counties;

(iii) developing and implementing groundwater management and groundwater storage projects; and

(iv) comprehensive water management planning.

(B) STORAGE PROJECT AUTHORIZATION AND BALANCED CALFED IMPLEMENTATION.—

(i) IN GENERAL.—If on completion of the feasibility study for a project described in clause (i) or (ii) of subparagraph (A), the Secretary, in consultation with the Governor, determines that the project should be constructed in whole or in part with Federal funds, the Secretary shall submit the feasibility study to Congress.

(ii) FINDING OF IMBALANCE.—If Congress fails to authorize construction of the project by the end of the next full session following the submission of the feasibility study, the Secretary, in consultation with the Governor, shall prepare a written determination making a finding of imbalance for the Calfed Bay-Delta Program.

(iii) REPORT ON REBALANCING.—

(I) IN GENERAL.—If the Secretary makes a finding of imbalance for the Program under clause (ii), the Secretary, in consultation with the Governor, shall, not later than 180 days after the end of the full session described in clause (ii), prepare and submit to Congress a report on the measures necessary to rebalance the Program.

(II) SCHEDULES AND ALTERNATIVES.—The report shall include preparation of revised schedules and identification of alternatives to rebalance the Program, including resubmission of the project to Congress with or without modification, construction of other projects, and construction of other projects that provide equivalent water supply and other benefits at equal or lesser cost.

(C) WATER SUPPLY AND YIELD STUDY.—

(i) IN GENERAL.—The Secretary, acting through the Bureau of Reclamation and in coordination with the State, shall conduct a study of available water supplies and existing and future needs for water—

(I) within the units of the Central Valley Project;

(II) within the area served by Central Valley Project agricultural, municipal, and industrial water service contractors; and

(III) within the Calfed Delta solution area.

(ii) RELATIONSHIP TO PRIOR STUDY.—In conducting the study, the Secretary shall incorporate and revise, as necessary, the results of the study required by section 3408(j) of the Central Valley Project Improvement Act of 1992 (Public Law 102–575; 106 Stat. 4730).

(iii) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report describing the results of the study, including—

(I) new firm yield and water supply improvements, if any, for Central Valley Project agricultural water service contractors and municipal and industrial water service contractors, including those identified in Bulletin 160;

(II) all water management actions or projects, including those identified in Bulletin 160, that would—

(aa) improve firm yield or water supply; and

(bb) if taken or constructed, balance available water supplies and existing demand with due recognition of water right priorities and environmental needs;

(III) the financial costs of the actions and projects described under subclause (II); and

(IV) the beneficiaries of those actions and projects and an assessment of the willingness of the beneficiaries to pay the capital costs and operation and maintenance costs of the actions and projects.

(D) MANAGEMENT.—The Secretary shall conduct activities related to developing groundwater storage projects to the extent authorized under law.

(E) COMPREHENSIVE WATER PLANNING.—The Secretary shall conduct activities related to comprehensive water management planning to the extent authorized under law.

(2) CONVEYANCE.—

(A) SOUTH DELTA ACTIONS.—

(i) IN GENERAL.—In the case of the South Delta, activities under this subparagraph consist of—

(I) the South Delta Improvements Program through actions to—

(aa) increase the State Water Project export limit to 8,500 cfs;

(bb) install permanent, operable barriers in the South Delta, under which Federal agencies shall cooperate with the State to accelerate installation of the permanent, operable barriers in the South Delta, with an intent to complete that installation not later than September 30, 2007;

(cc) evaluate, consistent with the Record of Decision, fish screens and intake facilities at the Tracy Pumping Plant facilities; and

(dd) increase the State Water Project export to the maximum capability of 10,300 cfs;

(II) reduction of agricultural drainage in South Delta channels, and other actions necessary to minimize the impact of drainage on drinking water quality;

(III) evaluation of lower San Joaquin River floodway improvements;

(IV) installation and operation of temporary barriers in the South Delta until fully operable barriers are constructed; and

(V) actions to protect navigation and local diversions not adequately protected by temporary barriers.

(ii) ACTIONS TO INCREASE PUMPING.—Actions to increase pumping shall be accomplished in a manner consistent with the Record of Decision requirement to avoid redirected impacts and adverse impacts to fishery protection and with any applicable Federal or State law that protects—

(I) water diversions and use (including avoidance of increased costs of diversion) by in-Delta water users (including in-Delta agricultural users that have historically relied on water diverted for use in the Delta);

(II) water quality for municipal, industrial, agricultural, and other uses; and

(III) water supplies for areas of origin.

(B) NORTH DELTA ACTIONS.—In the case of the North Delta, activities under this subparagraph consist of—

(i) evaluation and implementation of improved operational procedures for the Delta Cross Channel to address fishery and water quality concerns;

(ii) evaluation of a screened through-Delta facility on the Sacramento River; and

(iii) evaluation of lower Mokelumne River floodway improvements.

(C) INTERTIES.—Activities under this subparagraph consist of—

(i) evaluation and construction of an intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal, near the City of Tracy, as an operation and maintenance activity, except that the Secretary shall design and construct the intertie in a manner consistent with a possible future expansion of the intertie capacity (as described in subsection (f)(1)(B)); and

(ii) assessment of a connection of the Central Valley Project to the Clifton Court Forebay of the State Water Project, with a corresponding increase in the screened intake of the Forebay.

(D) PROGRAM TO MEET STANDARDS.—

(i) IN GENERAL.—Prior to increasing export limits from the Delta for the purposes of conveying water to south-of-Delta Central Valley Project contractors or increasing deliveries through an intertie, the Secretary shall, not later than 1 year after the date of enactment of this Act, in consultation with the Governor, develop and initiate implementation of a program to meet all existing water quality standards and objectives for which the Central Valley Project has responsibility.

(ii) MEASURES.—In developing and implementing the program, the Secretary shall include, to the maximum extent feasible, the measures described in clauses (iii) through (vii).

(iii) RECIRCULATION PROGRAM.—The Secretary shall incorporate into the program a recirculation program to provide flow, reduce salinity concentrations in the San Joaquin River, and reduce the reliance on the New Melones Reservoir for meeting water quality and fishery flow objectives through the use of excess capacity in export pumping and conveyance facilities.

(iv) BEST MANAGEMENT PRACTICES PLAN.—

(I) IN GENERAL.—The Secretary shall develop and implement, in coordination with the State's programs to improve water quality in the San Joaquin River, a best management practices plan to reduce the water quality impacts of the discharges from wildlife refuges that receive water from the Federal Government and discharge salt or other constituents into the San Joaquin River.

(II) COORDINATION WITH INTERESTED PARTIES.—The plan shall be developed in coordination with interested parties in the San Joaquin Valley and the Delta.

(III) COORDINATION WITH ENTITIES THAT DISCHARGE WATER.—The Secretary shall also coordinate activities under this clause with other entities that discharge water into the San Joaquin River to reduce salinity concentrations discharged into the River, including the timing of discharges to optimize their assimilation.

(v) ACQUISITION OF WATER.—The Secretary shall incorporate into the program the acquisition from willing sellers of water from streams tributary to the San Joaquin River or other sources to provide flow, dilute discharges of salt or other constituents, and to improve water quality in the San Joaquin River below the confluence of the Merced and San Joaquin Rivers, and to reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives.

(vi) PURPOSE.—The purpose of the authority and direction provided to the Secretary under this subparagraph is to provide greater flexibility in meeting the existing water quality standards and objectives for which the Central Valley Project has responsibility so as to reduce the demand on water from New Melones Reservoir used for that purpose and to assist the Secretary in meeting any obligations to Central Valley Project contractors from the New Melones Project.

(vii) UPDATING OF NEW MELONES OPERATING PLAN.—The Secretary shall update the New Melones operating plan to take into account, among other things, the actions described in this title that are designed to reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives, and to ensure that actions to enhance fisheries in the Stanislaus River are based on the best available science.

(3) WATER USE EFFICIENCY.—

(A) WATER CONSERVATION PROJECTS.—Activities under this paragraph include water conservation projects that provide water supply reliability, water quality, and ecosystem benefits to the California Bay-Delta system.

(B) TECHNICAL ASSISTANCE.—Activities under this paragraph include technical assistance for urban and agricultural water conservation projects.

(C) WATER RECYCLING AND DESALINATION PROJECTS.—Activities under this paragraph include water recycling and desalination projects, including groundwater remediation projects and projects identified in the Bay Area Water Plan and the Southern California Comprehensive Water Reclamation and Reuse Study and other projects, giving priority to projects that include regional solutions to benefit regional water supply and reliability needs.

(D) WATER MEASUREMENT AND TRANSFER ACTIONS.—Activities under this paragraph include water measurement and transfer actions.

(E) URBAN WATER CONSERVATION.—Activities under this paragraph include implementation of best management practices for urban water conservation.

(F) RECLAMATION AND RECYCLING PROJECTS.—

(i) PROJECTS.—This subparagraph applies to—

(I) projects identified in the Southern California Comprehensive Water Reclamation and Reuse Study, dated April 2001 and authorized by section 1606 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–4); and

(II) projects identified in the San Francisco Bay Area Regional Water Recycling Program described in the San Francisco Bay Area Regional Water Recycling Program Recycled Water Master Plan, dated December 1999 and authorized by section 1611 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–9).

(ii) DEADLINE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(I) complete the review of the existing studies of the projects described in clause (i); and

(II) make the feasibility determinations described in clause (iii).

(iii) FEASIBILITY DETERMINATIONS.—A project described in clause (i) is presumed to be feasible if the Secretary determines for the project—

(I) in consultation with the affected local sponsoring agency and the State, that the existing planning and environmental studies for the project (together with supporting materials and documentation) have been prepared consistent with Bureau of Reclamation procedures for projects under consideration for financial assistance under the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.); and

(II) that the planning and environmental studies for the project (together with supporting materials and documentation) demonstrate that the project will contribute to the goals of improving water supply reliability in the Calfed solution area or the Colorado River Basin within the State and otherwise meets the requirements of section 1604 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–2).

(iv) REPORT.—Not later than 90 days after the date of completion of a feasibility study or the review of a feasibility study under this subparagraph, the Secretary shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report describing the results of the study or review.

(4) WATER TRANSFERS.—Activities under this paragraph consist of—

(A) increasing the availability of existing facilities for water transfers;

(B) lowering transaction costs through permit streamlining; and

(C) maintaining a water transfer information clearinghouse.

(5) INTEGRATED REGIONAL WATER MANAGEMENT PLANS.—Activities under this paragraph consist of assisting local and regional communities in the State in developing and implementing integrated regional water management plans to carry out projects and programs that improve water supply reliability, water quality, ecosystem restoration, and flood protection, or meet other local and regional needs, in a manner that is consistent with, and makes a significant contribution to, the Calfed Bay-Delta Program.

(6) ECOSYSTEM RESTORATION.—

(A) IN GENERAL.—Activities under this paragraph consist of—

(i) implementation of large-scale restoration projects in San Francisco Bay and the Delta and its tributaries;

(ii) restoration of habitat in the Delta, San Pablo Bay, and Suisun Bay and Marsh, including tidal wetland and riparian habitat;

(iii) fish screen and fish passage improvement projects, including the Sacramento River Small Diversion Fish Screen Program;

(iv) implementation of an invasive species program, including prevention, control, and eradication;

(v) development and integration of Federal and State agricultural programs that benefit wildlife into the Ecosystem Restoration Program;

(vi) financial and technical support for locally-based collaborative programs to restore habitat while addressing the concerns of local communities;

(vii) water quality improvement projects to manage or reduce concentrations of salinity, selenium, mercury, pesticides, trace metals, dissolved oxygen, turbidity, sediment, and other pollutants;

(viii) land and water acquisitions to improve habitat and fish spawning and survival in the Delta and its tributaries;

(ix) integrated flood management, ecosystem restoration, and levee protection projects;

(x) scientific evaluations and targeted research on Program activities; and

(xi) strategic planning and tracking of Program performance.

(B) REPORTING REQUIREMENTS.—The Secretary or the head of the relevant Federal agency (as appropriate under clause (ii)) shall provide to the appropriate authorizing committees of the Senate and the House of Representatives and other appropriate parties in accordance with this subparagraph—

(i) an annual ecosystem program plan report in accordance with subparagraph (C); and

(ii) detailed project reports in accordance with subparagraph (D).

(C) ANNUAL ECOSYSTEM PROGRAM PLAN.—

(i) IN GENERAL.—Not later than October 1 of each year, with respect to each ecosystem restoration action carried out using Federal funds under this title, the Secretary, in consultation with the Governor, shall submit to the appropriate authorizing committees of the Senate and the House of Representatives an annual ecosystem program plan report.

(ii) PURPOSES.—The purposes of the report are—

(I) to describe the projects and programs to implement this subsection in the following fiscal year; and

(II) to establish priorities for funding the projects and programs for subsequent fiscal years.

(iii) CONTENTS.—The report shall describe—

(I) the goals and objectives of the programs and projects;

(II) program accomplishments;

(III) major activities of the programs;

(IV) the Federal agencies involved in each project or program identified in the plan and the cost-share arrangements with cooperating agencies;

(V) the resource data and ecological monitoring data to be collected for the restoration projects and how the data are to be integrated, streamlined, and designed to measure the effectiveness and overall trend of ecosystem health in the Bay-Delta watershed;

(VI) implementation schedules and budgets;

(VII) existing monitoring programs and performance measures;

(VIII) the status and effectiveness of measures to minimize the impacts of the program on agricultural land; and

(IX) a description of expected benefits of the restoration program relative to the cost.

(iv) SPECIAL RULE FOR LAND ACQUISITION USING FEDERAL FUNDS.—For each ecosystem restoration project involving land acquisition using Federal funds under this title, the Secretary shall—

(I) identify the specific parcels to be acquired in the annual ecosystem program plan report under this subparagraph; or

(II) not later than 150 days before the project is approved, provide to the appropriate authorizing committees of the Senate and the House of Representatives, the United States Senators from the State, and the United States Representative whose district would be affected, notice of any such proposed land acquisition using Federal funds under this title submitted to the Federal or State agency.

(D) DETAILED PROJECT REPORTS.—

(i) IN GENERAL.—In the case of each ecosystem restoration program or project funded under this title that is not specifically identified in an annual ecosystem program plan under subparagraph (C), not later than 45 days prior to approval, the Secretary, in coordination with the State, shall submit to the appropriate authorizing committees of the Senate and the House of Representatives recommendations on the proposed program or project.

(ii) CONTENTS.—The recommendations shall—

(I) describe the selection of the program or project, including the level of public involvement and independent science review;

(II) describe the goals, objectives, and implementation schedule of the program or project, and the extent to which the program or project addresses regional and programmatic goals and priorities;

(III) describe the monitoring plans and performance measures that will be used for evaluating the performance of the proposed program or project;

(IV) identify any cost-sharing arrangements with cooperating entities;

(V) identify how the proposed program or project will comply with all applicable Federal and State laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(VI) in the case of any program or project involving the acquisition of private land using Federal funds under this title—

(aa) describe the process and timing of notification of interested members of the public and local governments;

(bb) describe the measures taken to minimize impacts on agricultural land pursuant to the Record of Decision; and

(cc) include preliminary management plans for all properties to be acquired with Federal funds, including an overview of existing conditions (including habitat types in the affected project area), the expected ecological benefits, preliminary cost estimates, and implementation schedules.

(7) WATERSHEDS.—Activities under this paragraph consist of—

(A) building local capacity to assess and manage watersheds affecting the Delta system;

(B) technical assistance for watershed assessments and management plans; and

(C) developing and implementing locally-based watershed conservation, maintenance, and restoration actions.

(8) WATER QUALITY.—Activities under this paragraph consist of—

(A) addressing drainage problems in the San Joaquin Valley to improve downstream water quality (including habitat restoration projects that improve water quality) if—

(i) a plan is in place for monitoring downstream water quality improvements; and

(ii) State and local agencies are consulted on the activities to be funded;

except that no right, benefit, or privilege is created as a result of this subparagraph;

(B) implementation of source control programs in the Delta and its tributaries;

(C) developing recommendations through scientific panels and advisory council processes to meet the Calfed Bay-Delta Program goal of continuous improvement in Delta water quality for all uses;

(D) investing in treatment technology demonstration projects;

(E) controlling runoff into the California aqueduct, the Delta-Mendota Canal, and other similar conveyances;

(F) addressing water quality problems at the North Bay Aqueduct;

(G) supporting and participating in the development of projects to enable San Francisco Bay Area water districts, and water entities in San Joaquin and Sacramento Counties, to work cooperatively to address their water quality and supply reliability issues, including—

(i) connections between aqueducts, water transfers, water conservation measures, institutional arrangements, and infrastructure improvements that encourage regional approaches; and

(ii) investigations and studies of available capacity in a project to deliver water to the East Bay Municipal Utility District under its contract with the Bureau of Reclamation, dated July 20, 2001, in order to determine if such capacity can be utilized to meet the objectives of this subparagraph;

(H) development of water quality exchanges and other programs to make high quality water available for urban and other users;

(I) development and implementation of a plan to meet all Delta water quality standards for which the Federal and State water projects have responsibility;

(J) development of recommendations through science panels and advisory council processes to meet the Calfed Bay-Delta Program goal of continuous improvement in water quality for all uses; and

(K) projects that are consistent with the framework of the water quality component of the Calfed Bay-Delta Program.

(9) SCIENCE.—Activities under this paragraph consist of—

(A) supporting establishment and maintenance of an independent science board, technical panels, and standing boards to provide oversight and peer review of the Program;

(B) conducting expert evaluations and scientific assessments of all Program elements;

(C) coordinating existing monitoring and scientific research programs;

(D) developing and implementing adaptive management experiments to test, refine, and improve scientific understandings;

(E) establishing performance measures, and monitoring and evaluating the performance of all Program elements; and

(F) preparing an annual science report.

(10) DIVERSIFICATION OF WATER SUPPLIES.—Activities under this paragraph consist of actions to diversify sources of level 2 refuge supplies and modes of delivery to refuges while maintaining the diversity of level 4 supplies pursuant to section 3406(d)(2) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4723).

(e) NEW AND EXPANDED AUTHORIZATIONS FOR FEDERAL AGENCIES.—

(1) IN GENERAL.—The heads of the Federal agencies described in this subsection are authorized to carry out the activities described in subsection (f) during each of fiscal years 2005 through 2010, in coordination with the Governor.

(2) SECRETARY OF THE INTERIOR.—The Secretary of the Interior is authorized to carry out the activities described in paragraphs (1), (2), and (4) of subsection (f).

(3) ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE SECRETARIES OF AGRICULTURE AND COMMERCE.—The Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Secretary of Commerce are authorized to carry out the activities described in subsection (f)(4).

(4) SECRETARY OF THE ARMY.—The Secretary of the Army is authorized to carry out the activities described in paragraphs (3) and (4) of subsection (f).

(f) DESCRIPTION OF ACTIVITIES UNDER NEW AND EXPANDED AUTHORIZATIONS.—

(1) CONVEYANCE.—Of the amounts authorized to be appropriated under section 109, not more than $184,000,000 may be expended for the following:

(A) SAN LUIS RESERVOIR.—Funds may be expended for feasibility studies, evaluation, and implementation of the San Luis Reservoir lowpoint improvement project, except that Federal participation in any construction of an expanded Pacheco Reservoir shall be subject to future congressional authorization.

(B) INTERTIE.—Funds may be expended for feasibility studies and evaluation of increased capacity of the intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal.

(C) FRANKS TRACT.—Funds may be expended for feasibility studies and actions at Franks Tract to improve water quality in the Delta.

(D) CLIFTON COURT FOREBAY AND THE TRACY PUMPING PLANT.—Funds may be expended for feasibility studies and design of fish screen and intake facilities at Clifton Court Forebay and the Tracy Pumping Plant facilities.

(E) DRINKING WATER INTAKE FACILITIES.—

(i) IN GENERAL.—Funds may be expended for design and construction of the relocation of drinking water intake facilities to in-Delta water users.

(ii) DRINKING WATER QUALITY.—The Secretary shall coordinate actions for relocating intake facilities on a time schedule consistent with subsection (d)(2)(A)(i)(I)(bb) or take other actions necessary to offset the degradation of drinking water quality in the Delta due to the South Delta Improvement Program.

(F) NEW MELONES RESERVOIR.—

(i) IN GENERAL.—In addition to the other authorizations granted to the Secretary by this title, the Secretary shall acquire water from willing sellers and undertake other actions designed to decrease releases from the New Melones Reservoir for meeting water quality standards and flow objectives for which the Central Valley Project has responsibility to assist in meeting allocations to Central Valley Project contractors from the New Melones Project.

(ii) PURPOSE.—The authorization under this subparagraph is solely meant to add flexibility for the Secretary to meet any obligations of the Secretary to the Central Valley Project contractors from the New Melones Project by reducing demand for water dedicated to meeting water quality standards in the San Joaquin River.

(iii) FUNDING.—Of the amounts authorized to be appropriated under section 109, not more than $30,000,000 may be expended to carry out clause (i).

(G) RECIRCULATION OF EXPORT WATER.—Funds may be used to conduct feasibility studies, evaluate, and, if feasible, implement the recirculation of export water to reduce salinity and improve dissolved oxygen in the San Joaquin River.

(2) ENVIRONMENTAL WATER ACCOUNT.—

(A) IN GENERAL.—Of the amounts authorized to be appropriated under section 109, not more than $90,000,000 may be expended for implementation of the Environmental Water Account.

(B) NONREIMBURSABLE FEDERAL EXPENDITURE.—Expenditures under subparagraph (A) shall be considered a nonreimbursable Federal expenditure in recognition of the payments of the contractors of the Central Valley Project to the Restoration Fund created by the Central Valley Project Improvement Act (Title XXXIV of Public Law 102–575; 106 Stat. 4706).

(C) USE OF RESTORATION FUND.—

(i) IN GENERAL.—Of the amounts appropriated for the Restoration Fund for each fiscal year, an amount not to exceed $10,000,000 for any fiscal year may be used to implement the Environmental Water Account to the extent those actions are consistent with the fish and wildlife habitat restoration and improvement purposes of the Central Valley Project Improvement Act.

(ii) ACCOUNTING.—Any such use of the Restoration Fund shall count toward the 33 percent of funds made available to the Restoration Fund that, pursuant to section 3407(a) of the Central Valley Project Improvement Act, are otherwise authorized to be appropriated to the Secretary to carry out paragraphs (4) through (6), (10) through (18), and (20) through (22) of section 3406(b) of that Act.

(iii) FEDERAL FUNDING.—The $10,000,000 limitation on the use of the Restoration Fund for the Environmental Water Account under clause (i) does not limit the appropriate amount of Federal funding for the Environmental Water Account.

(3) LEVEE STABILITY.—

(A) IN GENERAL.—For purposes of implementing the Calfed Bay-Delta Program within the Delta (as defined in Cal. Water Code § 12220)), the Secretary of the Army is authorized to undertake the construction and implementation of levee stability programs or projects for such purposes as flood control, ecosystem restoration, water supply, water conveyance, and water quality objectives.

(B) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Army shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report that describes the levee stability reconstruction projects and priorities that will be carried out under this title during each of fiscal years 2005 through 2010.

(C) SMALL FLOOD CONTROL PROJECTS.—Notwithstanding the project purpose, the authority granted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) shall apply to each project authorized under this paragraph.

(D) PROJECTS.—Of the amounts authorized to be appropriated under section 109, not more than $90,000,000 may be expended to—

(i) reconstruct Delta levees to a base level of protection (also known as the ''Public Law 84–99 standard'');

(ii) enhance the stability of levees that have particular importance in the system through the Delta Levee Special Improvement Projects Program;

(iii) develop best management practices to control and reverse land subsidence on Delta islands;

(iv) develop a Delta Levee Emergency Management and Response Plan that will enhance the ability of Federal, State, and local agencies to rapidly respond to levee emergencies;

(v) develop a Delta Risk Management Strategy after assessing the consequences of Delta levee failure from floods, seepage, subsidence, and earthquakes;

(vi) reconstruct Delta levees using, to the maximum extent practicable, dredged materials from the Sacramento River, the San Joaquin River, and the San Francisco Bay in reconstructing Delta levees;

(vii) coordinate Delta levee projects with flood management, ecosystem restoration, and levee protection projects of the lower San Joaquin River and lower Mokelumne River floodway improvements and other projects under the Sacramento-San Joaquin Comprehensive Study; and

(viii) evaluate and, if appropriate, rehabilitate the Suisun Marsh levees.

(4) PROGRAM MANAGEMENT, OVERSIGHT, AND COORDINATION.—

(A) IN GENERAL.—Of the amounts authorized to be appropriated under section 109, not more than $25,000,000 may be expended by the Secretary or the other heads of Federal agencies, either directly or through grants, contracts, or cooperative agreements with agencies of the State, for—

(i) Program support;

(ii) Program-wide tracking of schedules, finances, and performance;

(iii) multiagency oversight and coordination of Program activities to ensure Program balance and integration;

(iv) development of interagency cross-cut budgets and a comprehensive finance plan to allocate costs in accordance with the beneficiary pays provisions of the Record of Decision;

(v) coordination of public outreach and involvement, including tribal, environmental justice, and public advisory activities in accordance with the Federal Advisory Committee Act (5 U.S.C. App.); and

(vi) development of Annual Reports.

(B) PROGRAM-WIDE ACTIVITIES.—Of the amount referred to in subparagraph (A), not less than 50 percent of the appropriated amount shall be provided to the California Bay-Delta Authority to carry out Program-wide management, oversight, and coordination activities.

SEC. 104. MANAGEMENT.

(a) COORDINATION.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall coordinate their activities with the State agencies.

(b) PUBLIC PARTICIPATION.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall cooperate with local and tribal governments and the public through an advisory committee established in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) and other appropriate means, to seek input on Program planning and design, technical assistance, and development of peer review science programs.

(c) SCIENCE.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall seek to ensure, to the maximum extent practicable, that—

(1) all major aspects of implementing the Program are subjected to credible and objective scientific review; and

(2) major decisions are based upon the best available scientific information.

(d) GOVERNANCE.—

(1) IN GENERAL.—In carrying out the Calfed Bay-Delta Program, the Secretary and the Federal agency heads are authorized to participate as nonvoting members of the California Bay-Delta Authority, as established in the California Bay-Delta Authority Act (Cal. Water Code § 79400 et seq.), to the extent consistent with Federal law, for the full duration of the period the Authority continues to be authorized by State law.

(2) RELATIONSHIP TO FEDERAL LAW AND AGENCIES.—Nothing in this subsection shall preempt or otherwise affect any Federal law or limit the statutory authority of any Federal agency.

(3) CALIFORNIA BAY-DELTA AUTHORITY.—

(A) ADVISORY COMMITTEE.—The California Bay-Delta Authority shall not be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(B) FINANCIAL INTEREST.—The financial interests of the California Bay-Delta Authority shall not be imputed to any Federal official participating in the Authority.

(C) ETHICS REQUIREMENTS.—A Federal official participating in the California Bay-Delta Authority shall remain subject to Federal financial disclosure and conflict of interest laws and shall not be subject to State financial disclosure and conflict of interest laws.

(e) ENVIRONMENTAL JUSTICE.—The Federal agencies, consistent with Executive Order 12898 (59 Fed. Reg. 7629), should continue to collaborate with State agencies to—

(1) develop a comprehensive environmental justice workplan for the Calfed Bay-Delta Program; and

(2) fulfill the commitment to addressing environmental justice challenges referred to in the Calfed Bay-Delta Program Environmental Justice Workplan, dated December 13, 2000.

(f) LAND ACQUISITION.—Federal funds appropriated by Congress specifically for implementation of the Calfed Bay-Delta Program may be used to acquire fee title to land only where consistent with the Record of Decision.

SEC. 105. REPORTING REQUIREMENTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 15 of each year, the Secretary, in cooperation with the Governor, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report that—

(A) describes the status of implementation of all components of the Calfed Bay-Delta Program;

(B) sets forth any written determination resulting from the review required under subsection (b) or section 103(d)(1)(B); and

(C) includes any revised schedule prepared under subsection (b) or section 103(d)(1)(B)(iii)(II).

(2) CONTENTS.—The report required under paragraph (1) shall describe—

(A) the progress of the Calfed Bay-Delta Program in meeting the implementation schedule for the Program in a manner consistent with the Record of Decision;

(B) the status of implementation of all components of the Program;

(C) expenditures in the past fiscal year for implementing the Program;

(D) accomplishments during the past fiscal year in achieving the objectives of additional and improved—

(i) water storage;

(ii) water quality, including—

(I) the water quality targets described in section 2.2.9 of the Record of Decision; and

(II) any pending actions that may affect the ability of the Calfed Bay-Delta Program to achieve those targets and requirements;

(iii) water use efficiency;

(iv) ecosystem restoration;

(v) watershed management;

(vi) levee system integrity;

(vii) water transfers;

(viii) water conveyance;

(ix) water supply reliability (including new firm yield), including progress in achieving the water supply targets described in section 2.2.4 of the Record of Decision and any pending actions that may affect the ability of the Calfed Bay-Delta Program to achieve those targets; and

(x) the uses and assets of the environmental water account described in section 2.2.7 of the Record of Decision;

(E) Program goals, current schedules, and relevant financing agreements, including funding levels necessary to achieve completion of the feasibility studies and environmental documentation for the surface storage projects identified in section 103 by not later than September 30, 2008;

(F) progress on—

(i) storage projects;

(ii) conveyance improvements;

(iii) levee improvements;

(iv) water quality projects; and

(v) water use efficiency programs;

(G) completion of key projects and milestones identified in the Ecosystem Restoration Program, including progress on project effectiveness, monitoring, and accomplishments;

(H) development and implementation of local programs for watershed conservation and restoration;

(I) progress in improving water supply reliability and implementing the Environmental Water Account;

(J) achievement of commitments under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and endangered species law of the State;

(K) implementation of a comprehensive science program;

(L) progress toward acquisition of the Federal and State permits (including permits under section 404(a) of the Federal Water Pollution Control Act (33 U.S.C. 1344(a))) for implementation of projects in all identified Program areas;

(M) progress in achieving benefits in all geographic regions covered by the Program;

(N) legislative action on—

(i) water transfer;

(ii) groundwater management;

(iii) water use efficiency; and

(iv) governance;

(O) the status of complementary actions;

(P) the status of mitigation measures; and

(Q) revisions to funding commitments and Program responsibilities.

(b) ANNUAL REVIEW OF PROGRESS AND BALANCE.—

(1) IN GENERAL.—Not later than November 15 of each year, the Secretary, in cooperation with the Governor, shall review progress in implementing the Calfed Bay-Delta Program based on—

(A) consistency with the Record of Decision; and

(B) balance in achieving the goals and objectives of the Calfed Bay-Delta Program.

(2) REVISED SCHEDULE.—If, at the conclusion of each such annual review or if a timely annual review is not undertaken, the Secretary or the Governor determines in writing that either the Program implementation schedule has not been substantially adhered to, or that balanced progress in achieving the goals and objectives of the Program is not occurring, the Secretary and the Governor, in coordination with the Bay-Delta Public Advisory Committee, shall prepare a revised schedule to achieve balanced progress in all Calfed Bay-Delta Program elements consistent with the intent of the Record of Decision.

(c) FEASIBILITY STUDIES.—Any feasibility studies completed as a result of this title shall include identification of project benefits and a cost allocation plan consistent with the beneficiaries pay provisions of the Record of Decision.

SEC. 106. CROSSCUT BUDGET.

(a) IN GENERAL.—The President's budget shall include such requests as the President considers necessary and appropriate for the appropriate level of funding for each of the Federal agencies to carry out its responsibilities under the Calfed Bay-Delta Program.

(b) REQUESTS BY FEDERAL AGENCIES.—The funds shall be requested for the Federal agency with authority and programmatic responsibility for the obligation of the funds, in accordance with subsections (b) through (f) of section 103.

(c) REPORT.—Not later than 30 days after submission of the budget of the President to Congress, the Director of the Office of Management

and Budget, in coordination with the Governor, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a financial report certified by the Secretary containing—

(1) an interagency budget crosscut report that—

(A) displays the budget proposed, including any interagency or intra-agency transfer, for each of the Federal agencies to carry out the Calfed Bay-Delta Program for the upcoming fiscal year, separately showing funding requested under both pre-existing authorities and under the new authorities granted by this title; and

(B) identifies all expenditures since 1998 by the Federal and State governments to achieve the objectives of the Calfed Bay-Delta Program;

(2) a detailed accounting of all funds received and obligated by all Federal agencies and State agencies responsible for implementing the Calfed Bay-Delta Program during the previous fiscal year;

(3) a budget for the proposed projects (including a description of the project, authorization level, and project status) to be carried out in the upcoming fiscal year with the Federal portion of funds for activities under subsections (b) through (f) of section 103; and

(4) a listing of all projects to be undertaken in the upcoming fiscal year with the Federal portion of funds for activities under subsections (b) through (f) of section 103.

SEC. 107. FEDERAL SHARE OF COSTS.

(a) IN GENERAL.—The Federal share of the cost of implementing the Calfed Bay-Delta Program for fiscal years 2005 through 2010 in the aggregate, as set forth in the Record of Decision, shall not exceed 33.3 percent.

(b) PAYMENT FOR BENEFITS.—The Secretary shall ensure that all beneficiaries, including beneficiaries of environmental restoration and other Calfed program elements, shall pay for the benefit received from all projects or activities carried out under the Calfed Bay-Delta Program.

(c) INTEGRATED RESOURCE PLANNING.—Federal expenditures for the Calfed Bay-Delta Program shall be implemented in a manner that encourages integrated resource planning.

SEC. 108. COMPLIANCE WITH STATE AND FEDERAL LAW.

Nothing in this title—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water;

(3) preempts or modifies any State or Federal law or interstate compact governing water quality or disposal;

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource; or

(5) alters or modifies any provision of existing Federal law, except as specifically provided in this title.

SEC. 109. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated to the Secretary and the heads of the Federal agencies to pay the Federal share of the cost of carrying out the new and expanded authorities described in subsections (e) and (f) of section 103 $389,000,000 for the period of fiscal years 2005 through 2010, to remain available until expended.

TITLE II—MISCELLANEOUS

SEC. 201. SALTON SEA STUDY PROGRAM.

Not later than December 31, 2006, the Secretary of the Interior, in coordination with the State of California and the Salton Sea Authority, shall complete a feasibility study on a preferred alternative for Salton Sea restoration.

SEC. 202. ALDER CREEK WATER STORAGE AND CONSERVATION PROJECT FEASIBILITY STUDY AND REPORT.

(a) STUDY.—Pursuant to Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), the Secretary of the Interior (referred to in this section as the ''Secretary''), through the Bureau of Reclamation, and in consultation and cooperation with the El Dorado Irrigation District, is authorized to conduct a study to determine the feasibility of constructing a project on Alder Creek in El Dorado County, California, to store water and provide water supplies during dry and critically dry years for consumptive use, recreation, in-stream flows, irrigation, and power production.

(b) REPORT.—

(1) TRANSMISSION.—On completion of the study authorized by subsection (a), the Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the results of the study.

(2) CONTENTS OF REPORT.—The report shall contain appropriate cost sharing options for the implementation of the project based on the use and possible allocation of any stored water.

(3) USE OF AVAILABLE MATERIALS.—In developing the report under this section, the Secretary shall use reports and any other relevant information supplied by the El Dorado Irrigation District.

(c) COST SHARE.—

(1) FEDERAL SHARE.—The Federal share of the costs of the feasibility study authorized by this section shall not exceed 50 percent of the total cost of the study.

(2) IN-KIND CONTRIBUTION FOR NON-FEDERAL SHARE.—The Secretary may accept as part of the non-Federal cost share the contribution such in-kind services by the El Dorado Irrigation District as the Secretary determines will contribute to the conduct and completion of the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000.

SEC. 203. FOLSOM RESERVOIR TEMPERATURE CONTROL DEVICE AUTHORIZATION.

Section 1(c) of Public Law 105–295 (112 Stat. 2820) (as amended by section 219(b) of Public Law 108–137 (117 Stat. 1853)) is amended in the second sentence by striking ''$3,500,000'' and inserting ''$6,250,000''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

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

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material in the record on H.R. 2828, the bill now under consideration.

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

There was no objection.

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

Today's consideration of this historic bill is a giant step forward in resolving California's water supply problems. This legislation is proof that developing our water supplies is a bipartisan endeavor. Chairman of the Subcommittee on Water and Power, the gentleman from California (Mr. CALVERT), the original author of the bill, Senator FEINSTEIN, the ranking member on the Subcommittee on Water and Power, the gentlewoman from California (Mrs. NAPOLITANO), and others have worked constructively to reach agreement with our Senate colleagues since the bill passed out of the House.

The original intent of Calfed was to provide balance to a complex water delivery system to ensure everyone gets better together. That is what this bill does. H.R. 2828, as amended, simply and truly ensures that water quality, water supply and reliability, environmental restoration, fisheries protection, recreational values, and others all advance together. We have made significant progress in resolving the tough issues to bring before this chamber a bill that works for all those involved.

This bill makes historic strides in water quality improvements throughout California and brings together the collective efforts of all water users to provide cleaner water for everyone. The importance in moving the program forward with balanced implementation cannot be overemphasized. It is the very essence of the bill as now amended.

Specifically, balanced implementation for the first time under this bill creates storage as the linchpin for implementation of all Calfed elements. Across the board, newer and larger facilities are needed to store the excess flows now running to the ocean for later use by growing populations and the environment. Actions are necessary now to secure water and provide better water supplies for future generations of Californians. This bill ensures that the program will be carried out in balance with new water storage or else the entire program will simply not exist. To reiterate, new water storage is the linchpin of the entire program. Without it, we cannot achieve our goals of a balanced program.

My colleagues in the House and Senate have brought ultimate resolution to this bipartisan effort, and I urge my colleagues to support this important legislation.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I want to begin by thanking the gentleman from California (Mr. CALVERT) and the gentleman from California (Mr. POMBO) for their assistance, and leadership, in moving this legislation, along with the gentlewoman from California (Mrs. NAPOLITANO) from our side of the aisle. I also want to thank Senator BOXER and Senator FEINSTEIN for helping to get this successfully through the Senate.

I just want to raise a couple of points, and that is that this past summer, when an earlier version of this legislation was on the House floor, I offered a motion, along with the gentlewoman from California (Mrs. TAUSCHER) to correct what I believed was a fatal flaw in that legislation, the so-called preauthorization provision of the House, that would have granted a

blank check to Federal agencies to spend billions of dollars on dams and other projects in California. It was our strong belief that this provision would in fact never pass the Senate; it would become controversial and bog down this matter in the legislative process.

Fortunately, that provision of this legislation was removed at the insistence of members of the Senate. And the discussion that somehow, if we removed it, it would blow up the Calfed program has turned out to be the opposite. The removal of that has allowed Senators from other parts of the country to let us proceed for this long overdue legislation and hold together the coalition that was put together in the House in support of this legislation on both sides of the aisle.

Again, I want to thank all of the tireless efforts that Senator FEINSTEIN put into negotiating this legislation in the Senate. There is no question this was most difficult for the gentleman from California (Mr. CALVERT) in the House. I just asked him whether or not various Members of the House were happy, and he told me happiness was not the test in this legislation, but perhaps relative happiness was the test. And I think maybe, that being the goal, we have put together support for this legislation. And I want to thank him for those negotiations.

The bill we are considering today contains one complicated provision having to do with the balance in the Calfed program. Concerns have been raised that the finding of imbalance in this provision would be disruptive to the Calfed program. This should not be the case. Congress might indeed exercise its prerogative and refuse to authorize a surface storage project if a less expensive or less damaging water supply alternative exists. That action would trigger this rebalancing provision, which includes a specific remedy and report to the Congress that should include those alternative supplies. As in the case of surface storage facilities, these alternative water supplies should be financed by the principle of ''beneficiary pays,'' just like every other aspect of the Calfed program.

Finally, it is important to note that the bill reflects the fact that ecosystem restoration and several other Calfed activities, that have not received new authorization in this bill, are already authorized under Federal law. As the program moves forward, the authorization will include the balanced funding for these program elements as well.

Again, I want to thank all of the members of the Committee on Resources, and I want to thank the gentlewoman from California (Mrs. TAUSCHER) and the gentleman from California (Mr. POMBO), who we share areas covering the great Sacramento San Joaquin Delta in our State, and the gentleman from California (Mr. POMBO) was able to get some people to slow down and give some serious consideration to the problems that have plagued the users of the delta, both the agricultural interests and our municipal users and the environmental concerns in the delta to make sure that in fact we could come up with the most balanced program possible to meet all of those needs.

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

Mr. POMBO. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DREIER).

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

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time, and I would like to build on the remarks of my friend from Martinez by saying that I am extraordinarily happy that everyone else is relatively happy over this very important piece of legislation. I am happy because my colleagues, the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CALVERT) have worked so closely with the gentleman from California (Mr. GEORGE MILLER), the gentlewoman from California (Mrs. TAUSCHER), the gentlewoman from California (Mrs. NAPOLITANO), and others.

Focusing on the Bay-Delta region is something that has been a priority for many, many years, and it is something that will benefit not only Californians, but it will benefit us regionally.

I also want to join in extending congratulations to our California colleague DIANNE FEINSTEIN, and of course our friend Senator PETE DOMENICI, who worked hard and long in fashioning this. The gentleman from California (Mr. CALVERT) has been championing this effort for many, many years.

One other word of thanks has to go out on this, and I know some people will cringe when I say this, Mr. Speaker, but exactly 1 year ago tomorrow, the people of California, by an overwhelming margin, chose to recall the governor and elect Arnold Swarzenegger as our new governor. That happened exactly 1 year ago. And from that campaign forward, this has been a very high priority for Governor Swarzenegger.

We have seen in California huge geographic disagreement over the issue of water. And it has taken a long period of time for our State, and there are often so many jokes about what happens to California water and disagreements, almost a civil war on this issue of water between the north and the south, and to be able to focus on this Calfed issue in a bipartisan way and to address the regional concerns is something that is virtually unprecedented.

So I would like to argue that it took the leadership not only of Arnold Swarzenegger but of this tremendous coalition here in the House of Representatives, and I think it will go a long way towards addressing the very important agriculture needs and the economic needs of our State. And I thank the gentleman from California (Mr. POMBO) once again for his strong support in this effort.

□ 1400

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. NAPOLITANO) who has been very active in this matter for several years.

Mrs. NAPOLITANO. Mr. Speaker, I rise in strong support of H.R. 2828, the bill to reauthorize the CALFED Bay-Delta Program. I certainly associate myself with the comments of my colleagues, with the exception of Chairman DREIER's. I never saw the Governor at our meetings. I wish he had been. It would have helped. I would like to thank my good friend and colleague from California (Mr. CALVERT). His tireless efforts during the past two sessions of Congress to bring all CALFED stakeholders to the table and resolve several complex issues relating to California water management have paid off.

I also would like to thank and recognize the gentleman from California (Mr. POMBO), the gentleman from California (Mr. DREIER), the gentleman from West Virginia (Mr. RAHALL), and the gentleman from California (Mr. GEORGE MILLER) and especially Senators FEINSTEIN, BOXER, and DOMENICI for their excellent assistance while we worked to move this legislation throughout the 108th Congress.

The State of California for the past several years has also been operating under the most restrictive allocation of Colorado River water in history. We have been, rightfully so, told by the Interior Department that we need to reduce our water take from the river by 800,000 acre-feet by the year 2016.

Mr. Speaker, I am very pleased that this final version of H.R. 2828 addresses the current severe drought situation by including strong water-use efficiency language that would enable Southern California to take less water from Colorado River and the fragile bay-delta ecosystem through recycling and restoring our groundwater supply. As a former local and State-elected official, I have learned firsthand how groundwater reclamation activities combined with recycling efforts solved problems at the local level.

Now, as a Member of Congress, I have also learned that these projects commonly referred to, and everybody knows them as title XVI, title XVI projects, provide solutions to some of the most challenging community issues we face today and will confront tomorrow, not only in Southern California but throughout the western States.

Mr. Speaker, the key to solving California's water problems is in building partnerships. I sincerely appreciate the partnership and progress that we have all made on this legislation since its introduction last fall. I look forward to the enactment of H.R. 2828.

Mr. POMBO. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. NUNES).

Mr. NUNES. Mr. Speaker, it is really a privilege to stand up today and thank all of my colleagues who have worked so hard on this bill. This has been one of these bills in Congress that has really been a California Member bipartisan effort that we have worked with both Republicans and Democrats to come forth with a compromise on such tough language dealing with water. The gentleman from California (Mr. CALVERT) and the gentlewoman from California (Mrs. NAPOLITANO) should be thanked for holding hearings throughout the State of California last year leading up to this language.

We have strong commitments on storage. The gentleman from California (Mr. DREIER) mentioned Governor Schwarzenegger's support on storage. This is part of the overall agreement that has been achieved not only through this bill but through other agreements that have been made outside it because of this bill passing today on the floor of the House.

As we move forward, it is important for the folks in the United States and all over California to realize as California grows to 35, 40 million people, we have to have new water storage. This bill lays the groundwork for that. We are going to be working hard with the appropriators to continue to move forward on the storage aspects and the funding for the studies and obviously with our colleagues in the Senate, DIANNE FEINSTEIN, who has done a phenomenal job in moving this language forward.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. I thank the gentleman for yielding me this time.

Mr. Speaker, I am very pleased today to have the opportunity to vote in support of reasonable and responsible CALFED legislation. I want to thank the gentleman from California (Mr. POMBO), the gentleman from California (Mr. CALVERT), the gentlewoman from California (Mrs. NAPOLITANO), and especially the gentleman from California (Mr. GEORGE MILLER) for their leadership and especially the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CALVERT) for acceding to the Senate language.

As I said when the House first considered this legislation this summer, it is well past time that the State of California and the Federal Government get to work in active partnership to restore the delta's ecosystem and meet our State's growing water needs.

For too many years, Mr. Speaker, because agreement was not reached, California lost tens of millions of dollars which could have been used to begin work on these vitally important projects. In fiscal years 2001, 2002, 2003 and 2004, zero was appropriated for the CALFED projects. We could not allow this to continue. And so I am glad today we are considering the Senate version of this measure, ushered through by the hard work of our senior Senator, DIANNE FEINSTEIN.

This bill preserves the existing record of decision, strips the divisive preauthorization language, and best balances the vital water interests in our region. Fortunately, today's legislation will make new water projects subject to the critical public review and public participation process which the gentleman from California (Mr. GEORGE MILLER) and I have been fighting for, which will secure the integrity of the CALFED program into the future.

Under an open process and through this renewed Federal-State partnership, we can begin to address issues of water supply restoration, ecosystem restoration, and water-quality enhancement so vital to the future of California. As the sixth largest economy in the world, as home to some of the world's most unique, yet endangered, species and ecosystems, and as a major key to the economic strength of our Nation, it is critical that we endeavor to address our State's aging water infrastructure and diminishing resources. The CALFED program will allow us to do so. I am pleased to join my California colleagues in supporting it. I urge a ''yes'' vote.

Mr. POMBO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CALVERT), the author of the legislation.

Mr. CALVERT. I thank the gentleman from California for yielding me this time.

Mr. Speaker, today's consideration of this bill is a giant step forward in resolving California's water supply problems. Our water security is a critically important issue. In California alone in the last 2 decades, the population has grown over 30 percent while the water supply in storage has increased by a mere 2 percent. Over the next 15 years, California must reduce its dependence on the Colorado River by 15 percent while the population in California is projected to grow by yet another 30 percent. California's Department of Water Resources estimates that the gap between water supply and demand in the State will total 2.4 million acre-feet in normal years of rainfall and up to 6.2 million acre-feet in drought years. When you consider that a family of five uses an average of one acre-foot of water per year, it is not that difficult to imagine how destabilizing such shortages would be to California and to other western States.

We have come a long way over the last few years in assuring a reliable water supply for California. Since I have been chairman of the Subcommittee on Water and Power, we have conducted many field hearings in California, legislative hearings here in Washington, markups and too many meetings to count to get to where we are today. Today's bill is a culmination of the work and deliberation by many of us over the years. Since 1995, I have worked to bring certainty and a balanced road map for water use in California and the West. Since this bill passed the House several months ago, I have worked with the gentleman from California (Mr. POMBO), Senator FEINSTEIN, the gentleman from California (Mr. GEORGE MILLER), and, of course, the gentlewoman from California (Mrs. NAPOLITANO) and many others who have worked hard to bring this bill to the floor.

The original intent of CALFED was to provide a balance to a complex water delivery system. H.R. 2828 achieves this goal. Under this bill, the environment, recreation, drinking water, agriculture, and industry all get better together. As our distinguished colleague from California (Mr. POMBO) has stated, this bill makes historic strides in water-quality improvements throughout the entire State of California. Improved water quality helps everybody across the board. We also create new water supplies for Northern and Southern California, and we enhance surface storage to improve our water quality and supply.

Lastly, I want to thank Governor Schwarzenegger's participation recently to assure us that these feasibility reports that are in the record of decision will move forward where we can have a balanced and completed project and that we can meet our future with assurance. I urge my colleagues to support this important legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Again, I want to rise in support of this legislation, but I do want to note some concurrent problems that concern me with respect to this legislation because the goals of this legislation were to strike a balance in the operation of this water system, a balance in the development of facilities and the utilization of this water between the consumption of this water, whether it be in industry or whether it be in the agricultural industry or in our municipalities or for the environment, to make sure that there was balance to those efforts. I think to the extent it was practicable, the gentleman from California (Mr. CALVERT) and others have worked that balance out.

I am concerned that as we get ready to pass this legislation and send it to the President, we now see other activities that are taking place along at the same time, and, that is, we see the emergence now of the operations criteria and plan which is the new document that sets the stage for California's most far-reaching, according to the Sacramento Bee, the most far-reaching plumbing shifts in a decade.

Under the plan, water contractors would increase the pumping from the very same delta that this legislation is designed to help protect and preserve both for its local economies, for its agricultural industries and for its environmental assets, would increase the pumping from the delta by some 27 percent to Southern California.

The suggestion is that that has to be done. Part of it is because there are contracts that have to be met. We know that many of these contracts are up currently for renewal in a number of the water districts south of the delta. The Bureau of Reclamation and the Federal Government has within its authority to modify those contracts. All of the evidence suggests that they are not prepared to do that, that they are going to maximize the water deliveries under those contracts even though those contracts envisioned a water delivery at a time that California had 20 million fewer people than it does today and when the demands on water north of the delta are different today than they were then. They are not going to modify those contracts, and they are going to try, I think, contrary to the law, they are going to try to extend those contracts for another 40 years.

The fact of the matter is that that is contrary to the protection of this Sacramento-San Joaquin Delta, and as outlined in this new operations criteria means less water flowing into San Francisco Bay. After a decades-long struggle to protect San Francisco Bay, you can start to see the reignition of a whole series of battles starting to take place because there is this rush by the State administration and the Federal Government to maximize the amount of water that can be sent south.

The concern is that when we have tried to make sure that all of the evidence was on the table, with both of our Senators and the gentlewoman from California (Ms. PELOSI) and other members of the California delegation, we asked for a continuation of the public hearings on these contract terms, the bureau has ignored our request. When we asked the bureau to extend that public comment period until those important questions were answered, the bureau ignored our request.

What worries me is this ignoring of the public interest, of the public input into this decision now fits into what we now see, that the political operations within NOAA and the scientists who are there to develop the standards for the protections of the salmon runs in the Sacramento-San Joaquin Delta, in the American River, we now see, according again to the Sacramento Bee this last weekend, that there is an overriding of the setting of those standards in terms of the adequate water flows and releases that are necessary to protect those endangered runs of salmon. We see that that is now being done for political reasons.

What worries me the most is this is the same cast of characters that arbitrarily and capriciously in the court case, it was determined, overrode the scientists on the Klamath River and led to one of the largest kill-offs of salmon in the history of the west coast, if not the largest, because they decided that they did not want to live with good science, they decided they would override it.

So all of a sudden as we pass CALFED today, we see that in fact the Sacramento-San Joaquin Delta, San Francisco Bay, the American River, maybe the runs in the Sacramento River, the fisheries runs there, may be more imperiled than at any time in history.

Why is that happening? Because what we see in spite of the agreements of cooperation, of balancing that we see in the CALFED, we see there starting to be a repetition of the same old habits which is to try and maximize the pumping from the Sacramento-San Joaquin Delta to send it south for the purposes of fulfilling these contracts or other needs.

My concern is that at a time when the chairman really held up this process until such time as the delta water agencies and others could come in and make sure what the impacts were going to be on delta water quality, on delta usage, we now see a parallel process taking place that has all of the earmarks of another devastating blow to delta water quality, to the usages in the delta, to the protection of the environment, and to the protection of the delta economy.

□ 1415

I raise these at this time because, as we celebrate the long effort and the successful effort with the passage in this House of the CALFED legislation, we see that the forces who continue to have a design on the Sacramento-San Joaquin Delta, on the impacts on San Francisco Bay by increasing the diversions from this very complicated and fragile environment, we see that they never rest. And they are back now, apparently with the cooperation of the Schwarzenegger administration in Sacramento, with the cooperation of the Bush administration, in fact, with not only the cooperation of the Bush administration but the Bush administration's political appointees now coming in and overriding the scientists who have done the studies designed to protect the delta and protect its fisheries.

So I guess the bottom line and the end of this story is, there is an awful lot of work that remains to be done. There is an awful lot of concern that we have over the long-term protection of the delta, and I would hope that the gentleman from California (Mr. POMBO) would look at these articles that are in the ''Sacramento Bee'' because they raise the most serious concerns about our economy and about our environment.

Mr. Speaker, I include for the RECORD the articles that I alluded to.

[From sacbee.com, Oct. 2, 2004]

REWRITE SOFTENS REPORT ON RISKS TO FISH

(By Stuart Leavenworth)

Officials at a federal fisheries agency ordered their biologists to revise a report on salmon and other endangered fish so that more water can be shipped to Southern California from the Delta, according to interviews and internal agency documents obtained by The Bee.

Biologists with NOAA Fisheries, an arm of the National Oceanic and Atmospheric Administration, concluded in August that a plan to pump more water through the Sacramento-San Joaquin Delta could jeopardize endangered salmon and other fish.

NOAA administrators in Long Beach, however, overruled the biologists and supervised a rewriting of their analysis. That, in turn, removed the last major obstacle to a plan that could send more water south, affecting how much is reserved in Northern California, including for salmon in the American River.

NOAA officials say the revisions were justified. Agency biologists made some errors and ''unsubstantiated conclusions'' in their original draft, said James Lecky, an agency administrator in Long Beach who ordered the revisions.

Some agency employees, however, say some of the changes had no basis in science and substantially weaken protections for endangered winter-run salmon, steelhead trout and other fish.

''I haven't seen anything this bad at NOAA since working here,'' said one agency biologist who asked that his name not be used. ''The Sacramento office (of NOAA Fisheries) is totally demoralized.''

At issue is a state-federal plan for operating the massive network of reservoirs, aqueducts and pumping plants that move water around California. The U.S. Bureau of Reclamation and state Department of Water Resources are planning major changes for those facilities, partly to free up water that can be shipped through the Delta.

The U.S. Fish and Wildlife Service gave its blessing to the plan in August, but NOAA Fisheries has sought extensions in releasing its own analysis.

Documents obtained by The Bee explain why.

In August, NOAA biologists issued a draft stating that the plan ''is likely to jeopardize the continued existence of Sacramento winter-run Chinook salmon and Central Valley Steelhead,'' as well as spring-run salmon.

The documents outlined several measures the Bureau of Reclamation could adopt to reduce impacts on fish, but the document was never signed.

Instead, Lecky delivered the draft to his counterparts in the Bureau of Reclamation, who offered suggestions on revisions, he said.

Lecky said such document sharing is commonplace as federal agencies undergo what is known as a consultation under the Endangered Species Act. NOAA officials wanted to ensure they had appropriately interpreted the bureau's plans, he said, and receive feedback on their own analysis.

A copy of NOAA's latest draft, however, shows that administrators have altered the report in ways that go beyond mere word changes.

The updated version, 289 pages and dated Sept. 27, no longer concludes that winter-run salmon or other fish could face extinction by the extra water diversions by state and federal facilities.

The report concludes that the new operations would likely reduce the juvenile population of winter-run salmon by 5 percent to 22 percent, but says that agencies can help minimize those losses by monitoring and adapting.

The latest version also softens the wording for how the Bureau of Reclamation can avoid future impacts on fish.

In the original report, NOAA biologists called on the Bureau of Reclamation to reserve 450,000 to 600,000 acre-feet of water in Folsom Lake by September to provide adequate supplies for returning salmon and steelhead.

The latest version changes the wording from ''shall maintain'' to ''shall target'' the extra water.

In addition, the latest draft no longer calls for a minimum flow standard for the American River, as the original did. The state

Water Resources Control Board called for an American River flow standard in 1988, but federal officials haven't yet agreed to one.

A former state official who now works for a leading environmental group reviewed the two versions and said he was stunned by the revisions.

''The September draft guts the minimal protections that were in the earlier version,'' said Jonas Minton, a former deputy secretary for the Department of Water Resources. ''The new version includes commitments to talk instead of commitments to protect fish.''

Minton, who now works for the Planning and Conservation League, agreed that supervisors often make routine changes to a scientific document. ''It's an entirely different thing to change science for political purposes,'' he said.

In an interview, NOAA's Lecky disputed that political appointees had pressed for changes. Everything has been handled within NOAA's Southwest Regional Office in Long Beach, he said.

Lecky declined to comment further on the revisions, saying The Bee had obtained a ''predecisional document'' that was subject to further review. Sources say a final version could be released next week.

Formerly known as the National Marine Fisheries Service, NOAA Fisheries enforces the Endangered Species Act for fish that spend part of their lives in the ocean, such as salmon. In recent years, NOAA has become embroiled in several controversies over water allocations and fish.

In 2002, NOAA biologist Michael Kelly warned that the Reclamation Bureau's water plans in Oregon could lead to fish kills downstream on the Klamath River. Later that year, warm water and disease killed about 77,000 returning salmon, according to a report by the California Department of Fish and Game.

Kelly later resigned from NOAA after another disagreement with Lecky.

In recent months, the Bureau of Reclamation has been pushing to sign long-term contracts with irrigation districts and finalize plans for shipping more water through the Delta. Some of California's most powerful groups—including the Chamber of Commerce, Westlands Water District and the Metropolitan Water District of Southern California—are lobbying for extra water.

Environmentalists suspect this pressure prompted some of NOAA's recent actions, although they acknowledge they can't prove it.

Bureau of Reclamation officials say the public will have full opportunity to comment on any changes in water operations. The Bureau and the Department of Water Resources have scheduled an informational meeting in Sacramento on Thursday from 9 a.m. to noon at the Best Western Expo Inn, 1413 Howe Ave.

[From sacbee.com, Sept. 26, 2004]

MAJOR SHIFT MAPPED FOR DELTA WATER

(By Stuart Leavenworth)

Under pressure from some of California's biggest cities and farm districts, federal and state officials are planning major changes in how water is stored and distributed across the state, including increased pumping of supplies from the Sacramento-San Joaquin Delta.

The proposed changes, outlines in an obscure state-federal document called the Operations Criteria and Plan, sets the stage for California's most far-reaching plumbing shifts in a decade. Under the plan, water contractors would increase pumping from the Delta by 27 percent, sending more to Southern California and the San Jaoquin Valley. Less water would flow to the San Francisco Bay and less would be reserved for endangered salmon during the driest of droughts.

Increased pumping from the Delta originally was envisioned under Cal-Fed, a state-federal water collaboration launched in 1994. But the U.S. Bureau of Reclamation unveiled other proposals only recently, and those are coming under fire from environmentalists, Delta farmers and sportfishing groups.

All sides agree the liquid power struggle will be a major test of Gov. Arnold Schwarzenegger and his water lieutenant, Lester Snow. Schwarzenegger has styled himself as a business-friendly, pro-environmental governor who can solve entrenched disputes. But solutions don't come easy in the Delta, where there are symbolic shadings and big stakes attached to any effort to move water around.

''The key decision-maker will be Governor Schwarzenegger,'' said Tom Graff, an Oakland-based lawyer for Environmental Defense, a group that has fought past plans to increase water exports from Northern California. ''At some point, he and his appointees will have to decide if they uphold the environmental commitments of Cal-Fed.''

Created with an eye toward raising all boats in the Delta, Cal-Fed once was touted as a $8.6 billion ''fix'' for the estuary. The program has multiple goals of increasing water supplies for farms and cities while restoring fish hurt partly by water diversions. It's still unclear if those goals can be reconciled.

The largest estuary on the West Coast, the Delta has lost roughly half its historic flow into San Francisco Bay because of upstream water diversions. If state and federal officials turn on the pumps at the wrong time, they can suck fish and larvae toward and into the pumps. The diversions also can worsen water quality for Delta farmers and the Contra Costa Water Agency by drawing salt and bromides up the estuary.

In recent years, Cal-Fed has helped water managers coordinate a complex system of raising or lowering pumping rates to meet environmental demands. A special pool of water—the Environmental Water Account—helps compensate water districts hurt by unexpected restrictions on Delta pumping.

Despite those successes, Cal-Fed has few vocal champions. Water users say the program has spent about $500 million buying potential habitat to help fish and wildlife but has done little to prevent future water shortages. Environmentalists say fish stocks remain a fraction of their past numbers, and note that Delta water standards still are violated.

Frustrated with Cal-Fed's open meetings and often plodding process, California's big water users teamed up with state and federal officials last August, and quietly negotiated their own plan for increasing Delta pumping. It became known as the Napa agreement.

For decades, the state Department of Water Resources and the Bureau of Reclamation have maintained separate reservoirs, separate aqueducts and separate pumping plants in the Delta. Napa promised to change all that. For the first time, state contractors would be able to store their water in the federal government's big reservoirs. Federal contractors, meanwhile, could ship some of their water through the state's Harvey Banks Pumping Plant and its 11 massive electrical pumps, which suck water 244 feet up in elevation and deliver it to the California Aqueduct.

Integrating these water works hasn't been controversial; the plan to increase pumping is. The Napa pact would allow the Banks plant to ramp up its regular pumping rates about 27 percent, from 6,680 to 8,500 cubic feet per second. State officials say the extra water would come from outflow to the Bay.

The state's two largest water agencies—Westlands Water District, with 570,000 acres in irrigation, and the Metropolitan Water District of Southern California, with 18 million customers—stand to be major beneficiaries. Those districts and others may end up gaining several hundred thousand acre-feet of water, said Tim Quinn, a vice president for Metropolitan.

In addition, the increased pumping capacity could lay the groundwork for more sales of water from Northern California rice farmers to Southern California.

To those excluded from the talks, the Napa meeting was less a breakthrough than a backroom deal, and a betrayal of Cal-Fed's principles.

Delta farm districts, environmental groups, sportfishing interests and many midsize urban districts were not at the table. At the urging of U.S. Rep. Richard Pombo, R-Tracy, and state Sen. Mike Machado, D-Linden, the Napa signatories later crafted side agreements with Delta farmers, who fear that extra pumping could foul their water supply. But environmentalists were not included.

''A lot of groups in the conservation sector are getting ready to wash their hands of the Cal-Fed process,'' said Steve Evans of Friends of the River, a Sacramento-based conservation group. ''It is clear that major agencies are acting outside of Cal-Fed. . . .''

Up until the last few years, irrigation districts in the San Joaquin Valley were voicing the same complaints. Farmers lost supplies when President George H.W. Bush signed the 1992 Central Valley Project Improvement Act, which allocated more water for the environment. Many farmers were skeptical that Cal-Fed would come to their aid.

In 2001, however, President George W. Bush took office and agribusiness gained new clout. Interior Secretary Gale Norton appointed Bennett Raley, a lawyer for Colorado ranchers, to manage Western water issues. She also hired Jason Peltier, a lobbyist for Central Valley irrigation districts, to handle Cal-Fed.

Two years ago, farmers won back some of their water when Bush and his appointees declined to appeal a court ruling challenging implementation of the 1992 act. South-of-Delta farmers now are pushing for extra water guarantees, said Thad Bettner, deputy general manager of the Westlands Water District, because they fear their existing supplies will be lost as California cities grow.

If federal and state officials implement key parts of the Napa pact, Westlands and other water exporters could see immediate gains. Federal water for San Joaquin Valley wildlife refuges could be moved through the state pumps, freeing up more capacity in federal pumps for irrigation supplies. In exchange, the federal Bureau of Reclamation would assume some of the state's responsibilities for meeting Bay-Delta flow requirements.

Quinn, the Metropolitan vice president, said increased pumping would occur only when it wouldn't hurt fish and water quality. He dismisses claims of a water grab by Southern California, noting that Cal-Fed has long planned to increase the capacity of the pumps.

Graff and other environmentalists, however, say it is clear that Southern California is relying more heavily on the Delta because of the Colorado River drought. Earlier this year, Environmental Defense came across financial documents filed by Metropolitan that show the agency plans to boost Delta diversions to 1.7 million acre-feet by 2008, and has steadily increased diversions the last several years.

''All this whining from urban water agencies about the supposed lack of balance in

Cal-Fed is hogwash,'' said Evans. Metropolitan, he said, ''is receiving nearly double the water they received just a few years ago.''

Hoping to make the pumping plan more palatable, Cal-Fed has come up with supplemental proposals to improve water quality in the estuary, a fig leaf for Delta farmers and urban agencies.

Environmentalists say those plans do little for fish, and they are even more troubled by the Operating Plan and Criteria, which shows how the Bureau of Reclamation expects to meet future water demands.

According to that operating plan, the bureau proposes to end decade-old protections for endangered winter-run salmon in the upper reaches of the Sacramento River.

Winter-run salmon lost their historic spawning grounds when the bureau built Shasta Dam in the 1930s. Surviving fish were nearly wiped out during the drought of 1975–77, when the bureau nearly emptied Shasta and warmed up the river.

After winter-run salmon were added to the federal Endangered Species List in 1989, the agency was ordered to carry over 1.9 million acre-feet of water in Shasta every year. Those reserves ensure that salmon have cold water to survive a drought, but they also hamper the bureau in meeting its contract obligations.

This year, with pressure building on the bureau to ship more water through the Delta, the agency is proposing to end the carry-over storage requirement and reduce the stretch of river where it must legally maintain cool water temperatures.

Reclamation officials contend they can protect salmon without these hard-line restrictions. Marian Echeverria, a spokeswoman for the bureau, said the agency now has access to water sources that weren't available back in the early 1990s.

Even with those assurances, some environmentalists and Delta farmers fear Northern California will bear the brunt of the proposed changes. Delta farmers say their irrigation supplies will become more salty as more freshwater is shipping south.

''This process needs a whole lot more daylight,'' said Tom Zuckerman, a lawyer for the Central Delta Water Agency. He suspects federal officials are rushing the process so they can sign new, long-term contracts with water districts by year's end.

The outcome could hinge on NOAA Fisheries, a federal agency charged with protecting endangered salmon and other ocean-migrating fish. NOAA biologists initially wanted to issue what is known as a ''jeopardy opinion'' under the Endangered Species Plan. Such a ruling would have blocked the bureau's plan, but NOAA hasn't yet issued a final decision.

Another wild card is Schwarzenegger and his director of water resources, Snow, who worked as regional director of the Bureau of Reclamation in the Clinton administration. Snow says state and federal officials erred by not holding recent public workshops on the operating plan. ''It wasn't very artfully handled,'' he said in an interview last week.

Nonetheless, said Snow, critics are jumping the gun. The Department of Water Resources, he said, is studying how planned Delta diversions would affect fisheries and flows to the Bay. The public will have ample opportunities to comment on any final proposal, which would need to meet both federal and state environmental laws, he said.

Snow said he also is awaiting the opinion from NOAA Fisheries and will examine it closely.

''We will not stand by and allow a lessening of salmon protections that will cause problems for the state,'' said Snow. ''If NOAA Fisheries does something that gives the bureau a free pass, we are going to catch that.''

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DOOLEY), who has been involved in these water issues from the day he came to Congress. And I thank him for his help and all of his years of service in these years in the House on these issues of concern to our State.

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Speaker, first off, I want to thank the gentleman from California (Mr. GEORGE MILLER), the gentleman from California (Mr. POMBO), and the gentleman from California (Mr. CALVERT), as well as Senator FEINSTEIN, for really puttingtogether a bipartisan product that is in the interest of all Californians.

All too often in the past, during my tenure at Congress, when we had a California water bill on the floor, a lot of our colleagues would shudder because oftentimes that would end up in almost a civil war among the Californians because California water issues have been difficult to solve. It has been difficult to strike that balance between providing for enhancement of the environment and still meeting the economic needs of our State through our agriculture sector as well as our municipal sector.

That is what is important about this bill, because it is a rare occasion, I hope marking a turning point, where we are solving our problems by coming together, understanding that we can provide greater certainty in the delivery of water to enhance the environment as well as to expand our economy by finding ways in which we can provide for greater conservation, greater storage, and more efficient management of our water supplies.

I think that this, hopefully, is a turning point because all too often in the past we have seen too many of the interests in California water that have retreated to the courts, that have relied on the courts to try to solve some of the difficult choices that we have to make. And I think the leadership that was demonstrated by the parties that I mentioned earlier hopefully is a call to action among all the interests impacted by California water, that they need to come together in a cooperative and a constructive manner to try to build upon this effort to ensure that we are going to have that balanced approach in utilizing the water in the State of California that could enhance our environment and, once again, ensure that we are providing the economic future which is so important to the citizens of our State.

I rise in strong support of the Senate amendments to H.R. 2828, the Calfed Bay-Delta Authorization Act.

Passage today will finally enable this vitally important legislation, long in the making, to be sent to the President for signature.

The Senate-passed version we have now before us merges many of the provisions in the House bill with a handful of changes negotiated after the House passed its version on July 9 of this year. It reflects a careful balance and set of compromises that represent our best chance for this bill becoming law this year.

The successful evolution of this bill is a credit to the leadership of many of my colleagues in the California delegation. I want to give special recognition, however, to Senators FEINSTEIN and BOXER, and Representatives POMBO, CALVERT, NAPOLITANO and CARDOZA for their steadfast stewardship and commitment.

On a bipartisan basis, these and other Members worked long and hard to bring parties together. We consulted a wide range of affected stakeholders, both regional and national. We tried to bring a visionary yet pragmatic approach to the management of California's water resources. During each step of the legislative process, we tried to improve on the bill and strengthen its base of support.

This bill authorizes $389 million for water projects in the CALFED program over the six-year-period FY 2005 through 2010. It creates new water supplies, improves water quality and reliability, and ensures ecosystem restoration. It evenhandedly provides for California's different water interests, implementing the CALFED program in a balanced manner.

One area of difference between the House and Senate-passed bills focused on the House provision that would have pre-authorized certain water storage projects, subject only to a Congressional disapproval resolution. I appreciate the interest of certain House Members to expedite the very lengthy process now involved in getting water storage projects from design to implementation. Nevertheless, the preauthorization provision of the House bill was met in the Senate with objections on both sides of the aisle and threatens to stand in the way of this bill becoming law this year.

Instead of a pre-authorized provision, the Senate amendments explicitly authorize groundwater storage and feasibility studies for major new off-stream and expanded reservoirs, including the enlargement of Los Vaqueros reservoir, the raise of Shasta Dam, Upper San Joaquin surface storage, and Sites Reservoir. With these four storage projects, California could acquire an additional 3.2 million acre feet of storage.

In addition, the Senate amendments include new procedures and safeguards if Congress fails to approve a storage project by the end of the Congressional session following the submission to Congress of a federal feasibility study. In such a case, the Secretary of Interior must, within 180 days, make a finding of ''imbalance'' and report to Congress on revised schedules and alternatives to rebalance the CALFED Program.

Although the Senate amendment does not expedite the storage authorization process as directly as the House bill attempted to do, it is an improvement over the status quo. Moreover, an even larger point must not be lost in this discussion.

Any water storage project, whether currently in the pipeline or subject to the new authority in this bill, requires appropriated funds. Due to the fact that Federal authorization for the CALFED program has lapsed, federal appropriations are not currently being approved for CALFED. This fact is disadvantaging water users and water projects throughout California.

The time has come for Congress to reauthorize the CALFED program, and allow

projects—for water quality, water supply, and fisheries protection—to move forward.

I urge my colleagues to vote today in support of the Senate amendments to H.R. 2828.

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

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

Just in closing I want to thank all of my colleagues who were able to work in a bipartisan manner to get this done. The gentleman from California (Chairman CALVERT) worked on this bill for a long time, and before him the gentleman from California (Mr. DOOLITTLE) worked on this bill, and there was a lot of work that went into making this happen. And we all know that some of our colleagues were not as cooperative, but I do appreciate those that were able to work with us and get this done.

I urge the passage of the bill.

Mr. CARDOZA. Mr. Speaker, I am pleased to support the passage of H.R. 2828 today.

Calfed reauthorization is an issue that Congress has debated for years and years and today—as a result of numerous parties working together—we are making significant strides toward increasing water supply, quality and reliability for California.

This is an enormous accomplishment and I applaud Representatives POMBO, NAPOLITANO and CALVERT and our esteemed Senator from California, Senator FEINSTEIN, for overcoming the numerous hurdles that have prevented this issue from progressing in years past.

This proposal will greatly strengthen California's agricultural economy and address the needs of a fast growing population by creating additional surface storage projects.

This delicate balance, while difficult to achieve, is critical to the success of Calfed.

Today, I urge my colleagues to support this measure because it will set California on the path to a sustainable water supply for its citizens, its economy and its environment.

Mr. THOMAS. Mr. Speaker, I rise today in support of H.R. 2828, the Water Supply, Reliability, and Environmental Improvement Act. This legislation, authored by my good friend, Resources Water and Power Subcommittee Chairman KEN CALVERT, is the result of many years of hard work by the California water community to find a way to balance the competing water needs of agriculture, the environment, and a growing population.

My district in the Central Valley of California is a prime example of these changing needs. In 1960, Kern County had a population of about 291,000 people and an agricultural base that produced commodities with a farm gate value of $247 million. In 2000, those numbers had increased to a population of 661,000 people and farm gate value approaching $2.5 billion. Much of this growth is due to the construction of the State Water Project in the mid-1960's, but virtually no investment in that all-important infrastructure has been made since that time. Our water infrastructure requires attention and upgrading to continue supporting California's agriculture economy, and H.R. 2828 provides for many of these necessary improvements.

I congratulate all my colleagues from California who have worked tirelessly to overcome regional differences and reconcile competing priorities to ensure that this vital legislation is enacted.

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

The SPEAKER pro tempore (Mr. QUINN). The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2828.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

IMPROVEMENTS TO EMPLOYMENT VERIFICATION SYSTEM UNDER IMMIGRATION AND NATIONALITY ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4306) to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment, as amended.

The Clerk read as follows:

H.R. 4306

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

SECTION 1. IMPROVEMENTS TO EMPLOYMENT VERIFICATION SYSTEM.

(a) IN GENERAL.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended—

(1) in paragraph (1)(A), by inserting before ''A person or entity has complied'' the following: ''Such attestation may be manifested by either a hand-written or an electronic signature.'';

(2) in paragraph (2), by adding at the end the following: ''Such attestation may be manifested by either a hand-written or an electronic signature.''; and

(3) in paragraph (3), by inserting ''a paper, microfiche, microfilm, or electronic version of'' after ''must retain''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the earlier of—

(1) the date on which final regulations implementing such amendments take effect; or

(2) 180 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4306 currently under consideration.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 4306, which would allow employers to electronically complete and store Eligibility Employment Verification Forms, known as Forms I–9.

Currently, employers must complete one of these forms for each employee to show that they have verified that the employee is eligible to work in the United States. The employer must then retain that form for at least 3 years and make it available for inspection by Immigration and Customs Enforcement, the Justice Department's Civil Rights Division, and the Department of Labor.

This legislation is straightforward and sensible. It would benefit employers in preparing and storing Forms I–9 and benefit the government in enforcing immigration, antidiscrimination, and the labor laws of our Nation.

The current regulation requires employers to retain Forms I–9 ''in their original form or on microfilm or microfiche.'' This regulation, promulgated in 1988, has failed to keep up with modern technology. For this reason, almost all employers have resorted to keeping Forms I–9 in the original format in which they are completed, that is, on paper.

With employers required to retain a Form I–9 for each employee for years, American businesses are holding an overwhelming number of the forms today. That is a lot of paper and paper which can easily be lost, damaged, or tampered with. This format is insecure, wasteful, and with the advent of electronic data storage, totally unnecessary.

Allowing the electronic completion and storage of Forms I–9 would also aid the men and women charged with enforcing our law, particularly when auditing large employers with multiple outlets spread across the country. In reviewing the Forms I–9 of employers who choose to keep the documents electronically, officers will be able to request one electronic file instead of potentially thousands of paper documents. This legislation would not require employers to electronically complete or store Forms I–9. It would simply permit them to do so if they so choose.

Accordingly, I urge my colleagues to support this bill.

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

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

Mr. Speaker, I appreciate the remarks of the distinguished chairman of the Committee on the Judiciary, and as well, I want to acknowledge the chairman of the Immigration, Border Security, and Claims Subcommittee and the gentleman from Michigan (Mr. CONYERS), ranking member on the full committee.

This is an important change on the benefits side of the immigration puzzle. This regulation, 8 CFR 274a2(b)(2) requires United States employers to

process and retain I–9 forms for up to 3 years. These forms are used to verify the employment eligibility and identify all employees in the United States. They are required to be kept on paper or on microfilm or microfiche.

This was fine in 1988, when the regulation was promulgated. Computers were expensive and less widely used in 1988. Paper records were an unavoidable burden then, and microfilm and microfiche were being used far more in 1988 than they are now. It is not appropriate to be restricted, however, at this point in time to such records on that kind of data in this computer age that we live in today.

Most of our corporations and small businesses are technologically sophisticated and therefore are able to access the information highway. More than half of the benefits applications that are submitted to U.S. Citizenship and Immigration Service are filed on its Web site, but employers are still required to maintain paper I–9 forms.

Employers should be permitted to keep the Form I–9 in electronic form as an option. In addition to saving paper and storage space, an electronic storage system would permit a central reservoir of sensitive data and allow retrieval of I–9 forms in a fraction of the time it takes to retrieve paper, microfiche, or microfilm copies and might, in fact, Mr. Speaker, be even more accurate.

H.R. 4306 simply would allow employers the option of electronic processing and storage of the I–9 forms. This would include electronic signatures.

I urge my colleagues to support this legislation.

The regulation 8 CFR §274a2(b)(2) requires United States employers to process and retain I–9 forms for up to 3 years. These forms are used to verify the employment eligibility and identity of all employees in the United States. They are required to be kept on paper or on microfilm or microfiche. This was fine in 1988, when the regulation was promulgated. Computers were expensive and less widely used in 1988. Paper records were an unavoidable burden then, and microfilm and microfiche were being used far more in 1988 than they are now. It is not appropriate to be restricted to such records in the computer age that we live in today.

More than half of the benefits applications that are submitted to the U.S. Citizenship and Immigration Service are filed on its website, but employers are still required to maintain paper I–9 forms. Employers should be permitted to keep the Form I–9 in electronic form. In addition to saving paper and storage space, an electronic storage system would permit a central reservoir of data and allow retrieval of I–9 forms in a fraction of the time it takes to retrieve paper, microfiche, or microfilm copies.

H.R. 4306 simply would allow employers the option of electronic processing and storage of the I–9 forms. This would include electronic signatures. I urge you to vote for H.R. 4306.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Utah (Mr. CANNON) the author of the bill.

Mr. CANNON. Mr. Speaker, I rise to urge my colleagues to support H.R. 4306, legislation that I introduced along with the gentleman from New Jersey (Mr. ANDREWS).

I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE), ranking member of the subcommittee, for their support of this bill. This is a noncontroversial bill that reinserts logic into the regulatory process by updating an outdated regulation.

The Immigration Reform and Control Act of 1986 requires the Employment Eligibility Verification form, also known as the I–9 form, to be completed and stored by an employer in order to verify the employment eligibility and identity of the employer's workforce.

The statute also stipulates that all employers must maintain these documents for at least 3 years after the date of hire or 1 year after employment is terminated, but many employers maintain the forms for longer periods of time simply because of the cost to audit the files every year.

But, Mr. Speaker, the real regulatory burden occurs with the accompanying regulations. These regulations require that the employer must retain the forms ''in their original form, either paper or on microfilm or microfiche.'' When these regulations were promulgated, microfiche was in the stratosphere of technological progress, but to place this in proper perspective, these regulations went into effect 5 years before Adobe Acrobat was invented. With new technology available today, it is vitally important that the Congress streamline burdensome and outdated regulations.

The House Corrections Day Advisory Committee was implemented to fix such things. H.R. 4306 went before the Correction Committee, a bipartisan committee cochaired by the gentleman from Michigan (Mr. CAMP) and the gentleman from California (Mr. WAXMAN), and received the committee's blessing that this legislation should receive consideration and passage because it rectifies an outdated regulation.

The need for this legislation is evidenced by the hundreds of millions of records that are stored in warehouses across the country in order to comply with the IRCA regulations. All businesses, especially those with high employee turnover, have a burden maintaining these documents in storage all over the country. Most companies do not use microfiche, so they are inundated with reams of paper to file and maintain. Some companies ship all their forms to one centralized location while others maintain the document where an individual is originally hired, even if he is transferred, causing audits to be complex and inefficient. The nonuniform method causes burdens to the employers and the investigators who may need to access specific files.

This legislation enhances security and provides greater privacy protections for employees. Electronic computer storage with backup systems is far more secure than paper-based systems in which the paper documents can be lost, damaged, misfiled or accessed by unauthorized individuals. The automatic time and date stamping of documents which occurs on automated systems will also help prevent fabrication or tampering.

It is our intent to provide employers a more practical option to meet their obligations. By permitting these forms to be completed and stored on a computer rather than simply on paper, an employer can avoid unnecessary administrative and storage costs. This will allow employers to reinvest the savings, benefiting the broader economy through the creation of new jobs.

In addition to allowing the electronic completion and storage of the I–9 forms, this legislation also allows employers to convert existing I–9 forms into electronic versions for storage purposes. An employer who continues to use paper I–9 forms with handwritten signatures should be able to convert those forms into an electronic version for storage and security purposes.

Mr. Speaker, this legislation does not mandate anything new. It allows employers to adopt electronic completion and storage of I–9 forms if they so choose. For a small employer with few employees and a few new hires per year, the paper route may be the most logical.

□ 1430

But in the industries with high employee turnover, electronic completion of I–9 forms will save time and money and help in enforcement.

I would like to thank the staff that worked on this bill. Personally I would like to thank from the Committee on the Judiciary Phil Kiko, Joseph Gibson, Art Arthur, George Fishman, Perry Apelbaum, and Nolan Rappaport; from leadership, Brett Loper and Andrew Shore; and Robert Knotts from the staff of the gentleman from New Jersey (Mr. ANDREWS); and Todd Thorpe and Matthew Iandoli from my staff.

Mr. Speaker, I urge my colleagues to support this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is my pleasure to yield 3 minutes to the distinguished gentleman from New Jersey (Mr. ANDREWS), who has been very diligent on these issues.

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

Mr. ANDREWS. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, I would like to begin by thanking the gentleman from Wisconsin (Chairman SENSENBRENNER) for his help and cooperation and that of his very fine staff; the ranking member, the gentleman from Michigan (Mr. CONYERS), and his fine staff; and my friend, the gentlewoman from Texas

(Ms. JACKSON-LEE), for her help and support. Most especially I would like to say to my coauthor, the gentleman from Utah (Mr. CANNON), it has been a pleasure to work with him on a commonsense approach to solving a problem that is a wave of the present.

The law dates back 16 years, but the technology is changing every minute. What seems to be a simple change in this bill I think will have a profoundly positive effect on businesses, small and large, around the country.

As we have an increasingly diverse workforce with people from all over the world enriching our economy and our country, that workforce carries with it the responsibility to maintain records on the legal status of various workers. The maintenance of those records is burdensome, expensive and done in an ungainly way, an unseemly way in some cases, under present law.

The purpose of our bill is to make it much more simple. We say to employers that at their option they may retrieve these documents and create these documents and store these documents on electronic records rather than paper records. It is a small improvement for business, but I think it is a significant improvement that will make the records more accurate, more accessible, less burdensome to maintain and less expensive to maintain. This is how business ought to be done here.

I again thank the gentleman from Utah (Mr. CANNON) for his leadership on this and all others on both sides of the aisle. I would urge our colleagues, both Republican and Democrat, to vote ''yes.''

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

Mr. Speaker, I wanted to make sure that I added as well my appreciation to the gentleman from Utah (Mr. CANNON) for his great work, along with the gentleman from New Jersey (Mr. ANDREWS) on this legislation, and also the cooperation of the chairman and the ranking member.

One of the provisions that we were able to keep in recognizing the importance of technology is giving the option of having paper, just in case there are those who had to utilize that method because of their own lack of access to the superinformation highway.

Mr. Speaker, I just wanted to add what I heard from the 9/11 Commission families yesterday regarding a debate that we will have tomorrow, and I understand that, but it did have to do with immigration issues.

My concern as we move this legislative initiative along is that it is unclear to the American public as we lump together the question of benefits versus enforcement. This bill that we have before us helps to enhance the benefits side of the responsibilities of homeland security, and that is to ensure legalization, to ensure process, to ensure that the system works. We have so much intimidated Americans around the question of immigration that, unfortunately, we have not been able to move valuable legislation on the question of immigration reform.

Let me cite, Mr. Speaker, some issues that in fact the gentleman from Wisconsin (Chairman SENSENBRENNER) worked long and hard on. We have not been able to bring that back up again, 245(i) which is the reunification of family members. We have not been able to address that, families who are here legally. We have not been able to address those questions.

The whole question of immigration reform as it relates to documenting illegal immigrants, many of us have had comprehensive reform packages ready and waiting to be addressed, particularly talking about earned access to legalization, the Dream Act, which allows those individuals who were born here who happen not to be citizens to access higher education, legislation that deals with technology that would help secure our borders more definitively, and basic civil rights and civil liberties that are contained in the Comprehensive Fairness Reform Act of 2004 that the ranking member and I were joined on by a number of Members.

We can begin to define immigration the way we have done so in this debate today as balancing fairness and the rights of Americans as relates to making sure they have an immigration system that works, and then working with certainly those who are concerned about ensuring the safety of the homeland, particularly measuring out immigration reform that deals with security, but also deals with fairness. I think we would be much further along and I think this legislation points to the fact that Americans are willing to welcome bipartisan immigration legislation that helps fix the backlog, that helps fix some of the problems that employers face.

Might I just say in conclusion, we are going to be talking about another bill in just a moment here dealing with physicians. But our school districts around the country, many of them have asked for flexibility in immigration as it relates to school teachers who have been utilized in the elementary and primary and secondary schools, along with those who have been utilized in our higher education.

So we have a long way to go, Mr. Speaker. I believe the more we can do this in a bipartisan way, we will be making long headway. I know the gentleman from Utah (Mr. CANNON) has often said in fixing a broken system and separating out the question of terrorism and immigration, separating out enforcement, which has a bipartisan approach, from, if you will, the benefits side of it, that makes the system work on behalf of the good work of the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from Utah (Mr. CANNON).

Mr. Speaker, with that, I ask my colleagues to support H.R. 4306.

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

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

The SPEAKER pro tempore (Mr. QUINN). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4306, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ACCESS TO RURAL PHYSICIANS IMPROVEMENT ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4453) to improve access to physicians in medically underserved areas, as amended.

The Clerk read as follows:

H.R. 4453

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

SECTION 1. MODIFICATION OF VISA REQUIREMENTS WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF DEADLINE.—

(1) IN GENERAL.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) (as amended by section 11018 of Public Law 107–273) is amended by striking ''2004.'' and inserting ''2006.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on May 31, 2004.

(b) EXEMPTION FROM H–1B NUMERICAL LIMITATIONS.—Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended by adding at the end the following: ''The numerical limitations contained in subsection (g)(1)(A) shall not apply to any alien whose status is changed under the preceding sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested Federal agency or an interested State agency.''.

(c) LIMITATION ON MEDICAL PRACTICE AREAS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) is amended by striking ''agrees to practice medicine'' and inserting ''agrees to practice primary care or specialty medicine''.

(d) EXEMPTION FROM GEOGRAPHIC LIMITATIONS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)), as amended by subsection (c), is further amended—

(1) by striking ''except that,'' and all that follows through the period at the end and inserting ''except that—''; and

(2) by adding at the end the following:

''(i) in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary; and

''(ii) in the case of a request by an interested State agency, the head of such State agency determines that the alien is to practice medicine under such agreement in a facility that serves patients who reside in one or more geographic areas so designated by the Secretary of Health and Human Services (without regard to whether such facility is within such a designated geographic area), and the grant of such waiver would not cause the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation described in subparagraph (B)) in accordance with the conditions of this clause to exceed 5.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4453.

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

There was no objection.

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

Mr. Speaker, H.R. 4453, introduced by the gentleman from Kansas (Mr. MORAN), would extend the program under which foreign doctors can avoid having to return home for 2 years by agreeing to practice in medically underserved areas here in America.

Aliens who participate in medical residencies in the United States on the ''J'' exchange program visas must generally leave the U.S. after the completion of their residencies and reside abroad for at least 2 years. The intent behind the policy is to encourage American-trained foreign doctors to return home to improve health conditions and advance the medical profession in their native countries.

In 1994, Congress created a waiver of the 2-year foreign residence requirement. State departments of public health may request a waiver for foreign doctors who commit to practicing medicine for no less than 3 years in geographic areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals. The number of foreign doctors who can receive this waiver is limited to 30 per State each year.

The waiver program has proven to be an important means of ensuring quality medical care in areas of the United States with physician shortages. This bill would extend the program to June 2006. It would also allow each State to place five of the doctors it sponsors each year in areas not designated by HHS as physician-shortage areas.

The bill continues the practice of allowing foreign doctors receiving a waiver to receive an H–1B visa regardless of the H–1B visa quota and will allow doctors receiving waivers to practice specialty medicine.

I urge my colleagues to support this bill.

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

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

Mr. Speaker, I want to acknowledge again the chairman of the Committee on the Judiciary and the ranking member, along with the chairman of my subcommittee, the gentleman from Indiana (Mr. HOSTETTLER), and also the gentleman from Kansas (Mr. MORAN), for the work on this legislation, and again cite this is an immigration bill. It is a health care impact bill, but it is a bill that we have been able to work on from the perspective of benefits again, and I think that this is truly how we should be approaching this question, to take away the fear and address the problem and resolve it.

Let me first of all acknowledge that this bill has good support in the other body. But as we were deliberating on the bill and it came to a point where we were talking about extensions, frankly, Mr. Speaker, I wanted to extend this particular bill, that I will begin to detail the rights of, for physicians to remain in the United States for 5 years. The proposal was for 1 year.

Interestingly enough, out of that negotiation and in a bipartisan effort, coming from the Texas Medical Center, being housed in Houston, knowing the great need of physicians and also the great need of underserved areas, I thought the 5-year extension would have been the best. We wound up in a bipartisan effort in negotiations to work on a 2-year extension.

So let me rise to support H.R. 4453, the Access to Rural Physicians Improvement Act of 2004, which makes it possible for foreign doctors to provide medical services in a geographic area which has been designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

Aliens who attend medical schools in the United States on ''J'' exchange program visas are required to leave the country afterwards and reside abroad for 2 years before they can receive a visa to work here as physicians. In 1994, Congress created a temporary waiver of this 2-year foreign residence requirement. It applied to foreign doctors who would commit to practicing medicine for no less than 3 years in a geographic area designated by the Secretary of Health and Human Services as having a shortage of health care professionals. This program has been successful for 10 years in bringing highly qualified physicians to medically underserved areas. It sunsetted on June 1 of this year.

The first physician recommended for a waiver in Texas was Dr. Maria Camacho, a pediatric internist. Her services to the residents of Harlingen in Cameron County provided a level of health care to children that was previously unavailable in that county.

Dr. K.M. Moorthi is a nephrologist who was recommended for a waiver to serve at a facility in Pecos, Texas, in Reeves County. He works at a brand new dialysis center. Patients requiring dialysis three times per week in that part of Texas used to have to travel more than 70 miles each way for treatment. Now it is available in Pecos.

The Access to Rural Physicians Improvement Act will provide a 2-year extension for this waiver program. It also will establish a pilot flexibility provision which will allow a State agency to place a doctor in an area that has not been designated as underserved if the doctor will nevertheless serve patients from an underserved area. This exception is limited to five doctors in each State. Finally, the doctors that receive a waiver to come here with H–1B waivers will not be counted toward the annual H–1B cap.

Mr. Speaker, I ask my colleagues to support this legislation.

The Access to Rural Physicians Improvement Act of 2004, H.R. 4453, makes it possible for foreign doctors to provide medical services in a geographic area which has been designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

Aliens who attend medical school in the United States on J exchange program visas are required to leave the country afterwards and reside abroad for 2 years before they can receive a visa to work here as physicians. In 1994, Congress created a temporary waiver of this two-year foreign residence requirement. It applied to foreign doctors who would commit to practicing medicine for no less than three years in a geographic area designated by the Secretary of Health and Human Services as having a shortage of health care professionals. This program has been successful for ten years in bringing highly qualified physicians to medically underserved areas. It sunsetted on June 1st of this year.

The first physician recommended for a waiver in Texas was Dr. Maria Camacho, a Pediatric Intensivist. Her services to the residents of Harlingen in Cameron County provide a level of health care to children that was previously unavailable in that county.

Dr. K.M. Moorthi is a Nephrologist who was recommended for a waiver to serve at a facility in Pecos, Texas, in Reeves County. He works at a brand new dialysis center. Patients requiring dialysis 3 times per week in that part of Texas used to have to travel more than 70 miles each way for the treatments. Now it is available in Pecos.

The Access to Rural Physicians Improvement Act will provide a two-year extension for this waiver program. It also will establish a pilot flexibility provision which will allow a State agency to place a doctor in an area that has not been designated as underserved if the doctor will nevertheless serve patients from an underserved area. This exception is limited to five doctors in each state. Finally, the doctors who receive a waiver to come here with H–1B visas will not count towards the annual H–1B cap.

I urge you to vote for H.R. 4453.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. MORAN), the author of the bill.

Mr. MORAN of Kansas. Mr. Speaker, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER), and I thank the gentlewoman from Texas for her remarks in support of this legislation.

□ 1445

It has been adequately described and well-defined.

This is an important program that serves both rural America and the core center of cities. It brings rural and urban America together. But as a Member of Congress from Kansas who cares greatly about the future of rural communities across my State, I recognize this is a significant component to meeting the needs, the health care needs of our communities. I know that should we lose our physicians, should we lose our hospitals, our doctors, our home health care agencies, the ability to keep those communities together, to keep our communities alive and well for the future dissipates quickly.

So this is one way in which we have been successful in Kansas and many communities across the country in attracting and retaining physicians.

The good news about the program is, there is a 3-year commitment that the physician remain in that underserved community for a 3-year period of time but, in reality, nearly two-thirds of all physicians in Kansas who participate in this program remain longer. They become an integral part of the community and an integral part of the health care delivery system. Jewell County, Kansas, population 3,791, has two J–1 physicians in their community. They are the only two physicians in the county, Dr. Kalderon and Dr. Meena. They have brought a breath of fresh air to Jewell County and to its hospital. Absent physicians, we cannot keep our hospital doors open, and this program has made it possible for the citizens, the residents of Jewell County to access health care. The great news is that these people become so important to not only the delivery of health care, but components of the community that make a huge difference in the future of that community.

So once, when there was despair and concern as to whether or not we would be able to access health care, whether or not the community hospital would stay alive and well, and whether or not people could be able to afford to live, because rural folks live in that community, senior citizens, young families, the question was answered when the J–1 physicians arrived and stayed.

So, Mr. Speaker, this issue is important. It matters to the future of our country, and it matters especially to the future of rural communities. I thank the gentlewoman from Wisconsin (Mr. SENSENBRENNER) as well as the gentlewoman from Texas (Ms. JACKSON-LEE) for their support today, and I ask my colleagues in Congress to quickly pass this bill, let the Senate act quickly and keep this program, this highly-valuable program, in place.

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

Mr. Speaker, but let me just thank the gentleman from Kansas and as well mention the gentleman from Texas (Mr. STENHOLM) who is a strong, strong supporter of this legislation.

Mr. Speaker, a few years ago, before coming to Congress, I was named to a committee, appointed by the attorney general of the State of Texas, talking about the closing of hospitals in the State of Texas, particularly because of the lack of physicians. So this legislation for our rural communities is extremely important, primarily because we are even seeing, today, hospitals and facilities being closed. This legislation will go a long way, and I particularly want to bring attention again to the idea that even if a physician goes to a served area, we have the flexibility now potentially to allow five doctors to serve in a served area but as well be able to serve in an underserved area, and that flexibility, I am delighted to indicate, is part of this legislation.

So you may be at the Texas Medical Center, but you may be able to go and serve in rural areas at places outside of that particular jurisdiction.

I rise in strong support of H.R. 4453, which I have been pleased to work on and cosponsor with the gentleman from Kansas (Mr. MORAN). I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for bringing the bill to the floor today.

Mr. Speaker, H.R. 4453 reauthorizes and expands the State Conrad 20 program. The 2-year reauthorization allows States to continue to act as an interested government agency in order to sponsor foreign-born doctors to practice in medically underserved areas. The number of doctors that can be sponsored per State is expanded from 20 to 30.

Since the mid-1990s, the J–1 Visa Program has helped numerous rural counties and underserved communities meet the health care needs of their community.

Nonetheless, the demand for doctors continues to grow. Despite a continuing population migration to urban and suburban communities throughout the State, the vast majority of Texas remains rural, posing unique challenges to the delivery and accessibility of high-quality health care. Not only are health care services likely to be unevenly distributed, but many rural residents do not even have access to a local doctor, primary care provider, or hospital.

Regrettably, a doctor would diagnose the health care problems in rural communities as chronic and persistent. The issues are not new, and we have tried a variety of medicines to remedy these problems, but we still have a long way to go before we achieve a healthy rural America.

Access to primary care promotes appropriate entry into the health system and is vital to ensure the long-term viability of rural health care delivery.

Without access to local health care professionals, rural residents are frequently forced to leave their communities to receive necessary treatments. Not only is this a burden to rural residents, who are often older or lack reliable transportation, but it drains vital health care dollars from the local community, further straining the financial well-being of rural communities.

It is imperative that we identify and expand those programs that provide physicians, pharmacists, nurses, dentists, and physician assistants incentives to practice in rural areas.

The J–1 visa waiver program was expanded in 1995, allowing medical exchange graduates in U.S. residency training to extend their stay for 3 years, provided they practice in an underserved community.

For certain rural—as well as urban—areas in the United States, the J–1 doctors have been key providers.

In rural West Texas, the area I represent, residents are benefiting directly from the services of J–1 visa physicians.

The cities of Rotan and Winters, Texas are two communities in my district that continue to rely on the care of these health care professionals.

The City of Abilene, Texas intends to use the J–1 Visa Program next year after they have exhausted all other avenues to pursue a psychiatrist.

The city is ''medically underserved'' in the area of psychiatry and faces extreme difficulties in attracting a mental health professional. The J–1 Visa Program may be their best solution.

Since 1995, Texas alone has received the services of 400 J-1 physicians. This represents service to a population of over 1 million people. One million people have received health care that they would not otherwise have received, or at least it would have been more difficult to receive, as a result of this program that we reauthorize today.

This isn't the final answer to our health care shortage problems but it certainly is an important part of that answer and I commend Congressman MORAN for his leadership on this issue.

I urge my colleagues to support H.R. 4453, the Access to Rural Physicians Improvement Act.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask my colleagues to support this legislation, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. QUINN). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4453, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MENTALLY ILL OFFENDER TREATMENT AND CRIME REDUCTION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1194) to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

The Clerk read as follows:

S. 1194

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 ''Mentally Ill Offender Treatment and Crime Reduction Act of 2004''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) According to the Bureau of Justice Statistics, over 16 percent of adults incarcerated in United States jails and prisons have a mental illness.

(2) According to the Office of Juvenile Justice and Delinquency Prevention, approximately 20 percent of youth in the juvenile justice system have serious mental health problems, and a significant number have co-occurring mental health and substance abuse disorders.

(3) According to the National Alliance for the Mentally Ill, up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives.

(4) According to the Office of Juvenile Justice and Delinquency Prevention, over 150,000 juveniles who come into contact with the juvenile justice system each year meet the diagnostic criteria for at least 1 mental or emotional disorder.

(5) A significant proportion of adults with a serious mental illness who are involved with the criminal justice system are homeless or at imminent risk of homelessness, and many of these individuals are arrested and jailed for minor, nonviolent offenses.

(6) The majority of individuals with a mental illness or emotional disorder who are involved in the criminal or juvenile justice systems are responsive to medical and psychological interventions that integrate treatment, rehabilitation, and support services.

(7) Collaborative programs between mental health, substance abuse, and criminal or juvenile justice systems that ensure the provision of services for those with mental illness or co-occurring mental illness and substance abuse disorders can reduce the number of such individuals in adult and juvenile corrections facilities, while providing improved public safety.

SEC. 3. PURPOSE.

The purpose of this Act is to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems. Such collaboration is needed to—

(1) protect public safety by intervening with adult and juvenile offenders with mental illness or co-occurring mental illness and substance abuse disorders;

(2) provide courts, including existing and new mental health courts, with appropriate mental health and substance abuse treatment options;

(3) maximize the use of alternatives to prosecution through graduated sanctions in appropriate cases involving nonviolent offenders with mental illness;

(4) promote adequate training for criminal justice system personnel about mental illness and substance abuse disorders and the appropriate responses to people with such illnesses;

(5) promote adequate training for mental health and substance abuse treatment personnel about criminal offenders with mental illness or co-occurring substance abuse disorders and the appropriate response to such offenders in the criminal justice system;

(6) promote communication among adult or juvenile justice personnel, mental health and co-occurring mental illness and substance abuse disorders treatment personnel, nonviolent offenders with mental illness or co-occurring mental illness and substance abuse disorders, and support services such as housing, job placement, community, faith-based, and crime victims organizations; and

(7) promote communication, collaboration, and intergovernmental partnerships among municipal, county, and State elected officials with respect to mentally ill offenders.

SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND CRIMINAL JUSTICE COLLABORATION PROGRAM.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

"SEC. 2991. ADULT AND JUVENILE COLLABORATION PROGRAMS.

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

''(1) APPLICANT.—The term 'applicant' means States, units of local government, Indian tribes, and tribal organizations that apply for a grant under this section.

''(2) COLLABORATION PROGRAM.—The term 'collaboration program' means a program to promote public safety by ensuring access to adequate mental health and other treatment services for mentally ill adults or juveniles that is overseen cooperatively by—

''(A) a criminal or juvenile justice agency or a mental health court; and

''(B) a mental health agency.

''(3) CRIMINAL OR JUVENILE JUSTICE AGENCY.—The term 'criminal or juvenile justice agency' means an agency of a State or local government or its contracted agency that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.

''(4) DIVERSION AND ALTERNATIVE PROSECUTION AND SENTENCING.—

''(A) IN GENERAL.—The terms 'diversion' and 'alternative prosecution and sentencing' mean the appropriate use of effective mental health treatment alternatives to juvenile justice or criminal justice system institutional placements for preliminarily qualified offenders.

''(B) APPROPRIATE USE.—In this paragraph, the term 'appropriate use' includes the discretion of the judge or supervising authority, the leveraging of graduated sanctions to encourage compliance with treatment, and law enforcement diversion, including crisis intervention teams.

''(C) GRADUATED SANCTIONS.—In this paragraph, the term 'graduated sanctions' means an accountability-based graduated series of sanctions (including incentives, treatments, and services) applicable to mentally ill offenders within both the juvenile and adult justice system to hold individuals accountable for their actions and to protect communities by providing appropriate sanctions for inducing law-abiding behavior and preventing subsequent involvement in the criminal justice system.

''(5) MENTAL HEALTH AGENCY.—The term 'mental health agency' means an agency of a State or local government or its contracted agency that is responsible for mental health services or co-occurring mental health and substance abuse services.

''(6) MENTAL HEALTH COURT.—The term 'mental health court' means a judicial program that meets the requirements of part V of this title.

''(7) MENTAL ILLNESS.—The term 'mental illness' means a diagnosable mental, behavioral, or emotional disorder—

''(A) of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and

''(B)(i) that, in the case of an adult, has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities; or

''(ii) that, in the case of a juvenile, has resulted in functional impairment that substantially interferes with or limits the juvenile's role or functioning in family, school, or community activities.

''(8) NONVIOLENT OFFENSE.—The term 'nonviolent offense' means an offense that does not have as an element the use, attempted use, or threatened use of physical force against the person or property of another or is not a felony that by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

''(9) PRELIMINARILY QUALIFIED OFFENDER.—The term 'preliminarily qualified offender' means an adult or juvenile accused of a nonviolent offense who—

''(A)(i) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness or co-occurring mental illness and substance abuse disorders; or

''(ii) manifests obvious signs of mental illness or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and

''(B) has faced, is facing, or could face criminal charges for a misdemeanor or nonviolent offense and is deemed eligible by a diversion process, designated pretrial screening process, or by a magistrate or judge, on the ground that the commission of the offense is the product of the person's mental illness.

''(10) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(11) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, including a State court, local court, or a governmental agency located within a city, county, township, town, borough, parish, or village.

''(b) PLANNING AND IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, may award nonrenewable grants to eligible applicants to prepare a comprehensive plan for and implement an adult or juvenile collaboration program, which targets preliminarily qualified offenders in order to promote public safety and public health.

''(2) PURPOSES.—Grants awarded under this section shall be used to create or expand—

''(A) mental health courts or other court-based programs for preliminarily qualified offenders;

''(B) programs that offer specialized training to the officers and employees of a criminal or juvenile justice agency and mental health personnel serving those with co-occurring mental illness and substance abuse problems in procedures for identifying the symptoms of preliminarily qualified offenders in order to respond appropriately to individuals with such illnesses;

''(C) programs that support cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety by offering mental health treatment services and, where appropriate, substance abuse treatment services for—

''(i) preliminarily qualified offenders with mental illness or co-occurring mental illness and substance abuse disorders; or

''(ii) adult offenders with mental illness during periods of incarceration, while under the supervision of a criminal justice agency, or following release from correctional facilities; and

''(D) programs that support intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

''(3) APPLICATIONS.—

''(A) IN GENERAL.—To receive a planning grant or an implementation grant, the joint applicants shall prepare and submit a single application to the Attorney General at such time, in such manner, and containing such information as the Attorney General and the Secretary shall reasonably require. An application under part V of this title may be made in conjunction with an application under this section.

''(B) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION.—The Attorney General and the Secretary shall develop a procedure under which applicants may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

''(4) PLANNING GRANTS.—

''(A) APPLICATION.—The joint applicants may apply to the Attorney General for a nonrenewable planning grant to develop a collaboration program.

''(B) CONTENTS.—The Attorney General and the Secretary may not approve a planning grant unless the application for the grant includes or provides, at a minimum, for a budget and a budget justification, a description of the outcome measures that will be used to measure the effectiveness of the program in promoting public safety and public health, the activities proposed (including the provision of substance abuse treatment services, where appropriate) and a schedule for completion of such activities, and the personnel necessary to complete such activities.

''(C) PERIOD OF GRANT.—A planning grant shall be effective for a period of 1 year, beginning on the first day of the month in which the planning grant is made. Applicants may not receive more than 1 such planning grant.

''(D) AMOUNT.—The amount of a planning grant may not exceed $75,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.

''(E) COLLABORATION SET ASIDE.—Up to 5 percent of all planning funds shall be used to foster collaboration between State and local governments in furtherance of the purposes set forth in the Mentally Ill Offender Treatment and Crime Reduction Act of 2004.

''(5) IMPLEMENTATION GRANTS.—

''(A) APPLICATION.—Joint applicants that have prepared a planning grant application may apply to the Attorney General for approval of a nonrenewable implementation grant to develop a collaboration program.

''(B) COLLABORATION.—To receive an implementation grant, the joint applicants shall—

''(i) document that at least 1 criminal or juvenile justice agency (which can include a mental health court) and 1 mental health agency will participate in the administration of the collaboration program;

''(ii) describe the responsibilities of each participating agency, including how each agency will use grant resources to provide supervision of offenders and jointly ensure that the provision of mental health treatment services and substance abuse services for individuals with co-occurring mental health and substance abuse disorders are coordinated, which may range from consultation or collaboration to integration in a single setting or treatment model;

''(iii) in the case of an application from a unit of local government, document that a State mental health authority has provided comment and review; and

''(iv) involve, to the extent practicable, in developing the grant application—

''(I) preliminarily qualified offenders;

''(II) the families and advocates of such individuals under subclause (I); and

''(III) advocates for victims of crime.

''(C) CONTENT.—To be eligible for an implementation grant, joint applicants shall comply with the following:

''(i) DEFINITION OF TARGET POPULATION.—Applicants for an implementation grant shall—

''(I) describe the population with mental illness or co-occurring mental illness and substance abuse disorders that is targeted for the collaboration program; and

''(II) develop guidelines that can be used by personnel of an adult or juvenile justice agency to identify preliminarily qualified offenders.

''(ii) SERVICES.—Applicants for an implementation grant shall—

''(I) ensure that preliminarily qualified offenders who are to receive treatment services under the collaboration program will first receive individualized, validated, needs-based assessments to determine, plan, and coordinate the most appropriate services for such individuals;

''(II) specify plans for making mental health, or mental health and substance abuse, treatment services available and accessible to preliminarily qualified offenders at the time of their release from the criminal justice system, including outside of normal business hours;

''(III) ensure that there are substance abuse personnel available to respond appropriately to the treatment needs of preliminarily qualified offenders;

''(IV) determine eligibility for Federal benefits;

''(V) ensure that preliminarily qualified offenders served by the collaboration program will have adequate supervision and access to effective and appropriate community-based mental health services, including, in the case of individuals with co-occurring mental health and substance abuse disorders, coordinated services, which may range from consultation or collaboration to integration in a single setting treatment model;

''(VI) make available, to the extent practicable, other support services that will ensure the preliminarily qualified offender's successful reintegration into the community (such as housing, education, job placement, mentoring, and health care and benefits, as well as the services of faith-based and community organizations for mentally ill individuals served by the collaboration program); and

''(VII) include strategies, to the extent practicable, to address developmental and learning disabilities and problems arising from a documented history of physical or sexual abuse.

''(D) HOUSING AND JOB PLACEMENT.—Recipients of an implementation grant may use grant funds to assist mentally ill offenders compliant with the program in seeking housing or employment assistance.

''(E) POLICIES AND PROCEDURES.—Applicants for an implementation grant shall strive to ensure prompt access to defense counsel by criminal defendants with mental illness who are facing charges that would trigger a constitutional right to counsel.

''(F) FINANCIAL.—Applicants for an implementation grant shall—

''(i) explain the applicant's inability to fund the collaboration program adequately without Federal assistance;

''(ii) specify how the Federal support provided will be used to supplement, and not supplant, State, local, Indian tribe, or tribal organization sources of funding that would otherwise be available, including billing third-party resources for services already covered under programs (such as Medicaid, Medicare, and the State Children's Insurance Program); and

''(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of Federal support.

''(G) OUTCOMES.—Applicants for an implementation grant shall—

''(i) identify methodology and outcome measures, as required by the Attorney General and the Secretary, to be used in evaluating the effectiveness of the collaboration program;

''(ii) ensure mechanisms are in place to capture data, consistent with the methodology and outcome measures under clause (i); and

''(iii) submit specific agreements from affected agencies to provide the data needed by the Attorney General and the Secretary to accomplish the evaluation under clause (i).

''(H) STATE PLANS.—Applicants for an implementation grant shall describe how the adult or juvenile collaboration program relates to existing State criminal or juvenile justice and mental health plans and programs.

''(I) USE OF FUNDS.—Applicants that receive an implementation grant may use funds for 1 or more of the following purposes:

''(i) MENTAL HEALTH COURTS AND DIVERSION/ALTERNATIVE PROSECUTION AND SENTENCING PROGRAMS.—Funds may be used to create or expand existing mental health courts that meet program requirements established by the Attorney General under part V of this title, other court-based programs, or diversion and alternative prosecution and sentencing programs (including crisis intervention teams and treatment accountability services for communities) that meet requirements established by the Attorney General and the Secretary.

''(ii) TRAINING.—Funds may be used to create or expand programs, such as crisis intervention training, which offer specialized training to—

''(I) criminal justice system personnel to identify and respond appropriately to the unique needs of preliminarily qualified offenders; or

''(II) mental health system personnel to respond appropriately to the treatment needs of preliminarily qualified offenders.

''(iii) SERVICE DELIVERY.—Funds may be used to create or expand programs that promote public safety by providing the services described in subparagraph (C)(ii) to preliminarily qualified offenders.

''(iv) IN-JAIL AND TRANSITIONAL SERVICES.—Funds may be used to promote and provide mental health treatment and transitional services for those incarcerated or for transitional reentry programs for those released from any penal or correctional institution.

''(J) GEOGRAPHIC DISTRIBUTION OF GRANTS.—The Attorney General, in consultation with the Secretary, shall ensure that planning and implementation grants are equitably distributed among the geographical regions of the United States and between urban and rural populations.

''(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

''(1) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

''(2) demonstrate the active participation of each co-applicant in the administration of the collaboration program;

''(3) document, in the case of an application for a grant to be used in whole or in part to fund treatment services for adults or juveniles during periods of incarceration or detention, that treatment programs will be available to provide transition and re-entry services for such individuals; and

''(4) have the support of both the Attorney General and the Secretary.

''(d) MATCHING REQUIREMENTS.—

''(1) FEDERAL SHARE.—The Federal share of the cost of a collaboration program carried out by a State, unit of local government, Indian tribe, or tribal organization under this section shall not exceed—

''(A) 80 percent of the total cost of the program during the first 2 years of the grant;

''(B) 60 percent of the total cost of the program in year 3; and

''(C) 25 percent of the total cost of the program in years 4 and 5.

''(2) NON-FEDERAL SHARE.—The non-Federal share of payments made under this section may be made in cash or in-kind fairly evaluated, including planned equipment or services.

''(e) FEDERAL USE OF FUNDS.—The Attorney General, in consultation with the Secretary, in administering grants under this section, may use up to 3 percent of funds appropriated to—

''(1) research the use of alternatives to prosecution through pretrial diversion in appropriate cases involving individuals with mental illness;

''(2) offer specialized training to personnel of criminal and juvenile justice agencies in appropriate diversion techniques;

''(3) provide technical assistance to local governments, mental health courts, and diversion programs, including technical assistance relating to program evaluation;

''(4) help localities build public understanding and support for community reintegration of individuals with mental illness;

''(5) develop a uniform program evaluation process; and

''(6) conduct a national evaluation of the collaboration program that will include an assessment of its cost-effectiveness.

''(f) INTERAGENCY TASK FORCE.—

''(1) IN GENERAL.—The Attorney General and the Secretary shall establish an interagency task force with the Secretaries of Housing and Urban Development, Labor, Education, and Veterans Affairs and the Commissioner of Social Security, or their designees.

''(2) RESPONSIBILITIES.—The task force established under paragraph (1) shall—

''(A) identify policies within their departments that hinder or facilitate local collaborative initiatives for preliminarily qualified offenders; and

''(B) submit, not later than 2 years after the date of enactment of this section, a report to Congress containing recommendations for improved interdepartmental collaboration regarding the provision of services to preliminarily qualified offenders.

''(g) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a planning or implementation grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for planning or implementation grants pursuant to this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section—

''(1) $50,000,000 for fiscal year 2005; and

''(2) such sums as may be necessary for fiscal years 2006 through 2009.''.

(b) LIST OF ''BEST PRACTICES''.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall develop a list of ''best practices'' for appropriate diversion from incarceration of adult and juvenile offenders.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1194, the bill currently under consideration.

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

There was no objection.

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

Before beginning my statement, let me state that after the committee filed the committee report on this legislation, we received a Congressional Budget Office cost estimate dated October 6, 2004, and I will insert this cost estimate into the RECORD at this point.

OCTOBER 6, 2004.

Hon F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1194, the Mentally Ill Offender Treatment and Crime Reduction Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 1194—Mentally Ill Offender Treatment and Crime Reduction Act of 2004

Summary: S. 1194 would authorize the appropriation of $50 million for fiscal year 2005 and such sums as may be necessary for the 2006–2009 period for the Department of Justice to make grants to state and local governments to improve the treatment of criminal offenders with mental illnesses or substance abuse disorders. CBO estimates that implementing the bill would cost $172 million over the 2005–2009 period, assuming the appropriation of the necessary amounts. Enacting S. 1194 would not affect direct spending or revenues.

S. 1194 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The creation of a new grant for mental health programs in the state, local, or tribal justice systems would benefit those governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1194 is shown in the following table. For this estimate, CBO assumes that the authorized amounts will be appropriated near the start of each fiscal year and that outlays will follow the historical rate of spending for similar programs. For the 2006–2009 authorization levels, CBO estimated the necessary funding levels by adjusting the fiscal year 2005 authorization level for anticipated inflation. The costs of this legislation fall within budget function 750 (administration of justice).

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	50	51	52	53	55
Estimated Outlays	11	26	37	45	53

Intergovernmental and private-sector impact: S. 1194 contains no intergovernmental or private-sector mandates as defined in UMRA and would benefit state, local, and tribal governments by authorizing a joint grant program between those justice systems and social service providers. These grants could be used for planning and implementing alternative court systems for defendants with mental illness, creating training and treatment programs, and coordinating efforts of state and local governments. Any costs to those governments would be voluntarily as conditions of receiving federal aid.

Previous CBO estimate: On October 28, 2003, CBO transmitted a cost estimate for S. 1194, as reported by the Senate Committee on the Judiciary on October 23, 2003. The two versions of the bill are similar, though the authorization levels and timing of the authorizations differ and the cost estimates reflect those differences.

Estimate prepared by: Federal Costs: Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Melissa Merrell; and Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. Speaker, many of our Nation's inmates are mentally ill, and the system is not well equipped to deal with them. The Bureau of Justice Statistics estimated in 1999 that 16 percent of State prison inmates, 7 percent of Federal inmates, and 16 percent of those in local jails or on probation reported either a mental condition or an overnight stay in a mental hospital.

According to this study and others, homelessness and unemployment are most prevalent amongst the mentally ill. Mental health treatment and other forms of assistance for the nonviolent mentally ill offenders can reduce recidivism in the criminal justice system. These offenders require treatment for their mental illness and often for their drug and alcohol abuse problems as well.

In response to this problem, Members on both sides of the aisle have proposed this bill to establish a grant program to encourage States to address this issue. The grants may be used to fund mental health courts or diversion programs for those with mental health issues. They may also be used to promote cooperation between the criminal justice system and the mental health community, or to train both criminal justice personnel and mental health providers to respond to the needs of mentally ill offenders.

In addition, changes were made to S. 1194 by the Committee on the Judiciary to encourage a system of graduated sanctions for mentally ill offenders and supervision of those who are offered a diversion option to ensure the safety of the community.

I believe this legislation will reduce recidivism amongst the mentally ill while striking the appropriate balance between protecting our communities and addressing the needs of mentally ill offenders. I urge my colleagues to join me in supporting it.

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

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

Mr. Speaker, this is Mental Health Awareness Week, and I rise to support S. 1194, the Mentally Ill Offender Treatment and Crime Reduction Act of 2003. This bill is designed to address the needs of mental illness sufferers who become entangled in the criminal justice system. All too often we find that mentally ill defendants are inappropriately placed into criminal or juvenile corrections facilities, and the negative impact that this has on the individual and society is reflected in increased recidivism rates, wasted administrative costs, and unnecessary overcrowding of correction facilities, among other things. The Bureau of Justice reported that, in 1998, over 280,000 individuals in jail or prison and almost 550,000 of those on probation had a mental impairment.

The mentally ill are disproportionately represented in jails and prisons and amongst our homeless, leaving them vulnerable to criminal acts as well as criminal activities. Five percent of all Americans have a serious mental illness, but 16 to 20 percent of incarcerated persons have a mental impairment. We need to direct the kinds of resources for this issue that will provide meaningful solutions, including

expanding diversion programs, community-based treatment, re-entry services, and improved treatment during incarcerations.

The Mentally Ill Offender Treatment and Crime Reduction Act of 2003 recognizes that true partnerships between the mental health and criminal and juvenile corrections systems and between the Federal and State governments are needed to meet these challenges. Indeed, the bill requires that Federal funds authorized under this program be supplemented with contributions from the States, local governments and tribal organizations.

Under the provisions of this bill, planning and implementation grants would be authorized for creation or expansion of mental health courts or other court-based programs for preliminary qualified offenders; training of criminal and juvenile justice personnel and mental health professionals about mental illness and substance abuse disorders; creation or expansion of cooperative efforts between criminal and juvenile justice agencies and mental health agencies; and creation or expansion of intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

Mr. Speaker, S. 1194 would authorize a grants program of $100 million a year for 2 years and would authorize amounts necessary to cover the final 3 years. Furthermore, this bill would establish a Federal interagency task force to identify better Federal, local and interdepartmental coordination of mental health services.

Congress has an obligation to legislate to protect the community from those who become aggressive or violent because of mental illness. We also have a responsibility to see that the offender receives the proper treatment for his or her illness. Far too often, mental illness goes undiagnosed, and many in our prison systems would do better in alternative settings designed to handle their particular needs.

This legislation has many supporters. It has been advocated by the U.S. Conference of Bishops and, according to its statement, S. 1194 would be a good start in ensuring that mentally ill offenders receive the proper treatment they need with grants designed to create community-based treatment programs and other services.

Mr. Speaker, I ask my colleagues in the first instance to support this particular legislation and, as well, to be cognizant of the need for more mental health services around the Nation at this time.

Mr. Speaker, I rise in support of S. 1194, the ''Mentally Ill Offender Treatment and Crime Reduction Act of 2003.'' This bill is designed to address the needs of mental illness sufferers who become entangled within the criminal justice system.

All too often, we find that mentally ill defendants are inappropriately placed into criminal or juvenile corrections facilities, and the negative impact that this has on the individual and society is reflected in increased recidivism rates, wasted administrative costs, and unnecessary overcrowding of corrections facilities, among other things.

The Bureau of Justice reported that in 1998 over 280,000 individuals in jail or prison and almost 550,000 of those on probation had a mental impairment. The mentally ill are disproportionately represented in jails and prisons. Five percent of all Americans have a serious mental illness, but sixteen to twenty percent of incarcerated individuals have a mental impairment.

We need to direct the kinds of resources for this issue that will provide meaningful solutions, including expanding diversion programs, community-based treatment, re-entry services, and improved treatment during incarceration. The Mentally Ill Offender Treatment and Crime Reduction Act of 2003 recognizes that true partnerships between the mental health and criminal and juvenile corrections systems and between the Federal and State Governments are needed to meet these challenges. Indeed, the bill requires that Federal funds authorized under this program be supplemented with contributions from the States, local governments, and tribal organizations.

Under the provisions of this Bill, planning and implementation grants would be authorized for the:

Creation or expansion of mental health courts or other court-based ''programs for preliminarily qualified offenders'';

Training of criminal and juvenile justice personnel and mental health professionals about mental illness and substance abuse disorders;

Creation or expansion of cooperative efforts between criminal and juvenile justice agencies and mental health agencies; and

Creation or expansion of intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

S. 1194 would authorize the grants program at $100 million a year for 2 years and would authorize the amounts necessary to cover the final 3 years. Furthermore, this bill would establish a Federal ''Interagency Task Force'' to identify better Federal-local and interdepartmental coordination of mental health services.

Congress has an obligation to legislate to protect the community from those who become aggressive or violent because of mental illness. We also have a responsibility to see that the offender receives the proper treatment for his or her illness. Far too often, mental illness goes undiagnosed, and many in our prison system would do better in alternative settings designed to handle their particular needs.

This legislation has been advocated by the U.S. Conference of Bishops. According to its statement, S. 1194 would be ''a good start towards ensuring that mentally ill offenders receive the proper treatment they need with grants designed to create community based treatment programs and other services.''

In Texas, past treatment of mentally ill offenders illustrates the need for legislation such as S. 1194. Senior U.S. District Judge William Wayne Justice, who is experienced in dealing with mentally ill prisoners in Texas, ruled in 1980 that the Texas prison system is unconstitutional and placed it under Federal control for 30 years. In Judge Justice's estimation, the Texas laws that apply to the mentally ill ''lack compassion and emphasize vengeance.'' KPFT news reported him as having said, ''We have allowed the spirit of vengeance such unrivaled sway in our dealings with those who commit crime that we have ceased to consider properly whether we have taken adequate account of the role that mental impairment may play in the determination of moral responsibility. As a result, we punish those who we cannot justly blame. Such result is not, I believe worthy of a civil society.''

The Mentally Ill Offender Treatment and Crime Reduction Act of 2003 takes a good first step toward reforming a system that has operated under a shield for far too long. We must continue to make this legislation effective enough to save the lives of these defendants who are truly victims.

Mr. Speaker, for the reasons above-stated, I support the legislation before this body as reported favorably by the Full Committee on the Judiciary and its Subcommittee on Crime, Terrorism, and Homeland Security.

Mr. Speaker, I am delighted to yield 5 minutes to the gentleman from Rhode Island (Mr. KENNEDY), one of this Congress's most vocal and most passionate voices for the underserved when it comes to mental health services around the Nation and has consistently battled on their behalf.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank the gentlewoman for her kind words and her leadership on this issue as well. I thank the chairman as well for his work on this legislation.

I just wanted an opportunity to speak on this for a moment or two. It is true that, this week, we are celebrating the Mental Health Awareness Month, and it is appropriate as we celebrate it, to reflect on what we are doing as a Nation to address mental illness in this country. We have 271 cosponsors of mental health parity legislation in this House. We have 71 cosponsors in the United States Senate for mental health parity. We have 368 sponsors by national organizations endorsing mental health parity, and yet, mental health parity legislation is bottled up in committee.

Mental health parity legislation is very basic. It simply says that mental illness is treated as every other physical illness. And if anyone had a doubt that mental illness is not a physical illness, if their common sense did not tell them this, well, we have reams of evidence and knowledge supporting it. Even the Surgeon General Carmona and the former Surgeon General Satcher have released very extensive reports about the need to address the problem of mental illness in this country.

I say all of this because, today, we are addressing a bill that is designed to meet the needs of those who are incarcerated in this country by developing a stronger mental health network for those prisoners either coming out of prison or those juveniles before they end up in prison. But, Mr. Speaker, I would suggest that we would not have the problems in this country, where in our prison system we have 2 million people in this country incarcerated,

more people incarcerated in this country than any other industrialized Nation on the face of the earth.

□ 1500

That is an indictment, an indictment on our society that we as a country are picking up the broken pieces of people's lives because we as a country have not done what we are supposed to do in providing those support services, providing that counseling, making sure that our health care system treats the health care needs of those with mental illness.

It is discriminatory for someone with a chemical imbalance in their brain not to be given the same services and health care that someone suffering diabetes would be given. It is a shame and a violation that we are spending less money on mental health care research than many, many other diseases that do not even reflect a fraction of the burden of the disease that mental illness does in this country.

The biggest mental health hospital in this country is Los Angeles County Jail. The biggest mental health hospital is Los Angeles County Jail. Our prisons represent the unmet need of this country when it comes to those with mental illness.

So, Mr. Speaker, when it comes to S. 1194, I want to come down here and say this is the kind of legislation we need. We need to do more of this. But I might add we ought to do this in a comprehensive fashion, and that means we ought to pass mental health parity legislation. I hope we get a chance, if not in this Congress, in next Congress to finally pass mental health parity legislation. Not is it only a matter of failure in our health care system, but it is a matter of civil rights and human rights for those who suffer from mental illness because, indeed,their illness is the only illness that is being discriminated against in this country.

We spend money for every other illness, but we do not spend the money on this illness because somehow our country has not recognized that this is a real physical illness and as such we as a Nation are continuing the discrimination, the stigma that exists against people with mental illness. I look forward to working with my colleagues on this and many other bills that have to do with juvenile justice and mental illness.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, it is an indictment. Certainly this bill stands as a model of what we can do for incarcerated persons suffering from mental illness; but we are long overdue, long overdue from the vast understanding of mental health in this country and the need for a mental health parity bill. I cannot thank the gentleman enough for being the leader of this team that continues to work on this issue.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. STRICKLAND), who brings not only his professional background, but we have worked over the years together, particularly after the numerous school shootings, on issues dealing with counselors in schools and the need for mental health care in schools.

Mr. STRICKLAND. Mr. Speaker, I rise in support of S. 1194, the Mentally Ill Offender Treatment and Crime Reduction Act. As the sponsor of H.R. 2387, the companion House bill to S. 1194, I am very pleased to have this legislation on the floor, and I would like to thank my colleagues on the Committee on the Judiciary and their staff who have been instrumental in moving this legislation.

S. 1194 was introduced and shepherded through the Senate by Ohio Senator MIKE DEWINE, and I would like to thank him for his leadership and friendship. Senator DEWINE and I have worked together to end the criminalization of the mentally ill since the 106th Congress when we introduced and passed into law a bill that established a small demonstration program to help communities begin and operate mental health courts. Response to the mental health courts program has been tremendous, with the Department of Justice receiving applications from far more communities than they could fund with the small appropriations allocated for the program.

I am fortunate that two of the mental health courts grants have been awarded to jurisdictions that serve my constituents in Youngstown, Ohio and Athens, Hocking, and Vinton counties.

To build on the success of the mental health courts, Senator DEWINE and I introduced the bill before us today. As a counseling psychologist who has worked at a maximum security prison, I know how important this legislation is for improving mental health treatment. This bill addresses one small part of the mentally ill population's complex treatment system by seeking to treat mentally ill individuals who are or who become involved in the criminal or juvenile justice systems.

According to the Bureau of Justice statistics, over 16 percent of adults incarcerated in U.S. jails and prisons have a mental illness. In addition, the Office of Juvenile Justice and Delinquency Prevention reports that over 20 percent of the youth in the juvenile justice system have serious mental health problems, and many more have co-occurring mental health and substance abuse disorders. If a person with mental illness does not receive treatment, his or her condition almost certainly will worsen when he or she is in custody. Generally, the criminal justice system is not equipped to identify and ensure that people with mental illness find appropriate treatment programs, either through diversion into community treatment or within a jail or prison.

The Mentally Ill Offender Treatment and Crime Reduction Act addresses the needs of both the criminal justice system and the mentally ill offender population. The bill creates a grant program for communities that will provide resources for diversion programs across the spectrum of the criminal justice system. Communities will also be able to design programs that provide mental health treatment in jails and in prisons.

And, finally, grants will be available for transitional and aftercare programs that seek to ensure offenders are provided appropriate treatment and care when they transition from jail back into the community. They transition from the jail or prison back into the communities when they have completed their sentences.

In addition, the bill calls for an interagency task force to be established at the Federal level. Task force members will include the Attorney General, the Secretaries of Health and Human Services, Labor, Education, Veterans Affairs, and Housing and Urban Development and the Commissioner of Social Security who will be charged with identifying ways that Federal Departments can respond in a collaborative way to the needs of mentally ill adults and juveniles.

I believe that encouraging collaboration at the Federal, State, and local levels of government is essential to ensuring that people with mental illness are able to access appropriate treatment. Again, I would like to thank the chairman of the committee and the staff of the committee, as well as Members on my side of the aisle and for Senator MIKE DEWINE's heroic efforts in the Senate for bringing this bill to the floor.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I commend both the minority and the majority for bringing this bill up as a suspension. It should pass well. But I would like to address something my friend, the gentleman from Rhode Island (Mr. KENNEDY), said. It is not negative. It is just a difference of opinion and the fact that we ought to condemn our society for all of the people that are in jail.

I remember a young gentleman that spray-painted a car in Singapore, and he was caned. And I guarantee you he would not do that in Singapore, although the gentleman from Wisconsin (Mr. SENSENBRENNER) did tell me he did get in trouble in the United States and then got a letter from the head of Singapore and said, I do not think he would have done that here.

In many cases, our penalties are not strong enough. We found that if many times a youth will commit a crime and just get their hands slapped, he will commit another crime and get their hands slapped and each time it elevates in severity. And many times we need the counseling, we need the guidance, I agree. And in first-time offenders I think it is very important too, but in many cases the penalty is not strong enough, so we end up with more people in jail.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would agree with the gentleman. The big problem here is a lot of these kids do not get anyone to pay attention to them until it starts to be too late. They commit so many crimes. They do not have the people intervene early when they show the predisposition to having a proclivity to commit crimes where they might just be calling out for help. And so the kind of grants that are going to be provided under this legislation ideally will be used as they are designed to be used in the prevention of kids getting into trouble. Because at the very outset, those children, if identified with mental illness, will get the treatment they need.

I have talked to both family court judges in Rhode Island and State court judges. The family court is very excited about the chance to have a mental health court where the child can be brought in and the family can be brought in and they can be given a treatment plan.

In the State court situations, the judges can talk about bail and say, listen, you have a chance. If you go to this treatment program you can avoid perhaps getting sentenced, if it is a minor petty crime.

So these things make sense not only for those who are caught up in our prison system, but of course it makes sense for all of us as a society to try to do the right thing early on, and I think this legislation goes in that direction. That is why I support it.

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

Mr. Speaker, in closing, I was expecting another speaker. I do not see that that person has arrived at this point. But let me in closing on this legislation ask my colleagues to support it.

Let me mention a fallen colleague, Senator Paul Wellstone, who I had the pleasure of having spend some time with me in my congressional district; and what the distinguished gentleman said from Rhode Island (Mr. KENNEDY) is very accurate.

We visited juvenile detention centers and found in the course of that visit individuals who really needed to have intervention with respect to mental health concerns. We found that constantly. And I just want to mention that in Texas past treatments of mentally ill offenders certainly illustrates the need for this legislation.

Senior U.S. District Judge William Wayne Justice, who is experienced in dealing with mentally ill prisoners in Texas, ruled in 1980 that the Texas prison system is unconstitutional and placed under Federal control for 30 years. In Judge Justice's estimation, the Texas laws that apply to the mentally ill lack compassion and emphasize a vengeance.

KPFT News reported him as having said, ''We have allowed the spirit of vengeance such unrivaled sway in our dealings with those who commit crime that we cease to consider properly whether we have taken adequate account of the role that mental impairment may play in the determination of moral responsibility. As a result, we punish those who we cannot justify blame. Such result is not I believe worthy of civil society.''

This mentally ill offender treatment bill will answer the question long asked in the State of Texas and many other States. Maybe the bill will also give comfort to Lydia Roumo who called me today to indicate that her sister-in-law was diagnosed manic depressive. The family had sought help in many places but could not get her hospitalized due to laws in this particular Nation. Unfortunately, she stopped taking her medication, deteriorated and became homeless.

Certainly, this is part of the mental health concern. But the tragedy of her sister-in-law is as she became homeless she also became a victim of crime and was murdered just a few days ago.

The combination of homeless persons with mental impairment, the combination of people who perpetrate terrible acts with mental impairment and juveniles warrants an enthusiastic support of the Mentally Ill Offender Treatment and Crime Reduction Act of 2003. I thank the authors of this legislation. And to Lydia, let me say that this is one step towards trying to solve her problem and the problems of many, many families around the Nation who have experienced the devastation of mental illness.

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

□ 1515

Mr. SENSENBRENNER. 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 gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 1194, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENDING AUTHORITY OF SUPREME COURT POLICE, MODIFYING VENUE OF PROSECUTIONS RELATING TO SUPREME COURT BUILDING AND GROUNDS, AND AUTHORIZING ACCEPTANCE OF GIFTS TO UNITED STATES SUPREME COURT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2742) to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court.

The Clerk read as follows:

S. 2742

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

SECTION 1. EXTENSION OF AUTHORITY FOR THE UNITED STATES SUPREME COURT POLICE TO PROTECT COURT OFFICIALS OFF THE SUPREME COURT GROUNDS.

Section 6121(b)(2) of title 40, United States Code, is amended by striking ''2004'' and inserting ''2008''.

SEC. 2. VENUE FOR PROSECUTIONS RELATING TO THE UNITED STATES SUPREME COURT BUILDING AND GROUNDS.

Section 6137 of title 40, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) VENUE AND PROCEDURE.—Prosecution for a violation described in subsection (a) shall be in the United States District Court for the District of Columbia or in the Superior Court of the District of Columbia, on information by the United States Attorney or an Assistant United States Attorney.''.

SEC. 3. GIFTS TO THE UNITED STATES SUPREME COURT.

The Chief Justice or his designee is authorized to accept, hold, administer, and utilize gifts and bequests of personal property pertaining to the history of the United States Supreme Court or its justices, but gifts or bequests of money shall be covered into the Treasury.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2742, currently under consideration.

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

There was no objection.

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

Mr. Speaker, S. 2742 contains three provisions that will benefit the administrative operations of the U.S. Supreme Court.

First, the bill renews until 2008 authority provided under current law that allows the Supreme Court police to provide security for the Justices when they leave the Supreme Court premises. The Supreme Court police offer that protection, and without this extension, their services would be confined to the immediate area of the Court's grounds. In other words, they would not travel with the Justices when they vacation or speak out of the area, a responsibility that is imposed upon the Marshal's Service when necessary. The need for this protection is illustrated by the recent assault on Justice Souter near his home.

Second, S. 2742 creates statutory authority for the Court to accept gifts. The scope of this text was narrowed with the Committee on the Judiciary's input and is now limited exclusively to gifts ''pertaining to the history of the Court or its Justices.'' The Court presently may accept gifts based on Comptroller General opinions.

Third, this legislation empowers the U.S. District Court for the District of Columbia, along with the D.C. Superior Court, to adjudicate cases relating to crimes committed in the Supreme Court building and on Court grounds. Under current law, all cases are referred to the D.C. Superior Court. Because some of the crimes committed on Court grounds implicate first amendment rights, the Court and the Department of Justice believe that a Federal court will do a better job of promoting uniform results since it is more experienced in handling constitutional challenges.

Mr. Speaker, the House Committee on the Judiciary, in a bipartisan fashion, worked with the Supreme Court and the other body to ensure that S. 2742 is devoid of controversy.

These changes are important to the operation of the Court. I urge Members to support the bill.

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

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

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me also rise and thank the other body and thank the ranking member and the chairman of the Committee on the Judiciary for legislation that I think is very important. I support the legislation introduced by Senator HATCH and cosponsored by Mr. LEAHY from Vermont.

The goals of this legislation are, namely, to extend to December 29, 2008, the authority of the Marshal of the Supreme Court and the Supreme Court police to protect the Justices and official guests of the Court away from the court building and grounds; add the U.S. District Court to the District of Columbia to venue provisions governing prosecutions relating to the Supreme Court building and grounds, where venue now lies in the Superior Court of the District of Columbia; authorizes the Chief Justice to accept, hold, administer and use gifts of personal property to facilitate the work of the Supreme Court.

As a general matter, I am an advocate of extending the discretion and jurisdiction of the Federal courts. In the midst of this House's consideration and passage of several measures that patently strip the jurisdiction of the courts and the discretion of the judges, it is refreshing that we see a piece of legislation pass that actually works to enhance the Court and its security.

This legislation, S. 2742, is to add protection to the Supreme Court, and it would renew their authority to provide security for their Justices when they leave the Supreme Court and surrounding area.

On May 1 of this year, Supreme Court Justice David Souter suffered minor injuries when a group of young men assaulted him when he jogged right in this vicinity. Other judges have had some experiences along those lines.

Another provision in this legislation allows the Supreme Court to accept gifts ''pertaining to the history of the Supreme Court of the United States or its Justices.'' The Administrative Office of the Courts currently has statutory authority to accept gifts on behalf of the judiciary. This provision would grant the Supreme Court its own authority to accept gifts that would elevate or enhance its historical presence in this Nation. It would, of course, narrow the type of gift that can be received to historical items. This provision strikes the proper balance of maintaining the very favored place in history that the Supreme Court maintains, and then will improve the Court's overall function and administrative relief or issue and, as well, ensure the ethical considerations be made in order.

Again, prosecution of offenses against the Court now were moved to the district court. I think that is an appropriate way of handling these matters, and I would ask in light of the fact that our Supreme Court, now more than ever, is well-known to the American public, handling any number of controversial issues, I believe that S. 2742 is an appropriate legislative initiative to help us in the administration of justice.

With that, I ask my colleagues to support it.

Mr. Speaker, I rise to support the legislation introduced by the Gentleman from Utah, Mr. HATCH on July 22, 2004 and co-sponsored by Mr. LEAHY from Vermont. The goals of this legislation, namely to:

Extend to December 29, 2008, the authority of the Marshall of the Supreme Court and the Supreme Court Police to protect the Justices and official guests of the court away from the court building and grounds;

Add the U.S. District Court for the District of Columbia to venue provisions governing prosecutions relating to the Supreme Court building and grounds—where venue now lies in the Superior Court of the District of Columbia; and

Authorizes the Chief Justice to accept, hold, administer, and use gifts and bequests of personal property to facilitate the work of the Supreme Court.

As a general matter, I am an advocate of extending the discretion and jurisdiction of the federal courts. In the midst of this House's consideration and passage of several measures that patently strip the jurisdiction of the courts and the discretion of the judges, it is refreshing to see a piece of legislation pass that actually expands the reach of the court.

The Gentlemen co-sponsored S. 2742 at the request of the Supreme Court. This legislation would renew their authority to provide security for their justices when the leave the Supreme Court.

On May 1 of this year, Supreme Court Justice David Souter suffered minor injuries when a group of young men assaulted him as he jogged right in this vicinity. He is not the first justice to be injured in this manner. Justice Stephen Breyer was thrown from his bicycle several years ago and suffered minor injuries. These reports underscore the importance of off-campus security for Justices. If no congressional action is taken, the authority of Supreme Court police to protect its Justices off to court grounds will expire at the end of this year.

Another provision in this legislation allows the Supreme Court to accept gifts ''pertaining to the history of the Supreme Court of the United States or its justices.'' The Administrative Office of the Courts currently has statutory authority to accept gifts on behalf of the judiciary. This provision would grant the Supreme Court its own authority to accept gifts but it would narrow the types of gifts that can received to historical items. This provision strikes the proper balance and will improve the courts's overall function.

Finally, this legislation also would provide an additional venue for the prosecution of offenses that occur on the Supreme Court grounds. Currently, the DC Superior Court is the only place of proper venue despite the uniquely federal interest at stake. This legislation would allow suit to be brought in United States District Court in the District of Columbia.

Mr. Speaker, I ask that my colleagues join me in supporting this important legislation.

Mr. Speaker, I yield back my time.

Mr. SENSENBRENNER. 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 Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 2742.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

40TH ANNIVERSARY OF SIXTEENTH STREET BAPTIST CHURCH BOMBING

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 389) honoring the young victims of the Sixteenth Street Baptist Church bombing, recognizing the historical significance of the tragic event, and commending the efforts of law enforcement personnel to bring the perpetrators of this crime to justice on the occasion of its 40th anniversary.

The Clerk read as follows:

H. RES. 389

Whereas the Sixteenth Street Baptist Church of Birmingham, Alabama was constructed in 1911 and served as a center for African-American life in the city and a rallying point for the civil rights movement during the 1960s;

Whereas on Sunday, September 15, 1963, segregationists protesting the mandatory integration of Birmingham's public schools

firebombed the Sixteenth Street Baptist Church;

Whereas the blast killed Addie Mae Collins, age 14, Denise McNair, age 11, Carole Robertson, age 14, and Cynthia Wesley, age 14, all members of the Church, while they were preparing for Sunday service;

Whereas September 15, 1963 has been called the darkest day in the history of Birmingham and one of the darkest days of the entire civil rights movement;

Whereas this act of terrorism raised national and international awareness of the African-American civil rights struggle and galvanized those dedicated to the cause of civil rights;

Whereas Congress passed the Civil Rights Act of 1964 and the Voting Rights Act of 1965 in the wake of the bombing;

Whereas the 4 men suspected of the bombing, Bobby Frank Cherry, Herman Cash, Thomas Blanton, and Robert Chambliss, were not immediately prosecuted because authorities believed it impossible to obtain a conviction in the heated racial climate of the mid-1960s;

Whereas Alabama Attorney General Bill Baxley successfully prosecuted Robert Chambliss 13 years after the bombing;

Whereas after the indictment and conviction of Robert Chambliss the bombing investigation was closed;

Whereas the investigation was reopened in 1995 due to the efforts of Federal Bureau of Investigation Special Agent Rob Langford and local African-American leaders;

Whereas in 2001 and 2002 a joint Federal and State task force, under the supervision of United States Attorney Douglas Jones and Alabama Attorney General William Pryor, successfully prosecuted Thomas Blanton and Bobby Frank Cherry with the assistance of State and local law enforcement personnel; and

Whereas the bombing, the prosecution of the offenders, and the cause of civil rights in general have become national and international concerns: Now, therefore, be it

Resolved, That the House of Representatives, on the occasion of the 40th anniversary of the bombing of the Sixteenth Street Baptist Church of Birmingham, Alabama;

(1) honors the memory of Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley;

(2) recognizes the historical significance of the bombing and the enduring impact it has had on the cause of civil rights everywhere;

(3) commends the efforts of the Alabama Attorney General's office for its successful prosecution of Robert Chambliss in 1977, the efforts of the joint Federal and State task force for the successful prosecution of Bobby Frank Cherry and Thomas Blanton in 2001 and 2002, and the efforts of all other law enforcement personnel who worked to bring the persons responsible for the bombing to justice.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 389 currently under consideration.

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

There was no objection.

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

Mr. Speaker, I rise in support of House Resolution 389, a resolution honoring the young victims of the Sixteenth Street Baptist Church bombing, recognizing the historical significance of the tragic event, and commending the efforts of law enforcement personnel to bring the perpetrators of this crime to justice on the occasion of its 40th anniversary. This resolution expresses the sense of the House and of all its Members that the bombing brought shame and sadness to the American community.

As we all know, our country has had a difficult history in the struggle to end racial discrimination. Nevertheless, there are some events in our history that are so awful that we must never forget them, even after the racial situation has vastly improved.

We are here today on one of these occasions. On Sunday, September 15, 1963, four little girls, Denise McNair, Cynthia Wesley, Carole Robertson and Addie Mae Collins, went to Sunday School to worship and were senselessly murdered by those who practice hate and bigotry.

In 1977, 14 years after the crime, Robert Edward Chambliss, one of the four suspects, was convicted of murder. In 1994, 31 years after the crime, another of the suspects, Herman Frank Cash, died before he could be prosecuted. In 2001, 39 years after the crime, Thomas Blanton, Jr., was convicted of murder, and in 2002, the last of the suspects, Bobby Frank Cherry, was also convicted of murder.

The law enforcement community deserves to be commended for this 39-year-long investigation that brought justice to the families and friends of Denise, Cynthia, Carole and Addie Mae.

The Sixteenth Street Church bombing did lead to the passage of the 1964 Civil Rights Act. As we remember that tragic bombing, let us also work to meet the goals of the Civil Rights Act so that the deaths of those four girls are not in vain.

I would like to thank the gentleman from Alabama (Mr. DAVIS) and the gentleman from Alabama (Mr. BACHUS) for introducing this resolution. I ask for Members' support in passing it.

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

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

First of all, let me rise to give overwhelming support to the gentleman from Alabama (Mr. DAVIS), my friend and distinguished colleague from the 7th Congressional District, and thank him for his leadership in bringing this important resolution to the Committee of the Whole today and to my colleague. Let me also thank his cosponsor, the gentleman from Alabama (Mr. BACHUS) for this important legislation.

It is important to note that the gentleman from Alabama's (Mr. DAVIS) leadership was exhibited even in his freshman term. Coming from Birmingham, Alabama, he knew the important crucialness of this particular legislation.

This is, in essence, way before we were calling it such, a hate crime that occurred in Birmingham, Alabama, 40 years ago. In 1963, four young African American girls at the age of no more than 14, their names being Addie Mae Collins, Denise McNair, Carole Robertson and Cynthia Wesley, were bombed senselessly at the Sixteenth Street Baptist Church, and this day is considered the darkest day of history in Birmingham. This happened because there were those who felt the hatred of color was more superior than the respect for human life and human dignity.

This resolution not only pays respect to the young ladies who lost the many years remaining in their lives, but it encourages good law enforcement. It is a testament that there is good law enforcement and that it helps people when it is done thoroughly and with integrity.

The act perpetrated in Birmingham was what we consider a terrorist offense, and the actors were rightly brought to justice some 13 years later. It is important to note that all around the country we look to the depth of the work of law enforcement that occurred after the tragedy of the bombing in Birmingham in that church one Sunday morning as a testament that no act of violence, violation of civil rights or murder of innocent persons should go uninvestigated, no matter how long it takes.

This resolution congratulates all of those who persisted to bring the perpetrators to justice, and it pays tribute to these young girls and their families.

So I ask my colleagues to support this legislation, and I thank the immediate cosponsor, or the author of this legislation, the gentleman from Alabama (Mr. DAVIS), and his cosponsor.

Mr. Speaker, I reserve my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Virginia (Mr. GOODLATTE) and ask unanimous consent that he be allowed to yield time as he deems fit.

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

There was no objection.

Ms. JACKSON-LEE. Mr. Speaker, it gives me great pleasure to yield 7 minutes to the distinguished gentleman from Alabama (Mr. DAVIS), for his leadership and for his vision, allowing us in its 40th year, coming to honor or to acknowledge this historic tragedy in the resolution.

Mr. DAVIS of Alabama. Mr. Speaker, let me thank my good friend from Texas for yielding me time, and let me begin, as is customary, by certainly

thanking the Chair of this committee and the ranking member of the committee, the gentleman from Michigan (Mr. CONYERS).

I am well aware that in these last several days of the session there are a lot of bills competing to make their way onto this floor. There is a lot of potential legislation that could have been offered and put before this body, and I want to certainly thank them for allowing this bill to move forward.

Let me thank my good friend and my colleague, the gentleman from Alabama (Mr. BACHUS), from Alabama's 6th District, for making this commemoration a bipartisan cause.

Finally, let me thank my colleagues from the Senate side, Senator SHELBY and Senator SESSIONS, who have agreed to do everything in their power to move this resolution promptly through the Senate.

□ 1530

Let me begin, Mr. Speaker, by talking for a moment about that day, because it seems so distant and so far away as we stand here in this civilized capitol. It is hard to imagine, as people watch this on the television screens or in the gallery, that we were once a country where four little girls got up one Sunday morning, went to Sunday school wearing their Sunday best and never had a chance to make it home. It is hard to imagine, standing in this civilized place, that we were once a country that was so raw and so full of hate that this kind of crime could happen and that years and years would go by without it being prosecuted.

September 15, 1963, was a very different place. America was a very different land. And it is fitting that we come here today to call attention to these four little girls. Their names, Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley, echo across these last decades, and the violence that was inflicted on my city of Birmingham, Alabama, rings across those decades as well.

After I speak today, my good friend and colleague, the gentleman from Georgia (Mr. LEWIS), will stand here, and I am reminded every time I see him of the journey we have made in America in the last 41 years. We have gone from a place where four little girls could not find safety in the sanctuary of a church to the House of Representatives where 40 of us who proudly sit here are African-Americans, and to a U.S. Senate that will soon host another African-American.

We have come a long way from a time where four little girls could not find sanctuary in a church to a place where a native of Birmingham, Alabama, an African-American, is now our National Security Advisor, and another person with Birmingham ties, an African-American, is now our Secretary of State.

But it is still fitting that, as far as we have come, that we take the time to think about the tragedy. And I am pleased that my colleagues will have an opportunity to pass this resolution that writes this violent act in stone so that all future generations can see it.

Another important part of this resolution is that it honors the law enforcement personnel. The reality is, it took 14 years for the Alabama Attorney General William Baxley to bring the first of the killers to justice. It took 31 years, to 1994, for the Federal Government to reopen its investigation, and it took until the spring of 2001 for the final killer who still lives to be brought to justice.

Without the work of the former United States Attorney Doug Jones and the former Alabama Attorney General William Pryor, this justice would not have been achieved and the indictment and prosecution of these killers would not have occurred. Honoring them is an important part of this resolution.

Let me end with just these two observations. Whenever we think of this kind of sadness in America, we should also still look to the promise in our country. Whenever I hear the eloquence of the gentleman from Georgia (Mr. LEWIS), as this chamber will in a few moments, it ought to remind us of the promise that exists.

It so happens that this September 15, 2004, the gentleman from Georgia (Mr. LEWIS) and I were at this church at a commemorative event. He was there as the keynote Speaker. I was there to introduce him. And during the course of that service something enormously profound happened. We looked up in the balcony, and there was a choir of little black girls from Sixth Avenue Baptist Church in Birmingham, Alabama, and they were standing there singing America the Beautiful, and they were waving American flags as they did it.

I looked over at my colleague and my friend from Georgia, and he had a tear in his eye, as did many people who were in that church. And I have to say to my colleagues today, Mr. Speaker, that to stand in that place, 41 years after four little girls could not even manage to leave there alive, and to see those little black girls singing about the beauty of their country and waving the flag that we so proudly salute, if that does not make you feel proud to be an American, then I do not know what will.

So I conclude today simply by saying that memory is enormously important. Commemoration is enormously important. But the real power of this institution is to take those memories and translate them into contemporary good works; to take the power of those memories and to translate them into an enduring commitment to make this country as just as possible. So in their spirit, I offer this resolution and, in advance, thank this House for passing it.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume to thank the distinguished gentleman from Alabama and to say to him that I am glad he has reminded this House of the history of Alabama but as well the progeny and the fruits of Alabama that cross America's leadership landscape.

I thank him for paying tribute to these young girls and these families who have long suffered, as well as the law enforcement who did their job.

The gentleman mentioned one of our colleagues, and needless to say, whenever we have the opportunity to introduce the gentleman from Georgia (Mr. LEWIS) in any affiliation with the movement, as we called it, we can say nothing more than to be so grateful that he has graced our presence in this institution by his presence and membership in this body. He speaks the truth, but he has lived it as well.

Mr. Speaker, I am delighted to yield 4 minutes to the distinguished gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my colleague and my friend, the dear gentlewoman from Texas, for yielding me this time. I want to thank my friend and colleague, the gentleman from Alabama, (Mr. DAVIS), for bringing this resolution before us.

Mr. Speaker, 41 years ago last month, domestic terrorists bombed the Sixteenth Street Baptist Church in Birmingham, Alabama, claiming four innocent lives and changing the course of American history. On that Sunday morning, four beautiful young girls, Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley went to church and never came home. Four young lives, so full of promise, cut short by hatred.

Church is usually a safe haven, but it was anything but safe when segregationists who opposed the integration of Birmingham schools, lunch counters, and restaurants targeted the Sixteenth Street Baptist Church on Sunday, September 15, 1963.

As long as I can remember, I will never ever forget that Sunday. It was one of the most painful and one of the darkest hours of the Civil Rights movement. Within 3 hours of the bombing, I made my way to Birmingham. I stood in front of the church and witnessed the devastation, the pain and the hurt. I kept asking myself: What is it, what is it in human beings, what is it in our makeup that would make us so mean, so hateful, and so vicious toward our fellow human beings? What is it, what is it in us that would drive human beings to plant a bomb in a church on Sunday morning knowing that others will be killed?

I recall attending the funerals later that week. There was so much pain, so much sorrow, so much sadness, so much hurt. As horrible and tragic as their deaths were, those four young girls did not die in vain. Their blood has liberated not just the Nation, but a people. Their murders did not stop integration, as the terrorists had planned

it. Instead, their deaths shed new light on the struggle for civil rights and spurred support for the movement.

While we in the Civil Rights movement were profoundly saddened by the loss of four precious flowers from God, we did not despair. Rather, our resolve to continue to fight was solidified. In the words of my friend, my brother, my colleague, and mentor, Dr. Martin Luther King, Jr., their deaths called us to ''work passionately and relentlessly for the realization of the American Dream.''

In their honor, we persevered. And in their honor, we celebrated the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

So, Mr. Speaker, I think it is fitting that, today, we honor the memory of these four young lives and recognize the importance of this tragedy in the cause of civil rights for all Americans. Like all my colleagues who have spoken before, I ask each of you to join in supporting this long overdue recognition by passing this resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, may I ask how much time remains?

The SPEAKER pro tempore (Mr. FOLEY). The gentlewoman from Texas has 6 minutes remaining.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am delighted to yield 2 minutes to the distinguished gentleman from Illinois (Mr. DAVIS), and to thank him for his commitment to these issues of civil rights and justice and this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Alabama for giving us the opportunity to honor the memories of Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley. These four girls were killed over 40 years ago in the firebombing of the Sixteenth Street Baptist Church in Birmingham. I would also like to commend the efforts of the Alabama Attorney General's Office for its role in prosecuting the perpetrators of this evil and cowardly act of terror.

The Sixteenth Street Church, a rallying point for the Civil Rights movement in the 1960s, was firebombed. Let us honor the memory of these girls by ensuring their sacrifice was not in vain. Let us work to bring about Martin Luther King's color-blind America. Let us not forget that although we have come a long way, there is still much further to go.

Since this incident, which occurred in the lifetime of most of my colleagues in the House, our country has changed profoundly. Black parents can thankfully now send their children to church knowing that the chances of them being murdered by segregationists is not that great. Sadly, they cannot send their children to school confident in the belief that they will be educated or safe. Instead, many of them must fear they will fall prey to the drugs and violence that plague our inner city schools and inner city communities. They may fear they will fall prey to poverty, as 4 million additional families did last year. Or that they, like 45 million Americans, will not have access to health care. I hope that these problems can be addressed as rapidly as earlier problems were during the Civil Rights movement.

So, Mr. Speaker, this day gives us the opportunity to celebrate lives that were lost, but also to ensure and make sure that those lives were not in vain.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume, and let me just say that we hope in this body that tragedies like the bombing in Birmingham would never have to occur again. We thank the gentleman from Alabama (Mr. DAVIS) for honoring us by bringing this to our attention and to the attention again of the Nation.

Just a few years ago, in Texas, something that we now define as a hate crime, occurred in Jasper County. James Byrd, an African-American male, was murdered and, ultimately, his body dismembered. As I close my remarks, I want to insert in the RECORD the words of his daughter, Frances Renee Byrd Mullins, in support of the James Byrd, Jr. Hate Crimes bill passed in Texas and authored by Representative Senfronia Thompson.

□ 1545

I will not read her statement at this time, but I would simply say that this commemorative resolution and statement being made today is not only to pay tribute, as I have already said, to these murdered young girls but to be able to remind us that we must be ever vigilant and diligent in fighting against hatred, hateful acts, murderous acts as we have done today by this statement, continued into the history of the United States, that we never repeat the past.

I ask my colleagues to support H. Res. 389.

Mr. Speaker, I rise to give overwhelming support to my distinguished Colleague from the State of Alabama, its 7th Congressional District, ARTUR DAVIS, and to thank him for his leadership in bringing this important resolution to the Committee of the Whole today.

He will come to the Floor to remind us of the act of terrorism that occurred in Birmingham, Alabama years ago—in 1963. Four young African-American girls, at an age of no more than 14, were murdered in a senseless bombing of the Sixteenth Street Baptist Church, and this day is considered the ''darkest day in the history of Birmingham.''

This resolution not only pays respect to the young ladies who lost the many years remaining in their full lives, but it encourages good law enforcement. It is the testament that there is good law enforcement and that it helps people when it is done thoroughly and with integrity. The act perpetrated in Birmingham was what we consider a ''terrorist offense,'' and the actor(s) were rightly brought to justice some 13 years later.

In my Congressional District in Houston, I am no stranger to the heinous perpetration of hate crimes and similar terrorist offenses.

On June 7, 1998 in Jasper County—minutes from Houston in Southeast Texas, James Byrd's throat was cut before he was dragged to bits along a lonely country road. I would like to share an excerpt from testimony given by Mr. Byrd's oldest daughter, Francis Renee (Byrd) Mullins in support of the James Byrd Jr. Hate Crimes Bill 87–60 authored by Rep. Senfronia Thompson, D-Houston:

As I come before you today it still sends chills through my body just knowing the reasoning behind my being here. I find it difficult to speak today because moments like these let me know that the fact of the matter is that my father is gone and has been for almost a year. I feel in my heart I am doing the right thing by supporting this bill so that no other family will have to suffer my tragic fate. I do not want to sound rhetorical, but I feel as if I have to tell the story in this way. For a moment, I want you to imagine, if you can, walking home from an anniversary party, when three individuals pick you up, take you to a remote area, beat you repeatedly, then while you are still alive chain you by your ankles to the back of a truck and then proceed to drag you for about two and a half to three miles down a logging road. The point in which you actually die after enduring a tremendous amount of pain and broken bones is when your head and arm are ripped from your body like a piece of paper is torn. Now stop imagining. After coming back from the road my dad was dragged to death on, how can we not want to do the right thing and pass this bill? What if it was your father, mother, sister, brother or even an animal that you love? An animal should not have to undergo what my father went through on the early morning of June 7, 1998.

Mr. Speaker, hate crimes are real, and they affect the lives of real people. This is why I have co-sponsored the Local Law Enforcement Hate Crimes Enforcement Prevention Act 2004.

We must prevent hate crimes from occurring and we must bring justice in a timely fashion. Mr. Speaker, I thank the gentleman from Alabama.

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

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

I want to thank all the Members who have spoken so eloquently in favor of this resolution and who have helped to remind us of this tragedy of 40 years ago. This devastating event for this church and these families helped bring us together; a wrong put us on the path to doing things right. This is a very worthwhile resolution. I thank everybody who has helped to bring it forward. I thank the chairman of the Committee on the Judiciary; I thank the gentlewoman from Texas and others.

I urge my colleagues to support the resolution.

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 gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and agree to the resolution, H. Res. 389.

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.

INTERNET SPYWARE (I–SPY) PREVENTION ACT OF 2004

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4661) to amend title 18, United States Code, to discourage spyware, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4661

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 ''Internet Spyware (I–SPY) Prevention Act of 2004''.

SEC. 2. PENALTIES FOR CERTAIN UNAUTHORIZED ACTIVITIES RELATING TO COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1030 the following:

''§ 1030A. Illicit indirect use of protected computers

''(a) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and intentionally uses that program or code in furtherance of another Federal criminal offense shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and by means of that program or code—

''(1) intentionally obtains, or transmits to another, personal information with the intent to defraud or injure a person or cause damage to a protected computer; or

''(2) intentionally impairs the security protection of the protected computer;

shall be fined under this title or imprisoned not more than 2 years, or both.

''(c) No person may bring a civil action under the law of any State if such action is premised in whole or in part upon the defendant's violating this section. For the purposes of this subsection, the term 'State' includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

''(d) As used in this section—

''(1) the terms 'protected computer' and 'exceeds authorized access' have, respectively, the meanings given those terms in section 1030; and

''(2) the term 'personal information' means—

''(A) a first and last name;

''(B) a home or other physical address, including street name;

''(C) an electronic mail address;

''(D) a telephone number;

''(E) a Social Security number, tax identification number, drivers licence number, passport number, or any other government-issued identification number; or

''(F) a credit card or bank account number or any password or access code associated with a credit card or bank account.

''(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following new item:

''1030A. Illicit indirect use of protected computers.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

In addition to any other sums otherwise authorized to be appropriated for this purpose, there are authorized to be appropriated for each of fiscal years 2005 through 2008, the sum of $10,000,000 to the Attorney General for prosecutions needed to discourage the use of spyware and the practice commonly called phishing.

SEC. 4. FINDINGS AND SENSE OF CONGRESS CONCERNING THE ENFORCEMENT OF CERTAIN CYBERCRIMES.

(a) FINDINGS.—Congress makes the following findings:

(1) Software and electronic communications are increasingly being used by criminals to invade individuals' and businesses' computers without authorization.

(2) Two particularly egregious types of such schemes are the use of spyware and phishing scams.

(3) These schemes are often used to obtain personal information, such as bank account and credit card numbers, which can then be used as a means to commit other types of theft.

(4) In addition to the devastating damage that these heinous activities can inflict on individuals and businesses, they also undermine the confidence that citizens have in using the Internet.

(b) SENSE OF CONGRESS.—Because of the serious nature of these offenses, and the Internet's unique importance in the daily lives of citizens and in interstate commerce, it is the sense of Congress that the Department of Justice should use the amendments made by this Act, and all other available tools, vigorously to prosecute those who use spyware to commit crimes and those that conduct phishing scams.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentlewoman from California (Ms. LOFGREN) each will control 20 minutes.

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

GENERAL LEAVE

Mr. GOODLATTE. 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. 4661, the bill currently under consideration.

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

There was no objection.

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

I rise in support of H.R. 4661, the Internet Spyware (I–SPY) Prevention Act. This bipartisan legislation which I introduced with the gentlewoman from California (Ms. LOFGREN) and the gentleman from Texas (Mr. SMITH) will impose tough criminal penalties on the most egregious purveyors of spyware without imposing a broad regulatory regime on legitimate software providers. I believe that this targeted approach is the best way to combat spyware.

Spyware is a growing and serious problem. The Federal Trade Commission has testified that spyware appears to be a new and rapidly growing practice that poses a risk of serious harm to consumers. Spyware is software that provides a tool for criminals to crack into computers to conduct nefarious activities, such as altering a user's security settings, collecting personal information to steal a user's identity, or to commit other crimes.

The I–SPY Prevention Act would impose criminal penalties on the most egregious behaviors associated with spyware. Specifically, this legislation would impose up to a 5-year prison sentence on anyone who uses software to intentionally break into a computer and uses that software in furtherance of another Federal crime. In addition, it would impose up to a 2-year prison sentence on anyone who uses spyware to intentionally break into a computer and either alter the computer's security settings or obtain personal information with the intent to defraud or injure a person or with the intent to damage a computer. By imposing stiff penalties on these bad actors, this legislation will help deter the use of spyware and will thus help protect consumers from these aggressive attacks.

Enforcement is crucial in combating spyware. The I–SPY Prevention Act authorizes $10 million for fiscal years 2005 through 2008 to be devoted to prosecutions and expresses the sense of Congress that the Department of Justice vigorously enforce the laws against spyware violations as well as against online phishing scams in which criminals send fake e-mail messages to consumers on behalf of famous companies and request account information that is later used to conduct criminal activities.

In addition, the I–SPY Prevention Act is technology-friendly. It would not interfere with the development of technological solutions to block spyware. Many technologies are currently available to help consumers detect and rid their computers of spyware. As these technologies progress, we must be careful not to impose unnecessary burdens on these innovators who are helping to fight against spyware. Furthermore, by targeting the truly bad actors, this legislation would protect the ability of legitimate software companies to innovate and develop new and exciting products and services in response to consumer demand instead of imposing a one-size-fits-all regulation on the entire industry.

The I–SPY Prevention Act is a targeted approach that protects consumers by imposing stiff penalties on the truly bad actors without imposing excessive red tape and regulations on legitimate technology companies. I

urge my colleagues to support this important legislation. I thank the chairman of the Committee on the Judiciary for bringing this legislation forward.

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

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

Mr. Speaker, I am proud to have partnered with my colleague from Virginia (Mr. GOODLATTE) on this legislation to combat spyware. Spyware is quickly becoming one of the biggest threats to consumers on the Internet. It is one of the reasons why we have an identity theft epidemic. Thieves are using spyware to harvest personal information from unsuspecting Americans. Criminals are even using spyware to track every keystroke an individual makes, including credit card and Social Security numbers.

Spyware also adversely affects the business community which must spend money to block and remove it from their systems. Microsoft has stated that spyware is ''at least partially responsible for approximately one-half of all application crashes'' reported to them. Experts estimate that as many as 80 to 90 percent of all personal computers contain some form of spyware. Earthlink recently identified more than 29 million spyware programs. In short, spyware is a very real problem that is endangering consumers, damaging businesses, and creating millions of dollars of additional costs.

I am proud to support H.R. 4661, this bipartisan measure that identifies the truly unscrupulous acts associated with spyware and subjects them to criminal punishment. This bill is important because it focuses on behavior, not on technology. It targets the worst form of spyware without unduly burdening technological innovation.

H.R. 4661 also authorizes for the Attorney General the money he needs to find and prosecute spyware offenders. At the same time, it is important to note that this bill does not prevent existing or future State laws that prohibit spyware. Report language clearly explains that this bill only preempts civil actions that are based on violations of this new Federal criminal law. It does not prevent a State from passing a similar law, nor does it prevent any lawsuits that are premised on existing State laws.

I am honored that this bill has the strong support of some of the biggest names in technology, including Microsoft and Dell. It is also supported by the U.S. Chamber of Commerce, the Center For Democracy and Technology, and even the Distributed Computing Industry Association, which represents peer-to-peer networks. Consumers and businesses cannot wait any longer for help.

I urge my colleagues to support H.R. 4661.

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

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

Mr. Speaker, I want to particularly thank the gentlewoman from California for her help in making this legislation possible. This is truly a bipartisan effort that has been broadly supported in the Committee on the Judiciary and by other Members of Congress. I think it is a very appropriate approach to a very serious problem. I also want to thank the gentleman from North Carolina (Mr. COBLE), chairman of the Subcommittee on Crime, and the gentleman from Texas (Mr. SMITH), chairman of the Subcommittee on Courts, the Internet, and Intellectual Property, who also were very helpful and very supportive as we moved this legislation forward.

There are a number of organizations. The gentlewoman from California mentioned some. I would like to call Members' attention to others that have indicated their strong support of this legislation, including the Information Technology Association of America; the Information Technology Industry Council; the Business Software Alliance; the Center For Democracy and Technology; NetChoice, a coalition representing e-commerce companies and thousands of e-consumers from across the Nation; the Internet Commerce Coalition; the Chamber of Commerce of the United States of America; the Software Information Industry Association; and a host of individual companies and individuals who have been in touch with us about the ravages that occur with spyware and the phishing scam.

These are things that are great threats to consumers. We want them to feel confident when they use the Internet. The Internet holds great promise for people to be able to use the Internet for education, for commerce, for communicating with families and friends and people who share a common cause with them; but people increasingly know of the dangers they face on the Internet, from hackers and spam and pornography and people attempting to participate in various types of fraudulent schemes.

Many of those center around the use of spyware and phishing. These are threats to people's use of the Internet. We need to crack down on the people who perpetrate these actions. This is the legislation to do that, to make sure that people feel comfortable, that they themselves and their children can go online and have the opportunity to use the Internet with confidence that their personal information is not being stolen, that they are not becoming the victim of identity theft, that they are not confronting what looks like a Web site of a legitimate company using all of the technology available.

Some of these criminals will actually create a duplicate Web site that looks exactly like the original, but then attempt to use that Web site to extract information from you by suggesting that they need to update their account information or need your Social Security number or need your driver's license or some other personal information which they then intend to use to steal from your bank account, run up credit card bills, whatever the case might be. This legislation is designed to come down hard on those people.

Mr. Speaker, I urge my colleagues to support the legislation.

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

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

I would like to thank as well the gentleman from Virginia for such a productive collaboration on this bill. I think it is a good product and one that we can all be very satisfied with. I also want to take a moment to thank two members of my staff. The staff does not generally get thanked in public. Andrew Kugler, a lawyer on my staff and a brand new father, worked very hard with the gentleman from Virginia's staff to make sure that all these issues were dealt with successfully; and while he was on paternity leave, Ur Jaddou on my staff filled in for him. So thanks to both of those fine lawyers for the effort that they made. The staff works behind the scenes, but they help us accomplish a lot, and we need to thank them.

I also wanted to mention and agree with the gentleman from Virginia in terms of the phishing issue. I will admit that one of the brightest people I know, my daughter, was caught up actually in a phishing scheme. Very smart people can get taken by these phishing schemes. As soon as her thumb hit the send button, she thought, oh, my goodness, what have I done. We had to call and cancel all the credit cards and the like.

This is something that preys upon people. If you think about the impact of phishing and also spyware, it is not just an inconvenience to consumers; but if we do not successfully abate this, we are going to have a very serious impact on the vitality of the Internet itself, because if people cannot trust Internet commerce, they will not use Internet commerce and so that is going to have an impact on the productivity of the American economy.

What we are doing here today is important for consumers, it is important for businesses, but it is also important for the future of our high-tech economy because we have got to make sure that the Internet is safe for commerce and for individual users and also for businesses.

I urge and I do believe that this House will in large number support the bill. When you do, you are striking a blow for the continued vitality of the Internet as an instrument of commerce and economic growth for America.

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

□ 1600

Mr. GOODLATTE. Mr. Speaker, I thank the gentlewoman for her comments.

Mr. Speaker, I yield such time as he may consume to the gentleman from

Texas (Mr. SMITH), chairman of the Courts, the Internet, and Intellectual Property Subcommittee of the House Committee on the Judiciary and a real leader on technology issues in the Congress.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Virginia (Chairman GOODLATTE) for his nice comments, and I am happy to join him in cosponsoring this legislation, but I especially want to express my appreciation to him for being the author and introducing this legislation.

Computer spyware is a growing problem that threatens the future of commerce over the Internet. A recent report found that more than 3 million scans for spyware have been performed just this year alone. These scans revealed approximately 83 million instances of spyware. That is certainly disturbing.

Spyware can be a confusing problem for consumers. Many do not know they have it, or if they do, they do not know how to get rid of it. A Yahoo! Internet search of the term ''spyware'' yields over 8 million results. It is no wonder that the problem is only getting worse.

Mr. Speaker, H.R. 4661 addresses spyware through the regulation of bad behavior rather than the regulation of technology. It provides strong penalties for those who engage in the illicit activities of spyware and phishing.

Rather than add to an already confusing regulatory structure, the bill takes a very narrow approach. H.R. 4661 sets strong penalties for anyone who intentionally uses software to break into a computer in order to alter security settings or obtain personal information. It further authorizes money for the Department of Justice to prosecute spyware and phishing crimes.

Mr. Speaker, I again urge my colleagues to put an end to spyware and support this bill, and again I want to thank the gentleman from Virginia (Chairman GOODLATTE) for introducing this piece of legislation.

Mr. SENSENBRENNER. Mr. Speaker, I rise today in support of H.R. 4661, the ''Internet Spyware Prevention Act of 2004.'' This narrow criminal legislation will deter and allow the prosecution of the worst forms of behavior involving spyware by providing additional tools and resources to criminal prosecutors. I would like to thank the Gentleman from Virginia, Mr. GOODLATTE, for introducing the legislation before us today.

Technologies designed to enhance the speed and efficiency of data transfer have fueled the explosive growth of the Internet. Unfortunately, the sad reality is that the same software and technology innovations that have enhanced and personalized usage of the Internet can also provide opportunities for abuse and illegal behavior.

Like many other ills on the Internet these latest malicious behaviors cannot be stopped by federal legislation alone. In fact, there is no one silver bullet—legal, regulatory, or technological—to end the misuse of spyware or the related practice of ''phishing.'' But greater consumer awareness and use of available technological countermeasures clearly hold the greatest promise for curbing these abusive practices. Congressional efforts will only help if they focus on behavior—not rapidly changing technology.

H.R. 4661 is a good start because it focuses on behavior that is criminal, not on technologies. Unlike some other proposals, this bill does not set up new requirements that dictate how things appear on a computer screen or that bombard a user with unwanted notices. Nor does this bill pose the same dangers of strict liability for legitimate companies who make a mistake. In short, it represents a measured solution to the problem it seeks to correct.

I believe that this narrow legislation updating necessary criminal law provisions and emphasizing increased enforcement, rather than broad regulation, is the correct legislative response at this time. I urge may colleagues to support H.R. 4661 and reserve the balance of my time.

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

Mr. GOODLATTE. Mr. Speaker, I urge my colleagues to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 4661, 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. GOODLATTE. 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.

FURTHER MESSAGE FROM THE SENATE

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

S. 1134. An act to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965.

S. 2796. An act to clarify that service marks, collective marks, and certification marks are entitled to the same protections, rights, and privileges of trademarks.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1417. An act to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes.

HONORING NATIONAL NURSE PRACTITIONERS WEEK

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 500) honoring the goals and ideals of National Nurse Practitioners Week.

The Clerk read as follows:

H. CON. RES. 500

Whereas there are more than 106,000 licensed nurse practitioners in the United States providing high-quality, cost-effective health care;

Whereas nurse practitioners are registered nurses, with advanced education and advanced clinical training, most with master's or post-master's degrees;

Whereas nurse practitioners diagnose acute and chronic conditions, prescribe medications, treat illnesses, and counsel patients on health care issues, in coordination with physicians and other health care providers;

Whereas the excellence, safety, and cost-effectiveness of the care provided by nurse practitioners has been established;

Whereas nurse practitioners provide health care to people of all ages and in diverse health care settings, such as private office practice, hospitals, long-term care facilities, schools, State and local health departments, and managed care facilities;

Whereas more than 20 percent of nurse practitioners practice in rural settings with populations of less than 25,000, and of the 62 percent who work in cities with populations of more than 50,000, more than 39 percent work in inner-city areas; and

Whereas the American Academy of Nurse Practitioners has designated the week of November 7–13, 2004, as National Nurse Practitioners Week in recognition of the many contributions that this dedicated group of health care professionals makes to the health and well-being of the people in the communities they serve in this great country: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) honors the goals and ideals of National Nurse Practitioners Week; and

(2) offers sincere support to nurse practitioners around the country as they continue to provide high-quality health care to many Americans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. 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 House Concurrent Resolution 500.

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

There was no objection.

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

Mr. Speaker, I rise today in support of H. Con. Res. 500, honoring the goals and ideals of National Nurse Practitioners Week, introduced by the gentleman from Texas (Mr. BURGESS).

The American Academy of Nurse Practitioners has designated the week of November 7 through 13, 2004, as National Nurse Practitioners Week in recognition of the many contributions that this dedicated group of health care professionals makes to the people

and well-being of the people in the communities they serve in this great country.

Currently, there are more than 100,000 licensed nurse practitioners in the United States providing high-quality, cost-effective health care. These nurses have advanced education and advanced clinical training, most with Master's or post-Master's degrees. Every day they, in coordination with physicians and other health care providers, diagnose acute and chronic conditions, prescribe medications, treat illnesses, and counsel patients on health care issues.

I urge my colleagues to offer their support to nurse practitioners around the country and to help us support H. Con. Res. 500.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, nurse practitioners play a critical role in meeting our Nation's medical needs. Working hand-in-hand with other professionals, nurse practitioners improve the flexibility and responsiveness and efficiency of our health care system. Because of their focus on primary care, disease prevention, and counseling, nurse practitioners serve as health care first responders for many American families. From weight management, blood pressure, dangerous infections, injuries, nurse practitioners have the frontline view of health care in our country.

Nurse practitioners also improve the health care system's ability to reach underserved populations. As we all know, primary health care is desperately needed in many urban and central city communities.

As this resolution notes, nurse practitioners have been there to help meet this need. Twenty percent of nurse practitioners serve in rural areas. Forty percent who serve in metropolitan areas work in central city settings.

In this age of double-digit health care cost inflation, nurse practitioners help to improve the cost effectiveness of American health care. By improving patient choice of provider and by promoting competition, nurse practitioners help to moderate spiraling health care costs.

Nurse practitioner training programs were first developed some 40 years ago. A shortage of doctors forced State governments to innovate, and a few nurse practitioners were certified, mostly, in those days, initially in pediatrics. From that modest beginning, the nurse practitioner profession has grown to fill an important and vital role in America's health care system. There are now more than 100,000 nurse practitioners serving the American public.

I join my colleagues in urging the House to agree to this concurrent resolution celebrating those 100,000 nurse practitioners and marking the goals and ideals of National Nurse Practitioners Week.

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

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BURGESS), the writer of this bill, a gentleman who is a medical doctor, who certainly has practical real-world experience in the world of nurse practitioners.

Mr. BURGESS. Mr. Speaker, I thank the chairman for allowing this bill to come to the floor. I am aware that there are many of pieces of legislation that could have filled these hours this week.

Mr. Speaker, nurse practitioners fill a vital role in America's health care system. As the gentleman from Ohio pointed out, there are over 106,000 nurse practitioners providing high-quality care around the Nation, and they are especially important in rural and underserved areas.

These health care professionals are critical in my district, especially in areas of Fort Worth, Texas. John Peter Smith, the public hospital system in Tarrant County, maintains 23 clinics for low-income and indigent patients around the county.

Nurse practitioners are able to enhance the services provided in many of these health care clinics. By utilizing nurse practitioners, John Peter Smith is able to see significantly more patients in an outpatient setting and to do so on a finite, fixed taxpayer-funded budget. John Peter Smith and the patients served by the health system could not do without the dedicated corps of nurse practitioners.

And on a personal note, Mr. Speaker, I have worked with nurse practitioners both in a training program at Parkland Hospital and I have had several come through my private practice in Lewisville, Texas, who trained there and stayed on with me to work in private practice, Lori Driggs and Jenny Andrews, and certainly I learned a great deal more from them than I was ever able to teach them.

Mr. Speaker, on November 7 through 13, 2004, the American Academy of Nurse Practitioners will recognize National Nurse Practitioners Week to honor the dedication and commitment of these health care professionals. I rise to commend nurse practitioners for the contribution they make to the health and well-being of our country.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I simply rise in strong support of H. Con. Res. 500, honoring the goals and ideals of National Nurse Practitioners Week. I also want to commend the gentleman from Florida (Chairman BILIRAKIS), chairman of the subcommittee, and the gentleman from Ohio (Mr. BROWN), ranking member, for the tremendous work that they do on health and health-related issues.

A great deal of my personal health care is provided by a nurse practitioner, and I simply commend her and all of the other nurse practitioners throughout the country who make up an integral part of our health care delivery system. And I would urge agreement to this concurrent resolution.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 500.

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

A motion to reconsider was laid on the table.

AMENDING SECTION 340E OF PUBLIC HEALTH SERVICE ACT RELATING TO CHILDREN'S HOSPITALS

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5204) to amend section 340E of the Public Health Service Act (relating to children's hospitals) to modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs.

The Clerk read as follows:

H.R. 5204

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

SECTION 1. DISREGARD OF NEWBORN BASSINETS IN CALCULATING CASE MIX FOR RECEIPT BY CHILDREN'S HOSPITALS OF FUNDING FOR GRADUATE MEDICAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Section 340E(d) of the Public Health Service Act (42 U.S.C. 256e(d)) is amended—

(1) in paragraph (1), by striking ''related to'' and inserting ''associated with''; and

(2) in paragraph (2)(A)—

(A) by inserting ''ratio of the'' after ''hospitals and the''; and

(B) by inserting at the end before the semicolon ''to beds (but excluding beds or bassinets assigned to healthy newborn infants)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments for periods beginning with fiscal year 2005.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, I rise today in support of H.R. 5204, which would amend section 340(e) of the Public Health Service Act to modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs. This legislation was introduced by the gentlewoman from California (Ms. ESHOO), a lady who does so many great things in the Congress, particularly for her district.

Children's hospitals receive important funding through the Federal Children's Hospitals Graduate Medical Education, which we call GME, Payment Program. This funding helps train residents and better enables children's hospitals to serve all children, regardless their ability to pay.

Next year, the Committee on Energy and Commerce plans to work to reauthorize the Children's Graduate Medical Education Program. As chairman of the Health Subcommittee and a proponent of the children's hospitals throughout my entire time in Congress, I plan to vigorously support this reauthorization.

However, while we will be working to reauthorize the program next year, H.R. 5204 provides a necessary, immediate fix for a small number of hospitals that treat a disproportionately high number of healthy infants. Healthy infants. This legislation would allow these hospitals to receive fair CHGME payments by excluding the number of healthy beds and bassinets in children's hospitals from the case mix adjustment. By excluding these healthy beds and bassinets, these hospitals will no longer be penalized for treating healthy babies.

I urge all my colleagues to support H.R. 5204 today.

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

□ 1615

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I am pleased to support this legislation and I want to commend its author the gentlewoman from California (Ms. ESHOO). She has played a leading role in establishing the successful graduate medical education program that is the focus of today's bill and a whole host of other issues.

The Children's Hospital Graduate Medical Education program, known as Children's GME program, corrected an anomaly in medical education funding that prevented children's hospitals from establishing medical training programs for pediatricians and other children's health specialists, in large part because of the peculiarity of the way we fund graduate medical education through Medicare.

The legislation of the gentlewoman from California (Ms. ESHOO) improves that program by ensuring that hospitals with special programs for certain newborns are not discriminated against in the calculation of medical education funding. This correction is included in both the House and Senate versions of GME reauthorization legislation.

I am proud to be the lead Democratic sponsor of this legislation, along with my colleague, the gentlewoman from Connecticut (Mrs. JOHNSON), through H.R. 4578. This legislation before us today provides an interim solution until the reauthorization bill is written into the law, and I urge my colleagues to support the bill offered by the gentlewoman from California (Ms. ESHOO).

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

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. ESHOO), the sponsor of the bill.

Ms. ESHOO. Mr. Speaker, I want to thank my good friend, the gentleman from Ohio (Mr. BROWN), for his leadership as ranking member on this Subcommittee on Health, which is so important not only here in the Congress but for our entire country; and to my good friend, the gentleman from Florida (Mr. BILIRAKIS), our chairman. Surely we would not be here this afternoon were it not for his support and pushing to bring this to the floor so that we can consider it.

What this bill is about, Mr. Speaker, is legislation that is going to fix a flaw in the Children's Hospital Graduate Medical Education payment formula. This formula inadvertently penalizes Lucile Packard Children's Hospital, which is in my district in Palo Alto.

If I just might depart for a moment, Lucile Packard is the mother and the visionary that established this hospital in Palo Alto. There are many from across the world and from different parts of the country that come to have their children cared for there. So I think she is watching us, and she would be very proud. Were it not for Lucile Packard, as I said, this hospital would not exist today.

Mr. Speaker, a portion of the Graduate Medical Education calculation is based on the severity of case mixes. At Lucile Packard Hospital, which is only one of two hospitals in the United States that offers pregnancy and healthy newborn services, it is then penalized. Most do not take care of healthy newborn babies. When they become part of the mix with the very ill ones, the formula becomes skewed. So if the hospital did not care for the healthy newborns, we would not be here today.

The Committee on Energy and Commerce took a look at this to fix it permanently. As the gentleman stated, that will be taken care of in 2006. Today, we are fixing the small gap between now and 2006. It is going to go a long way.

I want to reassure my colleagues, there are not any costs associated with the bill. This is paid for by a reduction in the fiscal year 2005 payment to all hospitals that receive these payments under the program, and that would not have happened unless the hospitals came together. And they have endorsed this. There is endorsement from the National Association of Children's Hospitals, and I want to thank them for coming together to allow this to happen.

I also want to thank John Ford on the staff of the gentleman from Michigan (Mr. DINGELL) and certainly Chuck Clapton on the staff of the gentleman from Texas (Chairman BARTON), and I want to urge all my colleagues to vote in favor of H.R. 5204. It is going to help a great deal, and that help is going to be appreciated not only by the children and their families, but also the young physicians that have devoted themselves to a life in medicine; and in this graduate medical payment, it will enjoy the fullness it should and this will be repaired.

Again, I thank the gentleman from Florida (Mr. BILIRAKIS), most of all for his friendship that I have enjoyed and benefited from and am grateful for since first coming to the House.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in strong support of H.R. 5204 and commend the gentlewoman from California (Ms. ESHOO) for her sponsorship of this legislation.

I represent a congressional district that has five medical schools and 28 hospitals, including Children's Memorial in Chicago, which is one of the best in the Nation. This legislation is going to be very helpful to several of these institutions.

I simply rise in strong support of this legislation, urge passage, and commend again the leadership of this subcommittee for its tremendous activity related to health care and the health care needs of people in these United States of America.

Ms. JACKSON-LEE of Texas. As one of the co-chairs of the Congressional Children's Caucus, I urge my colleagues today to support H.R. 5204, amending section 304e of the Public Health Service Act as it relates to payments to children's hospitals under the Graduate Medical Education program.

The existing provisions of the Public Service Health Act unfairly penalize the two hospitals in the U.S. that offer both pregnancy and healthy newborn services. This penalty is related to calculation of the reimbursements that hospitals receive under the Children's Hospital Graduate Medical Education program (CHGME).

As it is currently configured, the CHGME program calculates payments to hospitals based on severity of the "case mix index." Healthy newborns, like those treated in these two hospitals, reduce the severity of the case mix index and thus the payments to the hospitals. I believe the current method of calculating these payments is unreasonable.

For example, one of the only two hospitals offering healthy newborn services in the U.S. is the Lucile Packard Children's Hospital. When healthy newborns are excluded from the calculation, the Packard hospital has the highest ''case mix index'' of all children's hospitals in California. With the healthy newborns included, it has the lowest. In other words, Packard is unfairly denied resources to treat seriously ill newborns because it also provides services to healthy newborns. Until the problem is corrected, the Packard hospital will continue to be shortchanged more than $300,000 each year.

This bill corrects the reimbursement problem faced by these two hospitals only for fiscal year 2005. Another bill to reauthorize the Children's Hospital Graduate Medical Education Act, currently on referral to the Subcommittee on Health, will correct this problem in fiscal year 2006 and future years. This legislation is needed to provide relief to the two affected hospitals in fiscal year 2005. This legislation does not change the eligibility for hospitals to qualify under the CHGME program.

I believe that it is unreasonable to penalize hospitals offering services to healthy newborns and urge my colleagues to support this legislation.

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

Mr. BILIRAKIS. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 5204.

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

A motion to reconsider was laid on the table.

RESEARCH REVIEW ACT OF 2004

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5213) to expand research information regarding multidisciplinary research projects and epidemiological studies, as amended.

The Clerk read as follows:

H.R. 5213

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 ''Research Review Act of 2004''.

SEC. 2. MULTI-DISCIPLINARY RESEARCH TEAM AND CONSORTIA REPORT.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the ''Secretary''), in coordination with the Director of the National Institutes of Health, shall prepare a report outlining the methods by which the Roadmap for Medical Research, an initiative of such Institutes, has advanced the use of multidisciplinary research teams and consortia of research institutions to advance treatments, develop new therapies, and collaborate on clinical trials, including with respect to spinal cord injury and paralysis research.

(b) REPORT.—Not later than February 1, 2005, the Secretary shall submit the report under subsection (a) to the Committee on Energy and Commerce of the House of Representatives and to the Committe on Health, Education, Labor, and Pensions of the Senate.

SEC. 3. EPIDEMIOLOGICAL STUDY REPORT.

(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall prepare a report outlining the epidemiological studies currently under way at such Centers, future planned studies, the criteria involved in determining what epidemiological studies to conduct, defer, or suspend, and the scope of those studies, including with respect to the inflammatory bowel disease epidemiological study. The report shall include a description of the activities the Centers for Disease Control and Prevention undertakes to establish partnerships with research and patient advocacy communities to expand epidemiological studies.

(b) REPORT.—Not later than May 1, 2005, the Secretary shall submit the report under subsection (a) to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Health, Education, Labor, and Pensions of the Senate.

SEC. 4. STUDY BY GOVERNMENT ACCOUNTABILITY OFFICE ON MEDICARE AND MEDICAID COVERAGE STANDARDS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the coverage standards that, under the programs under titles XVIII and XIX of the Social Security Act (commonly known as Medicare and Medicaid, respectively), apply to patients with inflammatory bowel disease for the following therapies:

(1) Parenteral nutrition.

(2) Enteral nutrition formula.

(3) Medically necessary food products.

(4) Ostomy supplies.

(5) Therapies approved by the Food and Drug Administration for Crohn's disease and ulcerative colitis.

(b) CONTENT.—The study under subsection (a) shall take into account the appropriate outpatient or home health care delivery settings.

(c) REPORT.—Not later than six months after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report describing the findings of the study under subsection (a).

SEC. 5. STUDY BY GOVERNMENT ACCOUNTABILITY OFFICE INVOLVING DISABILITY INSURANCE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the problems patients encounter when applying for disability insurance benefits under title II of the Social Security Act. The study shall include recommendations for improving the application process for patients with inflammatory bowel disease.

(b) REPORT.—Not later than six months after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report describing the findings of the study under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. 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. 5213, as amended.

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

There was no objection.

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

Mr. Speaker, I rise today in support of H.R. 5213, the Research Review Act. I introduced this legislation only with the fantastic cooperation of my colleagues and friends, the gentlewoman from New York (Mrs. KELLY) and the gentleman from Ohio (Mr. BROWN) from Ohio, the ranking member on my subcommittee. It was with their cooperation and with the hard work of members of the staff, Mr. Speaker, we were able to get this thing done at really almost the 11th hour.

As chairman of the Committee on Energy and Commerce, Subcommittee on Health, I am extremely concerned, as I think all of us are, about how Federal agencies that fall under our committee's jurisdiction set their priorities for disease research. Every day I have patients, along with their families and friends, looking to me to increase research funding for diseases and conditions that afflict them or their loved ones. While I know that it is not in anyone's best interests to mandate agencies to conduct research into specific diseases, I do believe it is my job, I believe it is our job, to ensure that the Federal initiatives are sufficient.

Next year, I look forward to working with the gentleman from Texas (Chairman BARTON), the gentleman from Ohio (Mr. BROWN) and the gentleman from Michigan (Mr. DINGELL) and all the members of the Committee on Energy and Commerce to reauthorize the National Institutes of Health. My subcommittee has held five hearings during this Congress, the 108th, to highlight research activities at the NIH and to educate members and others about the work that the NIH is doing so we can assess how to help NIH better meet its stated mission.

One thing that has become clear is that while NIH is an exemplary agency, its transparency and accountability in letting Members of Congress and the public know what research is being funded and why could be improved. Providing the public with information is not a problem that is unique to the NIH, however; many of our agencies have similar problems translating their efforts to the public.

I introduced H.R. 5213 to take an additional step in assisting Congress to understand the process of Federal agencies. I believe that this legislation will assist Members of Congress as we work with Federal agencies in the future. It will allow two agencies, the NIH and the CDC, to highlight their involvement using the examples of two debilitating conditions that afflict many individuals, paralysis and inflammatory bowel disease, which we refer to as IBD.

H.R. 5213 directs the Secretary of Health and Human Services, in coordination with the Director of the National Institutes of Health, to prepare a report outlining the methods by which the roadmap for medical research created by Director Dr. Elias Zerhouni has advanced the use of multidisciplinary research teams and institutions to advance treatments, develop new therapies and collaborate in clinical trials, and to also include in this report how this relates to the Federal research initiatives into spinal cord and paralysis research.

The bill also requires the Director of the Centers for Disease Control and Prevention, CDC, to prepare a report outlining epidemiological studies conducted at the CDC, including the irritated bowel disease study currently under way at CDC. The study would include a description of the activity CDC is undertaking to establish partnerships with research and patient advocacy groups to expand these studies, such as the partnership between the CDC and the Chron's and Colitis Foundation.

Additionally, H.R. 5213 directs the General Accounting Office to conduct studies on the Medicare and Medicaid coverage standards that apply to patients with inflammatory bowel disease for therapy, such as medically necessary food products and nutrition services, and the problems that IBD patients encounter when applying for Social Security disability benefits.

Both paralysis and inflammatory bowel disease are crippling diseases, Mr. Speaker, though in very different ways, and both can be extremely debilitating.

I would like to thank the Christopher Reeve Foundation and, in particular, Mr. Christopher Reeve and the Chron's and Colitis Foundation for all of their help. I have worked closely with both of these groups, as well, as I indicated, with the gentlewoman from New York (Mrs. KELLY) and the gentleman from Ohio (Mr. BROWN) to develop this legislation.

I do want to thank the staff, Mr. Ford from the other side, Cheryl Jaeger and Jeanne Haggerty of our staff on this side, for their hard work in getting this piece of legislation ready to come to the floor today; and also I would like to thank the gentleman from Texas (Chairman BARTON) for his leadership in working to provide oversight and reauthorize these Federal agencies; and obviously the cooperation I have always had with the gentleman from Ohio (Mr. BROWN).

I urge my colleagues to approve this important bipartisan bill.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, over the past 20 or so years, overall inpatient, that is hospital and rehabilitation, overall inpatient days for those living with paralysis have been cut in half. However, those individuals living with paralysis still face astronomical medical costs, and only one-third remain employed after becoming paralyzed.

Fortunately, we stand on the brink of amazing breakthroughs in science for those living with paralysis, with spinal cord injury and other physical disabilities. Through the Christopher Reeve Paralysis Foundation, Christopher Reeve and his wife, Dana, have courageously pushed forward by helping thousands of patients and their families adjust to the dramatic changes engendered by paralysis and by investing in the awareness and advancement of medical research.

I have been honored to cosponsor the Christopher Reeve Paralysis Act in the past two Congresses, alongside my friend, the chairman of the Subcommittee on Health, the gentleman from Florida (Mr. BILIRAKIS).

This legislation is an important step toward understanding the developments and advancements in paralysis and spinal cord injury research and will help our Nation's leaders in medical research set their priorities for the future.

I am also pleased that this legislation includes several provisions relating to the inflammatory bowel disease known as IBD. I have heard from many Ohioans who suffer through this disease, including a remarkable young woman named Sarah Levin.

Sarah Levin takes 11 medications a day. She has endured major surgery and taken steroids that have compromised her physical health. She has been forced to miss work again and again, because Chron's disease can flare up at any time.

Despite the difficult conditions, Sarah has joined her father and thousands of advocates across this country working on legislation focusing on IBD.

□ 1630

Like so many others, she has been tireless. She has been positive. And her efforts have made a real difference for many of those who are suffering.

This legislation will examine the epidemiology of IBD and therapies currently approved by FDA for the treatment of this debilitating condition.

These studies will also examine appropriate settings for the treatment of IBD and barriers that currently exist for those IBD patients applying for Social Security disability benefits.

This bill contains important measures that promote the public health, and I urge my colleagues to support it.

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

Mr. BILIRAKIS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. KELLY), who probably knows more about IBD, with the exception of the medical doctors in the Congress, and she shares that information with us, and we are just very indebted to her for making us aware of the horrors of this disease.

Mrs. KELLY. Mr. Speaker, I rise today in support of this measure, H.R. 5213, the Research Review Act of 2004.

This bill represents an important step forward in a long struggle by so many important people in the Crohn's and colitis advocacy communities, patients and their families who have worked so hard to support and advance this legislation. My legislation was H.R. 290, the Inflammatory Bowel Disease Act. We have rolled that bill into this act, and I am very grateful to my colleague, the gentleman from Florida (Mr. BILIRAKIS), for his interest in this issue and for his leadership in getting this bill to the Floor.

Crohn's Disease and ulcerative colitis, collectively known as inflammatory bowel disease, are chronic disorders of the gastrointestinal tract that cause severe pain and suffering in the more than 1 million Americans who are afflicted. We are at an exciting time with respect to the prospect for research and advances on these challenging diseases.

A few years ago, the scientific community discovered the first gene associated with Crohn's disease. This landmark discovery and other advancements in the field have opened up exciting new research pathways which have the potential to lead to better treatments and, hopefully, soon, one day, a cure. However, more needs to be done. This legislation seeks to further this momentum by capitalizing on these promising opportunities.

The IBD epidemiologic study at the Centers for Disease Control is critical to our understanding of the scope of this group of diseases. The CDC, together with the Crohn's and Colitis Foundation of America, have made significant strides toward uncovering vital information about the people who are afflicted with digestive disorders and how many there are out there. This will provide the foundation to move forward with research and disease management and then a cure. We should encourage this type of public-private partnership, and I hope that the CDC will support this worthy project on a long-term basis.

Again, I really want to thank my colleague, the gentleman from Florida (Mr. BILIRAKIS), and my colleague, the gentleman from Texas (Mr. BARTON), and my colleague, the gentleman from Ohio (Mr. BROWN), for their work on this. I encourage all Members to support this measure.

Mr. Speaker, I hope that all Members will vote for this bill.

Mr. BROWN of Ohio. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 5213, 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. BILIRAKIS. 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.

DISTRICT OF COLUMBIA MENTAL HEALTH CIVIL COMMITMENT MODERNIZATION ACT OF 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4302) to amend title 21, District of Columbia Official Code, to enact the provisions of the Mental Health Civil Commitment Act of 2002 which affect the Commission on Mental Health and require action by Congress in order to take effect, as amended.

The Clerk read as follows:

H.R. 4302

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 ''District of Columbia Mental Health Civil Commitment Modernization Act of 2004''.

SEC. 2. COMPOSITION, APPOINTMENT, AND ORGANIZATION OF COMMISSION ON MENTAL HEALTH.

(a) IN GENERAL.—Section 21–502, District of Columbia Official Code, is amended to read as follows:

''§ 21–502. Commission on Mental Health; composition; appointment and terms of members; organization; chairperson; salaries

''(a) The Commission on Mental Health is continued. The Chief Judge of the Superior Court of the District of Columbia shall appoint the members of the Commission, and the Commission shall be composed of 9 members and an alternate chairperson. One member shall be a magistrate judge of the Court appointed pursuant to title 11, District of Columbia Official Code, who shall be a member of the bar of the Court and has engaged in active practice of law in the District of Columbia for a period of at least 5 years prior to his or her appointment. The magistrate judge shall be the Chairperson of the Commission and act as the administrative head of the Commission. The Chairperson shall preside at all hearings and direct all of the proceedings before the Commission. Eight members of the Commission shall be psychiatrists or qualified psychologists, as those terms are defined in section 21–501, who have not had less than 5 years of experience in the diagnosis and treatment of mental illness.

''(b)(1) Appointment of members of the Commission shall be for terms of 4 years.

''(2) The initial appointment of a psychiatrist or a qualified psychologist shall be for a probationary period of one year. After the initial one-year probationary appointment, subsequent appointments of the psychiatrist or qualified psychologist shall be for terms of 4 years.

''(c) The psychiatrist or qualified psychologist members of the Commission shall serve on a part-time basis and shall be rotated by assignment of the Chief Judge of the Court, so that at any one time the Commission shall consist of the Chairperson and 2 members, each of whom is either a psychiatrist or a qualified psychologist. Members of the Commission who are psychiatrists or qualified psychologists may practice their professions during their tenures of office, but may not participate in the disposition of a case of a person in which they have rendered professional service or advice.

''(d) The Chief Judge of the Court shall appoint a magistrate judge of the Court to serve as an alternate Chairperson of the Commission. The alternate Chairperson shall serve on a part time basis and act as Chairperson in the absence of the permanent Chairperson.

''(e) The rate of compensation for the members of the Commission who are psychiatrists or qualified psychologists shall be fixed by the Executive Officer of the Court.''.

(b) CLERICAL AMENDMENT.—The item relating to section 21–502 in the table of sections for subchapter I of chapter 5 of title 21, District of Columbia Official Code, is amended to read as follows:

''21–502. Commission on Mental Health; composition; appointment and terms of members; organization; chairperson; salaries.''.

(c) EFFECTIVE DATE; TRANSITION FOR CURRENT MEMBERS.—The amendments made by this section shall take effect on the date of the enactment of this Act, except nothing in this section or the amendments made by this section may be construed to affect the appointment or term of service of any individual who serves as a member or alternate member of the Commission on Mental Health (including an individual who serves as the Chairperson or alternate Chairperson of the Commission) on such date.

SEC. 3. COMMISSION MEMBERS DEEMED COMPETENT AND COMPELLABLE WITNESSES AT MENTAL HEALTH PROCEEDINGS.

Section 21–503(b), District of Columbia Official Code, is amended by striking ''The Commission, or any of the members thereof,'' and inserting ''Commission members who are psychiatrists or qualified psychologists''.

SEC. 4. DETENTION FOR EMERGENCY OBSERVATION AND DIAGNOSIS.

Section 21–526, District of Columbia Official Code, is amended by adding at the end the following new subsections:

''(c) The maximum period of time for detention for emergency observation and diagnosis may be extended for up to 21 days, if judicial proceedings under subchapter IV of this chapter have been commenced before the expiration of the order entered under section 21–524 and a psychiatrist or qualified psychologist has examined the person who is the subject of the judicial proceedings and is of the opinion that the person being detained remains mentally ill and is likely to injure himself or others as a result of the illness unless the emergency detention is continued. For good cause shown, the Court may extend the period of detention for emergency observation and diagnosis. The period of detention for emergency observation and diagnosis may be extended pursuant to section 21–543(b) or following a hearing before the Commission pursuant to subsections (d) and (e) of this section.

''(d) If the Commission, at the conclusion of its hearing pursuant to section 21–542, has found that the person with respect to whom the hearing was held is mentally ill and, because of the mental illness, is likely to injure himself or others if not committed, and has concluded that a recommendation of inpatient commitment is the least restrictive alternative available to prevent the person from injuring himself or others, the detention for emergency observation and diagnosis may be continued by the Department or hospital—

''(1) pending the conclusion of judicial proceedings under subchapter IV of this chapter;

''(2) until the Court enters an order discharging the person; or

''(3) until the Department or hospital determines that continued hospitalization is no longer the least restrictive form of treatment appropriate for the person being detained.

''(e) If the Commission, at the conclusion of its hearing, finds that the person is mentally ill, is likely to injure himself or other persons as a result of mental illness if not committed, and that outpatient treatment is the least restrictive form of commitment appropriate, then, within 14 days of the date of the hearing, the person shall be discharged from inpatient status and shall receive outpatient mental health services or mental health supports as an emergency nonvoluntary patient consistent with this subchapter, pending the conclusion of judicial proceedings under subchapter IV of this chapter.''.

SEC. 5. REPRESENTATION BY COUNSEL OF PERSONS ALLEGED TO BE MENTALLY ILL.

Section 21–543, District of Columbia Official Code, is amended—

(1) in subsection (a) (as redesignated by section 2(r)(1) of the Mental Health Civil Commitment Act of 2002), by striking the last sentence; and

(2) by adding at the end the following new subsection:

''(b) The Commission may not grant a continuance for counsel to prepare his case for more than 5 days. The Commission may grant continuances for good cause shown for periods of up to 14 days. If the Commission grants a continuance, the emergency observation and detention of the person about whom the hearing is being held shall be extended for the duration of the continuance.''.

SEC. 6. HEARING AND DETERMINATION ON QUESTION OF MENTAL ILLNESS.

(a) IN GENERAL.—Section 21–545, District of Columbia Official Code, is amended—

(1) in subsection (a), by striking ''jury trial'' each place it appears and inserting ''jury trial or a trial by the Court'';

(2) by amending subsection (b) to read as follows:

''(b)(1) If the Court or jury finds that the person is not mentally ill or is not likely to injure himself or others as a result of mental illness, the Court shall dismiss the petition and order the person's release.

''(2) If the Court or jury finds that the person is mentally ill and, because of that mental illness, is likely to injure himself or others if not committed, the Court may order the person's commitment to the Department or to any other facility, hospital, or mental health provider that the Court believes is the least restrictive alternative consistent with the best interests of the person and the public. An order of commitment issued pursuant to this paragraph shall be for a period of one year.''; and

(3) by adding at the end the following new subsections:

''(c) The psychiatrists and qualified psychologists who are members of the Commission shall be competent and compellable witnesses at a hearing or trial held pursuant to this chapter.

''(d) The jury to be used in any case where a jury trial is demanded under this chapter shall be impaneled, upon order of the Court, from the jurors in attendance upon other branches of the Court, who shall perform the services in addition to and as part of their duties in the Court.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect

to trials under section 21–545, District of Columbia Code, which are initiated on or after the date of the enactment of this Act.

SEC. 7. RENEWAL OF COMMITMENT STATUS BY COMMISSION.

(a) IN GENERAL.—Subchapter IV of chapter 5 of title 21, District of Columbia Official Code, is amended by inserting after section 21–545 the following new section:

"§ 21–545.01. Renewal of commitment status by commission; review by Court

''(a) At least 60 days prior to the expiration of an order of commitment issued pursuant to section 21–545 or this section, the chief clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which the person is committed may petition the Commission for a renewal of the order of commitment for that person. For good cause shown, a petition of commitment may be filed within the last 60 days of the one-year period of commitment. The petition for renewal of commitment shall be supported by a certificate of a psychiatrist or qualified psychologist stating that he has examined the person and is of the opinion that the person is mentally ill, and, because of the illness, is likely to injure himself or other persons if not committed. The term of the renewed commitment order shall not exceed one year.

''(b) Within 3 days of the filing of a petition under subsection (a) of this section, the Commission shall send a copy of the petition and supporting certificate by registered mail to the person with respect to whom the petition was filed and by regular mail to the person's attorney.

''(c) The Commission shall promptly examine a person for whom a petition is filed under subsection (a) of this section, and, in accordance with the procedures described in sections 21–542 and 21–543, shall thereafter promptly hold a hearing on the issue of the person's mental illness and whether, as a result of a mental illness, the person is likely to injure himself or other persons if not committed.

''(d) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held is no longer mentally ill, or is not mentally ill to the extent that the person is likely to injure himself or other persons if not committed, the Commission shall immediately order the termination of the commitment and notify the Court of that fact in writing.

''(e) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held remains mentally ill to the extent that the person is likely to injure himself or others if not committed, the Commission shall order the renewal of the commitment of the person for an additional term not to exceed one year and shall promptly report that fact, in writing, to the Court. The report shall contain the Commission's findings of fact and conclusions of law. A copy of the report shall be served by registered mail on the person with respect to whom the hearing was held and by mail on the person's attorney.

''(f) If a petition for a renewal of an order of commitment is pending at the expiration of the commitment period ordered under section 21–545 or this section, the Court may, for good cause shown, extend the period of commitment pending resolution of the renewal petition.

''(g) Within the last 30 days of the period of commitment, the chief clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which a person is committed, shall notify the Court which ordered the person's commitment pursuant to section 21–545 or this section of the decision not to seek renewal of commitment. Notice to the Court shall be in writing and a copy of the notice shall be mailed to the person who was committed and the person's attorney.

''(h)(1) A person for whom the Commission orders renewed commitment pursuant to subsection (e) of this section may seek a review of the Commission's order by the Superior Court of the District of Columbia, and the Commission, orally and in writing, shall advise the person of this right.

''(2) A review of the Commission's order of renewed commitment, in whole or in part, may be made by a judge of the appropriate division sua sponte and shall be made upon a motion of one of the parties made pursuant to procedures established by rules of the Court. The reviewing judge shall conduct such proceedings as required by the rules of the Court.

''(3) An appeal to the District of Columbia Court of Appeals may be made only after a judge of the Court has reviewed the Commission's order of renewed commitment.''.

(b) CLERICAL AMENDMENT.—The table of sections of subchapter IV of chapter 5 of title 21, District of Columbia Official Code, is amended by inserting after the item relating to section 21–545 the following:

''21–545.01. Renewal of commitment status by Commission; review by Court.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4302, the District of Columbia Civil Commitment Modernization Act of 2004.

I introduced this legislation, along with the gentlewoman from the District of Columbia (Ms. NORTON), in order to amend the authorities of the D.C. Commission on Mental Health. The Commission is a branch of the D.C. Superior Court that presides over civil commitment hearings and makes recommendations to the court.

Mr. Speaker, this legislation is important because the current mental health care system in the District is outdated, and these improvements are imperative and long overdue. First, H.R. 4302 will limit the duration of civil commitment to one year from indeterminate. The bill includes provisions that will create a streamlined procedure for civil recommitment, permit the commission to determine the least restrictive setting for the patient's care and permit qualified psychologists to join the panel of doctors who preside over commitment hearings. In addition, these changes will enable private hospitals to provide emergency in-patient psychiatric treatment, relieving a significant financial burden from the District of Columbia.

H.R. 4302 is based on the D.C. Mental Health Civil Commitment Act of 2002 which passed the D.C. Council last year. Today's legislation is necessary, because the D.C. Home Rule Act requires congressional approval of measures that affect the D.C. Superior Court.

Mr. Speaker, I urge Members to join with the gentlewoman from the District of Columbia and myself to help the District modernize its mental health care practices and end the era of Federal court cases against the city.

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

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that the gentlewoman from the District of Columbia (Ms. NORTON) manage the time on our side for this bill.

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

There was no objection.

Ms. NORTON. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time to manage the bill, and I especially thank my good friend, the gentleman from Virginia (Mr. DAVIS), the chairman of the Committee on Government Reform, for introducing this bill with me.

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

The District of Columbia Mental Health Civil Commitment Modernization Act would significantly help modernize the way mental health services in the District of Columbia are delivered. Under the Home Rule Charter, these changes require affirmative action by the Congress.

The amendments are intended to reinvigorate the rights of people with mental illness in the District of Columbia and encourage community-based treatment alternatives to costly and restrictive hospital confinement. The amendments are designed to ensure that people with mental illness are treated in the least restrictive setting, consistent with the individual's needs and public safety. The amendments also are designed to promote the use of private or community hospitals by people who are in need of acute psychiatric care, thus reducing the burden on Saint Elizabeth's Hospital.

Mr. Speaker, H.R. 4302 would adopt verbatim the changes to the Commission on Mental Health proposed in the District's law. In passing this bill, the Congress will play an important role in aiding the District to reform its mental health services and to treat its mental health patients with dignity and respect.

Last year, the District government approved sweeping changes to its 40-year old civil commitment statute, commonly referred to as the

"Ervin Act" after its principal author, Sam Ervin. Some provisions required no more than the 30-day congressional review period, while others required affirmative congressional approval. The amendments were intended to reinvigorate the rights of people with mental illness and encourage community-based treatment alternatives to costly and restrictive hospital confinement. The amendments are designed to ensure that people with mental illness are treated in the least restrictive setting consistent with the individual's needs and public safety. The amendments also are designed to promote the use of private or community hospitals by people who are in need of acute psychiatric care, thus reducing the burden on St. Elizabeth's Hospital, and increasing the amount of acute care that can be paid for by Medicaid instead of local tax dollars.

Among its significant improvements, the District's new law sets a limit on the length of commitment and limits how long a person can be confined to a hospital while waiting for a hearing. Specifically, this bill: (1) changes the duration of civil commitment from an indeterminate period to a year period; (2) permits the Commission on Mental Health to determine the least restrictive setting for a patient's care; (3) sets new limits on the postponement of the Commission's hearing; and (4) permits qualified psychologists to join the panel of doctors who preside over hearings on a rotating basis.

H.R. 4302 would adopt verbatim the changes to the Commission on Mental Health proposed in the District's law. In passing this bill, the Congress will play an important role in aiding the District to reform its mental health services and to treat its mental health patients with the dignity and respect.

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

Mr. TOM DAVIS of Virginia. Mr. Speaker, I have no other speakers, urge adoption of the bill, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the bill, H.R. 4302, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL WORKFORCE FLEXIBILITY ACT OF 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 129) to provide for reform relating to Federal employment, and for other purposes, as amended.

The Clerk read as follows:

S. 129

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 ''Federal Workforce Flexibility Act of 2004''.

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

Sec. 1. Short title; table of contents.
TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT
Sec. 101. Recruitment, relocation, and retention bonuses.
Sec. 102. Streamlined critical pay authority.
TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS
Sec. 201. Agency training.
Sec. 202. Annual leave enhancements.
Sec. 203. Compensatory time off for travel.
TITLE III—PROVISIONS RELATING TO PAY ADMINISTRATION
Sec. 301. Corrections relating to pay administration.
Sec. 302. Technical corrections.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

(a) BONUSES.—

(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by striking sections 5753 and 5754 and inserting the following:

''§ 5753. Recruitment and relocation bonuses

''(a)(1) This section may be applied to—

''(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

''(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.

''(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

''(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

''(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

''(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

''(3) In this section, the term 'employee' has the meaning given that term in section 2105, except that such term also includes an employee described in subsection (c) of that section.

''(b) The Office of Personnel Management may authorize the head of an agency to pay a bonus under this section to an individual only if—

''(1) the position to which such individual is appointed (as described in paragraph (2)(A)) or to which such individual moves or must relocate (as described in paragraph (2)(B)) is likely to be difficult to fill in the absence of such a bonus; and

''(2) the individual—

''(A) is newly appointed as an employee of the Federal Government; or

''(B)(i) is currently employed by the Federal Government; and

''(ii)(I) moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

''(II) must relocate to accept a position in a different geographic area.

''(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not longer than 4 years. The Office may, by regulation, prescribe a minimum service period for purposes of this section.

''(2)(A) The agreement shall include—

''(i) the commencement and termination dates of the required service period (or provisions for the determination thereof);

''(ii) the amount of the bonus;

''(iii) the method of payment; and

''(iv) other terms and conditions under which the bonus is payable, subject to the requirements of this section and regulations of the Office.

''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

''(ii) the effect of the termination.

''(C) The required service period shall commence upon the commencement of service with the agency or movement to a new position or geographic area, as applicable, unless the service agreement provides for a later commencement date in circumstances and to the extent allowable under regulations of the Office, such as when there is an initial period of formal basic training.

''(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including a fractional part of a year, as determined under regulations of the Office) in the required service period of the employee involved.

''(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full period of service required by the agreement, or in a combination of these forms of payment.

''(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

''(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

''(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the maximum bonus allowable shall—

''(1) be equal to the maximum that would be determined if subsection (d)(1) were applied by substituting '50' for '25'; but

''(2) in no event exceed 100 percent of the annual rate of basic pay of the employee at the beginning of the service period.

Nothing in this subsection shall be considered to permit the waiver of any requirement under subsection (c).

''(f) The Office shall require that an agency establish a plan for the payment of recruitment bonuses before paying any such bonuses, and a plan for the payment of relocation bonuses before paying any such bonuses, subject to regulations prescribed by the Office.

''(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a bonus under this section in appropriate circumstances when the agreed-upon service period has not been completed.

''§ 5754. Retention bonuses

''(a)(1) This section may be applied to—

''(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

''(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.

''(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

''(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

''(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

''(C) a position which has been excepted from the competitive service by reason of its

confidential, policy-determining, policy-making, or policy-advocating character.

''(3) In this section, the term 'employee' has the meaning given that term in section 2105, except that such term also includes an employee described in subsection (c) of that section.

''(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee if—

''(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

''(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

''(A) the Federal service; or

''(B) for a different position in the Federal service under conditions described in regulations of the Office.

''(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

''(d)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

''(2)(A) The agreement shall include—

''(i) the length of the required service period;

''(ii) the amount of the bonus;

''(iii) the method of payment; and

''(iv) other terms and conditions under which the bonus is payable, subject to the requirements of this section and regulations of the Office.

''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

''(ii) the effect of the termination.

''(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in bi-weekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

''(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

''(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753.

''(e)(1) Except as provided in subsection (f), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

''(A) 25 percent of the employee's basic pay if paid under subsection (b); or

''(B) 10 percent of an employee's basic pay if paid under subsection (c).

''(2)(A) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement.

''(B) An installment payment is derived by multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee.

''(C) If the installment payment percentage established for the employee is less than the bonus percentage rate established for the employee, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

''(D) For purposes of this paragraph, the bonus percentage rate established for an employee means the bonus percentage rate established for such employee in accordance with paragraph (1) or subsection (f), as the case may be.

''(3) A retention bonus is not part of the basic pay of an employee for any purpose.

''(f) Upon the request of the head of an agency, the Office may waive the limit established under subsection (e)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

''(g) The Office shall require that, before paying any bonuses under this section, an agency shall establish a plan for the payment of any such bonuses, subject to regulations prescribed by the Office.

''(h) The Office may prescribe regulations to carry out this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by striking the item relating to section 5754 and inserting the following:

''5754. Retention bonuses.''.

(3) SENSE OF CONGRESS.—It is the sense of the Congress that the Director of the Office of Personnel Management—

(A) should, each time a bonus is paid under the amendment made by paragraph (1) to recruit or relocate a Federal employee from one Government agency to another within the same geographic area or to retain a Federal employee who might otherwise leave one Government agency for another within the same geographic area, be notified of that payment within 60 days after the date on which such bonus is paid; and

(B) should monitor the payment of such bonuses (in the circumstances described in subparagraph (A)) to ensure that they are an effective use of the Federal Government's funds and have not adversely affected the ability of those Government agencies that lost employees to other Government agencies (in such circumstances) to carry out their mission.

(b) RELOCATION PAYMENTS.—Section 407 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; 104 Stat. 1467) is repealed.

(c) REPORTS.—

(1) RECRUITMENT AND RELOCATION BONUSES.—

(A) IN GENERAL.—The Office of Personnel Management shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives annually, for each of the first 5 years during which section 5753 of title 5, United States Code (as amended by subsection (a)(1)) is in effect, a report on the operation of such section.

(B) CONTENTS.—Each report submitted under this paragraph shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under the section of title 5, United States Code, referred to in subparagraph (A) was used by the respective agencies, including, with respect to each such agency and each type of bonus under such section—

(i) the number and dollar-amount of bonuses paid—

(I) to individuals holding positions within each pay grade, pay level, or other pay classification; and

(II) if applicable, to individuals who moved between positions that were in different agencies but the same geographic area (including the names of the agencies involved); and

(ii) a determination of the extent to which such bonuses furthered the purposes of such section.

(2) RETENTION BONUSES.—

(A) IN GENERAL.—The Office of Personnel Management shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives annually, for each of the first 5 years during which section 5754 of title 5, United States Code (as amended by subsection (a)(1)) is in effect, a report on the operation of such section.

(B) CONTENTS.—Each report submitted under this paragraph shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under the section of title 5, United States Code, referred to in subparagraph (A) was used by the respective agencies, including, with respect to each such agency—

(i) the number and dollar-amount of bonuses paid—

(I) to individuals holding positions within each pay grade, pay level, or other pay classification; and

(II) if applicable, to prevent individuals from moving between positions that were in different agencies but the same geographic area (including the names of the agencies involved); and

(ii) a determination of the extent to which such bonuses furthered the purposes of such section.

(d) EFFECTIVE DATE AND APPLICATION.—

(1) EFFECTIVE DATE.—Except as provided under paragraphs (2) and (3), this section shall take effect on the first day of the first applicable pay period beginning on or after the 180th day after the date of the enactment of this Act.

(2) APPLICATION TO AGREEMENTS.—A recruitment or relocation bonus service agreement that was authorized under section 5753 of title 5, United States Code, before the effective date under paragraph (1) shall continue, until its expiration, to be subject to such section as in effect on the day before such effective date.

(3) APPLICATION TO ALLOWANCES.—Payment of a retention allowance that was authorized under section 5754 of title 5, United States Code, before the effective date under paragraph (1) shall continue, subject to such section as in effect on the day before such effective date, until the retention allowance is reauthorized or terminated (but no longer than 1 year after such effective date).

SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.

Section 5377 of title 5, United States Code, is amended—

(1) by striking ''Office of Personnel Management'' each place it appears and inserting ''Office of Management and Budget'';

(2) by striking ''Office of Management and Budget'' each place it appears and inserting ''Office of Personnel Management'';

(3) in subsection (g), by striking ''prescribing regulations under this section or''; and

(4) in subsection (h), by striking ''Committee on Post Office and Civil Service'' and inserting ''Committee on Government Reform''.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

SEC. 201. AGENCY TRAINING.

(a) TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

''(c) The head of each agency shall, on a regular basis—

''(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

''(2) modify such program or plan as needed to accomplish such plans and goals.''.

(b) SPECIFIC TRAINING PROGRAMS.—

(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding after section 4120 the following:

''§ 4121. Specific training programs

''In consultation with the Office of Personnel Management, the head of each agency shall establish—

''(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

''(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

''(A) relating to employees with unacceptable performance;

''(B) mentoring employees and improving employee performance and productivity; and

''(C) conducting employee performance appraisals.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

''4121. Specific training programs.''.

SEC. 202. ANNUAL LEAVE ENHANCEMENTS.

(a) CREDITABILITY OF PRIOR NONGOVERNMENTAL SERVICE FOR PURPOSES OF DETERMINING RATE OF LEAVE ACCRUAL.—

(1) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

''(e)(1) Not later than 180 days after the date of the enactment of this subsection, the Office of Personnel Management shall prescribe regulations under which, for purposes of determining years of service under subsection (a), credit shall, in the case of a newly appointed employee, be given for any prior service of such employee that would not otherwise be creditable for such purposes, if—

''(A) such service—

''(i) was performed in a position the duties of which directly relate to the duties of the position to which such employee is so appointed; and

''(ii) meets such other requirements as the Office may prescribe; and

''(B) in the judgment of the head of the appointing agency, the application of this subsection is necessary in order to achieve an important agency mission or performance goal.

''(2) Service described in paragraph (1)—

''(A) shall be creditable, for the purposes described in paragraph (1), as of the effective date of the employee's appointment; and

''(B) shall not thereafter cease to be so creditable, unless the employee fails to complete a full year of continuous service with the agency.

''(3) An employee shall not be eligible for the application of paragraph (1) on the basis of any appointment if, within 90 days before the effective date of such appointment, such employee has held any position in the civil service.''.

(2) CONFORMING AMENDMENT.—The second sentence of section 6303(a) of title 5, United States Code, is amended by striking the period and inserting '', and for all service which is creditable by virtue of subsection (e).''.

(b) OTHER ANNUAL LEAVE ENHANCEMENTS.—Section 6303 of title 5, United States Code, is amended by adding after subsection (e) (as added by subsection (a)) the following:

''(f) Notwithstanding any other provision of this section, the rate of accrual of annual leave under subsection (a) shall be 1 day for each full biweekly pay period in the case of any employee who holds a position which is subject to—

''(1) section 5376 or 5383; or

''(2) a pay system equivalent to either of the foregoing, as determined by the Office of Personnel Management.''.

(c) APPLICABILITY.—None of the amendments made by subsection (a) shall apply in the case of any employee holding a position pursuant to an appointment made before the effective date of the regulations implementing such amendments.

SEC. 203. COMPENSATORY TIME OFF FOR TRAVEL.

(a) IN GENERAL.—Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

''§ 5550b. Compensatory time off for travel

''(a) Notwithstanding section 5542(b)(2), each hour spent by an employee in travel status away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

''(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5550a the following:

''5550b. Compensatory time off for travel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) the effective date of any regulations prescribed to carry out such amendments; or

(2) the 90th day after the date of the enactment of this Act.

TITLE III—PROVISIONS RELATING TO PAY ADMINISTRATION

SEC. 301. CORRECTIONS RELATING TO PAY ADMINISTRATION.

(a) IN GENERAL.—Chapter 53 of title 5, United States Code, is amended—

(1) in section 5302, by striking paragraph (8) and inserting the following:

''(8) the term 'rates of pay under the General Schedule', 'rates of pay for the General Schedule', or 'scheduled rates of basic pay' means the rates of basic pay under the General Schedule as established by section 5332, excluding pay under section 5304 and any other additional pay of any kind; and'';

(2) in section 5305—

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

''(a)(1) Whenever the Office of Personnel Management finds that the Government's recruitment or retention efforts with respect to 1 or more occupations in 1 or more areas or locations are, or are likely to become, significantly handicapped due to any of the circumstances described in subsection (b), the Office may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of pay for 1 or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all rates of the pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment under section 5304 or similar provision of law) for the grade or level by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level IV of the Executive Schedule. In the case of individuals not subject to the provisions of this title governing appointment in the competitive service, the President may designate another agency to authorize special rates under this section.

''(2) The head of an agency may determine that a category of employees of the agency will not be covered by a special rate authorization established under this section. The head of an agency shall provide written notice to the Office of Personnel Management (or other agency designated by the President to authorize special rates under the last sentence of paragraph (1)) which identifies the specific category or categories of employees that will not be covered by special rates authorized under this section. If the head of an agency removes a category of employees from coverage under a special rate authorization after that authorization takes effect, the loss of coverage will take effect on the first day of the first pay period after the date of the notice.'';

(B) in subsection (b), by striking paragraph (4) and inserting the following:

''(4) any other circumstances which the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) considers appropriate.'';

(C) in subsection (d)—

(i) by striking ''President'' and inserting ''Office of Personnel Management''; and

(ii) by striking ''or by such agency as he may designate'' and inserting ''(or by such other agency as the President may designate under the last sentence of subsection (a)(1))'';

(D) in subsection (e), by striking ''basic pay'' and inserting ''pay'';

(E) by striking subsection (f) and inserting the following:

''(f) When a schedule of special rates established under this section is adjusted under subsection (d), a covered employee's special rate will be adjusted in accordance with conversion rules prescribed by the Office of Personnel Management (or by such other agency as the President may under the last sentence of subsection (a)(1) designate).'';

(F) in subsection (g)(1)—

(i) by striking ''basic pay'' and inserting ''pay''; and

(ii) by striking ''President (or his designated agency)'' and inserting ''Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate)'';

(G) by striking subsection (h) and inserting the following:

''(h) An employee shall not for any purpose be considered to be entitled to a rate of pay established under this section with respect to any period for which such employee is entitled to a higher rate of basic pay under any other provision of law. For purposes of this subsection, the term 'basic pay' includes any applicable locality-based comparability payment under section 5304 or similar provision of law.''; and

(H) by adding at the end the following:

''(i) If an employee who is receiving a rate of pay under this section becomes subject, by virtue of moving to a new official duty station, to a different pay schedule, such employee's new rate of pay shall be initially established under conversion rules prescribed

by the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) in conformance with the following:

''(1) First, determine the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the rate range) before the move.

''(2) Then, if (in addition to the change in pay schedule) the move also involves any personnel action or other change requiring a rate adjustment under any other provision of law, rule, or regulation, apply the applicable rate adjustment provisions, treating the rate determined under paragraph (1) as if it were the rate last received by the employee before the rate adjustment.

''(j) A rate determined under a schedule of special rates established under this section shall be considered to be part of basic pay for purposes of subchapter III of chapter 83, chapter 84, chapter 87, subchapter V of chapter 55, and section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe.'';

(3) in section 5334—

(A) in subsection (b), by adding at the end the following:

''If an employee's rate after promotion or transfer is greater than the maximum rate of basic pay for the employee's grade, that rate shall be treated as a retained rate under section 5363. The Office of Personnel Management shall prescribe by regulation the circumstances under which and the extent to which special rates under section 5305 (or similar provision of law) or locality-adjusted rates under section 5304 (or similar provision of law) are considered to be basic pay in applying this subsection.''; and

(B) by adding at the end the following:

''(g) In the case of an employee who—

''(1) moves to a new official duty station, and

''(2) by virtue of such move, becomes subject to a different pay schedule,

any rate adjustment under the preceding provisions of this section, with respect to such employee in connection with such move, shall be made—

''(A) first, by determining the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the rate range) before the move, and

''(B) then, by applying the provisions of this section that would otherwise apply (if any), treating the rate determined under subparagraph (A) as if it were the rate last received by the employee before the rate adjustment.'';

(4) in section 5361—

(A) by amending paragraph (4) to read as follows:

''(4) 'rate of basic pay' means—

''(A) the rate of basic pay payable to an employee under law or regulations before any deductions or additions of any kind, but including—

''(i) any applicable locality-based comparability payment under section 5304 or similar provision of law;

''(ii) any applicable special pay under section 5305 or similar provision of law; and

''(iii) subject to such regulations as the Office of Personnel Management may prescribe, any applicable existing retained rate of pay established under section 5363 or similar provision of law; and

''(B) in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343;'';

(B) in paragraph (6), by striking ''and'' at the end;

(C) in paragraph (7), by striking the period and inserting''; and''; and

(D) by adding at the end the following:

''(8) 'retained rate' means the rate of basic pay to which an employee is entitled under section 5363(b)(2).'';

(5) in section 5363—

(A) in subsection (a), by striking the matter following paragraph (4) and inserting the following:

''is entitled to a rate of basic pay in accordance with regulations prescribed by the Office of Personnel Management in conformity with the provisions of this section.''; and

(B) by striking subsections (b) and (c) and inserting the following:

''(b)(1)(A) If, as a result of any event described in subsection (a), the employee's former rate of basic pay is less than or equal to the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved, the employee is entitled to basic pay at the lowest rate of basic pay payable for such grade that equals or exceeds such former rate of basic pay.

''(B) This section shall cease to apply to an employee to whom subparagraph (A) applies once the appropriate rate of basic pay has been determined for such employee under this paragraph.

''(2)(A) If, as a result of any event described in subsection (a), the employee's former rate of basic pay is greater than the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved, the employee is entitled to basic pay at a rate equal to the lesser of—

''(i) the employee's former rate of basic pay; or

''(ii) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved,

as adjusted by subparagraph (B).

''(B) A rate to which an employee is entitled under this paragraph shall be increased at the time of any increase in the maximum rate of basic pay payable for the grade of the employee's position by 50 percent of the dollar amount of each such increase.

''(3) For purposes of this subsection, the term 'former rate of basic pay', as used with respect to an employee in connection with an event described in subsection (a), means the rate of basic pay last received by such employee before the occurrence of such event.

''(c)(1) Notwithstanding any other provision of this section, in the case of an employee who—

''(A) moves to a new official duty station, and

''(B) in conjunction with such move, becomes subject to both a different pay schedule and (disregarding this subsection) the preceding provisions of this section,

this section shall be applied—

''(i) first, by determining the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the pay range) before the move, and

''(ii) then, by applying the provisions of this section that would apply (if any), treating the rate determined under clause (i) as if it were the rate last received by the employee before the application of this section.

''(2) A reduction in an employee's rate of basic pay resulting from a determination under paragraph (1)(ii) is not a basis for an entitlement under this section.

''(3) The rate of basic pay for an employee who is receiving a retained rate at the time of moving to a new official duty station at which different pay schedules apply shall be subject to regulations prescribed by the Office of Personnel Management consistent with the purposes of this section.

''(d) A retained rate shall be considered part of basic pay for purposes of this subchapter and for purposes of subchapter III of chapter 83, chapters 84 and 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe. The Office shall, for any purpose other than any of the purposes referred to in the preceding sentence, prescribe by regulation what constitutes basic pay for employees receiving a retained rate.

''(e) This section shall not apply, or shall cease to apply, to an employee who—

''(1) has a break in service of 1 workday or more;

''(2) is entitled, by operation of this subchapter, chapter 51 or 53, or any other provision of law, to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the retained rate to which the employee would otherwise be entitled; or

''(3) is demoted for personal cause or at the employee's request.''; and

(6) in section 5365(b), by inserting after ''provisions of this subchapter'' the following: ''(subject to any conditions or limitations the Office may establish)''.

(b) SPECIAL RATES FOR LAW ENFORCEMENT OFFICERS.—Section 403(c) of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note) is amended by striking all after ''provision of law)'' and inserting ''and shall be basic pay for all purposes. The rates shall be adjusted at the time of adjustments in the General Schedule to maintain the step linkage set forth in subsection (b)(2).''.

(c) REPEAL.—Section 4505a(a)(2) of title 5, United States Code, is amended—

(1) by striking ''(2)(A)'' and inserting ''(2)''; and

(2) by striking subparagraph (B).

(d) EFFECTIVE DATE; CONVERSION RULES.—

(1) EFFECTIVE DATE.—This section shall take effect on the first day of the first applicable pay period beginning on or after the 180th day after the date of the enactment of this Act.

(2) CONVERSION RULES.—

(A) INDIVIDUALS RECEIVING A RETAINED RATE OR A RATE GREATER THAN THE MAXIMUM RATE FOR THE GRADE.—Subject to any regulations the Office of Personnel Management may prescribe, an employee under a covered pay schedule who, on the day before the effective date of this section, is receiving a retained rate under section 5363 of title 5, United States Code, or is receiving under similar authority a rate of basic pay that is greater than the maximum rate of basic pay payable for the grade of the employee's position shall have that rate converted as of the effective date of this section, and the employee shall be considered to be receiving a retained rate under section 5363 of such title (as amended by this section). The newly applicable retained rate shall equal the formerly applicable retained rate as adjusted to include any applicable locality-based payment under section 5304 of title 5, United States Code, or similar provision of law.

(B) DEFINITION.—For purposes of this paragraph, the term ''covered pay schedule'' has the meaning given such term by section 5361 of title 5, United States Code.

SEC. 302. TECHNICAL CORRECTIONS.

(a)(1) Section 5304 of title 5, United States Code, as amended by section 1125 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136), is amended—

(A) in subsection (g)(2)(A), by striking ''(A)–(D)'' and inserting ''(A)–(C)''; and

(B) in subsection (h)(2)(B)(i), by striking ''or (vii)'' and inserting ''or (vi)''.

(2) The amendments made by this subsection shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136).

(b) Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Administrator of the Office of Electronic Government.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. 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 Senate bill under consideration.

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

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 129, the Federal Workforce Flexibility Act, is a momentous step toward effectively reforming the Federal civil service system. For 2 years, the Committee on Government Reform has worked to revitalize the management structure of specific departments and agencies: Homeland Security, Defense, NASA, the SEC and the GAO, to name a few. This legislation provides the rest of the Federal Government many of the flexibilities authorized for these specified agencies.

As we increase flexibilities provided to agencies and managers, we enhance their ability to manage their workforce. S. 129 is supported by the National Treasury Employees Union and the administration, and I urge my colleagues to support it as well.

Mr. Speaker, S. 129 will help Federal managers build a strong workforce by allowing managers to use recruitment, relocation and retention bonuses in a more strategic manner. This legislation also ensures that agencies will effectively manage their employee training efforts.

Under this bill, agencies will be required to align their training with performance plans and strategic goals, establish a comprehensive management succession program, and provide special training to managers who are dealing with unacceptable performances. In addition, it streamlines critical pay authority for positions that are difficult to fill and enhances annual leave benefits. It also allows workers to take time off in exchange for travel, and offers many other positive reforms for the Federal civil service.

Despite all of these reforms, it is our hope that the bill would include two additional provisions that we unfortunately had to remove due to direct spending implications, as well as a provision dealing with air traffic controller retirement.

The first provision would have corrected current inequities in retirement benefit calculations for part-time Federal service under the Civil Service Retirement System. The second would have codified the current practice of providing civil service retirement credit for attendance at one of the four Federal military service academies. And the final provision would have taken the air traffic controller retirement policy that was included as part of last year's aviation authorization bill and conformed it to existing government-wide enhanced annuity retirement policy.

Mr. Speaker, the Committee on Government Reform intends to pursue all of these legislative initiatives in the 109th Congress, and I look forward to working with my colleagues on these issues.

I want to commend the work of the Subcommittee on Civil Service on this legislation, especially our former chair, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Ranking Member DAVIS). Their good work and cooperation is reflected in this bill before us today, and their dedication to improving the Federal service generally is of great importance as we seek to make our government more competitive in the labor market.

Mr. Speaker, as chairman of the Committee on Government Reform, I have made my top priority the transformation of the Federal Government into an organization that is more efficient, effective and responsive to the needs of the American people. For this to occur, the establishment of a modernized human capital management system is of utmost importance. S. 129 is integral to this effort, and I urge my colleagues to support it.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to join with the gentleman from Virginia (Chairman TOM DAVIS) in consideration of S. 129, the Federal Workforce Flexibility Act of 2004, which would provide a variety of personnel flexibilities for Federal agencies.

Among other things, these government-wide flexibilities would provide Federal agencies with additional tools for recruiting employees for difficult-to-fill positions and for retaining employees with unusual qualifications. I am pleased that the flexibilities in this bill apply government-wide, and I view this as a better approach than the agency-specific reform bills that Congress has passed in recent years.

During the subcommittee markup of S. 129, this subcommittee accepted my amendment that prohibits recruitment, relocation and retention bonuses from being paid to political appointees. There is no evidence that the Federal Government is having difficulty recruiting or retaining political appointees, and therefore, such bonuses are not needed for this group of employees.

In addition, my amendment requires the Office of Personnel Management to report the number of bonuses paid under the bill. This will allow Congress to evaluate whether these bonuses are effective in improving the recruitment and retention of highly qualified employees.

Earlier this month, we were reminded of how important it is to make these kinds of determinations. The Government Accounting Office, or GAO, report found that agencies are not using all of the hiring flexibilities that Congress has given them over the years. This troubling GAO finding deserves this committee's further oversight. After all, it does no good to authorize recruiting tools that are never used.

□ 1645

Furthermore, the minority amendment recommends that OPM monitor recruitment bonuses paid by one Federal agency to hire an individual working in another Federal agency that is located in the same geographic area. OPM also will have to study bonuses that are used to keep current employees from leaving a position at one Federal agency for a position at another Federal agency. It is not generally in the government's best interest for agencies to engage in bidding wars over each other's employees. OPM should ensure that bonuses paid to employees moving within the Federal Government are an effective use of the government's resources and do not negatively impact the human capital needs of the entire Federal Government.

Finally, I want to highlight one provision in this bill that provides compensatory time for Federal employees when they travel on official business during nonworking hours. If it is necessary for an employee to travel on Sunday to attend an out-of-town meeting on Monday, that employee should receive some type of credit for giving up his or her weekend to travel for the government. I am pleased that an effort to place caps on compensatory time was dropped from the bill.

I want to commend the gentleman from Virginia (Mr. TOM DAVIS) and the ranking member, the gentleman from California (Mr. WAXMAN), for their leadership in bringing this legislation to the floor. I urge its support.

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

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

I again want to thank my ranking member, the gentleman from California (Mr. WAXMAN), and the gentleman from Illinois (Mr. DAVIS) for

their work. It has been a good bipartisan operation. I thank, of course, the sponsors from the other body as well. I urge my colleagues to support this.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in strong support of S. 129, the Federal Workforce Flexibility Act of 2004. As the original sponsor of the House version of this legislation, H.R. 1601, I am proud to see S. 129 considered on the House floor today.

This bill is an important tool as the Federal Government works to become a model employer. As the former-Chair of the Civil Service Subcommittee, I held hearings to explore what steps we can take to attract, motivate, and retain the best qualified workers to the Federal Government. S. 129 addresses the very real pay, benefit, and personal issues we investigated that keep potential employees from joining the civil service and sometimes drive our best employees and managers away.

The Federal Workforce Flexibility Act would do many things to improve the effectiveness of the Federal Government, including expanding agencies' abilities to offer recruitment, retention, and relocation bonuses, allowing agencies to offer enhanced annual leave benefits to mid-career hires, emphasizing training, streamlining critical pay authority, and making it easier for agencies to establish demonstration projects.

Mr. Speaker, S. 129 will go a long way in strengthening the Federal workforce, and I urge my colleagues to support this important legislation.

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the Senate bill, S. 129, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONGRATULATING ANDREW WOJTANIK FOR WINNING THE 16TH ANNUAL NATIONAL GEOGRAPHIC BEE

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 815) congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee, conducted by the National Geographic Society.

The Clerk read as follows:

H. RES. 815

Whereas the 16th Annual National Geographic Bee was held in Washington, D.C., from May 25 to May 26, 2004;

Whereas the National Geographic Bee encourages the participation of millions of students and thousands of schools nationwide;

Whereas Andrew Wojtanik, an 8th grade student at Lakewood Middle School in Overland Park, Kansas, displayed his mastery of world geography by winning the 16th Annual National Geographic Bee;

Whereas Andrew Wojtanik competed against 54 other elementary, middle, and junior high school students from across the United States, Puerto Rico, the Virgin Islands, and the Pacific Territories;

Whereas the National Geographic Bee tests the knowledge of students in a variety of subjects related to world geography, including physical, economic, cultural, political, and environmental topics;

Whereas the creation of the National Geographic Bee is an example of the National Geographic Society's commitment to broadening the understanding of students and the general public about the world around them;

Whereas geographic literacy has become increasingly important as technology and world events more often cross borders, oceans, and continents;

Whereas surveys consistently show that the level of geographic knowledge among people in the United States lags behind citizens of other countries;

Whereas a National Geographic-Roper survey of young adults between the ages of 18 and 24 in 9 different countries recently indicated that young adults in the United States were outperformed in geographic literacy by young adults in Sweden, Germany, Italy, France, Japan, Great Britain, and Canada;

Whereas the National Geographic-Roper survey also indicated that only 13 percent of young adults in the United States between the ages of 18 and 24 could correctly identify Iraq on a map of the Asia and the Middle East: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates Andrew Wojtanik, the champion of the 16th Annual National Geographic Bee, for his comprehensive knowledge of geography; and

(2) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to Lakewood Middle School in Overland Park, Kansas, for appropriate display and to transmit an enrolled copy of this resolution to Andrew Wojtanik and his family.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. 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. Res. 815.

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

There was no objection.

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

Mr. Speaker, House Resolution 815 congratulates Andrew Wojtanik for winning the 16th Annual National Geographic Bee conducted by the National Geographic Society.

Mr. Speaker, this is a terrific and well-deserved honor for a terrific and deserving young man. I strongly support the resolution and urge all of my colleagues to do the same.

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, 14-year-old 8th grader Andrew Wojtanik from Lakewood Middle School in Overland Park, Kansas, took top honors at the 2004 National Geographic Bee, which was held here in Washington, D.C. in May.

Andrew should be an example for all young people because he won a $25,000 college scholarship, a lifetime membership in the National Geographic Society, and a week at a Sea World Busch Gardens Adventure Camp.

The winning question was: ''Peshawar, a city in the North-West Frontier Province of Pakistan has had strategic importance for decades because of its location near a historic pass.''

Andrew answered correctly when he replied, ''Khyber Pass.''

How many of us would have answered that question correctly? Well, I do not know. But for a $25,000 scholarship I am sure that there are many young people who would try.

I congratulate Andrew and urge all of my colleagues to vote affirmatively for this resolution.

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

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

Mr. Speaker, I commend the gentleman from Kansas (Mr. MOORE), the author of this resolution, and I urge passage and congratulate Andrew Wojtanik.

Mr. MOORE. Mr. Speaker, on behalf of his proud neighbors in Kansas' Third Congressional District, and particularly on behalf of the students and teachers at Lakewood Middle School in Overland Park, Kansas, I am honored today to speak in favor of my resolution congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee. I have been joined in this effort by Representatives JIM RYUN and JERRY MORAN of Kansas, and by Representatives MAJOR OWENS, EARL BLUMENAUER, and MAX BURNS. This resolution is similar to H. Res. 804, which we introduced last week, and reintroduced on Monday due to some jurisdictional issues which prevented bringing the original resolution to the floor quickly.

On May 26, 2004, Andrew won the 16th Annual National Geographic Bee when he correctly answered a question about the Khyber Pass in Northern Pakistan.

While Andrew's comprehensive knowledge of geography is an inspiration to students everywhere, studies suggest that most of Andrew's peers would be unable to find Pakistan on a map, let alone be aware of the significance of the Khyber Pass. Only 13 percent of young adults in the United States between the ages of 18 and 24 can correctly identify Iraq on a map of Asia and the Middle East. Year after year, American students are consistently outperformed in geographic literacy by students in Sweden, Germany, Italy, France, Japan, Great Britain, and Canada.

The truth is that many students in the United States receive only a minimal amount of geography education during their educational careers. In 2001, Congress acknowledged the importance of including geography education in school curriculums when it designated geography as a ''core subject'' in the No Child Left Behind Act; yet, geography remains the only core subject identified in that act without a Federal program designed to improve educational performance.

Congress must honor its commitment to the children of the United States and address the need for improved geography education. As we have recognized in other areas of education, the only way to truly improve the educational system at a student-level is to help schools use the most effective teaching techniques to increase student knowledge and understanding. Geography education is no exception.

The National Geographic Society Alliance Program is an excellent example of current efforts to improve geography education at the state and local level. Alliances around the country provide teachers with intensive professional development opportunities in geography education, cultivating opportunities for teachers in State-level chapters to collaborate on geography education efforts and to participate in NGS professional development programs. And the success of the National Geographic Society Alliance Program is seen through the achievements of its students—students of teachers who have been involved in the Alliance program have statistically higher levels of geographic literacy achievement than other students. Promoting proven, effective teaching techniques, such as those developed through the National Geographic Society Alliance Program, will be essential if Congress is to successfully foster greater geographic literacy among American students.

If we are to continue our efforts to develop the most educated citizenry in the world, we must closely examine how we educate our youngest citizens about the world. This resolution acknowledges the good work of the National Geographic Society and its commitment to geographic literacy through a variety of means, including its sponsorship of the National Geographic Bee and the successful operation of its Alliance Program. This is a useful first step to refocusing attention on the need for geographic literacy and its important role in our children's education.

It is my hope that passage of this resolution will do more than just applaud Andrew Wojtanik's mastery of geography skills—this resolution will reaffirm Congress's commitment to geography and recognize a national public-private partnership dedicated to improving geographic literacy among American students. For these reasons, I urge my colleagues to join with me in supporting this resolution today.

Mr. DUNCAN. 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 Tennessee (Mr. DUNCAN) that the House suspend the rules and agree to the resolution, H. Res. 815.

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.

HONORING THE 10 COMMUNITIES SELECTED TO RECEIVE THE 2004 ALL-AMERICA CITY AWARD

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 464) honoring the 10 communities selected to receive the 2004 All-America City Award.

The Clerk read as follows:

H. CON. RES. 464

Whereas the All-America City award is the oldest and most respected community recognition program in the Nation;

Whereas for 55 years the National Civic League has encouraged and recognized civic excellence by honoring communities of all sizes where business, citizens, voluntary organizations, and governments work together to address critical issues;

Whereas the All-America City Award recognizes exemplary grassroots community-oriented problem-solving, and is given to communities that confront challenges and achieve results cooperatively; and

Whereas more than 4000 communities have competed and more than 500 communities have been named All-America Cities: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress honors the cities of Concord, North Carolina; Evansville, Indiana; Cottage Grove, Oregon; Spokane, Washington; Springfield, Ohio; Montevideo, Minnesota; Pembroke Pines, Florida; Stockton, California; Philippi, West Virginia; and Hidalgo, Texas, on receiving the National Civic League 2004 All-America City Award.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. 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. 464.

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

There was no objection.

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

Mr. Speaker, I rise today in support of H. Con. Res. 464. This measure honors the 10 communities selected to receive the 2004 All-America City Award. I commend our colleague, the gentleman from North Carolina (Mr. HAYES), for introducing this resolution.

Each year the National Civic League announces the recipients of the All-America City Award, perhaps our country's most prestigious civic recognition program. In an effort to promote community development, the All-America City Award is given to communities where citizens, government, businesses, and nonprofit organizations work together to effectively achieve the highest levels of civic participation.

Since 1949, more than 4,000 communities have applied for the award and about 500 have been selected as All-America cities. This year 10 communities received this honor. The 2004 award winners are Stockton, California; Pembroke Pines, Florida; Evansville, Tennessee; Montevideo, Minnesota; Concord, North Carolina; Springfield, Ohio; Cottage Grove, Oregon; Hidalgo, Texas; Spokane, Washington; and Philippi, West Virginia.

I offer my congratulations to these 10 communities. I urge my colleagues to join with the 10 co-sponsors of the resolution and myself in honoring these 10 cities for winning the All-America City Award.

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, House Concurrent Resolution 464, introduced by my distinguished colleague from North Carolina (Mr. HAYES), honors 10 American cities for receiving the National Civic League 2004 All-America City Award. The American cities are Concord, North Carolina; Evansville, Indiana; Cottage Grove, Oregon; Spokane, Washington; Springfield, Ohio; Montevideo, Minnesota; Pembroke Pines, Florida; Stockton, California; Philippi, West Virginia; and Hidalgo, Texas.

Established in 1894, the National Civic League is one of America's oldest community advocacy organizations. The league's motto is ''strengthening citizen democracy by transforming democratic institutions.''

Their mission is to make democratic institutions and systems more accountable, inclusive, and responsive to citizens in communities across the country by informing, uniting, and empowering citizens. The National Civic League's annual award, the All-America City Award, is America's original and most prestigious community recognition award.

The award encourages and recognizes civic excellence by honoring communities of all sizes where community members, government businesses, and nonprofit organizations all work together to address critical local issues. Each year 10 cities are chosen to receive the All-America City Award. Each of the 10 cities demonstrates an efficient government, a willingness to help its less fortunate citizens, and a strong sense of community.

Therefore, Mr. Speaker, I commend again Concord, Evansville, Cottage Grove, Spokane, Springfield, Montevideo, Pembroke Pines, Stockton, Philippi, and Hidalgo for their awards. I commend the gentleman from North Carolina (Mr. HAYES) for introducing House Concurrent Resolution 464.

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

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. HAYES), the author of this resolution.

Mr. HAYES. Mr. Speaker, I thank the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) for helping and supporting this legislation. I congratulate the gentleman from Texas (Mr. HINOJOSA) for his city as well.

Mr. Speaker, I rise to honor the people of Concord, North Carolina, and the other nine recipients of the 2004 All-America City Award.

It has been my distinct honor to represent the people of Concord since I was first elected to represent the 8th Congressional District of North Carolina. This opportunity is especially dear to me because this is my hometown and where much of my family still resides.

In fact, my family has called Concord home for decades, centuries now that I look at it; and we have had the privilege of watching this community grow. Concord personifies the term ''Southern hospitality'' and is home to some of the most engaging, welcoming and civically responsible citizens of the State of North Carolina.

Through close relationships I have forged with citizens of Concord and the pride I have in this community, it is truly an honor today for me to highlight this great city.

Because of Concord's hard work, the rest of America is getting to see the positive spirit of accomplishment that I have been fortunate to witness and experience my entire life. All-America City Award is a 55-year-old program that is sponsored by the National Civic League that recognizes excellence. The award is given annually to 10 communities that exemplify and display a positive spirit of grass-roots involvement and collaborative problem-solving in an effort to better the community.

The cities selected to receive this award exhibit the American spirit of hard work and cooperation as they seek to identify and correct community-wide challenges. Concord is a community where citizens, businesses, volunteers, and government officials work together to address the issues that are vitally important to their citizens.

Concord should take pride in the fact that they are in contention for recognition by this national organization for their hard work. Truly, Concord is a great example for other communities to emulate as other communities seek to meet the many challenges that face us all, communities large and small.

To qualify for the award, Concord representatives submitted a detailed application highlighting the city's three most pressing challenges. They are medical needs of the uninsured and underinsured, eliminating substandard housing in the community, and extending the mentoring and civic responsibilities of the Boys and Girls Club of Concord.

Programs such as Community Care Plan, Cabarrus Housing Partners, and the Boys and Girls Club of America have been designed and implemented to ensure the aforementioned areas are addressed.

I am pleased to represent such a fine community where the citizens come together to solve problems at a local level rather than waiting on someone else to fix things. A wise man once said there are three types of people in the world: those who watch what happen, those who make things happen, and those who wonder what happened. Rest assured, the people of my hometown, Concord, North Carolina, are people who make good things happen. It is my honor and privilege to represent these good folks.

I am proud that the National Civic League will recognize the city of Concord's success by awarding them the All-America City Award.

Mr. DAVIS of Illinois. Mr. Speaker, it is easy to see why the gentleman from North Carolina (Mr. HAYES), especially from Concord, is such a distinguished gentleman.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HINOJOSA), a proud representative of Texas.

Mr. HINOJOSA. Mr. Speaker, I wish to acknowledge and thank the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from North Carolina (Mr. HAYES), as well as my good friend and colleague, the ranking member, the gentleman from Illinois (Mr. DAVIS).

Mr. Speaker, I join my colleagues in support of H.R. 464, honoring the 2004 All-America City Award winners. One of these year's recipients, Hidalgo, Texas, is in my congressional district. The city of Hidalgo, Texas, is a small town of about 7,500 residents located along the U.S.-Mexico border.

□ 1700

It is home to the fourth largest U.S. port of entry and has become a vibrant center of trade and commerce since the implementation of NAFTA.

Under the leadership of Mayor John David Franz, this community has created a business-friendly environment that has led to the opening of new businesses and the creation of good-paying jobs. Taking advantage of the natural resources and rare wildlife of the Lower Rio Grande Valley, the city of Hidalgo, Texas, has fostered ecotourism which brings bird watchers from throughout the world to the region's world-class birding centers.

Outstanding leaders such as former President Carter was one of the latest visitors to this beautiful city.

Recently, Hidalgo opened the new Dodge Arena, a $20 million multipurpose complex featuring a 6,800-seat arena that will be a venue for ice hockey, football, soccer, and first-class concerts. For the past 27 years, the city of Hidalgo has played host to the Borderfest, the largest and oldest heritage and music festival in south Texas. This annual festival draws thousands of visitors from all over the world.

In receiving this year's All-American City Awards, the city of Hidalgo had to compete with communities throughout the country. The selection committee looked at a variety of factors, including community achievements, creative leveraging of community resources, participation of the public, private and nonprofit sectors, and the development of quality community projects.

I want to congratulate Mayor Franz and all of the people of the city of Hidalgo on receiving this prestigious award.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HOSTETTLER) to speak on behalf of Evansville, Indiana.

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

Mr. HOSTETTLER. Mr. Speaker, I rise today to honor those communities designated as All-America Cities, particularly the city of Evansville in my district.

Evansville is to be commended and should take pride for being recognized by the National Civic League as an All-America City. Evansville, like all of southwest and west central Indiana, is a wonderful place to live, work and raise a family. The city has a rich heritage and its citizens hold dear Hoosier values like faith, family and hard work.

The All-America City Award recognizes in Evansville an exemplary grassroots community approach to problem-solving where community members, government businesses and nonprofit organizations work together to address critical local issues.

The National Civic League recognized Evansville, Indiana, as a community that cooperatively tackles challenges and achieves results.

The All-America City Award is America's original and most prestigious community recognition award.

Mr. Speaker, I ask my colleagues to join me and the other cosponsors of this resolution in commending Evansville and the other cities honored by the National Civic League.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to the gentleman from Texas (Mr. DOGGETT), one of the other proud sons of Texas.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for the time, and I am pleased to join in support of this resolution.

The All-America City Award is the oldest and most prestigious community recognition program in this Nation, and I am particularly pleased that this year one of the cities chosen, the only city chosen from the State of Texas, is right on our U.S.-Mexican border, and that is the city of Hidalgo.

Hidalgo is quite literally a representation of America's future. With a population that is nearly 98 percent Hispanic, Hidalgo is at the forefront of a demographic that is occurring rapidly in many of our Nation's cities. Also, with nearly half of its residents in elementary, middle or high school, Hidalgo is today comprised of the youth that will be the leaders of America tomorrow.

Hidalgo is one of the oldest cities in the State of Texas, and it started as a small trading post and ferry landing opposite Reynosa, Mexico, many years ago. Over the years, it has grown to the fourth largest U.S. port of entry, a

major entry point for trade and commerce from throughout two continents and a city that is intimately involved with our country's relationship with Mexico.

Hidalgo is often the first taste of America for many visitors to this country. This, combined with the fact that it is one of the country's southernmost cities, makes it not surprising that Hidalgo is sometimes referred to as being ''where the U.S. begins.''

The city has flourished under the leadership of very committed city council members Alvin Samano, Dan Dillard, Pedro Fonseca, and Siglinde Franz. Their hard work and dedication to serving the people of Hidalgo has contributed much to the community's success. Hidalgo works because Hidalgo works together.

Unfortunately, as a gateway to the United States, many people have seen Hidalgo only in traveling through it. Now, the people of this fine city have done much, through innovation and hospitality, to make Hidalgo a destination.

Project: Tour Hidalgo, a comprehensive and collaborative initiative that focuses resources, ideas, the spirit of volunteerism and community outreach, has increased tourism, tourism that focuses on the culture of Mexico and the United States, on ecotourism, a number of hike-and-bike trails to be built along the border and, of course, the many other aspects of the city that come alive during the holiday season.

I remember last year at the great Posada, with the Grammy-award-winning Hidalgo resident, Ramon Ayala, that we had around 7- or 8,000 spectators. It was quite a happening, and it drew people throughout Texas to share in the joy of the holiday season.

Borderfest also pulls in not only Texans but winter Texans from all over the country for a 4-day festival in March. Last year, about 50,000 people participated, five times the population of the city. It begins appropriately with an abrazo at the international bridge between the mayor of Hidalgo and the mayor of Reynosa, indicating the close relationship between the two countries.

In the 1980s, when advancements in technology made the city's old irrigation pumphouses obsolete, it was preserved as a museum that is now recognized by the National Trust for Historic Preservation.

With a sense of humor to accompany the other pleasant qualities of this community, when a few years ago it was noted that Hidalgo was the first place that the Africanized honey bee came, instead of avoiding this apparent bit of trouble, the city created a 10-foot-tall, 2,000-pound, full-color statue of the feared killer bee, and since that time the killer bee statue has become a tourist attraction. The Killer Bees became the name of the professional hockey team at the far southern edge of the United States. That is one winning team.

At the same time, Hidalgo has made substantial and impressive efforts to improve the standard of living for its residents. Almost half of all the families in Hidalgo are sustained on incomes below the poverty level.

It has been a long-time goal of the city to attract industries that will provide its citizens with a living wage. That is why the city created Team Hidalgo, a program through which the city and private businessmen and -women work with economic development experts and nonprofit groups to improve the economy of the area. To date, Team Hidalgo's greatest achievement has been the development of Dodge Arena, the spectacular 7,000 seat facility that is now drawing people throughout south Texas not only to the winning Killer Bees hockey team and an arena football team, but to a number of high-profile entertainment activities.

The students of Hidalgo spend their days in schools run by two separate and quality school districts, the Valley View Independent School District led by Superintendent Leonel Galaviz and School Board President and the Hidalgo Independent School District, led by Superintendent Daniel King and School Board President Noe Reyes. These are school districts with leadership on their boards and in the administration that devote their efforts to educational excellence.

The city is one that I hope to represent beginning in January. It is a place that I have visited a number of times and with whose leadership I have continued to work on a number of local projects. It is wonderful that the National Civic League has recognized these fine attributes of the community by naming it an All-America City.

As the city said in its application, despite being closer to Mexico than it is to many other cities in the United States, Hidalgo is truly all-American.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume, and I have no other speakers on this.

Let me close simply by saying that the All-America City Award was a program that was carried on for many years by Look magazine, one of our largest national circulation magazines, and I am very proud that in 1962 my hometown of Knoxville, Tennessee, received one of the very earliest All-America City Awards.

My father served as mayor of Knoxville for 6 years, from 1959 to 1964, and Look magazine recognized Knoxville not only for many civic improvements but also because of my father's work in leading the peaceful integration of the city, which made sure that Knoxville did not go through many of the troubles that most other cities in the North and the South went through during that time period.

So this is a great, great award. It is one that the people of Knoxville were always proud of; and these cities should be proud of it, too.

I thank the sponsor the gentleman from North Carolina (Mr. HAYES) and the cosponsors. I urge passage of this resolution.

Mr. HOBSON. Mr. Speaker, I rise today in support of House Concurrent Resolution 464 honoring the 10 cities named 2004 All-America Cities, and I would like to thank Representative ROBIN HAYES for his leadership in introducing this resolution.

Each year, the All-America Cities Award recognizes communities whose residents have been successful at identifying problems and working cooperatively to solve them. While all 10 cities named All-America Cities this year are deserving of this honor, I am particularly proud that Springfield, Ohio, my hometown, is one of them.

Springfield is a city that typifies an American heartland community. While it embraces its manufacturing past, Springfield has a clear goal of transitioning to a more diverse economy. This new focus emphasizes research and development. Recently, the Springfield Technology Park was established, which includes the new Lexis-Nexis data center and the new Ohio Supercomputer Center. Other high technology businesses are following. Not only is Springfield securing its economic future, it is developing proactive solutions to the other challenges it faces.

Springfield's All-America Cities application highlighted three programs that were designed to meet these challenges. The projects truly demonstrate the positive results that can be achieved through cooperation between public and private entities.

First, the Neighborhood Housing Partnership of Greater Springfield is an organization dedicated to making residents' dreams of home ownership come true. Government, private foundations, lenders, corporations, and realtors have all come together to provide financial assistance and support services to first-time homebuyers.

The second program, the Clark County Literacy Coalition, is a community partnership designed to help adults to acquire literacy skills. The Springfield-Clark County Chamber of Commerce, the Warder Literacy Center, and the Clark County Public Library are just three of the groups working cooperatively to help the residents of Springfield improve their reading and parenting skills.

A third organization, Rocking Horse Center, provides comprehensive health care services for children and young families. The local government, local hospitals, and other community organizations have come together to provide health services and child care advice to the community and to ensure affordable health care to those children who need it most.

In closing, I would like to congratulate the City of Springfield, the Springfield-Clark County Chamber of Commerce, and the Neighborhood Housing Partnership of Greater Springfield for their hard work in making sure that Springfield's All-America Cities application would be successful. The citizens of Springfield are also to be commended for making Springfield such a great place to live and work.

Mr. Speaker, I join today with my colleagues, the proud citizens of Springfield, and the residents of the other nine 2004 All-America Cities in support of this resolution.

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

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 464.

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

A motion to reconsider was laid on the table.

PERMISSION FOR ADDITIONAL COSPONSORS FOR H.R. 10 SUBMITTED BY THE SPEAKER

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that, notwithstanding clause 7 of rule XII, the Union Calendar print of H.R. 10 may reflect additional cosponsors submitted by the Speaker.

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

There was no objection.

LEONARD C. BURCH POST OFFICE BUILDING

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5051) to designate the facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, as the ''Leonard C. Burch Post Office Building''.

The Clerk read as follows:

H.R. 5051

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

SECTION 1. LEONARD C. BURCH POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, shall be known and designated as the ''Leonard C. Burch Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Leonard C. Burch Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. 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. 5051, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, on behalf of the distinguished gentleman from Colorado, the sponsor of H.R. 5051, I rise in support of the Leonard C. Burch Post Office Designation Act.

Leonard Burch was chairman of the Southern Ute Tribal Council for more than 32 years. He was the first elected tribal chairman in 1966, making him the youngest ever at age 32. Chairman Burch was an effective, ambitious leader for the Southern Utes and helped to economically develop this tribe based in the Rocky Mountains.

Mr. Speaker, Leonard Burch died in August 2003 after suffering a heart attack. This post office will be a deserved honor for Leonard Burch, and I know it will make his family very proud.

I thank the sponsor, the gentleman from Colorado (Mr. MCINNIS), for bringing this bill to the floor today. I am pleased to urge passage of H.R. 5051.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 5051, legislation naming a U.S. postal facility in Ignacio, Colorado, as the ''Leonard C. Burch Post Office.''

The gentleman from Colorado (Mr. MCINNIS), a Republican, introduced this measure which enjoys the support and cosponsorship of the entire Colorado delegation on September 9, 2004.

Leonard C. Burch was the long-time leader of the Southern Ute tribe of Colorado. He is credited with bringing his tribe from the brink of bankruptcy and into solvency. Through his efforts, the tribe became a major player in the energy development market with assets of $1.5 billion.

□ 1715

As part of the Council For Energy Resource Tribes, Burch was instrumental in improving energy development in tribes throughout the country. Mr. Burch was also regarded as a skilled diplomat and testified before Congress on numerous occasions advocating for greater tribal control over its own resources.

Mr. Burch passed away last year after suffering a heart attack at the age of 69. We join the Southern Ute Tribe in their loss, for not only have they lost a great leader, but also the United States has lost a truly great man. I urge swift passage of this resolution.

Mr. UDALL of Colorado. Mr. Speaker, I rise today in support of H.R. 5051, the Leonard C. Burch Post Office Building Designation Act.

Leonard Burch served as chairman of the Southern Ute Tribe for 30 years. He became the youngest chairman of the Southern Ute Indian Tribe in south-western Colorado in 1966. Although it was criticized at the time, his decision to reinvest tribal royalties back into the tribal corporations has proved to be far sighted. Through this reinvestment the Southern Ute Indian Tribe is one of the wealthiest Indian tribe in the country.

In an effort to regain the rights to the resources on their land, Chairman Burch taught himself the intricacies of the oil and gas business. As a result, he was instrumental in the Southern Ute Tribe becoming the primary beneficiary of their own mineral rights. Under his leadership the tribe was able to acquire several commercial buildings, multiple energy companies, including the largest natural gas company in the state of Colorado, a real estate company, and a casino.

Chairman Burch championed the cause of tribal sovereignty. He was able to bring the Southern Ute Indian Tribe from relative obscurity into one of the most prominent and wealthy tribes in the country. The Southern Ute Tribe's business success can be used as a positive example for Native American tribes throughout the country. Chairman Burch was the driving force behind this success story.

Mr. Speaker, I ask my colleagues to join me and the Colorado delegation in honoring the life and accomplishments of Chairman Leonard Burch and support the designation of the Ignacio Main Post Office as the Leonard C. Burch Post Office Building.

For more information about the life of Chairman Burch, I am attaching an obituary published in The Durango Herald on August 2, 2003.

LEONARD CLOUD BURCH

Leonard Cloud Burch, the longtime leader of the Southern Ute Indian Tribe who advocated economic self-sufficiency, died Friday, Aug. 1, 2003, at Mercy Medical Center.

Mr. Burch, 69 who died after suffering a heart attack on Thursday, served as chairman of the Southern Ute Indian Tribal Council for more than 32 years. He was first elected tribal chairman in 1966.

Under his leadership the Southern Utes became an economic force in the Four Corners and the largest employers in the country.

Starting with interests in natural-gas wells, the Utes used revenues from businesses to fund improvements in tribal education, health and social services. He was invited by five separate U.S. presidents to conferences on American Indian policies at the White House.

He received numerous awards, including: the Durango Citizen of the Year Award (1997), the 15th annual Martin Luther King Humanitarian Award (2000) and the Council of Energy Resources Tribes' Achievement Award (2002). He was also recognized for his commitment to regional water resources development.

To settle various water claims by regional tribes, including the Southern Utes, Mr. Burch advocated development of the Animas-La Plata Project, a water-storage project now under construction south of Durango.

He was born on Dec. 24, 1933, to Sam and Clara (Cloud) Burch. Upon graduation from Ute Vocational High School in Ignacio, he enlisted in the U.S. Air Force, and he served four years. After his return from service, Mr. Burch worked for five years with the Bureau of Indian Affairs. He married Irene Coolidge, who had also attended school in Ignacio.

He is survived by his wife; seven daughters, Leonora Bravo of Ignacio, Leona Burch of Ignacio, Lena Mae Burch of Missoula, Mont., Lisa Burch-Watts of Ignacio, Leora Lucero of Ignacio. Laurena Burch of Albuquerque, and Lynnette Sage of Ignacio; 14 grandchildren; a brother, Anthony Burch of Two Rivers, Alaska; a sister, Bertha Grove of Bayfield; a half-brother, Everett Burch of Bayfield; and a half-sister, Judy Lansing-Burch of Ignacio.

A viewing and a visitation will be from noon to 8 p.m. Monday at Hood Mortuary. A

public memorial service will be at 10 a.m. Tuesday at the SunUte Recreation Center in Ignacio.

Donations honoring Mr. Burch should be made to the Leonard Burch Scholarship Fund, PO Box 2717, Durango CO 81302 or to the American Heart Association.

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

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, I urge passage of this bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 5051.

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

A motion to reconsider was laid on the table.

ADAM G. KINSER POST OFFICE BUILDING

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4807) to designate the facility of the United States Postal Service located at 140 Sacramento Street in Rio Vista, California, as the ''Adam G. Kinser Post Office Building''.

The Clerk read as follows:

H.R. 4807

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

SECTION 1. ADAM G. KINSER POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 140 Sacramento Street in Rio Vista, California, shall be known and designated as the ''Adam G. Kinser Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Adam G. Kinser Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 4807, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 4807 that would establish the Adam G. Kinser Post Office. I congratulate the gentleman from California (Mr. OSE) for introducing this bill and for securing the cosponsorship of the entire 53-Member delegation from California to comply with Committee on Government Reform policy.

All Americans mourn the loss of those who die in the service of their country in the Armed Services. Brave, dedicated 21-year-old Specialist Adam Kinser was one of these tremendous Americans. Adam proudly fought for his country in Afghanistan as part of the war on global terror.

In his senior year of high school, Adam felt a calling to serve his country and enlisted in the Army Reserves. In July 2003, the Army sent Specialist Kinser to Afghanistan as part of the Army Reserves' 304th Psychological Operations Company. On January 29, 2004, Kinser and eight fellow soldiers were working near a weapons cache in Ghanzi, 60 miles southwest of Kabul, when an explosion took the life of all nine men.

Mr. Speaker, Adam Kinser was a loving son and brother, dedicated student athlete, husband, and father. He was, in short, an American hero. The House joins with the community of Rio Vista and the family of Adam G. Kinser in grieving the loss of their beloved star student athlete. This post office will forever commemorate Adam's sacrifice to his grateful Nation.

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, as a member of the House Committee on Government Reform, I am pleased to join with my colleague in consideration of H.R. 4807, legislation naming the U.S. postal facility in Rio Vista, California, after Adam Kinser.

This measure, which was introduced by the gentleman from California (Mr. OSE) on July 9, 2004, was unanimously reported by our committee on September 15, 2004. H.R. 4807 enjoys the support and cosponsorship of the entire California delegation.

Adam Kinser, a native of Rio Vista, California, joined the United States Army Reserve during his senior year of high school. A high school football player and hardworking member of his family's business, Adam was no stranger to hard work and dedication. He served with the 304th Psychological Operations Company, U.S. Army Reserve, based in Sacramento, California.

Last summer, Specialist Kinser was sent to Afghanistan. Earlier last year, he married his childhood sweetheart and learned prior to his deployment that his wife was expecting. Sadly, he was killed early this year, January 29, when an arms depot exploded in Ghanzi, Afghanistan. He left behind a wife and a son.

Mr. Speaker, I commend my colleague for seeking to honor the sacrifice of Specialist Kinser and urge swift adoption of this bill.

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

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to our colleague, the gentleman from California (Mr. OSE), the author of this bill.

Mr. OSE. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time, and I thank the gentleman from Illinois for his kind remarks.

Mr. Speaker, I rise today in support of H.R. 4807, the Adam G. Kinser Post Office Act. Adam was a national hero, a loving son and brother, a dedicated student, an athlete, and a proud father to be. These are just a few phrases that can be used to describe him. Frankly, while no list of descriptions can ever do justice to understanding his bravery, the compassion of this young man who gave his life for his country at age 21 merits recognition.

Adam Gareth Kinser was born in 1983, and from the age of 5 was raised in Rio Vista, California the very southern portion of my district. He and his four younger siblings grew up there. Even as a child, Adam stood out in his community, not only to his family and friends but also to his peers, teachers and teammates. He was a hardworking student. Adam was even a teaching assistant in some of his high school classes, and a former teacher described him as, frankly, the best the United States has to offer.

His positive attitude, his willingness to help others, his kind heart made him a natural role model to his friends and classmates. He was a leader on the field. He was also an outstanding varsity athlete. He ran track, played basketball, and he started on the football team as quarterback for three seasons, so as a sophomore, junior and senior.

Adam's leadership and compassion extended beyond school and the athletic fields into his home, where he acted as a mentor and a protector to his younger siblings, one of whom recalls that Adam ''was always protecting me, even when I didn't want it.''

A true role model and leader in his community, Adam also wanted to serve and protect his country, even as such a young man. During his senior year in high school, he joined the Army Reserve and was attending boot camp at Fort Bragg, North Carolina, on September 11, 2001. Adam was called up for active duty in July of 2003 and served in Afghanistan with the Army Reserves' 304th Psychological Operations Company.

During Christmas 2003, Adam returned home for some well-earned R&R, where his wife, Tiffany, surprised him with the amazing gift of an ultrasound of their soon-to-be-born son. Adam was ecstatic to be a father, and after returning to fulfill his duty in Afghanistan, he literally was counting down the days until he would be reunited with his wife and new baby.

As my colleagues have said, a tragic turn of events prevented Adam from coming home. On January 29 of this year, Adam was among nine soldiers

doing his duty working on a weapons cache near Ghanzi, 60 miles southwest of Kabul. An explosion took place that took his life and that of eight others.

Adam's death sent the Rio Vista community into a period of mourning and a recognition of loss for the young man that many knew and loved. They had watched Adam with pride from the time he was 5 years old, growing up to become a strong athlete, an excellent student and a brave soldier. Adam was the first Rio Vistan to give his life in wartime since the Korean War, and he will be missed by his newborn son and his family as well as by the whole community of Rio Vista.

Mr. Speaker, in order to ensure that the memory of this young man, this father, this brave soldier lives on, I am sponsoring this legislation to rename the post office in Adam's hometown in his name. It would be a great honor not only to his family but also to the Rio Vista community for this country to honor this true hero who valiantly gave back to his country that which is most precious, his life.

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

Mr. Speaker, there is really no adequate way that we can show appreciation to this young man for giving his life in service to this Nation, but certainly, this is a very appropriate way to recognize the contributions that Adam Kinser gave to this Nation, and I guess you could say, in a way, it is the least that we can do.

I know that all Members of this Congress, on both sides of the aisle, join me and the sponsor, the gentleman from California (Mr. OSE), in expressing our condolences and our appreciation and the thanks of a grateful Nation to the family of Adam G. Kinser, and I urge passage of this bill.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 4807.

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

A motion to reconsider was laid on the table.

ROBERT J. OPINSKY POST OFFICE BUILDING

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2415) to designate the facility of the United States Postal Service located at 4141 Postmark Drive, Anchorage, Alaska, as the ''Robert J. Opinsky Post Office Building''.

The Clerk read as follows:

S. 2415

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

SECTION 1. ROBERT J. OPINSKY POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 4141 Postmark Drive, in Anchorage, Alaska, shall be known and designated as the ''Robert J. Opinsky Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Robert J. Opinsky Post Office Building''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. 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 S. 2415, the Senate bill under consideration.

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

There was no objection.

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

Mr. Speaker, S. 2415 honors a devoted Postal Service employee of more than four decades, Robert Opinsky. Bob Opinsky began his career with the Postal Service in 1956 as a $1.50-an-hour temporary clerk. Through hard work and dedication, he was able to work up the ranks of the Postal Service and become the district manager of the Postal Service in Alaska. He retired in 1996.

Bob Opinsky was a terrific leader within the Postal Service community; therefore, I am pleased to support this post office designation in his honor, an exceedingly appropriate tribute to his postal career.

Mr. Speaker, I thank the Senator from Alaska, Mr. STEVENS, for advancing this legislation. I support it, and I urge passage of the bill.

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, I rise in strong support of S. 2415, to designate the facility of the United States Postal Service located at 4141 Postmark Drive in Anchorage, Alaska, as the Robert J. Opinsky Post Office Building.

Mr. Opinsky was an outstanding, hardworking postal employee who worked his way up through the ranks. He was known as a man who delivered mail through rain, sleet or snow. It is fitting and proper that we designate this facility in his honor.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the Senate bill, S. 2415.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

N O T I C E

Incomplete record of House proceedings.

Today's House proceedings will be continued in the next issue of the Record.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *108th* CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, WEDNESDAY, OCTOBER 6, 2004 *No. 125*

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by CAPT Alan T. Baker, Chaplain of the U.S. Naval Academy, Annapolis, MD.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Lord, in this Chamber of leaders, who represent in their person, attitude, and vocation each of our 50 States in this great union, we now ask Your blessing, we invoke Your presence, we call upon Your wisdom, and we seek Your will for this great Nation.

Use these Senators throughout this crucial time in our Nation's history. May their work, conducted both in and out of this Chamber, build and not tear down. May their relationships, both in session and thereafter, be ones of collegiality, friendship, and respect. May You be with them as they strive to keep America great.

May You bless the 108th Congress and guide them as they continue to be compass points for our Nation and our world. May the direction they point keep them from temptation and evil, as they offer help and hope to those whose compass is adrift.

We ask this in the name of the one who created us, who sustains us, and who delivers us. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Good morning to the Chair and everyone listening today.

We will have a brief period of morning business for 30 minutes, with the first half under the control of the majority and the second 15 minutes under the control of the minority. We will then resume debate on the intelligence reform bill.

Yesterday, we did invoke cloture on the bill by a vote of 85 to 10; therefore, we will conclude this bill today.

This morning the managers will be here and will have additional cleared amendments to consider prior to a series of stacked votes, which are to begin at 11:30 this morning. In addition to those amendments that can be worked out, Senators may want to come to the Chamber to make closing remarks on the bill.

The order from last night provides for the Senate to begin voting at 11:30 on the pending amendments that will require rollcall votes. It is expected some of the pending amendments will be accepted after some modifications, or possibly withdrawn.

In any event, the voting sequence today will be lengthy. Therefore, Members should be prepared to remain close to the Chamber during that time. I expect to limit the votes to 10 minutes after the first vote in order to expedite passage of the bill.

I remind my colleagues that at the conclusion of the pending intelligence reform bill, we will begin consideration of the resolution relating to the Senate's intelligence restructuring. Our distinguished whips will have a proposal to put forth and we will begin work on that later today. Therefore, additional votes will occur following the completion of the Collins-Lieberman bill.

Lastly, I add that before we finish our business on Friday, which is our goal, we will consider any of the available conference reports, specifically, those of Homeland Security appropriations and FSC/ETI, if those are available.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

COMPLETING THE SENATE'S WORK

Mr. DASCHLE. Mr. President, we have come a long way and I congratulate our managers and thank, once again, our assistant Democratic leader for his assistance in moving our effort along. We will complete our work on the bill today. That is very gratifying. I only hope now once we have completed our work we can expedite consideration with the House. We will await their decisions with regard to how they might proceed. Clearly, we are in a position to complete our work in a reasonable time. I hope the same spirit of bipartisanship that was so clearly demonstrated from the very first day with regard to consideration of this legislation can be equally as evident and apparent as we finish our work. It is the only way the bill will get done under these circumstances. Again, I thank the majority leader for setting that tone.

I also say we are in a very good position to do the same with the legislative reorganization. A lot of thought and effort has gone into the working group's recommendations. I am one who believes this resolution is as close to the consensus within the Congress, within the Senate, at least, regarding how we might respond to the recommendations made by the 9/11 Commission as we will get. We cannot let the perfect be the enemy of the good.

We have provided the Senate with an opportunity to address the concerns raised by the 9/11 Commission in a very reasonable, thoughtful, and comprehensive way.

I thank the assistant Republican leader and the assistant Democratic

Printed on recycled paper.

leader for their work and hope we can complete our work as a result of their contribution in the next couple of days.

We could have a very productive week. As the majority leader has indicated, there are other bills that could be addressed, as well. We have made a lot of progress and I hope we continue to do so.

I yield the floor.

DOMESTIC VIOLENCE AWARENESS MONTH

Mr. FRIST. Mr. President, this month is Domestic Violence Awareness Month. It was launched over 20 years ago by the National Coalition Against Domestic Violence. In 1989, the first Domestic Violence Awareness Month commemorative legislation was passed by the Congress. It has been passed every year since 1989.

We have come a long way in understanding the causes of domestic violence. Most importantly, we understand now that spousal battery is not a mere private matter, something that happens behind closed doors. Domestic violence is a crime. It devastates lives, rips apart families, and affects every aspect of community life. Its victims deserve our best efforts to prevent and prosecute family violence as we would any other violent crime.

Battery is a pattern of fear and intimidation to establish power and control over another person. It is wrong. Battering happens when one person believes they are entitled to control another. Acts of domestic violence include physical assault, sexual abuse, and psychological cruelty. It often escalates from insults and verbal jabs to physical harm.

Fortunately, the work done by many courageous and committed individuals, including community leaders and churches and police departments, family courts, shelters, and advocates, have made a difference. The Department of Justice reports that the number of female victims of intimate violence declined through the 1990s. The number of male victims of intimate violence also went down over this period.

As a society, we are much more aware of the danger signs and of our responsibility to respond and to intervene and to act. We are also more aware of our responsibility as moms and dads and husbands and wives to teach our children by example the value of compassion and respect.

I commend those dedicated to keeping this in the public's consciousness. I urge my colleagues to join in the effort to raise the public's awareness. We have come a long way, but there is still more to do.

I yield the floor.

Mr. DASCHLE. Senator BIDEN has long been a champion in bringing domestic violence to the forefront of the national agenda. He was a leader in the bipartisan effort to pass the Violence Against Women Act, and I worked with him last year to ensure the independence of the Office on Violence Against Women at the Department of Justice.

The Violence Against Women Act made a statement in law that fighting domestic violence is not just sound family policy, it is a moral imperative. It made a statement that domestic violence is not the shameful secret of a select few families, it is an issue with immense repercussions for all of us. Most importantly, it made a statement that as a country, a society, and a national family, we can do something about domestic violence.

As a direct result of the Violence Against Women Act our Nation has made significant strides in the fight against domestic violence. There are more domestic abuse hotlines and more shelters today than there were 10 years ago. There are more doctors, nurses, therapists, teachers, police officers, judges and other community leaders today who recognize the signs of domestic violence, and know how to help when they see those signs.

VAWA has also provided financial means to Native American communities and tribes to combat domestic violence. Before 1994, domestic violence and sexual assault services and resources were rare in Indian Country. VAWA has enabled Native communities to provide safe locations, counseling services, and technical assistance and training, and it has given these communities the flexibility to tailor those services to the unique needs of Indian people.

In addition, just last Wednesday, the Senate passed a VAWA STOP grant technical fix that would allow for a direct Federal tribal coalition relationship. This fix provides an important clarification to ensure that tribal domestic violence and sexual assault programs have a direct link with the Department of Justice underscoring the unique Federal-tribal relationship.

In South Dakota, in Rapid City and on the Pine Ridge Indian Reservation, a non-profit organization known as Cangleska is helping to break the cycle of violence by providing domestic violence prevention and intervention advocacy and services. Cangleska works with organizations like Sacred Circle that serve as a vital national resource for Native women, and I am proud to have it based in South Dakota.

There are similar organizations doing good work in communities all across America, Native and non-Native, rich and poor. We have made progress. But there is much more to be done.

Each year, more than 1 million women in America are victims of domestic violence, and more than 3 million American children witness domestic violence. Protecting the victims of domestic violence is essential, but it is not enough. Domestic violence does not just destroy families, it cascades through generations. Children who get abused or witness abuse are more likely to become parents who abuse.

Next year, when Congress re-authorizes the Violence Against Women Act, in addition to taking further steps to prevent domestic violence, we need to do more to help the children who witness it. This is the only way to begin to break the cycle of domestic violence.

This month, we acknowledge the strength and bravery of the victims and survivors of domestic violence, and we rededicate ourselves to raising awareness about and confronting this deeply disturbing issue.

Let us also vow to do even more in the months ahead to create a country and a climate where home is a refuge, and domestic violence a thing of the past.

Mr. CAMPBELL. Mr. President, today on the Senate floor we are recognizing the month of October as National Domestic Violence Awareness Month.

For far too long, we have been reluctant to talk openly about family violence. When I was growing up, few viewed violence in the home as a crime. As a young deputy sheriff, I learned that people thought of it as a private matter.

Today, we know that domestic violence is not a private family matter, it is a serious crime.

And for far too long, domestic violence has been seen as a problem which impacts only women, but this is not true either. Domestic violence is not just a woman's issue. It impacts the entire American family.

Domestic violence damages children. The seeds of violence are planted early. We know that children are harmed both emotionally and developmentally when they witness or experience violence.

Violence is a learned behavior. So, the cycle of domestic abuse continues generation after generation.

Domestic violence also threatens the security and peace of entire communities. The impacts of abuse are felt by the families, friends and co-workers of victims. They are felt by law enforcement officials, medical workers and other social service workers who are called upon to repair the lives shattered by violence.

Now, there are advocacy groups, support groups, 24-hour-crisis hotlines, and housing assistance.

And, today there is a network of almost 1800 domestic violence programs in the United States. Approximately 1,200 of these include shelter. Now, most shelters include facilities for the children, too.

Understanding first-hand the impact of family violence, I have made anti-violence and domestic violence legislation a top priority throughout my years in Congress.

A year ago, during the month of October, the Stamp Out Family Violence Stamp was issued. The stamp, similar to the Breast Cancer Stamp, earns monies for domestic violence shelters throughout the country, with special emphasis on programs for children who witness domestic violence. By the end of July this year, the stamp had netted $1.2 million for shelter programs.

But there is more to be done. Domestic violence can be prevented. Around the country there is innovative and exciting work taking place to help reduce family violence. While we must continue our efforts to provide help and shelter for victims, we must also step up our efforts in providing helps that will prevent violence.

Many believe that enacting broader Federal laws is the answer to this problem. But, I believe that adding more rules on the books without the ability to enforce them is a hollow and incomplete gesture.

We must all speak out on this issue. Victims must speak up and ask for help. Local, State and national authorities must speak up. And, communities must recognize the pervasive effects of violence on all aspects of community life. I believe that by combining education, research, and community-based efforts, we can create reasonable, multi-faceted solutions to a problem that has no boundaries and knows no laws.

Mrs. FEINSTEIN. Mr. President, today with my colleague, Senator KYL, I commemorate Domestic Violence Awareness Month and pay tribute to the millions of victims of domestic violence in the United States: both those who daily face fear and pain at the hands of the ones they love, and those who have had the courage to seek help.

Domestic violence causes far more pain than the visible marks of bruises and scars. It is devastating to be abused by someone that you love and think loves you in return. It is estimated that approximately 3 million incidents of domestic violence are reported each year in the United States. Tragically, domestic violence remains a pervasive threat to the fabric of America's families and the well-being of America's future.

Around the world, one out of three women is abused by their domestic partner or another member of their family. This means that each of us probably knows at least one victim of domestic abuse.

It is primarily a crime against women, who account for approximately 85 percent of domestic abuse victims each year. Indeed, nearly one-third of American women report being physically or sexually abused by a husband or boyfriend at some point in their lives, and each year as many as 324,000 women experience domestic violence during their pregnancy. It is truly heartbreaking to hear these victims' stories and to know that so many women and even some men face this pain on a regular basis.

Domestic violence does not only happen to adults. Forty percent of girls age 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend, and approximately one in five female high school students reports being physically and/or sexually abused by a dating partner. And these are only the cases that are reported.

Additionally, many children are caught in the middle, witnessing abuse or being abused themselves. Domestic violence is witnessed by between 3.3 and 10 million children every year. And, studies show that half of all men who frequently assault their wives also frequently abuse their children. The emotional impact of this abuse during childhood can have a devastating effect on the rest of a person's life.

Domestic abuse creates a cycle of violence. Children who are abused or witness abuse are at a higher risk of abusing their own family and significant others as an adult as well as long-term physical and mental health problems, including alcohol and substance abuse. It is evident that these abuse victims follow the example they learned in childhood and continue the cycle of violence when they are adults.

Statistics can show the wide scope of domestic violence, but numbers cannot demonstrate how frightening domestic violence is to a victim. I have read stories of many victims, both men and women, whose lives are changed forever by the fear and pain they feel as a result of their partner's violent behavior.

Let me talk about just one story I read recently. At first glance, Pam Butler appeared to have the perfect life. She grew up in a stable, loving family in Palo Alto, CA. That stability was shattered when she met Michael Braga.

Michael Braga was a charismatic but troubled man who quickly romanced Pam Butler. He began to control every aspect of her life: limiting her contact with friends and family, controlling her money and living space and chipping away at her self-confidence. This behavior quickly escalated into violence. Pam was beaten unconscious on several occasions. She painfully learned to hide the signs of the beatings because she was ashamed to be in such a horrible situation.

After several beatings caused re-injury to an old skull fracture, Pam Butler realized that staying in the relationship could kill her. She enlisted the help of Santa Clara County Assistant District Attorney Joyce Allegro.

I am pleased to report that Mr. Braga was arrested and prosecuted. Following his trial, he was sentenced to 12 years in prison, one of the longest sentences for domestic violence passed down in California history.

As a result of her experiences with domestic violence, Pam Butler has devoted many hours to assisting other victims. She is the Domestic Violence Victim Advocate for the County of Santa Clara's Social Services Agency. She has also spoken about domestic violence across the United States. Her story is an inspiration to every person who has been a victim of domestic violence.

Another heartbreaking story is that of Michele, a Chicago woman who had been abused just as her mother and grandmother had before her. Michele's father hit and insulted her throughout her upbringing. Unfortunately, Michele was not able to break the cycle of violence and fell into the same trap as her mother and grandmother.

Her first husband beat her, cheated on her, called her insulting names and controlled her ability to come and go from her house. Although she was well-read and bright, Michele did not believe she had the ability to escape this horrible situation.

Ultimately, her husband left her and her children, and she continued the cycle of violence with other abusive men. Eventually, she and her children found themselves homeless. Only then did she realize that she could get help. Michele now encourages other victims to seek help and speak out against domestic violence.

It is vital that we act to stop the cycle of domestic violence. To this end, last April the Senate passed the Victims' Rights Act by a vote of 96 to 1. I am proud to have been a long-time supporter and cosponsor of this important legislation. The act amends the federal criminal code to expand the rights of victims, especially the protection of victims of domestic violence, during the course of an alleged offender's trial and imprisonment.

This is landmark legislation in its ability to ensure the rights of all victims, but it is especially important for victims of domestic abuse. The Victims' Rights Act assures victims the right to be reasonably protected from the accused. It guarantees the right to reasonable, accurate and timely notice of any public proceeding involving the crime, as well as any release or escape of the accused offender. And it protects the victim's right to be treated with fairness and with respect for his or her dignity and privacy.

The Victims' Rights Act is one of the most important pieces of legislation that I have had the privilege of supporting during my 12 years in the Senate. It is currently before the House Subcommittee on Crime, Terrorism and Homeland Security, and I strongly encourage the House to take it up soon.

In closing, I am grateful for the opportunity to honor the victims of domestic violence and to call for an end to the cycle of violence. It is my sincere hope that we will all know peace and security in our own homes.

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I join the majority leader and others who I understand will come to the floor to call attention to the need for recognition of the problems of domestic violence. October is National Domestic Violence Awareness Month. As the majority leader noted, last week we passed a resolution supporting the efforts to address more effectively domestic violence in this country.

This is an important issue, a very troubling issue to people all over this country. We have been lax in recognizing the depth and the breadth of the problem within our country. In South

Dakota and across the land, new efforts are being made to address the need for greater awareness, the need for greater education, the need for greater prevention, the need for greater response. And it is only if we as Senate leadership ensure that the people of this country recognize the importance of making this a higher priority will those needs be addressed throughout the Nation.

So I commend those who are taking the floor this morning to once again draw attention to these needs, draw attention to our need to respond, and to draw attention to the important priority it ought to have as we consider public policy.

ONGOING JOB CRISIS

Mr. DASCHLE. Mr. President, 18 months ago, a group of 450 economists, including 10 Nobel laureates, made it clear that because the White House put the narrow interests of a few ahead of our Nation's economy, its jobs plan would fail. It would fail to create jobs, it would fail to lift wages, and it would fail to bring down our deficit.

The warning was clear. Now the record is undeniable. In the last 3 years, we have lost 1.6 million private sector jobs. The last time the economy took this long to replace jobs lost in a recession was the Great Depression. Mr. President, 2.7 million manufacturing jobs have been lost, and many sent overseas on a one-way ticket. Unemployment has increased 40 percent, and today 8 million Americans are out of work. And 1.7 million have been out of work for 6 months or longer.

That is horrible news for a couple that is hoping to retire, a family that is trying to put a child through college, or anyone who has been living from paycheck to paycheck.

But this situation touches all Americans, including those who have jobs today. That is because the weakness in the job market has undermined wage and salary growth. Real household income has dropped 3.4 percent since 2001. Adding to the squeeze, college tuition is up, gas prices have risen to all-time highs, and the cost of health care has risen by 45 percent since 2001.

Middle-class families are beginning to believe that the deck is stacked against them, and for good reason. The CBO recently confirmed what many of us have been saying for the past few years: The President's economic plan rewards wealth and punishes work by shifting the tax burden onto the shoulders of middle-class families. Even with middle-class families bearing more than their fair share of the tax burden, the country is looking at years and years of record deficits and debt.

This past weekend, I traveled around South Dakota, meeting with people and going door to door. More than any time in my memory, people tell me they need two or three jobs—not to get ahead, not to save for a house or their child's education, but simply to make their monthly bills. Many good manufacturing jobs have left the State, and it is getting more difficult to find full-time jobs that pay a wage good enough to raise a family.

Recently, I received a letter from a young woman in Lake Andes. She has done everything right. She went to college, got a master's degree, and got advanced skills that could help move our economy forward. But because there are so few good jobs, she has been out of work now for months. Just to get by, she has applied for lower skilled work. But often she is passed over for those jobs because employers worry that she is overqualified. What does it say about our economy that someone with real skills, willing to work hard, cannot get a job?

Out in our small towns and farming and ranching communities, the story can even get worse. I have been visiting these communities for more than 25 years. There is nothing more gratifying to me than to see a family farmer or rancher raise their children, teach them how to farm, and then pass their land down to them. That is why we led the fight to create an exemption in the estate tax to allow families to pass from one generation to the next the farms they have lived on for generations before. But too many family farms are getting swallowed up.

More often, children are forced to leave the communities they know and the families they love to find work in other places. They don't want to leave, but they cannot find work good enough to allow them to raise a family. So the way of life their families have enjoyed for generations is being lost. These families have been struggling for years, watching all they have worked for slip away from them. Yet when they look to Washington, they do not see their Government fighting for them, or even hearing them at times. The administration continues to say the economy has turned a corner. When these families look ahead, they don't see a corner, they see a cliff, and they are worried they are going to fall off.

Americans do not want to wait until after the election to do something. They need help now. I am glad we extended the middle-class tax cuts. Middle-class families need relief. Previous tax cuts were unfairly skewed to the very wealthiest of Americans. This was the right thing to do. It will probably help those people who are struggling, but there is much more that we need to do.

First, we need to pass a real jobs bill, one that puts top priority on creating jobs at home, closes corporate tax loopholes, and ends the incentives that encourage companies to ship American jobs overseas.

Second, we need to extend the unemployment benefits. Every week, another 85,000 Americans exhaust their unemployment benefits. They should not be punished because the economic policies that are in place have created the longest jobs slump since the Great Depression.

Third, it is time to raise the minimum wage. Today, the minimum wage is $5.15 an hour, and it is worth less than $3 when using 1968 wage indicators. Americans who work at the minimum wage for 40 hours a week, 52 weeks a year, still fall $5,000 short of the poverty line. No American who works full time, 52 weeks a year, should live in poverty. In the time we have left this year, we should increase the minimum wage to $7. It will not lift every working family out of poverty, but it will move millions of minimum wage workers closer to the life of security and dignity they deserve.

Fourth, we need to pass a Transportation bill that would provide needed infrastructure improvements across the Nation.

Fifth, we need to help workers whose jobs have been outsourced overseas to get back on their feet.

Finally, we need to pass the renewable fuels standard. In South Dakota alone, a renewable fuels standard would create 10,000 jobs and revitalize the rural economy. By reducing reliance on foreign oil, families would be less vulnerable to high energy costs.

It looks as though this Congress will end having failed to take strong action on behalf of American working families. Unfortunately, the leadership has stood in the way of commonsense proposals that would create jobs and improve the lives of working people.

Republican opposition to legislation designed to create jobs and help workers would be troubling at any time, but considered together, at a time when working families continue to feel the effects of a 3-year-long jobs slump, their stubborn opposition demonstrates a troubling indifference to the needs of American middle-class families.

Americans still dream of a better life. They still dream of a better future for themselves and their families. We have a responsibility to give Americans a chance to make that dream real. But it is time we tell Americans who are struggling that help is on the way. We are not helpless. We can create jobs, lift wages, and stop the outsourcing of the American workplace. All it takes is leadership.

Americans have been looking to Congress to provide the new direction of economic leadership they need. We have 1 more week before the Senate recesses. The American people are demanding action, and we have an obligation to deliver it.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDENT pro tempore. Will the Senator allow me to make an announcement?

Mr. REID. Yes.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved that has not been used.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for 30 minutes, with the first half under the control of the majority leader and the second half under the control of the Democratic leader.

The Senator from Arizona.

DOMESTIC VIOLENCE

Mr. KYL. Mr. President, there are a lot of problems that affect people around the world and in this country. Some go unmentioned and yet affect millions of lives and are with us every day. One of those problems is the problem of domestic violence.

I was so pleased that both the majority leader and the Democratic leader, this morning, began their official presentations in the Senate talking about the problem of domestic violence and the fact that the Senate, last week, unanimously passed a resolution which supports ''the goals and ideals of National Domestic Violence Awareness Month,'' which is this month of October, and expresses ''the sense of the Senate that Congress should raise awareness of domestic violence in the United States and its devastating effects on families.''

Our message in passing this resolution is aimed both at a national audience as well as every individual who is a victim of domestic violence or who knows one. Their message is not a moment of silence, as is frequently the case but, rather, the message is: ''It's time to talk.'' And all around the country—indeed, the world—this message is being conveyed today and for the remainder of this month.

I want to thank Marie Claire magazine, for example, and organizations that are promoting this theme: ''It's time to talk.'' And why is that important? Because as almost anyone who understands the problem of domestic violence knows, the biggest reason the problem remains with us is that it is kept a secret.

People are ashamed or afraid to talk, to begin the conversation that would confront and, therefore, solve the problem. That is why ''It's time to talk'' is so important. It is not just the victims who should talk, it is society as a whole.

As the resolution states:

> There is a need to increase the public awareness about and understanding of domestic violence and the needs of battered women and their children.

It is hard to convey the sense of this problem talking statistics, but I think it is important that we understand the magnitude of the problem, not in terms of human suffering with individual stories but to understand the statistics of how serious the problem is. We have made progress to be sure, but it is still a very serious problem.

An average of more than three women are murdered by their husbands or boyfriends in the United States every day, and someone in the United States is sexually assaulted every 2 minutes each year. Each year, about 342,000 pregnant women in the United States are battered by the men in their lives, leading to pregnancy complications, including low weight gain, anemia, infections, and many others. In 2002 alone, 250,000 women and girls older than the age of 12 were raped or sexually assaulted, a quarter of a million women. One out of every 12 women has been stalked in her lifetime.

It is an issue not only for today's generation but for children because nearly 9 million witness domestic violence every day. This obviously creates a risk factor in their lives for having long-term physical and mental health problems, including substance abuse, being a victim of abuse, and becoming a perpetrator of abuse. A boy who witnesses his father's domestic violence is 10 times more likely to engage in domestic violence than a boy from a nonviolent home. Forty percent of girls ages 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend. One in five adolescent girls in the United States becomes a victim of physical or sexual abuse or both in a dating relationship.

The cost is devastating. The real cost is the emotional and psychological harm that occurs to victims of domestic violence and to their families. But there is also a staggering cost to society. As we noted in the resolution adopted in the Senate, the cost of domestic violence, including rape, physical assault, and stalking, exceeds $5.8 billion each year, of which $4.1 billion is spent on direct medical and mental health care services.

The problem exists in my State of Arizona. Just to cite a couple statistics: 81 of the 440 homicides reported in Arizona in the year 2003 were a result of domestic and/or dating violence; this year, as of September 8, there were 61 domestic violence-related deaths reported; in the year 2002, every 5 minutes police responded to a call involving domestic violence; every 19 minutes an arrest was made as a result of a domestic violence incident; and every 36 minutes police were called to the scene of domestic violence where children were present. In that same year, 91 law enforcement agencies in Arizona reported a total of over 112,000 calls to service for domestic violence. Of those calls, there were a total of 26,000 arrests made.

I conclude by acknowledging the dedication of all the people tirelessly working behind the scenes to try to end domestic violence and to deal with the crisis of strengthening the survivors of domestic violence.

I have toured centers in Arizona—for example, city centers against family violence in Mesa, Glendale, and Scottsdale, all leading the way. We have raised money and dedicated sites for the Autumn House Domestic Violence Shelter, Chrysalis Shelter, the Center Against Sexual Abuse, ChildHelp USA, and the Sexual Assault Recovery Institute, and many others. I thank all of them for their efforts in trying to deal with this important crisis.

I also thank those of my colleagues who have been involved in this effort: my colleague DIANNE FEINSTEIN, who has worked so tirelessly in this effort in trying to provide help for victims of crime, for example; Senator BIDEN, who was one of the authors of the resolution about which I spoke earlier. There are others who will come to the floor of the Senate throughout the morning either to provide statements or to deliver them here noting the nature of the problem.

It is fitting that this month is designated as National Domestic Violence Awareness Month. It is fitting that our resolution passed in the Senate notes that we should raise awareness of domestic violence in the United States and its devastating effects on families, as I said in the beginning. In order to solve this problem, we have to begin by acknowledging it and confronting it. It is indeed time to talk.

The PRESIDING OFFICER. The Senator from Minnesota.

WAR ON TERROR AND THE ECONOMY

Mr. COLEMAN. Mr. President, I rise today to discuss the situation in the war on terror. I listened to the debate last night, and I heard the candidate from the other side of the aisle talk about what a mess things were, how terrible everything was, how terrible things are in Afghanistan. Afghanistan is on the verge of having elections. Ten million Afghanis have registered to vote in spite of threats.

The Vice President made a compelling case talking about El Salvador. People thought that democracy would never flourish. Yet because of the desire for democracy and the opportunity to vote, we have seen matters turn around.

I had the opportunity to be with the President of El Salvador and the Presidents of other Central American countries at a breakfast. We have democracy in Central America. The lure of democracy is so powerful.

I was listening to the distinguished minority leader, and he made references to the Great Depression, references to the economic situation today in analogy to the Great Depression.

The President has made it clear: As long as any American does not have employment, we have to do better. But the reality is so far from the Great Depression. Some people must walk around and see us surrounded in darkness. In 1996, when Bill Clinton was running for reelection, the January to August average unemployment at this time, where we stand today, was 5.5 percent. It is 5.6 percent today. The unemployment rate for African Americans during that same period, the first-

term average of President Clinton was 11.3 percent. It is 9.9 percent today. The unemployment rate for Hispanics during the first term of President Clinton was 9.7 percent. It is 7.2 percent today. America's standard of living is on the rise. Real after-tax incomes are up nearly 10 percent since December 2000, substantially better than the comparable time period in the previous business cycle. Consumer confidence continues to be substantially high. The national home ownership rate was at an alltime high. Minority ownership has set a new record of 51 percent in the second quarter and is up 2.1 percentage points from a year ago. Core inflation remains low. Mortgage rates remain at historic lows.

There are challenges in this economy, but to draw a comparison to the Great Depression is a little excessive. The reality is, we do have things to do. But I urge my colleagues on the other side of the aisle: Set us free. Let's get an energy bill passed, an energy bill that had 44 Republicans voting for it, 13 Democrats. The reality is that if the minority leader wanted to get this done, it could get done.

I represent the State of Minnesota. We are neighbors of the folks in South Dakota. I know they want an energy bill. Within that energy bill is a renewable fuels standards that would double the production of ethanol and will bring to life the soybean biodiesel industry, a great opportunity for our communities. If you want to grow jobs, get an energy bill passed. Give us the number of votes we need to get through cloture.

Let us have class action reform. We came within a few votes of getting that done. You want to grow jobs, talk to the manufacturers in this country, talk to the small business people. They will tell you what they need. They need class action reform. Our friends on the other side won't give it to us.

We need asbestos reform. We need medical malpractice reform. We couldn't even get welfare reform done. Again, those on the other side of the aisle were filibustering, saying: We will not allow it to happen. There is no work requirement today in welfare, if the welfare reform change that was previously passed expires.

We have a lot of work to do. There is a plan and a vision out there. The vision is to make American business competitive with businesses all over the world. We do that by cutting taxes. We don't do that by raising the tax on small businesses, many of which are subchapter S corporations or sole proprietorships that pay taxes at the rate of the highest level. They pay more than large corporations pay. Yet my friends on the other side of the aisle talk about rolling back that tax cut, which would have a devastating effect on small business.

In Minnesota we sometimes talk about the Scandinavian who loved his wife so much he almost told her. As I listened to the distinguished minority leader, I got this sense that folks care so much they will almost do something.

We have a path to do something. It lies through an energy bill. It lies through medical malpractice reform. It lies through class action reform. It lies through getting the FSC/ETI JOBS bill through. Right now American manufacturers are paying a double-digit tax, in effect, because of a WTO violation.

We can lower that. We can change it. Instead, we find it blocked. No, it is not the Great Depression. There is more work to be done. There is a path, but the path doesn't lie with obstruction. I know the people of Minnesota and of South Dakota need an energy bill, and they want one.

In the last few minutes I have, because I want to give some time to my friend and colleague, the Senator from Pennsylvania, I want to talk a little about what is happening in the war on terror and in Iraq.

This week, the forces of freedom won a major battle. We reclaimed the city of Samarra. We reclaimed it by working with the 5,000-member joint force of Americans and Iraqis liberating that city from insurgents and foreign fighters. The fact is that we are not out there by ourselves, and the reality is that we need the Iraqis to step forward, and they are doing so. Yet the Prime Minister of Iraq came here and addressed a joint session of this body and the House. He then was disparaged by the Democratic nominee for President; the Iraqi sacrifice was disparaged.

Last night, we heard the Democratic Vice Presidential candidate simply dismiss the sacrifice of our strongest ally. We are not in this alone. We are not going to win it alone. But we can win it. We are not going to win it if we take an attitude that it is simply a diversion, if we take an attitude that things are so messed up that nothing will come together. We are not going to win it with folks who don't have the resolve to see this through or have the consistency to say, yes, it is a good thing that Saddam is no longer in power. We are not going to win by dismissing the contributions of our allies—the Polish, the English, the Italians, the Salvadorans, and on and on. We are not going to win it if we dismiss the sacrifice of the Iraqi people. We need them to step forward. We saw in Samarra what happens when you come together: You can liberate a city from insurgents.

Mr. President, we have a lot of work to do. The situation is not perfect, but we can get it done with the leadership of this President.

I yield the floor.

Mr. SANTORUM. Mr. President, how much time is remaining?

The PRESIDENT pro tempore. There is 1 minute remaining.

GOOD SAMARITAN VOLUNTEER FIREFIGHTER ASSISTANCE ACT

Mr. SANTORUM. Mr. President, I was going to talk about the Kerry health plan, but I will do that later. I want to talk briefly on the Good Samaritan Volunteer Firefighter Assistance Act. We have been trying to clear a provision that would allow more equipment—used equipment—to go to volunteer firefighters from companies all over the United States by giving a slight change in the liability standard for companies that donate this equipment.

We have done this in the area of the Good Samaritan Food Donation Act, which resulted in billions and billions of dollars in additional food going out to hungry people in America. Nobody has been sued, by the way. What was sued under the Good Samaritan Food Donation Act—we were not taking money out of anyone's pocket with lawsuits. No one, to my knowledge, has been sued by donating firefighting equipment. Nobody is going to lose out—no lawyers—from lawsuits by this donation. It is an opportunity for companies that waste a lot of resources to be able to give back.

UNANIMOUS-CONSENT REQUEST—H.R. 1787

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 748, H.R. 1787, the Good Samaritan Volunteer Firefighter Assistance Act.

Mr. DURBIN. Reserving the right to object, Mr. President, I might say to the Senator from Pennsylvania, it is a very good bill and one I may be anxious to support. I think one Senator has a problem, but I am told it is very close. I will object at this moment, but I encourage the Senator to work actively because I believe we can clear this bill quickly.

Mr. SANTORUM. Mr. President, we have been working for several weeks on this bill. I know both Senators COLLINS and LIEBERMAN have been helpful. We are getting to the end of the bill. It is vitally important to be able to get this passed so we can get this help on the way. It only had three negative votes in the House of Representatives. This is something we should be able to do for our first responders.

The PRESIDENT pro tempore. There will now be a period under the control of the minority leader for 15 minutes.

The Senator from Illinois is recognized.

VICE PRESIDENTIAL DEBATE

Mr. DURBIN. Mr. President, last night, I was in Cleveland, OH—I got back in the early hours of this morning—to be present at the Vice Presidential debate between our colleague, Senator EDWARDS, and Vice President CHENEY. It is an interesting responsibility and assignment that I had, along with several of my colleagues on the Republican side, to provide the so-called spin after the debate. You would think that voters could reach their

own conclusions about who said what and how they should vote, but there are many who line up in an effort to stress the important and strong points made by their candidate. That was my role last night.

I am not going to presume to tell anybody who watched that debate who won or lost. I will point out two specific things that were said by Vice President CHENEY that I believe demand some clarification. He said at one point in the debate that he had never met Senator EDWARDS. In fact, he said:

In my capacity as Vice President, I am President of the Senate, the presiding officer. I am in the Senate most Tuesdays in session. The first time I met you [Senator EDWARDS] was when you walked on the stage tonight.

That is what Vice President CHENEY said last night. You know, all of us forget from time to time when we have met someone. In this particular instance, the Vice President had forgotten that at least on two previous occasions he had not only met Senator EDWARDS but had been in very close contact with him. In fact, at the National Prayer Breakfast on February 1, 2001, Vice President CHENEY acknowledged Senator EDWARDS, who was in the audience. They were at the same event. Then, at the swearing-in ceremony for Senator EDWARDS' colleague, Senator ELIZABETH DOLE, in 2003, in fact, Vice President CHENEY was standing right next to Senator DOLE and Senator EDWARDS.

So to suggest that he never met the man last night—it turns out that he had a lapse in memory. It happens to us all. It is a rather incidental thing in the scheme of things but for the other lapse of memory the Vice President had last night. I listened to him say these words, and I could not believe it. He said:

I have not suggested there is a connection between Iraq and 9/11.

I wrote that down and underlined it, saying I can't believe that, because I have heard him say repeatedly that there was a connection between 9/11 and Iraq that warranted our invasion of Iraq before we put together a broad and strong coalition to share in the burden. So with some research we find that at least on two occasions, and many others perhaps, the Vice President has forgotten again. This is what he said on December 2, 2002:

His [Saddam Hussein] regime has had high level contacts with al-Qaida going back a decade, and has provided training to al-Qaida terrorists.

That is a direct quote from Vice President CHENEY, who said last night he had never suggested that connection.

Then again, on January 22, 2004, on National Public Radio, the ''Morning Edition,'' he said:

I think there is overwhelming evidence that there was a connection between al-Qaida and the Iraqi government.

Those are his quotes. Last night, he denied them. I will tell you why he should have denied them. He was wrong. He was wrong then and wrong the other times he suggested the connection between Saddam Hussein and al-Qaida to justify our invasion of Iraq. In fact, the 9/11 Commission, a bipartisan commission, has dismissed that premise. The Senate Intelligence Committee, which I serve on, has dismissed that premise and said the intelligence community failed us when they made that suggestion. And here is the best part. On October 4 of this year, Secretary Donald Rumsfeld, in the President's Cabinet with the Vice President, said he had no hard evidence to link al-Qaida and Saddam Hussein. The Secretary of Defense said:

To my mind, I have not seen any strong, hard evidence linking the two.

Why is this significant? It is significant for the same reason that the report that is about to come out today, ordered by this administration, a report prepared by the chief U.S. weapons inspector in Iraq, again says that there is no evidence of weapons of mass destruction. This administration is in denial when it comes to the reality of Iraq.

Mr. STEVENS. Would the Senator like to yield there?

Mr. DURBIN. No, not until I have completed my statement; then I'll be happy to yield.

This administration is in denial when it comes to the reality of Iraq. We have a Vice President who linked Saddam Hussein and al-Qaida, and that has been debunked and dismissed by several sources, including his own Secretary of Defense, and an administration that still clings to this notion of weapons of mass destruction despite report after report of no evidence of weapons of mass destruction, and they tell the American people that is why we had to do this; that is why we had to invade before we put together a coalition, that is why we had to send troops into combat before they had the necessary body armor to protect themselves, before the Humvee vehicles that our brave soldiers were driving in Iraq were protected with armor, before our helicopters had the necessary defensive equipment, we sent our troops into harm's way.

The Bush administration saw an urgency based on wrong information. Today, neither the President nor Vice President will accept the reality that they were wrong. How can you make a policy in America to make it stronger unless and until you accept the reality?

Last night, Vice President CHENEY could not accept the reality that he was wrong linking 9/11 to Saddam Hussein, and the President cannot accept the reality that there were no weapons of mass destruction. In fact, now the report says the best they can find was a desire to build weapons of mass destruction. Is that what it takes to justify a preemptive attack on a country, that its leader may desire to create a weapon that could threaten us? I certainly hope the standard would be much higher.

If you look at the record—I listened to the Senator from Minnesota who talked to us about domestic issues—it is hard to imagine that they are going to make an argument on the Republican side that this has been a successful administration when it comes to domestic issues.

Just take a look at private sector jobs. Under President Clinton, 20.7 million private sector jobs were created; under President Bush, we lost 1.6 million private sector jobs. You have to go back 70 years through Democratic and Republican Presidents to find such a failure in the creation of jobs. But this administration clings tenaciously to the notion that their economic policy is the best.

I see the Senator from Delaware. How much time do I have remaining in morning business?

The PRESIDING OFFICER. The Senator has 7½ minutes.

Mr. DURBIN. Will the Chair advise me when I have 1 minute remaining?

Let me also talk about our fiscal situation. When we talk about the need for more money for education, more money for health care, tax credits for small businesses to provide health insurance, tax deductions for families to help pay for college tuition, we find we are in a difficult position to even consider it. Why?

Here is the chart that tells the story. Take a look at this. As President Clinton left office, there was a $236 billion surplus in the Federal Treasury. Today, under President Bush's leadership, there is a deficit of $422 billion, the largest deficit in the history of the United States.

We have our hands tied when it comes to doing things to help American families get through this tough time when they see the cost of gasoline, the cost of health care, and the cost of college tuition going up, while their personal incomes are not increasing.

Take a look, as well, at the specifics when it comes to real household income for families in America under President Bush. It declined by $1,535, 4 years of President Bush; real family income down $1,500.

Now take a look at the cost to families. Under President Bush's leadership, the cost of family health care premiums has gone up $3,599. When Senator EDWARDS turned last night to Vice President CHENEY and said, I don't think America can take 4 more years of this, this is what he is talking about. Real family income is declining and the cost to families for the necessities of life is increasing.

What we are finding out over and over is that families are not better off. We have seen household income go down under the Bush administration, gasoline prices up 22 percent, college tuition costs up 28 percent, family health care premiums up 45 percent. That is the harsh reality of the cost of

living for working families across America.

When Senator EDWARDS confronted Vice President CHENEY last night with those realities, what the Vice President said was, Well, we certainly hope everyone can find a job. Hope is not enough. You need a policy that does not reward the wealthiest in America with tax cuts, but that instead helps working families deal with the realities of the costs of life.

The Vice President and the President are wrong. They are wrong in their policies and some say resolute, I say perhaps too resolute, in sticking with the policy that has failed.

We are in a position where we need new leadership. We have that opportunity, and last night's debate showed the sharp contrast between the projected programs and hopes and policies of the Kerry/Edwards ticket as opposed to the harsh realities of the programs we have seen over the last 4 years.

Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, I ask unanimous consent that I have 5 minutes and the Senator from Delaware have 5 minutes.

Mr. DURBIN. I object to that request. If the Senator from Alaska is going to address me, I would like to have 5 minutes.

Mr. REID. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. STEVENS. If the Senator will not yield to me, I will not yield to him. I want 5 minutes and the Senator from Delaware wants 5 minutes. Does the Senator object?

Mr. DURBIN. I object, Mr. President.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding that, under the order that is now before the Senate, we on the minority side have about 3½ minutes remaining; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent that the Senator from Delaware be given 5 minutes and the Senator from Alaska be given 10 minutes.

Mr. STEVENS. I object. I only want 5 minutes, and I want to be able to respond to the Senator from Illinois. He would not yield to me. I see no reason why I should yield to him.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Senator CARPER has 3 minutes now. There is no unanimous consent request pending now, is there?

The PRESIDING OFFICER. There is not.

Mr. STEVENS. What is the time situation?

Mr. REID. I yield 3 minutes to the Senator from Delaware, Mr. CARPER.

The PRESIDING OFFICER. The Senator has 2½ minutes remaining. The Senator from Delaware is recognized for 2½ minutes.

Mr. STEVENS. Mr. President, I cannot hear.

The PRESIDING OFFICER. The Senator from Delaware has 2½ minutes.

The Senator from Delaware.

ESTABLISHING A NATIONAL PARK

Mr. CARPER. Mr. President, later this morning, I will introduce legislation, along with Senator BIDEN, calling for a feasibility study by the Department of the Interior for establishing a National Park Service unit in a State that has never had a national park.

Believe it or not, the State that started the Nation, the first State to ever ratify the Constitution, has no national park.

The State in which the first Swedes and Finns came to America and landed on what is now Wilmington, DE, calling it New Sweden, has no national park.

The State where John Dickinson grew up, who is a coauthor of the Great Compromise creating a bicameral legislature, has no national park.

I could go on.

The heritage of our State and the history of our State together create a fabric which, in a sense, is the tapestry of America. Senator BIDEN and I thus call on the Department of the Interior to conduct a feasibility study to see if maybe a wonderful idea that has evolved from a committee led by Dr. Jim Soles, a professor at the University of Delaware, might win favor with the Department of the Interior and maybe with our colleagues in the year to come.

What is being proposed is a Delaware national coastal heritage park.

It would weave together many of the elements and attractions along the coast of our State, which include the Atlantic Ocean, the Delaware Bay, and the Delaware River.

For the last year or more, a wonderful group of Delawareans has worked together with the Delaware State Division of Parks and Recreation, with the National Park Service, with the Delaware Division of Historical and Cultural Affairs to develop what we believe is a unique and innovative concept, a concept that would include four hubs. The major hub would be in Wilmington, DE, at the rocks where the first Swedes and Finns came ashore in 1638 to America to establish what is now the longest living active Episcopal church, Old Swedes Church, in North America.

That hub would be almost like the hub of a wheel, with spokes emanating to historic sites, natural areas, recreational opportunities, and other attractions in the area. There would be three other similar hubs up and down the State of Delaware as well.

Later today, when I have more time, I welcome the opportunity to share with my colleagues a bit more about this proposal. I have

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alaska.

Mr. STEVENS. I yield myself time under the intelligence bill.

Mr. REID. Has the bill been reported?

The PRESIDING OFFICER. No.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Pending:

Kyl Amendment No. 3801, to modify the privacy and civil liberties oversight.

Stevens Amendment No. 3839, to strike section 201, relating to public disclosure of intelligence funding.

Leahy/Grassley Amendment No. 3945, to require Congressional oversight of translators employed and contracted for by the Federal Bureau of Investigation.

Reid (for Harkin) Amendment No. 3821, to modify the functions of the Privacy and Civil Liberties Oversight Board.

Roberts Amendment No. 3742, to clarify the continuing applicability of section 504 of the National Security Act of 1947 to the obligation and expenditure of funds appropriated for the intelligence and intelligence-related activities of the United States.

Stevens Amendment No. 3827, to strike section 206, relating to information sharing.

Stevens Amendment No. 3840, to strike the fiscal and acquisition authorities of the National Intelligence Authority.

Stevens Amendment No. 3882, to propose an alternative section 141, relating to the Inspector General of the National Intelligence Authority.

Warner Amendment No. 3876, to preserve certain authorities and accountability in the implementation of intelligence reform.

Levin Modified Amendment No. 3809, to exempt military personnel from certain personnel transfer authorities.

Levin Amendment No. 3810, to clarify the definition of National Intelligence Program.

Stevens Amendment No. 3830, to modify certain provisions relating to the Central Intelligence Agency.

Warner Amendment No. 3875, to clarify the definition of National Intelligence Program.

Reid (for Leahy) Amendment No. 3913, to address enforcement of certain subpoenas.

Reid (for Leahy) Amendment No. 3916, to strengthen civil liberties protections.

Reid (for Leahy) Amendment No. 3915, to establish criteria for placing individuals on the consolidated screening watch list of the Terrorist Screening Center.

Collins (for Frist) Modified Amendment No. 3895, to establish the National Counterproliferation Center within the National Intelligence Authority.

Collins (for Frist) Amendment No. 3896, to include certain additional Members of Congress among the congressional intelligence committees.

The PRESIDING OFFICER. Under the previous order, the time until 11:30

a.m. will be equally divided for debate between the two managers and 15 minutes of that time will be under the control of Senator WARNER and Senator LEVIN.

The Senator from Maine.

Ms. COLLINS. Mr. President, I yield 10 minutes to the Senator from Alaska. I then hope we can proceed to four pending amendments of the Senator from Alaska.

Mr. REID. On this time, on behalf of Senator LIEBERMAN, I yield 10 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 10 minutes, to be followed by the Senator from Illinois for 10 minutes.

AMENDMENTS NOS. 3830, AS MODIFIED, 3840, AS MODIFIED, AND 3882, AS MODIFIED, EN BLOC

Mr. STEVENS. I have sent three of the pending amendments to the desk in an amended form. These changes have been coordinated with the managers of the bill and I believe they are acceptable to them.

The first amendment, No. 3840, revises the acquisition authority of the national intelligence director and that is at the desk. The second amendment, No. 3830, modifies a certain provision related to the Central Intelligence Agency and that amendment is at the desk. Amendment No. 3882 revises the provisions related to the inspector general of the National Intelligence Authority. It conforms these provisions to those in the Inspector General Act and avoids duplication of the inspector general efforts across the impacted agencies. That amendment is at the desk.

I appreciate the courtesy of the managers of the bill and their staffs, and their willingness to engage in dialog on these amendments with me and my staff.

We are still working to resolve differences over amendment No. 3827 regarding the information-sharing network to address some of the concerns identified by the White House and others. We hope to reach a resolution on that language this morning, but, as I said, I thank the managers of the bill for their help in resolving these issues. It has been a matter of great concern to those of us who have worked with the intelligence community for quite some time.

I now ask unanimous consent that amendments Nos. 3840, 3830, and 3882 be amended as noted in the revised amendments that I have sent to the desk; that the amendments be considered en bloc and adopted en bloc, and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments, as modified, were agreed to, as follows:

AMENDMENT NO. 3830

On page 28, beginning on line 16, strike ''of the National Intelligence Director''.

On page 43, beginning on line 1, strike ''**OF THE NATIONAL INTELLIGENCE DIRECTOR**''.

On page 43, beginning on line 5, strike ''of the National Intelligence Director'' and insert ''for the National Intelligence Director and the Director of the Central Intelligence Agency''.

On page 43, line 14, add at the end the following: ''Any use of funds from the Reserve shall be subject to the direction and approval of the National Intelligence Director and in accordance with procedures issued by the Director.''.

On page 43, beginning on line 17, strike ''of the National Intelligence Director''.

On page 141, between lines 15 and 16, insert the following:

(H) the Director of the Central Intelligence Agency or his designee;

On page 141, line 16, strike ''(H)'' and insert ''(I)''.

On page 141, line 18, strike ''(I)'' and insert ''(J)''.

On page 141, line 21, strike ''(J)'' and insert ''(K)''.

On page 194, beginning on line 23, strike ''of the National Intelligence Director''.

AMENDMENT NO. 3840

On page 109, line 6, insert the words ''within the National Intelligence Program'' after the words ''for each intelligence program''.

On page 109, strike lines 12 and 13 and insert the following:

(B) serve as exclusive milestone decision authority, except that with respect to Department of Defense programs the Director shall serve as milestone decision authority jointly with the Secretary of Defense or the designee of the Secretary; and

On page 110, strike lines 8 through 18 and insert the following:

(4) If the National Intelligence Director and the Secretary of Defense are unable to reach agreement on a milestone decision under this subsection, the Director shall assume milestone decision authority subject to review by the President at the request of the Secretary.

AMENDMENT NO. 3882

On page 60, strike line 5 and all that follows through page 77, line 18, and insert the following:

SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—There is an Inspector General of the National Intelligence Authority. The Inspector General of the National Intelligence Authority and the Office of the Inspector General of the National Intelligence Authority shall be subject to the provisions of the Inspector General Act of 1978 (5 U.S.C. App.).

(b) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978 RELATING TO INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8J as section 8K; and

(2) by inserting after section 8I the following new section:

''SPECIAL PROVISIONS CONCERNING THE NATIONAL INTELLIGENCE AUTHORITY

''SEC. 8J. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the National Intelligence Authority (in this section referred to as the 'Inspector General') shall be under the authority, direction, and control of the National Intelligence Director (in this section referred to as the 'Director') with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning intelligence or counterintelligence matters the disclosure of which would constitute a serious threat to national security.

''(2) With respect to information described in paragraph (1), the Director may prohibit the Inspector General from initiating, carrying out, or completing any investigation, inspection, or audit, or from issuing any subpoena, if the Director determines that such prohibition is necessary to preserve the vital national security interests of the United States.

''(3) If the Director exercises the authority under paragraph (1) or (2), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority within 7 days.

''(4) The Director shall advise the Inspector General at the time a report under paragraph (3) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

''(5) The Inspector General may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under paragraph (4) that the Inspector General considers appropriate.

''(b) In addition to the qualifications for the appointment of the Inspector General under section 3(a), the Inspector General shall be appointed on the basis of prior experience in the field of intelligence or national security.

''(c)(1)(A) In addition to the duties and responsibilities of the Inspector General specified elsewhere in this Act, the Inspector General shall, for the purpose stated in subparagraph (B), provide policy direction for, and conduct, supervise, and coordinate audits and investigations relating to—

''(i) the coordination and collaboration among elements of the intelligence community within the National Intelligence Program; and

''(ii) the coordination and collaboration between elements of the intelligence community within the National Intelligence Program and other elements of the intelligence community.

''(B) The Inspector General shall conduct the activities described in subparagraph (A) to ensure that the coordination and collaboration referred to in that paragraph is conducted efficiently and in accordance with applicable law and regulation.

''(C) Before undertaking any investigation, inspection, or audit under subparagraph (A), the Inspector General shall consult with any other inspector general having responsibilities regarding an element of the intelligence community whose activities are involved in the investigation, inspection, or audit for the purpose of avoiding duplication of effort and ensuring effective coordination and cooperation.

''(2) In addition to the matters of which the Inspector General is required to keep the Director and Congress fully and currently informed under section 4(a), the Inspector General shall—

''(A) keep the Director and Congress fully and currently informed concerning—

''(i) violations of civil liberties and privacy that may occur in the programs and operations of the National Intelligence Authority; and

''(ii) violations of law and regulations, violations of civil liberties and privacy, and fraud and other serious problems, abuses, and deficiencies that may occur in the coordination and collaboration referred to in clauses (i) and (ii) of paragraph (1)(A); and

''(B) report the progress made in implementing corrective action with respect to the matters referred to in subparagraph (A).

''(3) To enable the Inspector General to fully and effectively carry out the duties and responsibilities specified in this Act, the Inspector General and the inspectors general of the other elements of the intelligence community shall coordinate their internal audit,

inspection, and investigative activities to avoid duplication and ensure effective coordination and cooperation.

''(4) The Inspector General shall take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports.

''(d)(1) Each semiannual report prepared by the Inspector General under section 5(a) shall—

''(A) include an assessment of the effectiveness of all measures in place in the National Intelligence Authority for the protection of civil liberties and privacy of United States persons; and

''(B) be transmitted by the Director to the congressional intelligence committees.

''(2) In addition the duties of the Inspector General and the Director under section 5(d)—

''(A) the Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to—

''(i) the coordination and collaboration among elements of the intelligence community within the National Intelligence Program; and

''(ii) the coordination and collaboration between elements of the intelligence community within the National Intelligence Program and other elements of the intelligence community; and

''(B) the Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate.

''(3) Any report required to be transmitted by the Director to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified in that section, to the congressional intelligence committees.

''(4) In the event that—

''(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

''(B) an investigation, inspection, or audit carried out by the Inspector General should focus on any current or former National Intelligence Authority official who holds or held a position in the Authority that is subject to appointment by the President, by and with the advice and consent of the Senate, including such a position held on an acting basis;

''(C) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in subparagraph (B);

''(D) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in subparagraph (B); or

''(E) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit,

the Inspector General shall immediately notify and submit a report on such matter to the congressional intelligence committees.

''(5) Pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), the Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.

''(e)(1) In addition to the other authorities of the Inspector General under this Act, the Inspector General shall have access to any personnel of the National Intelligence Authority, or any employee of a contractor of the Authority, whose testimony is needed for the performance of the duties of the Inspector General. Whenever such access is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Director without delay.

''(2) Failure on the part of any employee or contractor of the National Intelligence Authority to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, including loss of employment or termination of an existing contractual relationship.

''(3) Whenever, in the judgment of the Director, an element of the intelligence community that is part of the National Intelligence Program has unreasonably refused or not provided information or assistance requested by the Inspector General under paragraph (1) or (3) of section 6(a), the Director shall so inform the head of the element, who shall promptly provide such information or assistance to the Inspector General.

''(4) The level of classification or compartmentalization of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under section 6(a).

''(f) In addition to the authorities and requirements in section 7 regarding the receipt of complaints by the Inspector General—

''(1) the Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety; and

''(2) once such complaint or information has been received from an employee of the Federal Government—

''(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

''(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

''(g) In this section, the terms 'congressional intelligence committees', 'intelligence community', and 'National Intelligence Program' have the meanings given such terms in section 2 of the National Intelligence Reform Act of 2004.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—(1)(A) Section 8H(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is further amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph (C):

''(C) An employee of the National Intelligence Authority, of an entity other than the Authority who is assigned or detailed to the Authority, or of a contractor of the Authority who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the National Intelligence Authority.''.

(B) In support of this paragraph, Congress makes the findings set forth in paragraphs (1) through (6) of section 701(b) of the Intelligence Community Whistleblower Protection Act of 1998 (title VII of Public Law 105–272; 5 U.S.C. App. 8H note).

(2) The Inspector General Act of 1978 is further amended—

(A) in section 8K, as redesignated by subsection (b)(1) of this section, by striking ''8F or 8H'' and inserting ''8F, 8H, 8I, or 8J''; and

(B) in section 11—

(i) in paragraph (1), by inserting ''the National Intelligence Director;'' after ''the Attorney General;''; and

(ii) in paragraph (2), by inserting ''the National Intelligence Authority,'' after ''the National Aeronautics and Space Administration,''.

(d) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of Inspector General of the National Intelligence Authority.

(e) SENSE OF CONGRESS ON ADOPTION OF STANDARDS OF REVIEW.—It is the sense of Congress that the Inspector General of the National Intelligence Authority, in consultation with other Inspectors General of the intelligence community and the President's Council on Integrity and Efficiency, should adopt standards for review and related precedent that are generally used by the intelligence community for reviewing whistleblower reprisal complaints made under sections 7 and 8J(f) of the Inspector General Act of 1978.

On page 203, strike lines 9 through 22.

On page 204, line 1, strike ''**312.**'' and insert ''**311.**''.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the senior Senator from Alaska for working with Senator LIEBERMAN and me to resolve these three amendments. I very much appreciate the good-faith suggestions that were made on both sides, and I am grateful to him for working with us to address his concerns.

I think we have come up with very good suggestions, and I am pleased that the amendments have been adopted.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. How much time do I have remaining of the 10 minutes?

The PRESIDING OFFICER. There is 7½ minutes.

WEAPONS OF MASS DESTRUCTION

Mr. STEVENS. Mr. President, I have heard this talk about the inspectors and their conclusion that they have not found weapons of mass destruction. Seventeen times the United Nations asked Saddam Hussein to disclose where the weapons of mass destruction were. We know he used them on the Kurds. We know he used them in Iran. We know we have evidence he was trying to build additional weapons but the inspectors kept asking to return. They asked again and again to return so they could find out if there was evidence of where he had those weapons of mass destruction.

Now they are before the Armed Services Committee this morning and they are going to testify that they have found ''no evidence'' of the weapons of mass destruction. We had the same conclusion with regard to the Iraqi air force. We were told Saddam had destroyed a series of airplanes. Later we found them buried in the Iraqi desert—a whole series of airplanes—the whole airplane buried. It was capable of being dug up, brought out of the dirt and used.

Now, we have not found the weapons of mass destruction yet. This Senator believes he had them. We know he had them in the Kurd area. We know he used them on Iran. This idea that somehow or another the President or the Vice President have lied, I am tired of hearing this disrespect for the President and Vice President of the United States and I will be willing to debate any time what happened in Iraq.

I went to Kuwait time after time, and to Saudi Arabia, and talked to the pilots who were flying the continuous air patrol over Iraq. Since the gulf war, our pilots were up there every day, and every day they were shot at by ground-to-air weapons that Saddam was not supposed to have at all.

This idea that somehow or another the President and Vice President of the United States lied because they believed there were weapons of mass destruction there, I believe there are weapons of mass destruction there and I still believe there are weapons there somewhere. Where they have taken them, I do not know, but they have not found them. The inspectors kept finding enough reason to go back and go back. They went back 17 times.

To say the President lied, what about those inspectors who said, We have to go back; we have not found them yet but we are going to find some more? Did they lie?

I think there ought to be greater respect for the Presidency and the Vice Presidency of this country, and in this campaign. I have never heard such disrespect. I did not go out and campaign against President Clinton and say he lied, and yet we know he did. He admitted he lied about the matters that were before the grand jury. Now we did not go out and accuse the President of lying. We had a lot of discussions on the floor about that.

So if we want to compare Presidents and who lied and who did not, I am ready any time the Democrats want to do it, but I am tired of this disrespect. It is time we showed respect for the system. I do not remember in the past when a Senator asked another Senator to yield and if that Senator had time, it normally would happen. At the very least the Senator would say: Let me finish my statement now and I will yield at the end of my statement. That kind of senatorial courtesy has to come back to the Senate.

If the Senator wants me to yield, I will yield the remainder of my time.

The PRESIDING OFFICER. Has the Senator yielded the floor?

The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding I have 10 minutes.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Mr. President, let me say that——

Mr. STEVENS. The Senator has 10 minutes on his time on the 1 hour to which the Senator is entitled.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Mr. President, if the Senator will check the record, he will find that without exception I have always yielded for a question but I was in a difficult position because the Senator from Delaware wanted to speak after me. In the entire amount of time given to me, I would have been happy to yield.

I think, frankly, dialog between two Senators is something perilously close to debate in the Senate, which we hardly ever have. I am sorry we did not have that opportunity, but I think we have the opportunity at this moment.

What I hear from the Senator from Alaska is that we should show respect for the Office of the Presidency. I could not agree more. Whether the President is of my party or any other party, he should be given respect. Even if I disagree with that President, his policy or his statements, I am hoping that I will always be viewed as a person who has that respect for the Office of the Presidency. That is the least that is expected of every single Member of Congress, and I hope the people across the United States.

Having said that, I do not believe that disagreeing with the policies of an administration is disrespectful. In fact, I think it is part of the national debate which makes America so unique.

I do not believe it is disrespectful to say that the information given by the President, the Vice President, the Secretary of Defense, and the Secretary of State was wrong and misleading. It was. I have never used the word ''lie,'' nor would I because a lie means there was a deliberate misrepresentation. I don't have any evidence there was a deliberate misrepresentation. But there was a misrepresentation, at least in four specific elements. Let me tell you what they were.

The administration misled the American people in believing there were weapons of mass destruction—an arsenal of chemical, biological, and nuclear weapons set to strike countries in the Middle East as well as the United States—in Iraq before our invasion. We know now, based on clear and convincing evidence, there is no indication that Saddam Hussein ever had these arsenals of weapons of mass destruction. So when the President and the administration said that to justify the invasion, they were wrong. The American people were misled. That is a fact.

Point No. 2, this administration misled the American people about the capacity of Iraq to build nuclear weapons. Yesterday I came to the floor and talked about the most recent disclosure about aluminum tubes. The American people were misled into believing Saddam Hussein was about to become a nuclear power, threatening the region and the United States. The administration was wrong. The American people were misled.

Point No. 3, the administration said there was linkage, and I quoted this morning direct quotes from Vice President CHENEY. They argued there was linkage between Saddam Hussein and the 9/11 tragedy in America; that somehow Saddam Hussein and al-Qaida were consorting to attack the United States. We have seen repeatedly through the 9/11 Commission Report, the Senate Intelligence Committee report, as well as clear statements now, today, by the Secretary of Defense, that was wrong. The American people were misled. That is a fact.

These elements are facts that cannot be denied. To say the administration misled the American people is there for the record. I have not said the President lied. But I do say he gave wrong information to the American people, and even the President has conceded that fact. When the Secretary of Defense says there is no linkage, when the President removes the offensive words from the State of the Union Address, he concedes the fact that statements made before the invasion were misleading and they were wrong.

Why in the world can't this administration accept that reality? Why do they have to cling to the fiction that was presented to the American people?

The Senator from Alaska said we should show respect for the Presidency, and I agree. But more important, we need to show respect for the American people. They are the ones we serve, the President and every Member of Congress. We need to show them respect by giving them the clear, unvarnished truth so they understand the facts before we make critical decisions.

We have now lost over 1,050 of our best and brightest and bravest American soldiers in Iraq. We lost them because we invaded that country before we let the inspectors do their job in Iraq, before we created a broad coalition of countries that would join us in this military effort, and here we stand today.

Last night, Vice President CHENEY said don't demean the coalition. Other countries stand with us. I certainly respect the fact that they would stand by the side of America. But make no mistake, when you open the morning paper, regularly, virtually every morning you learn of the death of another American soldier. It is American soldiers who are fighting and dying in Iraq in much greater numbers, even, than any other country I should say, and much greater numbers than I think should be the case.

Had this President done the same thing his father did, gone to the United Nations for approval of our invasion, put together a coalition of nations

which included Arab nations—President Bush's father understood that, in the Persian Gulf. He knew that to bring in Arab nations as part of the coalition meant there would be less resentment in Arab states for our action. This President did not wait to bring in an Arab state to help us in this coalition of the willing. As a consequence, the resentment against the actions of the United States in the Arab world has been growing apace, and we have found the recruiting efforts to find more terrorists to not only invade Iraq and kill our soldiers but to spread around the world are mushrooming. Are we safer today because of that invasion, because we didn't build the coalition? I think not.

I am glad Saddam Hussein is in prison. I am glad he is out of power. But don't diminish the cost to the United States and the fact that there is no end in sight to this war in Iraq.

There was no plan from this administration to execute this war and protect our troops with body armor, with Humvees armored, with protective equipment on helicopters, and certainly we understand today, based on Ambassador Bremer's statements just 2 days ago, that we didn't have a sufficient number of troops to bring stability to the region.

We are paying the price for those bad decisions. Statements were made by this administration that were wrong and misleading. Decisions were made that clearly evidence that we were not prepared, as we should have been. We are paying that price, and there is no end in sight.

If the Senator from Alaska suggests it is disrespectful to the President to raise these issues, I respectfully disagree with him. It is our obligation to have an open, honest, national debate about the foreign policy of this country, which involves families far and wide in Illinois, Alaska, and around the United States.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am delighted to have an opportunity to debate with the Senator from Illinois because I listened to the comments he made before, comments I violently disagree with. For instance, in 1998, President Clinton went before the general officers of this Nation, officers from all of our units of the military, and he told them he believed Saddam Hussein had weapons of mass destruction. He laid down a just challenge to Saddam Hussein to come forward and disclose them or he believed he might have to go into Iraq himself. That seems to be forgotten.

Apparently, the Senator from Illinois didn't hear the Vice President when he mentioned Mr. Zarqawi last night, a man who was in Iraq before even the problems of Afghanistan who was operating there. He is back there now. He had operated in Afghanistan and Pakistan, was part of the bad guys there. Now we know he is back in Iraq again. He is mentioned as being one of the senior contacts within the al-Qaida organization that was there before and came back again now. The Vice President has mentioned the contacts that existed in the al-Qaida world in Iraq.

I still believe he was right. There is no question about it. There was a portion of the terrorist organization in Iraq before, and they are back there now.

As far as the weapons of mass destruction, I believe at the time we had seen the briefings—and I am one of the eight in the Congress who received the same briefings the President of the United States got about Iraq. We got them in confidence. As a matter of fact, even the statement the Senator from Illinois made about Mr. Bremer, who is the President's representative, that is from a classified report that we should not be discussing on the floor. It ended up somehow being leaked, that one line from the report. But the report deals with the overall relationship of Mr. Bremer to the whole process.

The problem is this: When we look at the Bremer situation, what Bremer did—we were there. We talked to him. He did want more forces around Baghdad. He thought there should be more. The President relied upon our general officers. He told me personally and he told us as we went to Iraq and came back from Iraq, we are doing what our general officers request, as far as the troop strength is concerned.

The general officers disagreed with Bremer as to the location of those forces. There is no question about it. We probably should have had more. In my opinion, we should have been able to come through Iraq from the north, through Turkey, and come from the south from Kuwait, and had two forces moving through Iraq and squash those people over there.

Instead, because of developments in Turkey, we could not go through Turkey. We flew our troops down to Kuwait, we took their supples all the way around, and when the supplies reached them they then went in, and instead of having forces meet in Baghdad, particularly in Saddam Hussein's home part of Iraq, they then come back to Baghdad, and that left them spread out. My memory is that the insurrection started in the south because the forces had gone north and we couldn't spread them that thin.

People said: Send more troops. Send more troops. We heard that on the floor: Send more troops. The ability to maintain and supply those troops was a real difficult situation, particularly when all the support supplies were coming through Kuwait. We even started sending some supplies through Jordan.

But the problem really is what happened in terms of Saddam Hussein, in terms of the relationship to al-Qaida, and the relationship to weapons of mass destruction. I stood here on the floor of the Senate and called Saddam Hussein a Hitler. I did that at least 9 months before the war started. I still believe he was a Hitler. He invaded Kuwait, and we had to kick him out. He was rebuilding his military within that area that he still maintained control of in Iraq. We had control of the south and north part of his country. Yet look at it in terms of the no-fly zone we were trying to protect.

But in terms of the part he controlled he was rebuilding his military because of the money that came into his hands through the ''food-for-oil'' program.

You can stand here, no matter what you say, and say we haven't found weapons of mass destruction. That is true. We haven't found them. I still believe there are some out there, whether they are in adjoining nations or buried in the ground. Whatever happened to them, he had them.

To accuse the administration of misleading the public when they relied upon the intelligence analysts that we relied on—the same intelligence analysts President Clinton relied on when he made his 1998 speech. Certainly those of us who were here supported the resolution that asked the President to send troops into Iraq; we believed it. When you look at it, if we want to get into situations when Senator KERRY voted against the 1991 war resolution in spite of what Iraq did in invading Kuwait, he voted against us going into Kuwait to liberate Kuwait.

I think my friends on the other side of the aisle have been wrong for 30 years. As a matter of fact, those on the other side of the aisle mainly opposed the Reagan buildup in the 1980s. I was chairman of the Defense Appropriations Subcommittee, and I remember those votes. Fifty times here we voted on amendments that were offered to try to strike weapons systems from the defense bill that I managed to bring to the floor to rebuild the military capacity of the United States. All of those amendments came from the other side of the aisle.

When you look at it, when you look at the trouble, why did we have a shortage of intelligence? President Clinton started degrading human intelligence in the CIA. He denuded the intelligence system as far as human intelligence is concerned because he wanted to rely on the satellites in the air and the communications systems, electrical systems.

I cannot believe we are going to get into these one-sided statements. I would like to have a full debate. I am sort of at a loss. I don't have my records. The Senator from Illinois has his records, but I don't have them.

But I have a feeling that had we not denuded the CIA in the 1990s, we would have had better intelligence. But the information we had relied upon, the American public relied upon, and this Senate relied upon when we voted to give the President the right to go into Iraq.

To say the President was wrong because he relied on the same intelligence we relied upon I think is a faulty argument, and it should not happen on the floor of the Senate in a political season where we are trying to destroy the reputation which the President deserves for having the guts to do what Clinton didn't have the guts to do.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There are 3½ minutes remaining.

Mr. DURBIN. Mr. President, let me say in response to the Senator from Alaska before he leaves the floor—I want to let him know I want to respond to his comments so there will be no mistake about it.

First, the statement that Ambassador Bremer's comments had something to do with classified information, what I have said on the floor was based upon some front pages of the newspapers. Ambassador Bremer was reported to have said to a private organization in a speech that one of the problems we have in Iraq today stems from the fact that we had an inadequate number of troops in the field to bring stability, to stop the looting and violence immediately after the deposition of Saddam Hussein. That is not classified. It is on the front pages of the newspapers. Ambassador Bremer has now backed away from those comments. But the fact is he made them, and many believe the same thing—that we had an inadequate number of troops at the right and appropriate moment and are paying the price today because the insurgency has grown.

Second, last night Vice President CHENEY, and this morning the Senator from Alaska, make a great deal about the so-called Ayman al-Zawahiri link, a ruthless terrorist who is affiliated with al-Qaida. The Vice President made the statement last night that the Senator made today—that there was a linkage between Ayman al-Zawahiri and Saddam Hussein and, therefore, proof positive al-Qaida and Saddam Hussein were working together justified the invasion.

I commend to my colleagues and those following the debate this morning's report from MSNBC.com from Washington:

A CIA report has found no conclusive evidence that former Iraqi President Saddam Hussein harbored Ayman al-Zawahiri which the Bush administration asserted before the invasion of Iraq.

This is a fact. It comes from the President's own CIA. They continue to build these straw men to justify an invasion when the facts don't back them up—no weapons of mass destruction, no nuclear arsenal, no evidence of bringing in yellowcake from Niger, no evidence of linkage with al-Qaida. And they cling tenaciously and stubbornly to these assertions even though the facts defeat them.

How can you trust an administration that will not accept the facts and reality to prepare a defense for America? Shouldn't the defense of our Nation be based on reality rather than theory? Shouldn't it be based on sound intelligence instead of political ideology? I would think so.

Any President who comes to this office with a predetermined set of ideas on what we need to do to protect America regardless of the facts is not serving our country well. I hope both political parties would acknowledge that.

AMENDMENT NO. 3801

Let me also say we are about to consider in the early parts of the debate this morning an amendment by Senator KYL to the underlying bill on intelligence reform. I oppose this amendment. I hope my colleagues will join me in opposing it.

We have come together with a bipartisan agreement on the civil liberties board. It is a board which has been created by both sides of the aisle working to implement the recommendations in the 9/11 Commission report. What Senator KYL is trying to do is take away some important powers and responsibilities of this board.

For example, he wants to eliminate the board's standard of review. This is the standard that the board uses to take a look at proposed expansions of the government's power and make sure they don't infringe on rights. What Senator KYL suggests is we take away the standard of review from the civil liberties board. That would frankly create a ship above water.

We need to make sure this board has a standard of review so they can look at government actions and decide whether they go too far. That is what the 9/11 Commission suggested and that is what we should stick to.

Senator KYL's amendment also would remove the Board's subpoena power. He said he would be concerned that this civil liberties board would be subpoenaing members of our Government, agents of our Government, to come in from all over the world and give them evidence. I hope the Senator from Arizona will read this provision more carefully and more closely because the subpoena authority in this bill is very narrow. It only applies to people outside of the Government.

The Kyl amendment would also eliminate the requirement of the board to inform the public about its activities in a manner consistent with protecting classified information. This directly contradicts the recommendation of the 9/11 Commission. We are talking about protecting the American public's rights, liberties, and freedoms. It is essential that the work of the civil liberties board be made public so the American people can understand what they are doing and whether our Government has gone too far. Why the Senator from Arizona would want to keep secrecy and a veil over this activity, I don't understand.

I certainly hope we reject the Kyl amendment which would demolish the Collins-Lieberman civil liberties board, a bipartisan creation. It would upset the delicate balance between government powers and civil liberties this bill strikes. I urge my colleagues to oppose the amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that the time for the quorum call be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Is there still time on both sides under the order that has been entered?

The PRESIDING OFFICER. There is 20 minutes on each side.

Mr. REID. The Senator from Delaware gets 5 minutes.

Mr. CARPER. I thank the minority leader for yielding to me.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. I thank the Chair.

(The remarks of Mr. CARPER pertaining to the introduction of S. 2899 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. REID. I suggest the absence of a quorum and I ask the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. REID pertaining to the submission of S. Res. 448 are printed in today's RECORD under ''Submitted Resolutions.'')

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Parliamentary inquiry: Was there time reserved for the Senator from Vermont prior to the vote?

The PRESIDING OFFICER. No.

Mr. LEAHY. Mr. President, I seek recognition in my own right.

Ms. COLLINS. Mr. President, how much time does the Senator need? I believe 30 minutes has been reserved for

Senator WARNER and Senator LEVIN of the hour and a half of debate that was available this morning.

Mr. LEAHY. Mr. President, am I correct that we are planning to vote at 11:30 on the Kyl amendment?

The PRESIDING OFFICER. That is the order.

Mr. LEAHY. Mr. President, I will speak for 3 to 4 minutes on the Kyl amendment.

Mr. REID. Mr. President, if I may say to my distinguished friend, the Senator from Vermont, time was evenly divided, and the minority's time is gone. We were not aware of the Senator from Vermont needing time.

I ask the Senator from Maine, does she wish to make a statement? All the time left is hers.

Ms. COLLINS. Mr. President, I do intend to speak, so we need to reserve time. I am also concerned that the two Senators who specifically requested time have not had an opportunity to speak.

Mr. REID. They have had an opportunity but have not taken it. We need to get this vote off near the time. The Senator from Vermont needs 3 or 4 minutes.

I ask unanimous consent that the Senator from Vermont be recognized for 4 minutes and that time also be added to that of the majority, so there would be an extra 8 minutes. We cannot extend it past that time because there are things people need to do.

Ms. COLLINS. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the Senator from Nevada and the Senator from Maine.

Mr. President, I rise today to discuss the provisions in the Collins-Lieberman bill establishing a privacy and civil liberties oversight board and to respond to some of the disturbing discourse and efforts to undermine those provisions.

It is unquestioned that one of the key recommendations of the 9/11 Commission was the creation of a civil liberties board to fill a clear void in government structure for addressing these concerns. The Commission discovered that there was ''no office within the government whose job it is to look across the government at the actions we are taking to protect ourselves to ensure that liberty concerns are appropriately considered.'' In response to this vacuum, the Commission explicitly recommended that ''at this time of increased and consolidated government authority, there should be a board within the executive branch to oversee adherence to the guidelines we recommend and the commitment the government makes to defend our civil liberties.'' The 9/11 Commission concluded: ''We must find ways of reconciling security with liberty, since the success of one helps protect the other.''

The Commission was certainly right. There is no doubt that such a board is needed given the heightened civil liberty tensions created by the realities of terrorism and modern warfare. The tools of the information age include precise data-gathering, networked databases, and tracking and sensing technologies impervious to the common eye. The legal tools are similarly powerful, ranging from substantial capabilities under the USA PATRIOT Act and under our immigration laws. As the Commission noted, ''[e]ven without the changes we recommend, the American public has vested enormous authority in the U.S. government.'' In an even more pointed and ominous assessment of these powers, Vice Chairman Hamilton noted, in a recent Judiciary Committee hearing, these developments are ''an astounding intrusion in the lives of ordinary Americans that (are) routine today in government.''

One of my colleagues suggested that this bill is solely to strengthen our intelligence tools and ''not a bill regarding our civil liberties.'' But this is a myopic view. You cannot divorce one from the other. Security and liberty are always in tension in a free society, and that is readily apparent today. It is our vigilant duty to work hard at striking the right balance. We must enhance our capabilities, but with such powerful tools comes heightened responsibility, and the Commission has challenged us to take up those reins: ''This shift of power and authority to the government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life.''

We have an obligation to ensure that there are mechanisms in place that will see to it that this power is subject to appropriate checks and balances and congressional oversight. An effective civil liberties board can help provide those checks and contribute to preserving both liberty and security.

We need a civil liberties board whose members collectively can think critically and independently about the policies we implement as a nation and about how they affect our fundamental rights. The board must be able to participate in the policymaking process, review technology choices and options, peer into various agencies and assess actions, review classified materials and investigate concerns. This board must have the versatility to work closely with government officials, but at the same time it must be sufficiently independent to assess those government policies without fear, favor or compromise. Given these significant responsibilities, it is equally important that the board be accountable to Congress and the American people.

The civil liberties board outlined in the Collins-Lieberman bill makes great strides toward meeting these goals. It represents a true bipartisan effort from conception to introduction. I was pleased to work with these Senators along with Senator DURBIN to make this civil liberties board the kind of board that would honor the 9/11 Commission's intent. It should not go without notice that Commissioners Slade Gorton and Richard Ben-Veniste issued a bipartisan statement that, ''A civil liberties board of the kind we recommend can be found in the Collins-Lieberman bill in the Senate.''

This legislation establishes a bipartisan board that would have access to the documents and information needed to assess our counterterrorism policies that affect the vital civil liberties of the American people. It provides a mechanism for them to work closely with administration officials, including working with a network of newly created department-level privacy and civil liberty officers, whose proximity to decision makers will ensure that these concerns are considered from the earliest stages of policy formation. It requires the board to report to Congress on a regular basis, and—without compromising classified information—to inform the public about policies that affect their vital liberties.

Unfortunately, Senator KYL's amendment 3801 attempts to gut the carefully crafted, bipartisan civil liberty and privacy provisions that are the hallmark of the Collins-Lieberman bill. It is inconsistent with the recommendations of the 9/11 Commission and would undermine the civil liberties that we cherish.

First, Senator KYL's amendment attempts to cut off the information flow that would ensure that the board could accurately, reliably and effectively advise on the impact of policies on privacy and civil liberties. It would also eliminate the board's ability to subpoena people outside of the government who may have important information, such as private sector data collectors working on behalf of the government. It would also eliminate the privacy officers, as well as public hearings and reports to the public.

It is clear that the Commission intended for the board to have access to the information that it needed in order to effectively assess policy. In a recent House Judiciary Committee hearing, Vice Chairman Hamilton said, ''The key requirement is that government agencies must be required to respond to the board.'' He went on to note that the Commission itself had subpoena power, and ''if we had not had it, our job would have been much, much more difficult.'' I would note that the Collins-Lieberman bill does not go as far as to mandate subpoena power over government officials, but rather only over relevant non-government persons.

Given the secrecy and civil liberty concerns that have been pervasive in this administration, we should be enhancing information flow and dialogue, not eliminating it. It is ironic that at the same time that the administration has been making it more difficult for the public to learn what government agencies are up to, the government and its private sector partners have been

quietly building more and more databases to learn and store more information about the American people themselves.

Second, Senator KYL's amendment would eliminate a provision that gives the board important guidance on how to review requests by the government for new and enhanced powers. This is a critical omission. In order to balance liberty and security, we need to ensure that the board will be looking at policies through a prism that would allow for heightened security protection, while also ensuring that intrusions are not disproportionate to benefits, or that they would unduly undermine privacy and civil liberties. This guidance would also keep the board focused on the right priorities and prevent the mission creep that some fear.

Contrary to assertions that this would be a ''citizen board'' gone wild that would ''haul any agent in anywhere in the world and grill him,'' this board would consist of highly accomplished members who have the appropriate clearance to access classified information, who have extensive professional expertise on civil liberty and privacy issues, and who have the knowledge of how to view these concerns in the context of important antiterrorism objectives. Again, its subpoena power would be limited to nongovernment persons, and so could not used willy-nilly to drag in agents from the field.

It simply cannot be that the government can create and implement policies that impinge on our liberties without having to account to anyone. While that may make things convenient or easy, it certainly does not preserve the ideals of the country we are fighting to protect. As the Commission reminded us, ''if our liberties are curtailed, we lose the values that we are struggling to defend.''

Some have suggested that we leave this responsibility to ''federal agencies that are already equipped and designed for that function.'' But this misses precisely the point raised in the report. There is currently no such suitable entity that can look across government and offer an independent, uncompromised assessment of the impact of government powers on civil liberties. And I emphasize look, because some would suggest that we do not need a board with an affirmative obligation to go out and review policy. To the contrary, what we do not need is passivity. We need to be as vigilant about protecting our fundamental rights as we are in hunting down and capturing terrorists. It is what Commissioner Gorton, a former Republican Senator from Washington, described as a ''watchdog to assure maximum protection of individual rights and liberties in those programs.'' Similarly, Commissioner Hamilton has said that ''it ought to have a very tough investigative staff and it ought to be a very active board and agency.''

Others have suggested that the administration's recent efforts are a suitable substitute. I strongly disagree. Rather, the Executive Order attempted to foist upon us an anemic civil liberties board. I and several of my colleagues noted in a letter to the President that the board was not a bipartisan or independent entity. It had no authority to access information and it had no accountability. It was housed in the Department of Justice, and it was comprised solely of administration officials from the law enforcement and intelligence communities, precisely the communities that the board would have an obligation to oversee. It was the proverbial case of the fox guarding the henhouse. This would not have resulted in a vigorous consideration of policy that the Commission intended.

As the Commission noted, the ''burden of proof for retaining a particular governmental power should be on the Executive, to explain (a) that the power actually materially enhances security and (b) that there is adequate supervision of the Executive's use of the powers to ensure protection of civil liberties. If the power is granted, there must be adequate guidelines and oversight to properly confine its use.''

We should be looking for ways to ensure that this burden of proof will be met, rather than weakening oversight and accountability.

As the 9/11 Commission noted, when it comes to security and civil liberties, ''while protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must constantly strive to keep it right.''

Senator KYL's amendment fails to ''keep it right,'' and I urge that the Senate honor the spirit of the recommendations of the 9/11 Commission, and reject it.

Senators COLLINS and LIEBERMAN have it right in their bill and we should not allow that to be gutted.

I ask unanimous consent that a letter to the President from myself and others on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 21, 2004.

Hon. GEORGE W. BUSH,
President of the United States,
The White House, Washington, DC.

DEAR PRESIDENT BUSH: We are writing in response to the recent creation and activities of the Administration's Board on Safeguarding Americans' Civil Liberties.

One of the key recommendations of the 9/11 Commission was the creation of a civil liberties board to balance the enormous powers granted by the people to the government for protection against terrorism. Critically, it concluded: ''We must find ways of reconciling security with liberty, since the success of one helps protect the other.''

There is no doubt that such a board is needed given heightened civil liberty tensions created by the realities of terrorism and modem warfare. The tools of the information age include precise data-gathering, networked databases, and tracking and sensing technologies impervious to the common eye. With such powerful tools comes heightened responsibility.

But the civil liberties board established by the August 27, 2004, Executive Order and the manner in which it is proceeding do little to further the goal of balancing liberty and security. The board resembles a presidential advisory team, and not an independent, bipartisan entity. Housed in the Department of Justice, the board will be comprised solely of Administration officials from the law enforcement and intelligence communities, precisely the communities that the board will need to oversee. In essence, this board's responsibility would be to oversee itself; it is the proverbial case of the fox guarding the hen house. Further, the board has no meaningful investigative authority, and there is no apparent role for Congress.

While such an entity may help inform the White House of the impact of Administration policies on civil liberties, it is no substitute for the sort of civil liberties board that would meet the 9/11 Commission's call for an ''enhanced system of checks and balances to protect the precious liberties that are vital to our way of life.'' Simply put, the Executive Order does not establish an entity with the authority, independence and accountability necessary to protect civil liberties.

Further, the board's hasty meeting, with no discussion of these matters, and with no advance notice to the public, is inherently inconsistent with the very characteristics of openness and accountability necessary to protect civil liberties. A post-meeting press release is simply not the kind of open communication that will foster any trust and confidence in this board's ability to protect the liberties we hold dear.

It is important that we have a civil liberties board that can think critically and independently about the policies we implement as a nation and how they impact our fundamental rights. Choices about its composition, powers and accountability should serve that goal and will need to be openly discussed and carefully weighed. The board must be able to participate in the policy-making process, review technology choices, peer into various agencies and assess actions, review classified materials, and investigate concerns. In particular, the hoard will need to be sufficiently independent of the Department of Justice to assess its actions without compromise.

Accountability is essential. We cannot assign a board such significant responsibilities without periodically reviewing its progress to ensure that its mandates are being met. Regular reports to Congress and the public provide such checks.

As the 9/11 Commission noted, when it comes to security and civil liberties, the ''balancing is no easy task, but we must constantly strive to keep it right.'' We agree. We must do this right and we must do it together. Congress is currently considering various proposals to create an effective civil liberties board that can achieve these goals, and we hope that the Administration and its civil liberties advisors will support and cooperate with Congress in its development.

Sincerely,

PATRICK LEAHY,
EDWARD M. KENNEDY,
RUSSELL D. FEINGOLD,
U.S. Senators.

Mr. LEAHY. Mr. President, I retain the remainder of my time.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator suspend? Is time yielded to the Senator from West Virginia?

Ms. COLLINS. Mr. President, I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. Mr. President, I rise to speak in opposition to the amendment of my good friend from Virginia, Senator WARNER. The Warner amendment would effectively undermine the ability of the national intelligence director to manage the intelligence programs by changing the definition in the bill of what constitutes a national intelligence program.

Under the Collins-Lieberman bill, the national intelligence program includes all programs—all programs—projects, and activities of a number of national intelligence agencies, including the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office.

The Collins-Lieberman bill has been carefully crafted to provide the new intelligence director with the consolidated budget, personnel, and tasking authority necessary to manage the newly defined national intelligence program. The Warner amendment seeks to unravel this. It is a major ''undoing'' amendment. It unravels these unified authorities under the intelligence director by giving the Secretary of Defense significant control over the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office.

I specifically mention this troika of national intelligence agencies—NSA, NGA, and the NRO—because each agency is partially funded through the Joint Military Intelligence Program budget, known as JMIP.

For instance, in the President's fiscal year 2005 budget request, 30 percent of the National Geospatial-Intelligence Agency's budget comes from the JMIP. Similarly, hundreds of millions of dollars in the NRO and NSA budgets are funded through JMIP.

The Warner amendment would eliminate these programs from the definition of the national intelligence program, thereby splitting the management of these national intelligence agencies between the national intelligence director and the Secretary of Defense.

It is very important to note that these programs are not—repeat not—tactical military intelligence programs. The Secretary of Defense would retain control over these tactical military programs under the pending bill. So under the Collins-Lieberman bill, the national intelligence director, consistent with the 9/11 Commission mandate, is given authority over the programs and activities of these three basic programs.

But now the Warner amendment would have the Senate say: Hold on, we do not want the director to have complete authority over these agencies. We want a sizable portion of their activities to be jointly shared, jointly managed, jointly tasked by the national intelligence director and the Secretary of Defense.

That is exactly what the situation is today and why we are trying to change all of this. It is exactly the type of bifurcated arrangement the 9/11 Commission highlighted as fundamentally dysfunctional. This is exactly the type of crossways organizational setup that inhibits our intelligence community from achieving efficiency and effectiveness of management that we need to protect our national security. This is exactly the type of problem the Collins-Lieberman bill would correct.

Adoption of the Warner amendment would strip away from the national intelligence director an essential ability to manage what is now an intelligence community in name but not in reality.

I urge my colleagues to oppose this amendment. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from West Virginia for his comments.

Mr. President, I ask unanimous consent that it be in order for the Senator from Arizona and the Senator from Georgia to each have 2 minutes to discuss their amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized for 2 minutes.

AMENDMENT NO. 3801

Mr. KYL. Mr. President, we are going to be asking unanimous consent to withdraw amendment No. 3801, which is an amendment Senator CHAMBLISS and I offered to deal with the problem of overlapping and redundant civil rights and privacy investigations, entities, or individuals that would be added to those that already exist to protect civil rights and privacy in the national intelligence director office and other offices of the intelligence community.

The head of the 9/11 Commission, Philip Zelikow, the Executive Director, noted one of the biggest problems we have with our intelligence collection and analysis when he said:

We also found—

''We'' meaning the 9/11 Commission—

that the 9/11 story illustrated the danger of risk aversion from constant worry of being investigated. We gave several important examples of officials who overinterpreted existing legal constraints for fear of exceeding their authority. We were also astonished by the extent to which CIA officials, beyond any others in the Government, already conduct their work in a manner that anticipates and guards themselves for the prospect of future investigations.

We found this in the Intelligence Committee, and the 9/11 Commission found the same thing—a profound aversion to taking risks because of all the people looking over the shoulders of these agents, ready to pounce on them if they do anything wrong or make a mistake.

What does the underlying legislation do? It exacerbates the problem because it requires that existing agencies of the Government either designate an existing officer or create a new position for privacy and civil liberties. Notwithstanding the fact that each Department—Homeland Security, Health and Human Services, CIA, and others—already have officers with the responsibility, including an inspector general, chief privacy officer, and the officer for civil rights and civil liberties.

In each one of these agencies, those officers currently exist. There is a new mandate placed on all of them, in addition to which the President, following the 9/11 Commission recommendation, appointed his own board on Safeguarding American's Civil Liberties, and the bill creates a privacy and civil liberties oversight board with subpoena power and puts under the National Intelligence Authority an officer for civil rights and liberties and a privacy officer, in addition to the already existing inspector general.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KYL. Mr. President, I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. And the creation of an ombudsman. This is overkill. It is going to exacerbate the problem of risk aversion with having too many people looking over the shoulder of too many people we tasked with the difficult job of collecting and analyzing intelligence.

Mr. President, 9/11 did not happen because we had too many people with privacy being violated or civil rights being violated. It happened because our intelligence was not good enough. Too many of these are going to impede our intelligence, and that is why we offered this amendment. I regret we are going to have to withdraw it, but I appreciate the fact that the sponsors of the legislation are committed to working with us in the conference to try to bring a better balance to the bill.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I thank my colleague from Arizona for his tremendous leadership on this particular issue.

I voted yesterday with our leadership to invoke cloture on this bill, but, frankly, I did so reluctantly because I sympathize with the comments that the Senator from Alaska, Mr. STEVENS, made just yesterday and the day before relative to the fact that we are rushing into an issue that is so complex that we really need to take the time to do this right. But I understand we are at

the end of this session and that we need to get this bill done and get it to conference. That is the only reason that Senator KYL and I are willing to withdraw this amendment. Let's get it to conference and try to clean this up there.

Once again, I have been reminded about the problems we have at the CIA under the leadership now of a new CIA Director whose hands are going to be tied by this particular provision that we are seeking to modify in this bill. We are concentrating, from an overall intelligence reform standpoint, on building up our collection of intelligence through human assets. But now with the creation of the civil liberties board in this bill, a political bureaucracy is being established that is going to be looking over the shoulder of every CIA agent around the world and is going to have the ability to determine whether that CIA agent violated the civil liberties of somebody in the prosecution of gathering intelligence. I think this is a very harmful provision in this bill.

The Senator from Arizona has provided strong leadership on this issue, and I thank him for that. We need to clean up the provision of the bill as it relates to the civil liberties board before we destroy the morale of our agents in the field. While I regret we are going to have to withdraw the amendment at this point in time, I also am encouraged by the comments of the chairman, as well as Senator LIEBERMAN, that they are willing to work with us as we move into conference. It is critical to make the necessary modifications in conference to ensure that our intelligence community has a free hand in trying to gather intelligence to protect the lives of our citizens without violating civil liberties, and without violating privacy rights. Our intelligence professionals have and will conduct their dangerous and important work within the framework of our laws.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

AMENDMENT NO. 3801, WITHDRAWN

Mr. KYL. Mr. President, I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the two Senators. I understand their concern. This issue is going to be the subject of much discussion, I am sure, in the Senate-House conference. I very much appreciate the issues they have raised. I take them seriously, and I appreciate their cooperation in withdrawing the amendment. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I join Senator COLLINS in thanking the Senator from Georgia and the Senator from Arizona for their support of the bill, for their deep commitment to national security, for raising the questions they have raised, which are good questions, and, frankly, for being willing, as we approach the final passage of this bill, to not press this particular concern and to allow us to go forward.

I look forward to working with them on matters of intelligence and national security in the years ahead.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3742, AS MODIFIED

Ms. COLLINS. Mr. President, I ask unanimous consent that we proceed to the consideration of the Roberts amendment, No. 3742, as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. I ask unanimous consent to call up amendment No. 3742, with a modification.

The PRESIDING OFFICER. The amendment is pending.

The amendment (No. 3742), as modified, is as follows:

AMENDMENT NO. 3742, AS MODIFIED

On page 33, between lines 2 and 3, insert the following:

SEC. 114. FUNDING OF INTELLIGENCE ACTIVITIES.

(a) FUNDING OF ACTIVITIES.—(1) Notwithstanding any other provision of this Act, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(A) those funds were specifically authorized by the Congress for use for such activities;

(B) in the case of funds from the Reserve for Contingencies of the National Intelligence Director, and consistent with the provisions of section 503 of the National Security Act of 1947 (50 U.S.C. 413b) concerning any significant anticipated intelligence activity, the National Intelligence Director has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(C) in the case of funds specifically authorized by the Congress for a different activity—

(i) the activity to be funded is a higher priority intelligence or intelligence-related activity; and

(ii) the National Intelligence Director, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity.

(2) Nothing in this subsection prohibits the obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.

(b) APPLICABILITY OF OTHER AUTHORITIES.—Notwithstanding any other provision of this Act, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence, intelligence-related, or other activity only if such obligation or expenditure is consistent with subsections (b), (c), and (d) of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

(c) DEFINITIONS.—In this section:

(1) The term ''intelligence agency'' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities.

(2) The term ''appropriate congressional committees'' means—

(A)(i) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives; and

(ii) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

(B) in the case of a transfer of funds to or from, or a reprogramming within, the Department of Defense—

(i) the committees and select committees referred to in subparagraph (A);

(ii) the Committee on Armed Services of the House of Representatives; and

(iii) the Committee on Armed Services of the Senate; and

(C) in the case of a transfer of funds to or from, or a reprogramming within, the Federal Bureau of Investigation—

(i) the committees and select committees referred to in subparagraph (A);

(ii) the Committee on the Judiciary of the House of Representatives; and

(iii) the Committee on the Judiciary of the Senate.

(3) The term ''specifically authorized by the Congress'' means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

On page 33, line 3, strike ''**114.**'' and insert ''**115.**''.

On page 35, line 1, strike ''**115.**'' and insert ''**116.**''.

On page 38, line 21, strike ''**116.**'' and insert ''**117.**''.

On page 40, line 10, strike ''**117.**'' and insert ''**118.**''.

On page 43, line 1, strike ''**118.**'' and insert ''**119.**''.

On page 200, between line 18 and 19, insert the following:

SEC. 309. CONFORMING AMENDMENTS ON FUNDING OF INTELLIGENCE ACTIVITIES.

Section 504 of the National Security Act of 1947 (50 U.S.C. 414) is amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), by adding ''and'' at the end;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(2) in subsection (e), by striking paragraph (2) and inserting the following new paragraph (2):

''(2) the term 'appropriate congressional committees' means—

''(A)(i) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives; and

''(ii) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

''(B) in the case of a transfer of funds to or from, or a reprogramming within, the Department of Defense—

''(i) the committees and select committees referred to in subparagraph (A);

''(ii) the Committee on Armed Services of the House of Representatives; and

''(iii) the Committee on Armed Services of the Senate; and

''(C) in the case of a transfer of funds to or from, or a reprogramming within, the Federal Bureau of Investigation—

''(i) the committees and select committees referred to in subparagraph (A);

''(ii) the Committee on the Judiciary of the House of Representatives; and

''(iii) the Committee on the Judiciary of the Senate; and''.

On page 200, line 19, strike ''**309.**'' and insert ''**310.**''.

On page 201, line 11, strike ''**310.**'' and insert ''**311.**''.

On page 203, line 9, strike ''**311.**'' and insert ''**312.**''.

On page 204, line 1, strike ''**312.**'' and insert ''**313.**''.

Mr. ROBERTS. Mr. President, I thank Chairman COLLINS and Senator LIEBERMAN for working with me to include this provision in the act. It preserves an important requirement from section 504 of the National Security Act of 1947. It is very simple: That funds appropriated for an intelligence activity must be specifically authorized.

I appreciate your cooperation on this matter. It is a very simple amendment.

I yield to the distinguished chairman of the Governmental Affairs Committee.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank Senator ROBERTS for offering this amendment. As chairman of the Senate Intelligence Committee, his expertise and advice on this bill have been invaluable. As he indicates, this preserves a requirement in section 504 of the National Security Act of 1947 that funds appropriated for an intelligence activity must also be specifically authorized before being obligated or expended.

It is my understanding that other committees with interest in this matter have been consulted and there is no objection. I will ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I strongly support this amendment and thank Senator ROBERTS for offering it. I thank him generally for the many ways in which he has strengthened this bill.

The bottom line here is this amendment will ensure that intelligence activities, which by their nature are classified and not subject to public scrutiny, receive specific review and authorization by the Senate and House of Representatives Intelligence Committees. It is another way to make clear that what we have said all along, that this bill does not represent an alteration of power and authority between the Congress and the executive branch, is in fact what happens. I thank the Senator and I am glad to support the amendment.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—98

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (FL)	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wyden
DeWine	Lincoln	

NOT VOTING—2

Edwards	Kerry

The amendment (No. 3742), as modified, was agreed to.

Ms. COLLINS. Madam President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, for the information of my colleagues, I am going to ask unanimous consent that we go to Senator LEAHY's amendment No. 3945. I anticipate that being accepted on a voice vote. Therefore, there will be no further rollcalls until 2 o'clock, for the information of my colleagues.

Mr. REID. Could we make that 2:15?

Ms. COLLINS. Madam President, I would be glad to amend the request to make it 2:15. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

AMENDMENT NO. 3945

Mr. LEAHY. Madam President, I understand my amendment regarding translators, No. 3945, is now before the Senate.

The PRESIDING OFFICER. It is pending.

Mr. LEAHY. Madam President, this is an amendment on behalf of myself and Senator GRASSLEY. We did this because 3 years ago, a law was passed requiring the Attorney General to report on the FBI translators program, why it was failing, and how he is going to fix it. The Attorney General has never followed the law and submitted that report.

Our amendment requires the Attorney General to submit a report on FBI translators within 30 days of enactment of this act.

Senator GRASSLEY, of course, is well known as being one of the most vigilant people on FBI oversight issues.

Last week the Justice Department's Office of Inspector General released an unclassified version of its Audit of the FBI's Foreign Language Program. The report shows that despite concerns expressed for years by some of us in Congress and by former FBI contractors, among others, and despite an influx of tens of millions of dollars to hire new linguists, the FBI foreign language translation unit continues to be saddled with growing backlogs, systemic difficulties, security problems, too few qualified staff, and an astounding lack of organization.

What is the use of taping thousands of hours of conversations of intelligence targets in foreign languages if we cannot translate the material promptly, securely, accurately and efficiently? The administration owes Congress and the American public an explanation as to why it has repeatedly failed to take the necessary steps to fix these serious intelligence failings.

Almost 3 years ago, Congress required the Attorney General to report upon where the FBI translators program was failing and how he was going to fix it. The Attorney General has never submitted that report.

To make sure that report is delayed no more, and to respond to the Inspector General's recommendations, Senator GRASSLEY and I have offered the Translator Reports Act of 2004 as an amendment. I am proud to be joined in this effort by my friend from Iowa, who has been ever-vigilant on FBI oversight issues.

Our amendment requires the Attorney General to submit a report on FBI translators within 30 days of enactment of the National Intelligence Reform Act. It also adds further reporting requirements that will be crucial to understanding whether or not the FBI is capable of fixing, and has fixed, the problems outlined by the Inspector General.

This report will allow Congress to meet the 9/11 Commission's directive that Congress exercise greater oversight over the counterintelligence and counterterrorism needs of the executive branch. I urge my colleagues to vote in favor of the amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I appreciate the Senator from Vermont working with Senator LIEBERMAN and me. His amendment would require the Attorney General to submit annual reports to the House and Senate Judiciary Committees on the number of translators employed or contracted for by the FBI and other components of the Department of Justice, the needs of the FBI for translation services, a description of the implementation of quality control procedures, among other provisions.

As we know, there is a serious backlog of translation in the FBI, and this sends a very strong message that Congress is going to be carefully monitoring the progress of this program.

I urge support for the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank the Senator from Vermont for this amendment. It responds to a direct call, a conclusion of the 9/11 Commission report that the FBI did not dedicate sufficient resources to the surveillance and translation needs of counterterrorism agents and lacks sufficient translators proficient in Arabic and other key languages.

The reporting requirement contained in this amendment will obviously help and force Congress to determine the scope of the problem and develop possible fixes. I thank the Senator from Vermont for his initiative and accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 3945.

The amendment (No. 3945) was agreed to.

Mr. LEAHY. Madam President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3821, AS MODIFIED

Mr. LIEBERMAN. Madam President, I call up among the pending amendments amendment No. 3821 offered by the Senator from Iowa, Mr. HARKIN.

The PRESIDING OFFICER. The amendment is pending.

Mr. LIEBERMAN. I ask unanimous consent on behalf of Senator HARKIN to send a modification of the amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 158, between lines 9 and 10 insert the following:

(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

Mr. LIEBERMAN. Madam President, I urge adoption of the amendment, as modified.

The PRESIDING OFFICER. Is there further debate on the modified amendment?

Mr. LIEBERMAN. Very briefly, the Harkin amendment is focused on a requirement relative to the new board we are creating in this proposal. The new board, to watch out for the privacy and civil liberties rights of American citizens and others, is required to make periodic reports to Congress. This amendment now simply says that in those reports, there should be an opportunity for minority views to be recorded as well. It is a good amendment, as modified, having eliminated some more controversial provisions. I urge its adoption.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I very much appreciate the fact that the Senator from Iowa has worked with us on it. The revised amendment, unlike the original, is one I support and I, too, urge adoption of the modified amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 3821), as modified was agreed to.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3809, AS MODIFIED

Ms. COLLINS. Madam President, I ask unanimous consent to proceed to the consideration of Levin amendment No. 3809, as modified.

The PRESIDING OFFICER. Without objection, the amendment is pending.

AMENDMENT NO. 3962 TO AMENDMENT NO. 3809, AS MODIFIED

Ms. COLLINS. Madam President, I call up a second-degree amendment to that amendment. The second degree is numbered 3962. I ask unanimous consent that it be considered.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself and Mr. LIEBERMAN, proposes an amendment numbered 3962 to amendment No. 3809, as modified.

Ms. COLLINS. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 3, strike ''military'' and all that follows through page 2, line 9, and insert the following:

uniformed services personnel, except that the Director may transfer military positions or billets if such transfer is for a period not to exceed three years; and

(E) nothing in section 143(i) or 144(f) shall be construed to authorize the Director to specify or require the head of a department, agency, or element of the United States Government to approve a request for the transfer, assignment, or detail of uniformed services personnel, except that the Director may take such action with regard to military positions or billets if such transfer is for a period not to exceed three years.

Ms. COLLINS. Madam President, I am going to have Senator LEVIN first discuss this issue, and then Senator LIEBERMAN and I will respond.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, military personnel comprise an important part of the national intelligence community. Managing military personnel is the appropriate function of the Secretary of Defense and the military departments.

The bill, as drafted, would permit the transfer of military personnel within the national intelligence program. This amendment strikes that language and does not permit the transfer of the military personnel within the national intelligence program.

The second-degree amendment makes it clear that the positions, of course, cannot be transferred. In other words, providing that the people who are in those positions are not transferred by the national intelligence director, if it is just the money for the positions, which providing it falls within the scope of reprogramming, for instance, and can be done in any event; providing it is the positions or the money attached to the positions that are transferred from one part of the intelligence community to another, that we do not prevent. It is the transfer of uniformed people that cannot be accepted, and this amendment would prevent that from happening.

So if we are in a situation, for instance, where the national intelligence director says, I want those five people from a particular agency, and if these are uniform military personnel, that would not be possible when my amendment is adopted. The national intelligence director would be able to transfer positions, or the money, and say

$400,000 or $1 million or whatever, providing, again, it is within or below the limit that is established, which would require programming approval by the Congress; providing it is below that limit, the NID continues to have that authority, which he would have in any event, to transfer funds or positions from one place to another. So we don't touch the money or the positions.

However, we maintain a chain of command. We maintain military careers. These are uniform military careers, and we do not have an outside civilian person changing that career by transferring a uniform military person from one place to another.

I thank my colleagues, the managers of the bill, for working out this language with us. It is a very important change in terms of military careers, in terms of military personnel, in terms of the management of military personnel, in terms of morale. But it does not disturb, again, the budgetary power or the shifting around of budgets—or billets, as we call them—or positions, providing, again, they are underneath and within the limits established by the reprogramming procedures that have been established, where individual agency heads are allowed to transfer money from one place to another. If it is above that limit, it is established by the reprogramming procedures, then, of course, they have to go through the normal reprogramming process before money can be transferred from one place to another.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Madam President, the Collins-Lieberman bill grants the national intelligence director the authority to transfer personnel within the national intelligence program to meet higher priorities. This is extremely important authority because we want to make sure the NID can, for example, staff up the National Counterterrorism Center with individuals from a variety of agencies, including military personnel who may be at the Defense Intelligence Agency, for example.

But the compromise that we have reached addresses two important concerns. One, it puts a 3-year limit on the length of time for this personnel. That is important because we don't want to disrupt the military careers of individuals who are temporarily transferred. Second, it makes clear that we are talking about slots, or billets, and not individual members of the military.

In other words, the NID cannot say: I want ''Colonel Murkowski'' to go to the National Counterterrorism Center. Instead, the NID would say: I want a linguist to go to the National Counterterrorism Center, or describe what the slot may be.

I think this is a good compromise on this issue, and it leaves intact the strong authority of the national intelligence director, while addressing the legitimate concerns raised by Senator LEVIN.

Mr. LIEBERMAN. Madam President, I rise to support this modification of the amendment. Here, again, we have reasoned together about the significant changes that will come about as a result of the underlying proposal in the creation of an NID. I think it will come out with a result that is fair and will be effective.

As I have said before, our intelligence forces today are like an army without a general. The whole idea of creating an NID is to put somebody in charge. Part of being in charge has to mean the ability to transfer the forces to places where the director thinks they are needed.

Senator LEVIN was understandably concerned about the impact that might have on the military chain of command. In an initial proposal he said these transfers could not occur without the approval of the Secretary of Defense. We thought that would frustrate the authority that we are trying to give to the national intelligence director. So we have come to a very reasonable compromise, which is, as Senator COLLINS and Senator LEVIN said, with regard to uniform military personnel working within the intelligence community. If the NID believes he needs three, four, or five positions from military intelligence, the slots can be moved. But the NID, with regard to uniformed military personnel, cannot go in and say, I want—as Senator COLLINS said—''Colonel Murkowski'' to be transferred to the national intelligence center, or some other subdivision of the intelligence community. That is quite reasonable. But it would allow the position, the slot, to be transferred. And then, presumably, for a process of negotiation, it would allow a process of negotiation to go on for the Secretary of Defense or the NID, or their designees, as to who actually filled that slot. With regard to nonuniformed personnel, including military personnel, those within the Department of Defense, they can be transferred by the national intelligence director, acting on his own.

I think this is a very good, balanced compromise. I thank Senator LEVIN for his characteristic thoughtfulness. I even thank him for his persistence, which I think has brought about a good result. I am happy to support this amendment, as modified.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, my thanks to the managers, not just for their work on this amendment, but their work generally on this bill. It has been exemplary and a model to all of us in this Senate as to how we can achieve things on a bipartisan basis. They worked together beautifully, and I commend them for it.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3962 to amendment No. 3809, as modified.

The amendment (No. 3962) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3809, as modified, as amended.

The amendment (No. 3809), as modified, as amended, was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING THE TRADEMARK ACT OF 1946

Ms. COLLINS. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 2796 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2796) to clarify that service marks, collective marks, and certification marks are entitled to the same protections, rights, and privileges as trademarks.

There being no objection, the Senate proceeded to consider the bill.

Ms. COLLINS. Madam President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2796) was read the third time and passed, as follows:

S. 2796

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

SECTION 1. PROTECTIONS, RIGHTS, AND PRIVILEGES OF SERVICE MARKS, COLLECTIVE MARKS, AND CERTIFICATION MARKS.

The Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (commonly referred to as the Trademark Act of 1946) is amended—

(1) in section 3 (15 U.S.C. 1053) in the first sentence, by striking ''protection'' and inserting ''protections, rights, and privileges''; and

(2) in section 4 (15 U.S.C. 1054) in the first sentence, by striking ''protection'' and inserting ''protections, rights, and privileges''.

COPYRIGHT ROYALTY AND DISTRIBUTION REFORM ACT OF 2004

Ms. COLLINS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 744, H.R. 1417.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1417) to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Insert the part printed in italic.)

H.R. 1417

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 ''Copyright Royalty and Distribution Reform Act of 2004''.

[SEC. 2. REFERENCE.

[Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 17, United States Code.

[SEC. 3. COPYRIGHT ROYALTY JUDGE AND STAFF.

[(a) IN GENERAL.—Chapter 8 is amended to read as follows:

[''CHAPTER 8—PROCEEDINGS BY COPYRIGHT ROYALTY JUDGES

[''Sec.
[''801. Copyright Royalty Judges; appointment and functions.
[''802. Copyright Royalty Judgeships; staff.
[''803. Proceedings of Copyright Royalty Judges.
[''804. Institution of proceedings.
[''805. General rule for voluntarily negotiated agreements.

[''§ 801. Copyright Royalty Judges; appointment and functions

[''(a) APPOINTMENT.—The Librarian of Congress shall appoint 3 full-time Copyright Royalty Judges, and shall appoint one of the three as the Chief Copyright Royalty Judge. In making such appointments, the Librarian shall consult with the Register of Copyrights.

[''(b) FUNCTIONS.—Subject to the provisions of this chapter, the functions of the Copyright Royalty Judges shall be as follows:

[''(1) To make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, 119 and 1004. The rates applicable under sections 114(f)(1)(B), 115, and 116 shall be calculated to achieve the following objectives:

[''(A) To maximize the availability of creative works to the public.

[''(B) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

[''(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

[''(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

[''(2) To make determinations concerning the adjustment of the copyright royalty rates under section 111 solely in accordance with the following provisions:

[''(A) The rates established by section 111(d)(1)(B) may be adjusted to reflect—

[''(i) national monetary inflation or deflation; or

[''(ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of October 19, 1976,

[except that—

[''(I) if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted; and

[''(II) no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber.

[The Copyright Royalty Judges may consider all factors relating to the maintenance of such level of payments, including, as an extenuating factor, whether the industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

[''(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 8, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Judges shall consider, among other factors, the economic impact on copyright owners and users; except that no adjustment in royalty rates shall be made under this subparagraph with respect to any distant signal equivalent or fraction thereof represented by—

[''(i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal; or

[''(ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

[''(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

[''(D) The gross receipts limitations established by section 111(d)(1)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section, and the royalty rate specified therein shall not be subject to adjustment.

[''(3)(A) To authorize the distribution, under sections 111, 119, and 1007, of those royalty fees collected under sections 111, 119, and 1005, as the case may be, to the extent that the Copyright Royalty Judges have found that the distribution of such fees is not subject to controversy.

[''(B) In cases where the Copyright Royalty Judges determine that controversy exists, the Copyright Royalty Judges shall determine the distribution of such fees, including partial distributions, in accordance with section 111, 119, or 1007, as the case may be.

[''(C) the Copyright Royalty Judges shall make a partial distribution of such fees during the pendency of the proceeding under subparagraph (B) if all participants under section 803(b)(2) in the proceeding that are entitled to receive those fees that are to be partially distributed—

[''(i) agree to such partial distribution;

[''(ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B); and

[''(iii) file the agreement with the Copyright Royalty Judges.

[''(D) The Copyright Royalty Judges and any other officer or employee acting in good faith in distributing funds under subparagraph (C) shall not be held liable for the payment of any excess fees under subparagraph (C). The Copyright Royalty Judges shall, at the time the final determination is made, calculate any such excess amounts.

[''(4) To accept or reject royalty claims filed under section 111, 119, and 1007, on the basis of timeliness or the failure to establish the basis for a claim.

[''(5) To accept or reject rate adjustment petitions as provided in section 804 and petitions to participate as provided in section 803(b)(1) and (2).

[''(6) To determine the status of a digital audio recording device or a digital audio interface device under sections 1002 and 1003, as provided in section 1010.

[''(7)(A) To adopt as the basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, an agreement concerning such matters reached among some or all of the participants in a proceeding at any time during the proceeding, except that—

[''(i) the Copyright Royalty Judges shall provide to the other participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, distribution, or other determination set by the agreement an opportunity to comment on the agreement and object to its adoption as the basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, as the case may be; and

[''(ii) the Copyright Royalty Judges may decline to adopt the agreement as the basis for statutory terms and rates or as the basis for the distribution of statutory royalty payments, as the case may be, if any other participant described in subparagraph (A) objects to the agreement and the Copyright Royalty Judges find, based on the record before them, that the agreement is not likely to meet the statutory standard for setting the terms and rates, or for distributing the royalty payments, as the case may be.

[''(B) License agreements voluntarily negotiated pursuant to section 112(e)(5), 114(f)(3), 115(c)(3)(E)(i), 116(c), or 118(b)(2) that do not result in statutory terms and rates shall not be subject to clauses (i) and (ii) of subparagraph (A).

[''(c) RULINGS.—The Copyright Royalty Judges may make any necessary procedural or evidentiary rulings in any proceeding under this chapter and may, before commencing a proceeding under this chapter, make any such rulings that would apply to the proceedings conducted by the Copyright Royalty Judges. The Copyright Royalty Judges may consult with the Register of Copyrights in making any rulings under section 802(f)(1).

[''(d) ADMINISTRATIVE SUPPORT.—The Librarian of Congress shall provide the Copyright Royalty Judges with the necessary administrative services related to proceedings under this chapter.

[''(e) LOCATION IN LIBRARY OF CONGRESS.—The offices of the Copyright Royalty Judges and staff shall be in the Library of Congress.

[''§ 802. Copyright Royalty Judgeships; staff

[''(a) QUALIFICATIONS OF COPYRIGHT ROYALTY JUDGES.—Each Copyright Royalty Judge shall be an attorney who has at least 7 years of legal experience. The Chief Copyright Royalty Judge shall have at least 5 years of experience in adjudications, arbitrations, or court trials. Of the other two Copyright Royalty Judges, one shall have significant knowledge of copyright law, and the other shall have significant knowledge of economics. An individual may serve as a Copyright Royalty Judge only if the individual is free of any financial conflict of interest under subsection (h). In this subsection, 'adjudication' has the meaning given that term in section 551 of title 5, but does not include mediation.

[''(b) STAFF.—The Chief Copyright Royalty Judge shall hire 3 full-time staff members to assist the Copyright Royalty Judges in performing their functions.

[''(c) TERMS.—The terms of the Copyright Royalty Judges shall each be 6 years, except of the individuals first appointed, the Chief Copyright Royalty Judge shall be appointed to a term of 6 years, and of the remaining Copyright Royalty Judges, one shall be appointed to a term of 2 years, and the other shall be appointed to a term of 4 years. An individual serving as a Copyright Royalty Judge may be reappointed to subsequent terms. The term of a Copyright Royalty Judge shall begin when the term of the predecessor of that Copyright Royalty Judge ends. When the term of office of a Copyright Royalty Judge ends, the individual serving that term may continue to serve until a successor is selected.

[''(d) VACANCIES OR INCAPACITY.—

[''(1) VACANCIES.—If a vacancy should occur in the position of Copyright Royalty Judge, the Librarian of Congress shall act expeditiously to fill the vacancy, and may appoint an interim Copyright Royalty Judge to serve until another Copyright Royalty Judge is appointed under this section. An individual appointed to fill the vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed shall be appointed for the remainder of that term.

[''(2) INCAPACITY.—In the case in which a Copyright Royalty Judge is temporarily unable to perform his or her duties, the Librarian of Congress may appoint an interim Copyright Royalty Judge to perform such duties during the period of such incapacity.

[''(e) COMPENSATION.—

[''(1) JUDGES.—The Chief Copyright Royalty Judge shall receive compensation at the rate of basic pay payable for level AL–1 for administrative law judges pursuant to section 5372(b) of title 5, and each of the other two Copyright Royalty Judges shall receive compensation at the rate of basic pay payable for level AL–2 for administrative law judges pursuant to such section. The compensation of the Copyright Royalty Judges shall not be subject to any regulations adopted by the Office of Personnel Management pursuant to its authority under section 5376(b)(1) of title 5.

[''(2) STAFF MEMBERS.—Of the staff members appointed under subsection (b)—

[''(A) the rate of pay of one staff member shall be not more than the basic rate of pay payable for GS–15 of the General Schedule;

[''(B) the rate of pay of one staff member shall be not less than the basic rate of pay payable for GS–13 of the General Schedule and not more than the basic rate of pay payable for GS–14 of such Schedule; and

[''(C) the rate of pay for the third staff member shall be not less than the basic rate of pay payable for GS–8 of the General Schedule and not more than the basic rate of pay payable for GS–11 of such Schedule.

[''(f) INDEPENDENCE OF COPYRIGHT ROYALTY JUDGE.—

[''(1) IN MAKING DETERMINATIONS.—

[''(A) IN GENERAL.—Subject to subparagraph (B), the Copyright Royalty Judges shall have full independence in making determinations concerning adjustments and determinations of copyright royalty rates and terms, the distribution of copyright royalties, the acceptance or rejection of royalty claims, rate adjustment petitions, and petitions to participate, and in issuing other rulings under this title, except that the Copyright Royalty Judges may consult with the Register of Copyrights on any matter other than a question of fact. Any such consultations between the Copyright Royalty Judges and the Register of Copyright on any question of law shall be in writing or on the record.

[''(B) NOVEL QUESTIONS.—(i) Notwithstanding the provisions of subparagraph (A), in any case in which the Copyright Royalty Judges in a proceeding under this title are presented with a novel question of law concerning an interpretation of those provisions of this title that are the subject of the proceeding, the Copyright Royalty Judges shall request the Register of Copyrights, in writing, to submit a written opinion on the resolution of such novel question. The Register shall submit and make public that opinion within such time period as the Copyright Royalty Judges may prescribe. Any consultations under this subparagraph between the Copyright Royalty Judges and the Register of Copyrights shall be in writing or on the record. The opinion of the Register shall not be binding on the Copyright Royalty Judges, but the Copyright Royalty Judges shall take the opinion of the Register into account in making the judges' determination on the question concerned.

[''(ii) In clause (i), a 'novel question of law' is a question of law that has not been determined in prior decisions, determinations, and rulings described in section 803(a).

[''(2) PERFORMANCE APPRAISALS.—

[''(A) IN GENERAL.—Notwithstanding any other provision of law or any regulation of the Library of Congress, and subject to subparagraph (B), the Copyright Royalty Judges shall not receive performance appraisals.

[''(B) RELATING TO SANCTION OR REMOVAL.—To the extent that the Librarian of Congress adopts regulations under subsection (h) relating to the sanction or removal of a Copyright Royalty Judge and such regulations require documentation to establish the cause of such sanction or removal, the Copyright Royalty Judge may receive an appraisal related specifically to the cause of the sanction or removal.

[''(g) INCONSISTENT DUTIES BARRED.—No Copyright Royalty Judge may undertake duties inconsistent with his or her duties and responsibilities as Copyright Royalty Judge.

[''(h) STANDARDS OF CONDUCT.—The Librarian of Congress shall adopt regulations regarding the standards of conduct, including financial conflict of interest and restrictions against ex parte communications, which shall govern the Copyright Royalty Judges and the proceedings under this chapter.

[''(i) REMOVAL OR SANCTION.—The Librarian of Congress may sanction or remove a Copyright Royalty Judge for violation of the standards of conduct adopted under subsection (h), misconduct, neglect of duty, or any disqualifying physical or mental disability. Any such sanction or removal may be made only after notice and opportunity for a hearing, but the Librarian of Congress may suspend the Copyright Royalty Judge during the pendency of such hearing. The Librarian shall appoint an interim Copyright Royalty Judge during the period of any such suspension.

[''§ 803. Proceedings of Copyright Royalty Judges

[''(a) PROCEEDINGS.—

[''(1) IN GENERAL.—The Copyright Royalty Judges shall act in accordance with this title, and to the extent not inconsistent with this title, in accordance with subchapter II of chapter 5 of title 5, in carrying out the purposes set forth in section 801. The Copyright Royalty Judges shall act in accordance with regulations issued by the Copyright Royalty Judges and on the basis of a fully documented written record, prior decisions of the Copyright Royalty Tribunal, prior copyright arbitration royalty panel determinations, rulings by the Librarian of Congress before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, prior determinations of Copyright Royalty Judges under this chapter, and decisions of the court in appeals under this chapter before, on, or after such effective date. Any participant in a proceeding under subsection (b)(2) may submit relevant information and proposals to the Copyright Royalty Judges.

[''(2) JUDGES ACTING AS PANEL AND INDIVIDUALLY.—The Copyright Royalty Judges shall preside over hearings in proceedings under this chapter en banc. The Chief Copyright Royalty Judge may designate a Copyright Royalty Judge to preside individually over such collateral and administrative proceedings, and over such proceedings under paragraphs (1) through (5) of subsection (b), as the Chief Judge considers appropriate.

[''(3) DETERMINATIONS.—Final determinations of the Copyright Royalty Judges in proceedings under this chapter shall be made by majority vote. A Copyright Royalty Judge dissenting from the majority on any determination under this chapter may issue his or her dissenting opinion, which shall be included with the determination.

[''(b) PROCEDURES.—

[''(1) INITIATION.—

[''(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) Promptly upon the filing of a petition for a rate adjustment or determination under section 804(a) or 804(b)(8), or by no later than January 5 of a year specified in section 804 for the commencement of a proceeding if a petition has not been filed by that date, the Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004 or 1007, as the case may be.

[''(ii) Petitions to participate shall be filed by no later than 30 days after publication of notice of commencement of a proceeding, under clause (i), except that the Copyright

Royalty Judges may, for substantial good cause shown and if there is no prejudice to the participants that have already filed petitions, accept late petitions to participate at any time up to the date that is 90 days before the date on which participants in the proceeding are to file their written direct statements.

''(B) PETITIONS TO PARTICIPATE.—Each petition to participate in a proceeding shall describe the petitioner's interest in the subject matter of the proceeding. Parties with similar interests may file a single petition to participate.

''(2) PARTICIPATION IN GENERAL.—Subject to paragraph (4), a person may participate in a proceeding under this chapter, including through the submission of briefs or other information, only if—

''(A) that person has filed a petition to participate in accordance with paragraph (1) (either individually or as a group under paragraph (1)(B)), together with a filing fee of $150;

''(B) the Copyright Royalty Judges have not determined that the petition to participate is facially invalid; and

''(C) the Copyright Royalty Judges have not determined, sua sponte or on the motion of another participant in the proceeding, that the person lacks a significant interest in the proceeding.

''(3) VOLUNTARY NEGOTIATION PERIOD.—

''(A) IN GENERAL.—Promptly after the date for filing of petitions to participate in a proceeding, the Copyright Royalty Judges shall make available to all participants in the proceeding a list of such participants and shall initiate a voluntary negotiation period among the participants.

''(B) LENGTH OF PROCEEDINGS.—The voluntary negotiation period initiated under subparagraph (A) shall be 3 months.

''(C) DETERMINATION OF SUBSEQUENT PROCEEDINGS.—At the close of the voluntary negotiation proceedings, the Copyright Royalty Judges shall, if further proceedings under this chapter are necessary, determine whether and to what extent paragraphs (4) and (5) will apply to the parties.

''(4) SMALL CLAIMS PROCEDURE IN DISTRIBUTION PROCEEDINGS.—

''(A) IN GENERAL.—If, in a proceeding under this chapter to determine the distribution of royalties, a participant in the proceeding asserts that the contested amount of the claim is $10,000 or less, the Copyright Royalty Judges shall decide the controversy on the basis of the filing in writing of the initial claim, the initial response by any opposing participant, and one additional response by each such party. The participant asserting the claim shall not be required to pay the filing fee under paragraph (2).

''(B) BAD FAITH INFLATION OF CLAIM.—If the Copyright Royalty Judges determine that a participant asserts in bad faith an amount in controversy in excess of $10,000 for the purpose of avoiding a determination under the procedure set forth in subparagraph (A), the Copyright Royalty Judges shall impose a fine on that participant in an amount not to exceed the difference between the actual amount distributed and the amount asserted by the participant.

''(5) PAPER PROCEEDINGS IN RATEMAKING PROCEEDINGS.—The Copyright Royalty Judges in proceedings under this chapter to determine royalty rates may decide, sua sponte or upon motion of a participant, to determine issues on the basis of initial filings in writing, initial responses by any opposing participant, and one additional response by each such participant. Prior to making such decision to proceed on such a paper record only, the Copyright Royalty Judges shall offer to all parties to the proceeding the opportunity to comment on the decision. The procedure under this paragraph—

''(A) shall be applied in cases in which there is no genuine issue of material fact, there is no need for evidentiary hearings, and all participants in the proceeding agree in writing to the procedure; and

''(B) may be applied under such other circumstances as the Copyright Royalty Judges consider appropriate.

''(6) REGULATIONS.—

''(A) IN GENERAL.—The Copyright Royalty Judges may issue regulations to carry out their functions under this title. Not later than 120 days after Copyright Royalty Judges or interim Copyright Royalty Judges, as the case may be, are first appointed after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, such judges shall issue regulations to govern proceedings under this chapter.

''(B) INTERIM REGULATIONS.—Until regulations are adopted under subparagraph (A), the Copyright Royalty Judges shall apply the regulations in effect under this chapter on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, to the extent such regulations are not inconsistent with this chapter, except that functions carried out under such regulations by the Librarian of Congress, the Register of Copyrights, or copyright arbitration royalty panels that, as of such date of enactment, are to be carried out by the Copyright Royalty Judges under this chapter, shall be carried out by the Copyright Royalty Judges under such regulations.

''(C) REQUIREMENTS.—Regulations issued under subparagraph (A) shall include the following:

''(i) The written direct statements of all participants in a proceeding under paragraph (2) shall be filed by a date specified by the Copyright Royalty Judges, which may be no earlier than four months, and no later than five months, after the end of the voluntary negotiation period under paragraph (3). Notwithstanding the preceding sentence, a participant in a proceeding may, within 15 days after the end of the discovery period specified in clause (iii), file an amended written direct statement based on new information received during the discovery process.

''(ii)(I) Following the submission to the Copyright Royalty Judges of written direct statements by the participants in a proceeding under paragraph (2), the judges shall meet with the participants for the purpose of setting a schedule for conducting and completing discovery. Such schedule shall be determined by the Copyright Royalty Judges.

''(II) In this chapter, the term 'written direct statements' means witness statements, testimony, and exhibits to be presented in the proceedings, and such other information that is necessary to establish terms and rates, or the distribution of royalty payments, as the case may be, as set forth in regulations issued by the Copyright Royalty Judges.

''(iii) Hearsay may be admitted in proceedings under this chapter to the extent deemed appropriate by the Copyright Royalty Judges.

''(iv) Discovery in such proceedings shall be permitted for a period of 60 days, except for discovery ordered by the Copyright Royalty Judges in connection with the resolution of motions, orders and disputes pending at the end of such period.

''(v) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may, upon written notice, seek discovery of information and materials relevant and material to the proceeding. Any objection to any such discovery request shall be resolved by a motion or request to compel discovery made to the Copyright Royalty Judges. Each motion or request to compel discovery shall be determined by the Copyright Royalty Judges, or by a Copyright Royalty Judge when permitted under subsection (a)(2), who may approve the request only if the evidence that would be produced is relevant and material. A Copyright Royalty Judge may refuse a request to compel discovery of evidence that has been found to be relevant and material, only upon good cause shown. For purposes of the preceding sentence, the basis for 'good cause' may only be that—

''(I) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive;

''(II) the participant seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or

''(III) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs and resources of the participants, the importance of the issues at stake, and the importance of the proposed discovery in resolving the issues.

''(vi) The rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, relating to discovery in proceedings under this title to determine the distribution of royalty fees, shall continue to apply to such proceedings on and after such effective date.

''(vii) The Copyright Royalty Judges may issue subpoenas requiring the production of evidence or witnesses, but only if the evidence requested to be produced or that would be proffered by the witness is relevant and material.

''(viii) The Copyright Royalty Judges shall order a settlement conference among the participants in the proceeding to facilitate the presentation of offers of settlement among the participants. The settlement conference shall be held during a 21-day period following the end of the discovery period.

''(c) DETERMINATION OF COPYRIGHT ROYALTY JUDGES.—

''(1) TIMING.—The Copyright Royalty Judges shall issue their determination in a proceeding not later than 11 months after the conclusion of the 21-day settlement conference period under subsection (b)(3)(C)(vi), but, in the case of a proceeding to determine successors to rates or terms that expire on a specified date, in no event later than 15 days before the expiration of the then current statutory rates and terms.

''(2) REHEARINGS.—

''(A) IN GENERAL.—The Copyright Royalty Judges may, in exceptional cases, upon motion of a participant under subsection (b)(2), order a rehearing, after the determination in a proceeding is issued under paragraph (1), on such matters as the Copyright Royalty Judges determine to be appropriate.

''(B) TIMING FOR FILING MOTION.—Any motion for a rehearing under subparagraph (A) may only be filed within 15 days after the date on which the Copyright Royalty Judges deliver their initial determination concerning rates and terms to the participants in the proceeding.

''(C) PARTICIPATION BY OPPOSING PARTY NOT REQUIRED.—In any case in which a rehearing is ordered, any opposing party shall not be required to participate in the rehearing.

''(D) NO NEGATIVE INFERENCE.—No negative inference shall be drawn from lack of participation in a rehearing.

''(E) CONTINUITY OF RATES AND TERMS.—(i) If the decision of the Copyright Royalty Judges on any motion for a rehearing is not rendered before the expiration of the statutory rates and terms that were previously in

effect, in the case of a proceeding to determine successors to rates and terms that expire on a specified date, then—

[''(I) the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion shall be effective as of the day following the date on which the rates and terms that were previously in effect expire; and

[''(II) in the case of a proceeding under section 114(f)(1)(C) or 114(f)(2)(C), royalty rates and terms shall, for purposes of section 114(f)(4)(B), be deemed to have been set at those rates and terms contained in the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion, as of the date of that determination.

[''(ii) The pendency of a motion for a rehearing under this paragraph shall not relieve persons obligated to make royalty payments who would be affected by the determination on that motion from providing the statements of account and any reports of use, to the extent required, and paying the royalties required under the relevant determination or regulations.

[''(iii) Notwithstanding clause (ii), whenever royalties described in clause (ii) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the motion for rehearing is resolved or, if the motion is granted, within 60 days after the rehearing is concluded, return any excess amounts previously paid to the extent necessary to comply with the final determination of royalty rates by the Copyright Royalty Judges.

[''(3) CONTENTS OF DETERMINATION.—A determination of the Copyright Royalty Judges shall be accompanied by the written record, and shall set forth the facts that the Copyright Royalty Judges found relevant to their determination. Among other terms adopted in a determination, the Copyright Royalty Judges may specify notice and recordkeeping requirements of users of the copyrights at issue that apply in lieu of those that would otherwise apply under regulations.

[''(4) CONTINUING JURISDICTION.—The Copyright Royalty Judges may amend the determination or the regulations issued pursuant to the determination in order to correct any technical errors in the determination or to respond to unforeseen circumstances that preclude the proper effectuation of the determination.

[''(5) PROTECTIVE ORDER.—The Copyright Royalty Judges may issue such orders as may be appropriate to protect confidential information, including orders excluding confidential information from the record of the determination that is published or made available to the public, except that any terms or rates of royalty payments or distributions may not be excluded.

[''(6) PUBLICATION OF DETERMINATION.—The Librarian of Congress shall cause the determination, and any corrections thereto, to be published in the Federal Register. The Librarian of Congress shall also publicize the determination and corrections in such other manner as the Librarian considers appropriate, including, but not limited to, publication on the Internet. The Librarian of Congress shall also make the determination, corrections, and the accompanying record available for public inspection and copying.

[''(d) JUDICIAL REVIEW.—

[''(1) APPEAL.—Any determination of the Copyright Royalty Judges under subsection (c) may, within 30 days after the publication of the determination in the Federal Register, be appealed, to the United States Court of Appeals for the District of Columbia Circuit, by any aggrieved participant in the proceeding under subsection (b)(2) who fully participated in the proceeding and who would be bound by the determination. If no appeal is brought within that 30-day period, the determination of the Copyright Royalty Judges shall be final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in paragraph (2).

[''(2) EFFECT OF RATES.—

[''(A) EXPIRATION ON SPECIFIED DATE.—When this title provides that the royalty rates and terms that were previously in effect are to expire on a specified date, any adjustment or determination by the Copyright Royalty Judges of successor rates and terms for an ensuing statutory license period shall be effective as of the day following the date of expiration of the rates and terms that were previously in effect, even if the determination of the Copyright Royalty Judges is rendered on a later date.

[''(B) OTHER CASES.—In cases where rates and terms do not expire on a specified date or have not yet been established, successor or new rates or terms shall take effect on the first day of the second month that begins after the publication of the determination of the Copyright Royalty Judges in the Federal Register, except as otherwise provided in this title, and the rates and terms previously in effect, to the extent applicable, shall remain in effect until such successor rates and terms become effective.

[''(C) OBLIGATION TO MAKE PAYMENTS.—(i) The pendency of an appeal under this subsection shall not relieve persons obligated to make royalty payments under section 111, 112, 114, 115, 116, 118, 119, or 1003, who would be affected by the determination on appeal, from providing the statements of account (and any report of use, to the extent required) and paying the royalties required under the relevant determination or regulations.

[''(ii) Notwithstanding clause (i), whenever royalties described in clause (i) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the final resolution of the appeal, return any excess amounts previously paid (and interest thereon, if ordered pursuant to paragraph (3)) to the extent necessary to comply with the final determination of royalty rates on appeal.

[''(3) JURISDICTION OF COURT.—If the court, pursuant to section 706 of title 5, modifies or vacates a determination of the Copyright Royalty Judges, the court may enter its own determination with respect to the amount or distribution of royalty fees and costs, and order the repayment of any excess fees, the payment of any underpaid fees, and the payment of interest pertaining respectively thereto, in accordance with its final judgment. The court may also vacate the determination of the Copyright Royalty Judges and remand the case to the Copyright Royalty Judges for further proceedings in accordance with subsection (a).

[''(e) ADMINISTRATIVE MATTERS.—

[''(1) DEDUCTION OF COSTS OF LIBRARY OF CONGRESS AND COPYRIGHT OFFICE FROM FILING FEES.—

[''(A) DEDUCTION FROM FILING FEES.—The Librarian of Congress may, to the extent not otherwise provided under this title, deduct from the filing fees collected under subsection (b) for a particular proceeding under this chapter the reasonable costs incurred by the Librarian of Congress, the Copyright Office, and the Copyright Royalty Judges in conducting that proceeding, other than the salaries of the Copyright Royalty Judges and the 3 staff members appointed under section 802(b).

[''(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the costs of proceedings under this chapter not covered by the filing fees collected under subsection (b). All funds made available pursuant to this subparagraph shall remain available until expended.

[''(2) POSITIONS REQUIRED FOR ADMINISTRATION OF COMPULSORY LICENSING.—Section 307 of the Legislative Branch Appropriations Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 112, 114, 115, 116, 118, or 119 or chapter 10.

[''§ 804. Institution of proceedings

[''(a) FILING OF PETITION.—With respect to proceedings referred to in paragraphs (1) and (2) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 111, 112, 114, 115, 116, 118, and 1004, during the calendar years specified in the schedule set forth in subsection (b), any owner or user of a copyrighted work whose royalty rates are specified by this title, or are established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests a determination or adjustment of the rate. The Copyright Royalty Judges shall make a determination as to whether the petitioner has such a significant interest in the royalty rate in which a determination or adjustment is requested. If the Copyright Royalty Judges determine that the petitioner has such a significant interest, the Copyright Royalty Judges shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter. With respect to proceedings under paragraph (1) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 112 and 114, during the calendar years specified in the schedule set forth in subsection (b), the Copyright Royalty Judges shall cause notice of commencement of proceedings under this chapter to be published in the Federal Register as provided in section 803(b)(1)(A).

[''(b) TIMING OF PROCEEDINGS.—

[''(1) SECTION 111 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (A) or (D) of section 801(b)(2) applies may be filed during the year 2005 and in each subsequent fifth calendar year.

[''(B) In order to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (B) or (C) of section 801(b)(2) applies, within 12 months after an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests an adjustment of the rate. The Copyright Royalty Judges shall then proceed as set forth in subsection (a) of this section. Any change in royalty rates made under this chapter pursuant to this subparagraph may be reconsidered in the year 2005, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(3)(B) or (C), as the case may

be. A petition for adjustment of rates under section 11(d)(1)(B) as a result of a change is the rules and regulations of the Federal Communications Commission shall set forth the change on which the petition is based.

[''(C) Any adjustment of royalty rates under section 111 shall take effect as of the first accounting period commencing after the publication of the determination of the Copyright Royalty Judges in the Federal Register, or on such other date as is specified in that determination.

[''(2) CERTAIN SECTION 112 PROCEEDINGS.—Proceedings under this chapter shall be commenced in the year 2007 to determine reasonable terms and rates of royalty payments for the activities described in section 112(e)(1) relating to the limitation on exclusive rights specified by section 114(d)(1)(C)(iv), to become effective on January 1, 2009. Such proceedings shall be repeated in each subsequent fifth calendar year.

[''(3) SECTION 114 AND CORRESPONDING 112 PROCEEDINGS.—

[''(A) FOR ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES.—Proceedings under this chapter shall be commenced as soon as practicable after the effective date of the Copyright Royalty and Distribution Reform Act of 2004 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of eligible nonsubscription transmission services and new subscription services, to be effective for the period beginning on January 1, 2006, and ending on December 31, 2010. Such proceedings shall next be commenced in January 2009 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2011. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

[''(B) FOR PREEXISTING SUBSCRIPTION AND SATELLITE DIGITAL AUDIO RADIO SERVICES.—Proceedings under this chapter shall be commenced in January 2006 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of preexisting subscription services, to be effective during the period beginning on January 1, 2008, and ending on December 31, 2012, and preexisting satellite digital audio radio services, to be effective during the period beginning on January 1, 2007, and ending on December 31, 2012. Such proceedings shall next be commenced in 2011 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2013. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

[''(C)(i) Notwithstanding any other provision of this chapter, this subparagraph shall govern proceedings commenced pursuant to sections 114(f)(1)(C) and 114(f)(2)(C) concerning new types of services.

[''(ii) Not later than 30 days after a petition to determine rates and terms for a new type of service that is filed by any copyright owner of sound recordings, or such new type of service, indicating that such new type of service is or is about to become operational, the Copyright Royalty Judges shall issue a notice for a proceeding to determine rates and terms for such service.

[''(iii) The proceeding shall follow the schedule set forth in such subsections (b), (c), and (d) of section 803, except that—

[''(I) the determination shall be issued by not later than 24 months after the publication of the notice under clause (ii); and

[''(II) the decision shall take effect as provided in subsections (c)(2) and (d)(2) of section 803 and section 114(f)(4)(B)(ii) and (C).

[''(iv) The rates and terms shall remain in effect for the period set forth in section 114(f)(1)(C) or 114(f)(2)(C), as the case may be.

[''(4) SECTION 115 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment or determination of royalty rates as provided in section 115 may be filed in the year 2006 and in each subsequent fifth calendar year, or at such other times as the parties have agreed under section 115(c)(3)(B) and (C).

[''(5) SECTION 116 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b) concerning the determination of royalty rates and terms as provided in section 116 may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

[''(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Copyright Royalty Judges shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, commence a proceeding to promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of nondramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the Copyright Royalty Judges, in accordance with section 803, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).

[''(6) SECTION 118 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 118 may be filed in the year 2006 and in each subsequent fifth calendar year.

[''(7) SECTION 1004 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment of reasonable royalty rates under section 1004 may be filed as provided in section 1004(a)(3).

[''(8) PROCEEDINGS CONCERNING DISTRIBUTION OF ROYALTY FEES.—With respect to proceedings under section 801(b)(3) concerning the distribution of royalty fees in certain circumstances under section 111, 116, 119, or 1007, the Copyright Royalty Judges shall, upon a determination that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

[''§ 805. General rule for voluntarily negotiated agreements

[''Any rates or terms under this title that—

[''(1) are agreed to by participants to a proceeding under section 803(b)(2),

[''(2) are adopted by the Copyright Royalty Judges as part of a determination under this chapter, and

[''(3) are in effect for a period shorter than would otherwise apply under a determination pursuant to this chapter,

[shall remain in effect for such period of time as would otherwise apply under such determination, except that the Copyright Royalty Judges shall adjust the rates pursuant to the voluntary negotiations to reflect national monetary inflation during the additional period the rates remain in effect.''.

[(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by striking the item relating to chapter 8 and inserting the following:

[''8. Proceedings by Copyright Royalty Judges ..... 801''.

[SEC. 4. DEFINITION.

[Section 101 is amended by inserting after the definition of ''copies'' the following:

[''A 'Copyright Royalty Judge' is a Copyright Royalty Judge appointed under section 802 of this title, and includes any individual serving as an interim Copyright Royalty Judge under such section.''.

[SEC. 5. TECHNICAL AMENDMENTS.

[(a) CABLE RATES.—Section 111(d) is amended—

[(1) in paragraph (2), in the second sentence, by striking ''a copyright arbitration royalty panel'' and inserting ''the Copyright Royalty Judges.''; and

[(2) in paragraph (4)—

[(A) in subparagraph (A), by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges'';

[(B) in subparagraph (B)—

[(i) in the first sentence, by striking ''Librarian of Congress shall, upon the recommendation of the Register of Copyrights,'' and inserting ''Copyright Royalty Judges shall'';

[(ii) in the second sentence, by striking ''Librarian determines'' and inserting ''Copyright Royalty Judges determine''; and

[(iii) in the third sentence—

[(I) by striking ''Librarian'' each place it appears and inserting ''Copyright Royalty Judges''; and

[(II) by striking ''convene a copyright arbitration royalty panel'' and inserting ''conduct a proceeding''; and

[(C) in subparagraph (C), by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''.

[(b) EPHEMERAL RECORDINGS.—Section 112(e) is amended—

[(1) in paragraph (3)—

[(A) by amending the first sentence to read as follows: ''Voluntary negotiation proceedings initiated pursuant to section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by paragraph (1) shall cover the 5-year period beginning on January 1 of the second year following the year in which the proceedings are commenced, or such other period as the parties may agree.''; and

[(B) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

[(2) in paragraph (4)—

[(A) by amending the first sentence to read as follows: ''In the absence of license agreements negotiated under paragraphs (2) and (3), the Copyright Royalty Judges shall commence a proceeding pursuant to chapter 8 to determine and publish in the Federal Register a schedule of reasonable rates and terms which, subject to paragraph (5), shall be binding on all copyright owners of sound recordings and transmitting organizations entitled to a statutory license under this subsection during the 5-year period specified in paragraph (3), or such other period as the parties may agree.'';

[(B) by striking ''copyright arbitration royalty panel'' each subsequent place it appears and inserting ''Copyright Royalty Judges'';

[(C) in the fourth sentence, by striking ''its decision'' and inserting ''their decision''; and

[(D) in the last sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

⟦(3) in paragraph (5), by striking ''or decision by the Librarian of Congress'' and inserting '', decision by the Librarian of Congress, or determination by the Copyright Royalty Judges'';

⟦(4) by striking paragraph (6) and redesignating paragraphs (7), (8), and (9), as paragraphs (6), (7), and (8), respectively; and

⟦(5) in paragraph (6)(A), as so redesignated, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''.

⟦(c) SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.—Section 114(f) is amended—

⟦(1) in paragraph (1)—

⟦(A) in subparagraph (A)—

⟦(i) by amending the first sentence to read as follows: ''Voluntary negotiation proceedings initiated pursuant to section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services shall cover the 5-year period beginning on January 1 of the year following the second year in which the proceedings are commenced, except where differential transitional periods are provided in section 804(b)(3), or such other period as the parties may agree.''; and

⟦(ii) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

⟦(B) in subparagraph (B)—

⟦(i) by amending the first sentence to read as follows: ''In the absence of license agreements negotiated under subparagraph (A), the Copyright Royalty Judges shall commence a proceeding pursuant to chapter 8 to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), or such other date as the parties may agree.''; and

⟦(ii) in the second sentence, by striking ''copyright arbitration royalty panel'' and inserting ''Copyright Royalty Judges''; and

⟦(C) by amending subparagraph (C) to read as follows:

⟦''(C) The procedures under subparagraphs (A) and (B) also shall be initiated pursuant to a petition filed by any copyright owners of sound recordings, any preexisting subscription services, or any preexisting satellite digital audio radio services indicating that a new type of subscription digital audio transmission service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of transmission service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for subscription digital audio transmission services most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.'';

⟦(2) in paragraph (2)—

⟦(A) in subparagraph (A)—

⟦(i) by amending the first sentence to read as follows: ''Voluntary negotiation proceedings initiated pursuant to section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for public performances of sound recordings by means of eligible nonsubscription transmissions and transmissions by new subscription services specified by subsection (d)(2) shall cover the 5-year period beginning on January 1 of the second year following the year in which the proceedings are commenced, except where different transitional periods are provided in section 804(b)(3)(A), or such other period as the parties may agree.''; and

⟦(ii) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

⟦(B) in subparagraph (B)—

⟦(i) by amending the first sentence to read as follows: ''In the absence of license agreements negotiated under subparagraph (A), the Copyright Royalty Judges shall commence a proceeding pursuant to chapter 8 to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the period specified in subparagraph (A), or such other period as the parties may agree.''; and

⟦(ii) by striking ''copyright arbitration royalty panel'' each subsequent place it appears and inserting ''Copyright Royalty Judges''; and

⟦(C) by amending subparagraph (C) to read as follows:

⟦''(C) The procedures under subparagraphs (A) and (B) shall also be initiated pursuant to a petition filed by any copyright owners of sound recordings or any eligible nonsubscription service or new subscription service indicating that a new type of eligible nonsubscription service or new subscription service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for preexisting subscription digital audio transmission services or preexisting satellite digital radio audio services, as the case may be, most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.'';

⟦(3) in paragraph (3), by striking ''or decision by the Librarian of Congress'' and inserting '', decision by the Librarian of Congress, or determination by the Copyright Royalty Judges''; and

⟦(4) in paragraph (4), by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges''.

⟦(d) PHONORECORDS OF NONDRAMATIC MUSICAL WORKS.—Section 115(c)(3) is amended—

⟦(1) in subparagraph (A)(ii), by striking ''(F)'' and inserting ''(E)'';

⟦(2) in subparagraph (B)—

⟦(A) by striking ''under this paragraph'' and inserting ''under this section''; and

⟦(B) by striking ''subparagraphs (B) through (F)'' and inserting ''this subparagraph and subparagraphs (B) through (E)'';

⟦(3) in subparagraph (C)—

⟦(A) by amending the first sentence to read as follows: ''Voluntary negotiation proceedings initiated pursuant to a petition filed under section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by this section shall cover the period beginning with the effective date of such terms and rates, but not earlier than January 1 of the second year following the year in which the petition is filed, and ending on the effective date of successor terms and rates, or such other period as the parties may agree.''; and

⟦(B) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

⟦(4) in subparagraph (D)—

⟦(A) by amending the first sentence to read as follows: ''In the absence of license agreements negotiated under subparagraphs (B) and (C), the Copyright Royalty Judges shall commence proceedings pursuant to chapter 8 to determine and publish in the Federal Register a schedule of rates and terms which, subject to subparagraph (E), shall be binding on all copyright owners of nondramatic musical works and persons entitled to obtain a compulsory license under subsection (a)(1) during the period specified in subparagraph (C) or such other period as may be determined pursuant to subparagraphs (B) and (C), or such other period as the parties may agree.'';

⟦(B) in the third sentence, by striking ''copyright arbitration royalty panel'' and inserting ''Copyright Royalty Judges''; and

⟦(C) in the last sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

⟦(5) in subparagraph (E)—

⟦(A) in clause (i)—

⟦(i) in the first sentence, by striking ''the Librarian of Congress'' and inserting ''a copyright arbitration royalty panel, the Librarian of Congress, or the Copyright Royalty Judges''; and

⟦(ii) in the second sentence, by striking ''(C), (D) or (F) shall be given effect'' and inserting ''(C) or (D) shall be given effect as to digital phonorecord deliveries''; and

⟦(B) in clause (ii)(I), by striking ''(C), (D) or (F)'' each place it appears and inserting ''(C) or (D)''; and

⟦(6) by striking subparagraph (F) and redesignating subparagraphs (G) through (L) as subparagraphs (F) through (K), respectively.

⟦(e) COIN-OPERATED PHONORECORD PLAYERS.—Section 116 is amended—

⟦(1) in subsection (b), by amending paragraph (2) to read as follows:

⟦''(2) CHAPTER 8 PROCEEDING.—Parties not subject to such a negotiation may have the terms and rates and the division of fees described in paragraph (1) determined in a proceeding in accordance with the provisions of chapter 8.''; and

⟦(2) in subsection (c)—

⟦(A) in the subsection heading, by striking ''COPYRIGHT ARBITRATION ROYALTY PANEL DETERMINATIONS'' and inserting ''DETERMINATIONS BY COPYRIGHT ROYALTY JUDGES''; and

⟦(B) by striking ''a copyright arbitration royalty panel'' and inserting ''the Copyright Royalty Judges''.

⟦(f) USE OF CERTAIN WORKS IN CONNECTION WITH NONCOMMERCIAL BROADCASTING.—Section 118 is amended—

⟦(1) in subsection (b)—

⟦(A) in paragraph (1)—

⟦(i) in the first sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

⟦(ii) by striking the second and third sentences;

⟦(B) in paragraph (2), by striking ''the Librarian of Congress:'' and all that follows through the end of the sentence and inserting ''a copyright arbitration royalty panel, the Librarian of Congress, or the Copyright Royalty Judge, if copies of such agreements are filed with the Copyright Royalty Judges within 30 days of execution in accordance with regulations that the Copyright Royalty Judges shall issue.''; and

⟦(C) in paragraph (3)—

⟦(i) in the second sentence—

⟦(I) by striking ''copyright arbitration royalty panel'' and inserting ''Copyright Royalty Judges''; and

⟦(II) by striking ''paragraph (2).'' and inserting ''paragraph (2) or (3).'';

⟦(ii) in the last sentence, by striking '''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

⟦(iii) by striking ''(3) In'' and all that follows through the end of the first sentence and inserting the following:

⟦''(3) Voluntary negotiation proceedings initiated pursuant to a petition filed under

section 804(a) for the purpose of determining a schedule of terms and rates of royalty payments by public broadcasting entities to copyright owners in works specified by this subsection and the proportionate division of fees paid among various copyright owners shall cover the 5-year period beginning on January 1 of the second year following the year in which the petition is filed. The parties to each negotiation proceeding shall bear their own costs.

[''(4) In the absence of license agreements negotiated under paragraph (2) or (3), the Copyright Royalty Judges shall, pursuant to chapter 8, conduct a proceeding to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Copyright Royalty Judges.'';

[(2) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively;

[(3) in subsection (c), as so redesignated, in the matter preceding paragraph (1)—

[(A) by striking ''(b)(2)'' and inserting ''(b)(2) or (3)'';

[(B) by striking ''(b)(3)'' and inserting ''(b)(4)''; and

[(C) by striking ''a copyright arbitration royalty panel'' and inserting ''the Copyright Royalty Judges'';

[(4) in subsection (d), as so redesignated—

[(A) by striking ''in the Copyright Office'' and inserting ''with the Copyright Royalty Judges''; and

[(B) by striking ''Register of Copyrights'' and inserting ''Copyright Royalty Judges''; and

[(5) in subsection (f), as so redesignated, by striking ''(d)'' and inserting ''(c)''.

[(g) SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—Section 119(b) is amended—

[(1) in paragraph (3), by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

[(2) in paragraph (4)—

[(A) in subparagraph (A), by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges''; and

[(B) by amending subparagraphs (B) and (C) to read as follows:

[''(B) DETERMINATION OF CONTROVERSY; DISTRIBUTIONS.—After the first day of August of each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents. If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

[''(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, subject to any distributions made under section 801(b)(3).''.

[(h) DIGITAL AUDIO RECORDING DEVICES.—

[(1) ROYALTY PAYMENTS.—Section 1004(a)(3) is amended by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges''.

[(2) ENTITLEMENT TO ROYALTY PAYMENTS.—Section 1006(c) is amended by striking ''Librarian of Congress shall convene a copyright arbitration royalty panel which'' and inserting ''Copyright Royalty Judges''.

[(3) PROCEDURES FOR DISTRIBUTING ROYALTY PAYMENTS.—Section 1007 is amended—

[(A) in subsection (a), by amending paragraph (1) to read as follows:

[''(1) FILING OF CLAIMS.—During the first 2 months of each calendar year, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Judges a claim for payments collected during the preceding year in such form and manner as the Copyright Royalty Judges shall prescribe by regulation.''; and

[(B) by amending subsections (b) and (c) to read as follows:

[''(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—After the period established for the filing of claims under subsection (a), in each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a). The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.

[''(c) RESOLUTION OF DISPUTES.—If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.''.

[(4) DETERMINATION OF CERTAIN DISPUTES.—(A) Section 1010 is amended to read as follows:

["§ 1010. Determination of certain disputes

[''(a) SCOPE OF DETERMINATION.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to petition the Copyright Royalty Judges to determine whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.

[''(b) INITIATION OF PROCEEDINGS.—The parties under subsection (a) shall file the petition with the Copyright Royalty Judges requesting the commencement of a proceeding. Within 2 weeks after receiving such a petition, the Chief Copyright Royalty Judge shall cause notice to be published in the Federal Register of the initiation of the proceeding.

[''(c) STAY OF JUDICIAL PROCEEDINGS.—Any civil action brought under section 1009 against a party to a proceeding under this section shall, on application of one of the parties to the proceeding, be stayed until completion of the proceeding.

[''(d) PROCEEDING.—The Copyright Royalty Judges shall conduct a proceeding with respect to the matter concerned, in accordance with such procedures as the Copyright Royalty Judges may adopt. The Copyright Royalty Judges shall act on the basis of a fully documented written record. Any party to the proceeding may submit relevant information and proposals to the Copyright Royalty Judges. The parties to the proceeding shall each bear their respective costs of participation.

[''(e) JUDICIAL REVIEW.—Any determination of the Copyright Royalty Judges under subsection (d) may be appealed, by a party to the proceeding, in accordance with section 803(d) of this title. The pendency of an appeal under this subsection shall not stay the determination of the Copyright Royalty Judges. If the court modifies the determination of the Copyright Royalty Judges, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the determination of the Copyright Royalty Judges and remand the case for proceedings as provided in this section.''.

[(B) The item relating to section 1010 in the table of sections for chapter 10 is amended to read as follows:

[''1010. Determination of certain disputes.''.

[SEC. 6. EFFECTIVE DATE AND TRANSITION PROVISIONS.

[(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 6 months after the date of the enactment of this Act, except that the Librarian of Congress shall appoint interim Copyright Royalty Judges under section 802(d) of title 17, United States Code, as amended by this Act, within 90 days after such date of enactment to carry out the functions of the Copyright Royalty Judges under title 17, United States Code, to the extent that Copyright Royalty Judges provided for in section 801(a) of title 17, United States Code, as amended by this Act, have not been appointed before the end of that 90-day period.

[(b) TRANSITION PROVISIONS.—

[(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this Act shall not affect any proceedings commenced, petitions filed, or voluntary agreements entered into before the enactment of this Act under the provisions of title 17, United States Code, amended by this Act, and pending on such date of enactment. Such proceedings shall continue, determinations made in such proceedings, and appeals taken therefrom, as if this Act had not been enacted, and shall continue in effect until modified under title 17, United States Code, as amended by this Act. Such petitions filed and voluntary agreements entered into shall remain in effect as if this Act had not been enacted.

[(2) EFFECTIVE PERIODS FOR CERTAIN RATEMAKING PROCEEDINGS.—Notwithstanding paragraph (1), terms and rates in effect under section 114(f)(2) or 112(e) of title 17, United States Code, for new subscription services, eligible nonsubscription services, and services exempt under section 114(d)(1)(C)(iv) of such title for the period 2003 through 2004, and any rates published in the Federal Register under the authority of the Small Webcaster Settlement Act of 2002 for the years 2003 through 2004, shall be effective until the first applicable effective date for successor terms and rates specified in section 804(b)(2) or (3)(A) of title 17, United States Code, or until such later date as the parties may agree. Any proceeding commenced before the enactment of this Act pursuant to section 114(f)(2) and chapter 8 of

title 17, United States Code, to adjust or determine such rates and terms for periods following 2004 shall be terminated upon the enactment of this Act and shall be null and void.

[(c) EXISTING APPROPRIATIONS.—Any funds made available in an appropriations Act before the date of the enactment of this Act to carry out chapter 8 of title 17, United States Code, shall be available to the extent necessary to carry out this section.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Copyright Royalty and Distribution Reform Act of 2004''.

SEC. 2. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 17, United States Code.

SEC. 3. COPYRIGHT ROYALTY JUDGE AND STAFF.

(a) IN GENERAL.—Chapter 8 is amended to read as follows:

''CHAPTER 8—PROCEEDINGS BY COPYRIGHT ROYALTY JUDGES

''Sec.
''801. Copyright Royalty Judges; appointment and functions.
''802. Copyright Royalty Judgeships; staff.
''803. Proceedings of Copyright Royalty Judges.
''804. Institution of proceedings.
''805. General rule for voluntarily negotiated agreements.

''§ 801. Copyright Royalty Judges; appointment and functions

''(a) APPOINTMENT.—Upon the recommendation of the Register of Copyrights, the Librarian of Congress shall appoint 3 full-time Copyright Royalty Judges, and shall appoint 1 of the 3 as the Chief Copyright Royalty Judge.

''(b) FUNCTIONS.—Subject to the provisions of this chapter, the functions of the Copyright Royalty Judges shall be as follows:

''(1) To make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, 119 and 1004. The rates applicable under sections 114(f)(1)(B), 115, and 116 shall be calculated to achieve the following objectives:

''(A) To maximize the availability of creative works to the public.

''(B) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

''(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

''(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

''(2) To make determinations concerning the adjustment of the copyright royalty rates under section 111 solely in accordance with the following provisions:

''(A) The rates established by section 111(d)(1)(B) may be adjusted to reflect—

''(i) national monetary inflation or deflation; or

''(ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of October 19, 1976,

except that—

''(I) if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted; and

''(II) no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber.

The Copyright Royalty Judges may consider all factors relating to the maintenance of such level of payments, including, as an extenuating factor, whether the industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

''(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 8, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Judges shall consider, among other factors, the economic impact on copyright owners and users; except that no adjustment in royalty rates shall be made under this subparagraph with respect to any distant signal equivalent or fraction thereof represented by—

''(i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal; or

''(ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

''(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

''(D) The gross receipts limitations established by section 111(d)(1)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section, and the royalty rate specified therein shall not be subject to adjustment.

''(3)(A) To authorize the distribution, under sections 111, 119, and 1007, of those royalty fees collected under sections 111, 119, and 1005, as the case may be, to the extent that the Copyright Royalty Judges have found that the distribution of such fees is not subject to controversy.

''(B) In cases where the Copyright Royalty Judges determine that controversy exists, the Copyright Royalty Judges shall determine the distribution of such fees, including partial distributions, in accordance with section 111, 119, or 1007, as the case may be.

''(C) The Copyright Royalty Judges may make a partial distribution of such fees during the pendency of the proceeding under subparagraph (B) if all participants under section 803(b)(2) in the proceeding that are entitled to receive those fees that are to be partially distributed—

''(i) agree to such partial distribution;

''(ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B);

''(iii) file the agreement with the Copyright Royalty Judges; and

''(iv) agree that such funds are available for distribution.

''(D) The Copyright Royalty Judges and any other officer or employee acting in good faith in distributing funds under subparagraph (C) shall not be held liable for the payment of any excess fees under subparagraph (C). The Copyright Royalty Judges shall, at the time the final determination is made, calculate any such excess amounts.

''(4) To accept or reject royalty claims filed under sections 111, 119, and 1007, on the basis of timeliness or the failure to establish the basis for a claim.

''(5) To accept or reject rate adjustment petitions as provided in section 804 and petitions to participate as provided in section 803(b) (1) and (2).

''(6) To determine the status of a digital audio recording device or a digital audio interface device under sections 1002 and 1003, as provided in section 1010.

''(7)(A) To adopt as a basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, an agreement concerning such matters reached among some or all of the participants in a proceeding at any time during the proceeding, except that—

''(i) the Copyright Royalty Judges shall provide to those that would be bound by the terms, rates, distribution, or other determination set by the agreement an opportunity to comment on the agreement and shall provide to the other participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, distribution, or other determination set by the agreement an opportunity to comment on the agreement and object to its adoption as a basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, as the case may be; and

''(ii) the Copyright Royalty Judges may decline to adopt the agreement as a basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, as the case may be, if any other participant described in subparagraph (A) objects to the agreement and the Copyright Royalty Judges conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates, or for distributing the royalty payments, as the case may be.

''(B) License agreements voluntarily negotiated pursuant to section 112(e)(5), 114(f)(3), 115(c)(3)(E)(i), 116(c), or 118(b) (2) or (3) that do not result in statutory terms and rates shall not be subject to clauses (i) and (ii) of subparagraph (A).

''(C) Interested parties may negotiate and agree to, and the Copyright Royalty Judges may adopt, an agreement that specifies as terms notice and recordkeeping requirements that apply in lieu of those that would otherwise apply under regulations.

''(8) To perform other duties, as assigned by the Register of Copyrights within the Library of Congress, except as provided in section 802(g) at times when Copyright Royalty Judges are not engaged in performing the other duties set forth in this section.

''(c) RULINGS.—As provided in section 802(f)(1), the Copyright Royalty Judges may make any necessary procedural or evidentiary rulings in any proceeding under this chapter and may, before commencing a proceeding under this chapter, make any such rulings that would apply to the proceedings conducted by the Copyright Royalty Judges.

''(d) ADMINISTRATIVE SUPPORT.—The Librarian of Congress shall provide the Copyright

Royalty Judges with the necessary administrative services related to proceedings under this chapter.

''(e) LOCATION IN LIBRARY OF CONGRESS.—The offices of the Copyright Royalty Judges and staff shall be in the Library of Congress.

''§ 802. Copyright Royalty Judgeships; staff

''(a) QUALIFICATIONS OF COPYRIGHT ROYALTY JUDGES.—

''(1) IN GENERAL.—Each Copyright Royalty Judge shall be an attorney who has at least 7 years of legal experience. The Chief Copyright Royalty Judge shall have at least 5 years of experience in adjudications, arbitrations, or court trials. Of the other two Copyright Royalty Judges, one shall have significant knowledge of copyright law, and the other shall have significant knowledge of economics. An individual may serve as a Copyright Royalty Judge only if the individual is free of any financial conflict of interest under subsection (h).

''(2) DEFINITION.—In this subsection, the term 'adjudication' has the meaning given that term in section 551 of title 5, but does not include mediation.

''(b) STAFF.—The Chief Copyright Royalty Judge shall hire 3 full-time staff members to assist the Copyright Royalty Judges in performing their functions.

''(c) TERMS.—The terms of the Copyright Royalty Judges shall each be 6 years, except of the individuals first appointed, the Chief Copyright Royalty Judge shall be appointed to a term of 6 years, and of the remaining Copyright Royalty Judges, one shall be appointed to a term of 2 years, and the other shall be appointed to a term of 4 years. An individual serving as a Copyright Royalty Judge may be reappointed to subsequent terms. The term of a Copyright Royalty Judge shall begin when the term of the predecessor of that Copyright Royalty Judge ends. When the term of office of a Copyright Royalty Judge ends, the individual serving that term may continue to serve until a successor is selected.

''(d) VACANCIES OR INCAPACITY.—

''(1) VACANCIES.—If a vacancy should occur in the position of Copyright Royalty Judge, the Librarian of Congress shall act expeditiously to fill the vacancy, and may appoint an interim Copyright Royalty Judge to serve until another Copyright Royalty Judge is appointed under this section. An individual appointed to fill the vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed shall be appointed for the remainder of that term.

''(2) INCAPACITY.—In the case in which a Copyright Royalty Judge is temporarily unable to perform his or her duties, the Librarian of Congress may appoint an interim Copyright Royalty Judge to perform such duties during the period of such incapacity.

''(e) COMPENSATION.—

''(1) JUDGES.—The Chief Copyright Royalty Judge shall receive compensation at the rate of basic pay payable for level AL–1 for administrative law judges pursuant to section 5372(b) of title 5, and each of the other two Copyright Royalty Judges shall receive compensation at the rate of basic pay payable for level AL–2 for administrative law judges pursuant to such section. The compensation of the Copyright Royalty Judges shall not be subject to any regulations adopted by the Office of Personnel Management pursuant to its authority under section 5376(b)(1) of title 5.

''(2) STAFF MEMBERS.—Of the staff members appointed under subsection (b)—

''(A) the rate of pay of one staff member shall be not more than the basic rate of pay payable for level 10 of GS–15 of the General Schedule;

''(B) the rate of pay of one staff member shall be not less than the basic rate of pay payable for GS–13 of the General Schedule and not more than the basic rate of pay payable for level 10 of GS–14 of such Schedule; and

''(C) the rate of pay for the third staff member shall be not less than the basic rate of pay payable for GS–8 of the General Schedule and not more than the basic rate of pay payable for level 10 of GS–11 of such Schedule.

''(3) LOCALITY PAY.—All rates of pay referred to under this subsection shall include locality pay.

''(f) INDEPENDENCE OF COPYRIGHT ROYALTY JUDGE.—

''(1) IN MAKING DETERMINATIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Copyright Royalty Judges shall have full independence in making determinations concerning adjustments and determinations of copyright royalty rates and terms, the distribution of copyright royalties, the acceptance or rejection of royalty claims, rate adjustment petitions, and petitions to participate, and in issuing other rulings under this title, except that the Copyright Royalty Judges may consult with the Register of Copyrights on any matter other than a question of fact. A Copyright Royalty Judge or Judges, or by motion to the Copyright Royalty Judge or Judges, any participant in a proceeding may request a determination of the resolution by the Register of Copyrights on any material question of substantive law (not including questions of procedure before the Copyright Royalty Judges, the ultimate adjustments and determinations of copyright royalty rates and terms, the ultimate distribution of copyright royalties, or the acceptance or rejection of royalty claims, rate adjustment petitions, or petitions to participate) concerning an interpretation or construction of those provisions of this title that are the subject of the proceeding. Any such motion requesting a written decision by the Register of Copyrights shall be in writing or on the record, and reasonable provision shall be made for comment by the participants in the proceeding in such a way as to minimize duplication and delay. Except as provided in subparagraph (B), the Register of Copyrights shall deliver to the Copyright Royalty Judges his or her decision within 14 days of receipt by the Register of Copyrights of all of the briefs or comments of the participants. Such decision shall be in writing and shall be included by the Copyright Royalty Judges in the record that accompanies their final determination. If such a decision is timely delivered to the Register of Copyrights, the Copyright Royalty Judges shall apply the legal determinations embodied in the decision of the Register of Copyrights in resolving material questions of substantive law.

''(B) NOVEL QUESTIONS.—(i) In any case in which a novel question of law concerning an interpretation of those provisions of this title that are the subject of the proceeding is presented, the Copyright Royalty Judges shall request a decision of the Register of Copyrights, in writing, to resolve such novel question. To the extent practicable, provision shall be made for comment on such request by the participants in the proceeding, in such a way as to minimize duplication and delay. The Register shall transmit his or her decision to the Copyright Royalty Judges within 30 days of receipt by the Register of Copyrights of all of the briefs or comments of the participants. Such decision shall be in writing and included by the Copyright Royalty Judges in the record that accompanies their final determination. If such a decision is timely transmitted, the Copyright Royalty Judges shall apply the legal determinations embodied in the decision of the Register of Copyrights in resolving material questions of substantive law.

''(ii) In clause (i), a 'novel question of law' is a question of law that has not been determined in prior decisions, determinations, and rulings described in section 803(a).

''(C) CONSULTATION.—Notwithstanding the provisions of subparagraph (A), the Copyright Royalty Judges shall consult with the Register of Copyrights with respect to any determination or ruling that would require that any act be performed by the Copyright Office, and any such determination or ruling shall not be binding upon the Register of Copyrights.

''(D) SUA SPONTE REVIEW OF LEGAL CONCLUSIONS BY THE REGISTER OF COPYRIGHTS.—The Register of Copyrights may review for legal error the resolution by the Copyright Royalty Judges of a material question of substantive law under this title that underlies or is contained in a final determination of the Copyright Royalty Judges. If the Register of Copyrights concludes, after taking into consideration the views of the participants in the proceeding, that any resolution reached by the Copyright Royalty Judges was in material error, the Register of Copyrights shall issue a written decision correcting such legal error, which shall be made part of the record of the proceeding. Additionally, the Register of Copyrights shall cause to be published in the Federal Register such written decision together with a specific identification of the legal conclusion of the Copyright Royalty Judges that is determined to be erroneous. As to conclusions of substantive law involving an interpretation of the statutory provisions of this title, the decision of the Register of Copyrights shall be binding upon the Copyright Royalty Judges in subsequent proceedings under this chapter. When a decision has been rendered pursuant to subsection 802(f)(1)(D), the Register of Copyrights may, on the basis of and in accordance with such decision, intervene as of right in any appeal of a final determination of the Copyright Royalty Judges pursuant to section 803(d) in the United States Court of Appeals for the District of Columbia Circuit. If, prior to intervening in such an appeal, the Register of Copyrights gives notification and undertakes to consult with the Attorney General with respect to such intervention, and the Attorney General fails within reasonable period after receipt of such notification to intervene in such appeal, the Register of Copyrights may intervene in such appeal in his or her own name by any attorney designated by the Register of Copyrights for such purpose. Intervention by the Register of Copyrights in his or her own name shall not preclude the Attorney General from intervening on behalf of the United States in such an appeal as may be otherwise provided or required by law.

''(E) EFFECT ON JUDICIAL REVIEW.—Nothing in this section shall be interpreted to alter the standard applied by a court in reviewing legal determinations involving an interpretation or construction of the provisions of this title or to affect the extent to which any construction or interpretation of the provisions of this title shall be accorded deference by a reviewing court.

''(2) PERFORMANCE APPRAISALS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law or any regulation of the Library of Congress, and subject to subparagraph (B), the Copyright Royalty Judges shall not receive performance appraisals.

''(B) RELATING TO SANCTION OR REMOVAL.—To the extent that the Librarian of Congress adopts regulations under subsection (h) relating to the sanction or removal of a Copyright Royalty Judge and such regulations require documentation to establish the cause of such sanction or removal, the Copyright Royalty Judge may receive an appraisal related specifically to the cause of the sanction or removal.

''(g) INCONSISTENT DUTIES BARRED.—No Copyright Royalty Judge may undertake duties that conflict with his or her duties and responsibilities as a Copyright Royalty Judge.

''(h) STANDARDS OF CONDUCT.—The Librarian of Congress shall adopt regulations regarding the standards of conduct, including financial conflict of interest and restrictions against ex parte communications, which shall govern the Copyright Royalty Judges and the proceedings under this chapter.

''(i) REMOVAL OR SANCTION.—The Librarian of Congress may sanction or remove a Copyright Royalty Judge for violation of the standards of conduct adopted under subsection (h), misconduct, neglect of duty, or any disqualifying

physical or mental disability. Any such sanction or removal may be made only after notice and opportunity for a hearing, but the Librarian of Congress may suspend the Copyright Royalty Judge during the pendency of such hearing. The Librarian shall appoint an interim Copyright Royalty Judge during the period of any such suspension.

''§ 803. Proceedings of Copyright Royalty Judges

''(a) PROCEEDINGS.—

''(1) IN GENERAL.—The Copyright Royalty Judges shall act in accordance with regulations issued by the Copyright Royalty Judges and the Librarian of Congress, and on the basis of a written record, prior determinations of the Copyright Royalty Tribunal, Librarian of Congress, copyright arbitration royalty panels, the Register of Copyrights, and the Copyright Royalty Judges (to the extent those determinations are not inconsistent with a decision of the Register of Copyrights that was timely delivered pursuant to subsection 802(f)(1)(D)), under this chapter, and decisions of the court of appeals under this chapter before, on, or after the effective date of the Copyright Royalty and Distribution Reform Act of 2004.

''(2) JUDGES ACTING AS PANEL AND INDIVIDUALLY.—The Copyright Royalty Judges shall preside over hearings in proceedings under this chapter en banc. The Chief Copyright Royalty Judge may designate a Copyright Royalty Judge to preside individually over such collateral and administrative proceedings, and over such proceedings under paragraphs (1) through (5) of subsection (b), as the Chief Judge considers appropriate.

''(3) DETERMINATIONS.—Final determinations of the Copyright Royalty Judges in proceedings under this chapter shall be made by majority vote. A Copyright Royalty Judge dissenting from the majority on any determination under this chapter may issue his or her dissenting opinion, which shall be included with the determination.

''(b) PROCEDURES.—

''(1) INITIATION.—

''(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) Promptly upon the filing of a petition for a rate adjustment or upon a determination made under section 804(a) or as provided under section 804(b)(8), or by no later than January 5 of a year specified in section 804 for the commencement of a proceeding if a petition has not been filed by that date, the Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004, or 1007, as the case may be.

''(ii) Petitions to participate shall be filed by no later than 30 days after publication of notice of commencement of a proceeding, under clause (i), except that the Copyright Royalty Judges may, for substantial good cause shown and if there is no prejudice to the participants that have already filed petitions, accept late petitions to participate at any time up to the date that is 90 days before the date on which participants in the proceeding are to file their written direct statements. Notwithstanding the preceding sentence, petitioners whose petitions are filed more than 30 days after publication of notice of commencement of a proceeding are not eligible to object to a settlement reached during the voluntary negotiation period under section 803(b)(3), and any objection filed by such a petitioner shall not be taken into account by the Copyright Royalty Judges.

''(B) PETITIONS TO PARTICIPATE.—Each petition to participate in a proceeding shall describe the petitioner's interest in the subject matter of the proceeding. Parties with similar interests may file a single petition to participate.

''(2) PARTICIPATION IN GENERAL.—Subject to paragraph (4), a person may participate in a proceeding under this chapter, including through the submission of briefs or other information, only if—

''(A) that person has filed a petition to participate in accordance with paragraph (1) (either individually or as a group under paragraph (1)(B)), together with a filing fee of $150;

''(B) the Copyright Royalty Judges have not determined that the petition to participate is facially invalid; and

''(C) the Copyright Royalty Judges have not determined, sua sponte or on the motion of another participant in the proceeding, that the person lacks a significant interest in the proceeding.

''(3) VOLUNTARY NEGOTIATION PERIOD.—

''(A) IN GENERAL.—Promptly after the date for filing of petitions to participate in a proceeding, the Copyright Royalty Judges shall make available to all participants in the proceeding a list of such participants and shall initiate a voluntary negotiation period among the participants.

''(B) LENGTH OF PROCEEDINGS.—The voluntary negotiation period initiated under subparagraph (A) shall be 3 months.

''(C) DETERMINATION OF SUBSEQUENT PROCEEDINGS.—At the close of the voluntary negotiation proceedings, the Copyright Royalty Judges shall, if further proceedings under this chapter are necessary, determine whether and to what extent paragraphs (4) and (5) will apply to the parties.

''(4) SMALL CLAIMS PROCEDURE IN DISTRIBUTION PROCEEDINGS.—

''(A) IN GENERAL.—If, in a proceeding under this chapter to determine the distribution of royalties, a participant in the proceeding asserts a claim in the amount of $10,000 or less, the Copyright Royalty Judges shall decide the controversy on the basis of the filing of the written direct statement by the participant, the response by any opposing participant, and 1 additional response by each such party. The participant asserting the claim shall not be required to pay the filing fee under paragraph (2).

''(B) BAD FAITH INFLATION OF CLAIM.—If the Copyright Royalty Judges determine that a participant asserts in bad faith an amount in controversy in excess of $10,000 for the purpose of avoiding a determination under the procedure set forth in subparagraph (A), the Copyright Royalty Judges shall impose a fine on that participant in an amount not to exceed the difference between the actual amount distributed and the amount asserted by the participant.

''(5) PAPER PROCEEDINGS.—The Copyright Royalty Judges in proceedings under this chapter may decide, sua sponte or upon motion of a participant, to determine issues on the basis of the filing of the written direct statement by the participant, the response by any opposing participant, and one additional response by each such participant. Prior to making such decision to proceed on such a paper record only, the Copyright Royalty Judges shall offer to all parties to the proceeding the opportunity to comment on the decision. The procedure under this paragraph—

''(A) shall be applied in cases in which there is no genuine issue of material fact, there is no need for evidentiary hearings, and all participants in the proceeding agree in writing to the procedure; and

''(B) may be applied under such other circumstances as the Copyright Royalty Judges consider appropriate.

''(6) REGULATIONS.—

''(A) IN GENERAL.—The Copyright Royalty Judges may issue regulations to carry out their functions under this title. All regulations issued by the Copyright Royalty Judges are subject to the approval of the Librarian of Congress. Not later than 120 days after Copyright Royalty Judges or interim Copyright Royalty Judges, as the case may be, are first appointed after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, such judges shall issue regulations to govern proceedings under this chapter.

''(B) INTERIM REGULATIONS.—Until regulations are adopted under subparagraph (A), the Copyright Royalty Judges shall apply the regulations in effect under this chapter on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, to the extent such regulations are not inconsistent with this chapter, except that functions carried out under such regulations by the Librarian of Congress, the Register of Copyrights, or copyright arbitration royalty panels that, as of such date of enactment, are to be carried out by the Copyright Royalty Judges under this chapter, shall be carried out by the Copyright Royalty Judges under such regulations.

''(C) REQUIREMENTS.—Regulations issued under subparagraph (A) shall include the following:

''(i) The written direct statements of all participants in a proceeding under paragraph (2) shall be filed by a date specified by the Copyright Royalty Judges, which may be no earlier than four months, and no later than five months, after the end of the voluntary negotiation period under paragraph (3). Notwithstanding the preceding sentence, the Copyright Royalty Judges may allow a participant in a proceeding to file an amended written direct statement based on new information received during the discovery process, within 15 days after the end of the discovery period specified in clause (iii).

''(ii)(I) Following the submission to the Copyright Royalty Judges of written direct statements by the participants in a proceeding under paragraph (2), the judges shall meet with the participants for the purpose of setting a schedule for conducting and completing discovery. Such schedule shall be determined by the Copyright Royalty Judges.

''(II) In this chapter, the term 'written direct statements' means witness statements, testimony, and exhibits to be presented in the proceedings, and such other information that is necessary to establish terms and rates, or the distribution of royalty payments, as the case may be, as set forth in regulations issued by the Copyright Royalty Judges.

''(iii) Hearsay may be admitted in proceedings under this chapter to the extent deemed appropriate by the Copyright Royalty Judges.

''(iv) Discovery in such proceedings shall be permitted for a period of 60 days, except for discovery ordered by the Copyright Royalty Judges in connection with the resolution of motions, orders and disputes pending at the end of such period.

''(v) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may request of an opposing participant nonprivileged documents directly related to the written direct statement of that participant. Any objection to such a request shall be resolved by a motion or request to compel production made to the Copyright Royalty Judges according to regulations adopted by the Copyright Royalty Judges. Each motion or request to compel discovery shall be determined by the Copyright Royalty Judges, or by a Copyright Royalty Judge when permitted under subsection (a)(2). Upon such motion, the Copyright Royalty Judges may order discovery pursuant to regulations established under this paragraph.

''(vi) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may, upon a written motion to the Copyright Royalty Judges, request of an opposing participant or witness other relevant information and materials if absent the discovery sought the moving party would be prejudiced or the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired. Absent a showing of substantial good cause or demonstration of a likelihood of substantial prejudice, no participant in a proceeding may take more than 3 depositions and propound

more than 10 interrogatories in that proceeding. Absent such a showing, the total number of depositions ordered in such a proceeding shall not exceed 10, and the total number of interrogatories shall not exceed 25 in each proceeding. In determining whether discovery will be granted under this clause, the Copyright Royalty Judges may consider—

''(I) whether the information sought would serve to protect the integrity of the proceeding, to prevent substantial prejudice to any participant, or to correct a material misrepresentation or omission by any participant;

''(II) whether the burden or expense of producing the requested information or materials outweighs the likely benefit, taking into account the needs and resources of the participants, the importance of the issues at stake, and the probative value of the requested information or materials in resolving such issues;

''(III) whether the requested information or materials would be unreasonably cumulative or duplicative, or are obtainable from another source that is more convenient, less burdensome, or less expensive; and

''(IV) whether the participant seeking discovery has had ample opportunity by discovery in the proceeding or by other means to obtain the information sought.

''(vii) The rules and practices in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, relating to discovery in proceedings under this chapter to determine the distribution of royalty fees, shall continue to apply to such proceedings on and after such effective date.

''(viii) In proceedings to determine royalty rates, the Copyright Royalty Judges may issue a subpoena commanding a participant or witness in a proceeding to determine royalty rates to appear and give testimony or to produce and permit inspection of documents or tangible things if the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired by the absence of such testimony or production of documents or tangible things. Such subpoena shall specify with reasonable particularity the materials to be produced or the scope and nature of the required testimony. Nothing in this subparagraph shall preclude the Copyright Royalty Judges from requesting the production by a nonparticipant of information or materials relevant to the resolution by the Copyright Royalty Judges of a material issue of fact. A Copyright Royalty Judge may not issue a subpoena under this clause to any person who was a participant in a proceeding to determine royalty rates and has negotiated a settlement with respect to those rates.

''(ix) The Copyright Royalty Judges shall order a settlement conference among the participants in the proceeding to facilitate the presentation of offers of settlement among the participants. The settlement conference shall be held during a 21-day period following the end of the discovery period and shall take place outside the presence of the Copyright Royalty Judges.

''(x) No evidence, including exhibits, may be submitted in the written direct statement of a participant without a sponsoring witness, except where the Copyright Royalty Judges have taken official notice, or in the case of incorporation by reference of past records, or for good cause shown.

''(c) DETERMINATION OF COPYRIGHT ROYALTY JUDGES.—

''(1) TIMING.—The Copyright Royalty Judges shall issue their determination in a proceeding not later than 11 months after the conclusion of the 21-day settlement conference period under subsection (b)(3)(C)(vi), but, in the case of a proceeding to determine successors to rates or terms that expire on a specified date, in no event later than 15 days before the expiration of the then current statutory rates and terms.

''(2) REHEARINGS.—

''(A) IN GENERAL.—The Copyright Royalty Judges may, in exceptional cases, upon motion of a participant under subsection (b)(2), order a rehearing, after the determination in a proceeding is issued under paragraph (1), on such matters as the Copyright Royalty Judges determine to be appropriate.

''(B) TIMING FOR FILING MOTION.—Any motion for a rehearing under subparagraph (A) may only be filed within 15 days after the date on which the Copyright Royalty Judges deliver their initial determination concerning rates and terms to the participants in the proceeding.

''(C) PARTICIPATION BY OPPOSING PARTY NOT REQUIRED.—In any case in which a rehearing is ordered, any opposing party shall not be required to participate in the rehearing, except as provided under subsection (d)(1).

''(D) NO NEGATIVE INFERENCE.—No negative inference shall be drawn from lack of participation in a rehearing.

''(E) CONTINUITY OF RATES AND TERMS.—(i) If the decision of the Copyright Royalty Judges on any motion for a rehearing is not rendered before the expiration of the statutory rates and terms that were previously in effect, in the case of a proceeding to determine successors to rates and terms that expire on a specified date, then—

''(I) the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion shall be effective as of the day following the date on which the rates and terms that were previously in effect expire; and

''(II) in the case of a proceeding under section 114(f)(1)(C) or 114(f)(2)(C), royalty rates and terms shall, for purposes of section 114(f)(4)(B), be deemed to have been set at those rates and terms contained in the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion, as of the date of that determination.

''(ii) The pendency of a motion for a rehearing under this paragraph shall not relieve persons obligated to make royalty payments who would be affected by the determination on that motion from providing the statements of account and any reports of use, to the extent required, and paying the royalties required under the relevant determination or regulations.

''(iii) Notwithstanding clause (ii), whenever royalties described in clause (ii) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the motion for rehearing is resolved or, if the motion is granted, within 60 days after the rehearing is concluded, return any excess amounts previously paid to the extent necessary to comply with the final determination of royalty rates by the Copyright Royalty Judges.

''(3) CONTENTS OF DETERMINATION.—A determination of the Copyright Royalty Judges shall be supported by the written record and shall set forth the findings of fact relied on by the Copyright Royalty Judges. Among other terms adopted in a determination, the Copyright Royalty Judges may specify notice and recordkeeping requirements of users of the copyrights at issue that apply in lieu of those that would otherwise apply under regulations.

''(4) CONTINUING JURISDICTION.—The Copyright Royalty Judges may, with the approval of the Register of Copyrights, issue an amendment to a written determination to correct any technical or clerical errors in the determination or to modify the terms, but not the rates, of royalty payments in response to unforeseen circumstances that would frustrate the proper implementation of such determination. Such amendment shall be set forth in a written addendum to the determination that shall be distributed to the participants of the proceeding and shall be published in the Federal Register.

''(5) PROTECTIVE ORDER.—The Copyright Royalty Judges may issue such orders as may be appropriate to protect confidential information, including orders excluding confidential information from the record of the determination that is published or made available to the public, except that any terms or rates of royalty payments or distributions may not be excluded.

''(6) PUBLICATION OF DETERMINATION.—The Librarian of Congress shall cause the determination, and any corrections thereto, to be published in the Federal Register. The Librarian of Congress shall also publicize the determination and corrections in such other manner as the Librarian considers appropriate, including, but not limited to, publication on the Internet. The Librarian of Congress shall also make the determination, corrections, and the accompanying record available for public inspection and copying.

''(7) LATE PAYMENT.—A determination of Copyright Royalty Judges may include terms with respect to late payment, but in no way shall such terms prevent the copyright holder from asserting other rights or remedies provided under this title.

''(d) JUDICIAL REVIEW.—

''(1) APPEAL.—Any determination of the Copyright Royalty Judges under subsection (c) may, within 30 days after the publication of the determination in the Federal Register, be appealed, to the United States Court of Appeals for the District of Columbia Circuit, by any aggrieved participant in the proceeding under subsection (b)(2) who fully participated in the proceeding and who would be bound by the determination. Any party that did not participate in a rehearing may not raise any issue that was the subject of that rehearing at any stage of judicial review of the hearing determination. If no appeal is brought within that 30-day period, the determination of the Copyright Royalty Judges shall be final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in paragraph (2).

''(2) EFFECT OF RATES.—

''(A) EXPIRATION ON SPECIFIED DATE.—When this title provides that the royalty rates and terms that were previously in effect are to expire on a specified date, any adjustment or determination by the Copyright Royalty Judges of successor rates and terms for an ensuing statutory license period shall be effective as of the day following the date of expiration of the rates and terms that were previously in effect, even if the determination of the Copyright Royalty Judges is rendered on a later date.

''(B) OTHER CASES.—In cases where rates and terms do not expire on a specified date or have not yet been established, the Copyright Royalty Judges shall determine the dates that successor or new rates or terms shall take effect. Except as otherwise provided in this title, the rates and terms previously in effect, to the extent applicable, shall remain in effect until such successor rates and terms become effective.

''(C) OBLIGATION TO MAKE PAYMENTS.—

''(i) The pendency of an appeal under this subsection shall not relieve persons obligated to make royalty payments under section 111, 112, 114, 115, 116, 118, 119, or 1003, who would be affected by the determination on appeal, from—

''(I) providing the statements of account and any report of use; and

''(II) paying the royalties required under the relevant determination or regulations.

''(ii) Notwithstanding clause (i), whenever royalties described in clause (i) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the final resolution of the appeal, return any excess amounts previously paid (and interest thereon, if ordered pursuant to paragraph (3)) to the extent necessary to comply with the final determination of royalty rates on appeal.

''(3) JURISDICTION OF COURT.—If the court, pursuant to section 706 of title 5, modifies or vacates a determination of the Copyright Royalty Judges, the court may enter its own determination with respect to the amount or distribution

of royalty fees and costs, and order the repayment of any excess fees, the payment of any underpaid fees, and the payment of interest pertaining respectively thereto, in accordance with its final judgment. The court may also vacate the determination of the Copyright Royalty Judges and remand the case to the Copyright Royalty Judges for further proceedings in accordance with subsection (a).

''(e) ADMINISTRATIVE MATTERS.—

''(1) DEDUCTION OF COSTS OF LIBRARY OF CONGRESS AND COPYRIGHT OFFICE FROM FILING FEES.—

''(A) DEDUCTION FROM FILING FEES.—The Librarian of Congress may, to the extent not otherwise provided under this title, deduct from the filing fees collected under subsection (b) for a particular proceeding under this chapter the reasonable costs incurred by the Librarian of Congress, the Copyright Office, and the Copyright Royalty Judges in conducting that proceeding, other than the salaries of the Copyright Royalty Judges and the 3 staff members appointed under section 802(b).

''(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the costs incurred under this chapter not covered by the filing fees collected under subsection (b). All funds made available pursuant to this subparagraph shall remain available until expended.

''(2) POSITIONS REQUIRED FOR ADMINISTRATION OF COMPULSORY LICENSING.—Section 307 of the Legislative Branch Appropriations Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 112, 114, 115, 116, 118, or 119 or chapter 10.

''§ 804. Institution of proceedings

''(a) FILING OF PETITION.—With respect to proceedings referred to in paragraphs (1) and (2) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 111, 112, 114, 115, 116, 118, 119, and 1004, during the calendar years specified in the schedule set forth in subsection (b), any owner or user of a copyrighted work whose royalty rates are specified by this title, or are established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests a determination or adjustment of the rate. The Copyright Royalty Judges shall make a determination as to whether the petitioner has such a significant interest in the royalty rate in which a determination or adjustment is requested. If the Copyright Royalty Judges determine that the petitioner has such a significant interest, the Copyright Royalty Judges shall cause notice of this determination, with the reasons for such determination, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter. With respect to proceedings under paragraph (1) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 112 and 114, during the calendar years specified in the schedule set forth in subsection (b), the Copyright Royalty Judges shall cause notice of commencement of proceedings under this chapter to be published in the Federal Register as provided in section 803(b)(1)(A).

''(b) TIMING OF PROCEEDINGS.—

''(1) SECTION 111 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (A) or (D) of section 801(b)(2) applies may be filed during the year 2005 and in each subsequent fifth calendar year.

''(B) In order to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (B) or (C) of section 801(b)(2) applies, within 12 months after an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests an adjustment of the rate. The Copyright Royalty Judges shall then proceed as set forth in subsection (a) of this section. Any change in royalty rates made under this chapter pursuant to this subparagraph may be reconsidered in the year 2005, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(3) (B) or (C), as the case may be. A petition for adjustment of rates under section 11(d)(1)(B) as a result of a change is the rules and regulations of the Federal Communications Commission shall set forth the change on which the petition is based.

''(2) CERTAIN SECTION 112 PROCEEDINGS.—Proceedings under this chapter shall be commenced in the year 2007 to determine reasonable terms and rates of royalty payments for the activities described in section 112(e)(1) relating to the limitation on exclusive rights specified by section 114(d)(1)(C)(iv), to become effective on January 1, 2009. Such proceedings shall be repeated in each subsequent fifth calendar year.

''(3) SECTION 114 AND CORRESPONDING 112 PROCEEDINGS.—

''(A) FOR ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES.—Proceedings under this chapter shall be commenced as soon as practicable after the effective date of the Copyright Royalty and Distribution Reform Act of 2004 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of eligible nonsubscription transmission services and new subscription services, to be effective for the period beginning on January 1, 2006, and ending on December 31, 2010. Such proceedings shall next be commenced in January 2009 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2011. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

''(B) FOR PREEXISTING SUBSCRIPTION AND SATELLITE DIGITAL AUDIO RADIO SERVICES.—Proceedings under this chapter shall be commenced in January 2006 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of preexisting subscription services, to be effective during the period beginning on January 1, 2008, and ending on December 31, 2012, and preexisting satellite digital audio radio services, to be effective during the period beginning on January 1, 2007, and ending on December 31, 2012. Such proceedings shall next be commenced in 2011 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2013. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

''(C)(i) Notwithstanding any other provision of this chapter, this subparagraph shall govern proceedings commenced pursuant to section 114(f)(1)(C) and 114(f)(2)(C) concerning new types of services.

''(ii) Not later than 30 days after a petition to determine rates and terms for a new type of service that is filed by any copyright owner of sound recordings, or such new type of service, indicating that such new type of service is or is about to become operational, the Copyright Royalty Judges shall issue a notice for a proceeding to determine rates and terms for such service.

''(iii) The proceeding shall follow the schedule set forth in such subsections (b), (c), and (d) of section 803, except that—

''(I) the determination shall be issued by not later than 24 months after the publication of the notice under clause (ii); and

''(II) the decision shall take effect as provided in subsections (c)(2) and (d)(2) of section 803 and section 114(f)(4)(B)(ii) and (C).

''(iv) The rates and terms shall remain in effect for the period set forth in section 114(f)(1)(C) or 114(f)(2)(C), as the case may be.

''(4) SECTION 115 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment or determination of royalty rates as provided in section 115 may be filed in the year 2006 and in each subsequent fifth calendar year, or at such other times as the parties have agreed under section 115(c)(3) (B) and (C).

''(5) SECTION 116 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b) concerning the determination of royalty rates and terms as provided in section 116 may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

''(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Copyright Royalty Judges shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, commence a proceeding to promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of nondramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the Copyright Royalty Judges, in accordance with section 803, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).

''(6) SECTION 118 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 118 may be filed in the year 2006 and in each subsequent fifth calendar year.

''(7) SECTION 1004 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment of reasonable royalty rates under section 1004 may be filed as provided in section 1004(a)(3).

''(8) PROCEEDINGS CONCERNING DISTRIBUTION OF ROYALTY FEES.—With respect to proceedings under section 801(b)(3) concerning the distribution of royalty fees in certain circumstances under section 111, 119, or 1007, the Copyright Royalty Judges shall, upon a determination that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

''§ 805. General rule for voluntarily negotiated agreements

''Any rates or terms under this title that—

''(1) are agreed to by participants to a proceeding under section 803(b)(3),

''(2) are adopted by the Copyright Royalty Judges as part of a determination under this chapter, and

''(3) are in effect for a period shorter than would otherwise apply under a determination pursuant to this chapter,

shall remain in effect for such period of time as would otherwise apply under such determination, except that the Copyright Royalty Judges shall adjust the rates pursuant to the voluntary negotiations to reflect national monetary inflation during the additional period the rates remain in effect.''.

(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by striking the item relating to chapter 8 and inserting the following:

''8. Proceedings by Copyright Royalty Judges ..... 801''.

SEC. 4. DEFINITION.

Section 101 is amended by inserting after the definition of ''copies'' the following:

''A 'Copyright Royalty Judge' is a Copyright Royalty Judge appointed under section 802 of this title, and includes any individual serving as an interim Copyright Royalty Judge under such section.''.

SEC. 5. TECHNICAL AMENDMENTS.

(a) CABLE RATES.—Section 111(d) is amended—

(1) in paragraph (2), in the second sentence, by striking ''a copyright arbitration royalty panel'' and inserting ''the Copyright Royalty Judges.''; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges'';

(B) in subparagraph (B)—

(i) in the first sentence, by striking ''Librarian of Congress shall, upon the recommendation of the Register of Copyrights,'' and inserting ''Copyright Royalty Judges shall'';

(ii) in the second sentence, by striking ''Librarian determines'' and inserting ''Copyright Royalty Judges determine''; and

(iii) in the third sentence—

(I) by striking ''Librarian'' each place it appears and inserting ''Copyright Royalty Judges''; and

(II) by striking ''convene a copyright arbitration royalty panel'' and inserting ''conduct a proceeding''; and

(C) in subparagraph (C), by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''.

(b) EPHEMERAL RECORDINGS.—Section 112(e) is amended—

(1) in paragraph (3)—

(A) by amending the first sentence to read as follows: ''Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for the activities specified by paragraph (1) during the 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, or such other periods as the parties may agree.''; and

(B) by striking the second sentence;

(C) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(D) in the fourth sentence, by striking ''negotiation'';

(2) in paragraph (4)—

(A) by amending the first sentence to read as follows: ''The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (5), be binding on all copyright owners of sound recordings and transmitting organizations entitled to a statutory license under this subsection during the 5-year period specified in paragraph (3), or such other period as the parties may agree.'';

(B) by striking ''copyright arbitration royalty panel'' each subsequent place it appears and inserting ''Copyright Royalty Judges'';

(C) in the fourth sentence, by striking ''its decision'' and inserting ''their decision'';

(D) in the fifth sentence, by striking ''negotiated as provided'' and inserting ''described''; and

(E) in the last sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

(3) in paragraph (5), by striking ''or decision by the Librarian of Congress'' and inserting '', decision by the Librarian of Congress, or determination by the Copyright Royalty Judges'';

(4) by striking paragraph (6) and redesignating paragraphs (7), (8), and (9), as paragraphs (6), (7), and (8), respectively; and

(5) in paragraph (6)(A), as so redesignated, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''.

(c) SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.—Section 114(f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by amending the first sentence to read as follows: ''Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services specified by subsection (d)(2) during 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except where different transitional periods are provided in section 804(b), or such periods as the parties may agree.'';

(ii) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(iii) in the fourth sentence, by striking ''negotiation'';

(B) in subparagraph (B)—

(i) by amending the first sentence to read as follows: ''The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (3), be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), a transitional period provided in section 804(b), or such other period as the parties may agree.'';

(ii) in the second sentence, by striking ''copyright arbitration royalty panel'' and inserting ''Copyright Royalty Judges''; and

(iii) in the second sentence, by striking ''negotiated as provided'' and inserting ''described''; and

(C) by amending subparagraph (C) to read as follows:

''(C) The procedures under subparagraphs (A) and (B) also shall be initiated pursuant to a petition filed by any copyright owners of sound recordings, any preexisting subscription services, or any preexisting satellite digital audio radio services indicating that a new type of subscription digital audio transmission service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of transmission service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for subscription digital audio transmission services most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.'';

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by amending the first paragraph to read as follows: ''Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services specified by subsection (d)(2) during 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except where different transitional periods are provided in section 804(b), or such periods as the parties may agree.'';

(ii) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(iii) in the fourth sentence, by striking ''negotiation'';

(B) in subparagraph (B)—

(i) by amending the first sentence to read as follows: ''The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (3), be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), a transitional period provided in section 804(b), or such other period as the parties may agree.'';

(ii) by striking ''copyright arbitration royalty panel'' each subsequent place it appears and inserting ''Copyright Royalty Judges''; and

(iii) in the last sentence by striking ''negotiated as provided'' and inserting ''described in''; and

(C) by amending subparagraph (C) to read as follows:

''(C) The procedures under subparagraphs (A) and (B) shall also be initiated pursuant to a petition filed by any copyright owners of sound recordings or any eligible nonsubscription service or new subscription service indicating that a new type of eligible nonsubscription service or new subscription service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for preexisting subscription digital audio transmission services or preexisting satellite digital radio audio services, as the case may be, most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.'';

(3) in paragraph (3), by striking ''or decision by the Librarian of Congress'' and inserting '', decision by the Librarian of Congress, or determination by the Copyright Royalty Judges''; and

(4) in paragraph (4)—

(A) by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges''; and

(B) by adding after the first sentence ''The notice and recordkeeping rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004 shall remain in effect until new regulations are promulgated by the Copyright Royalty Judges. If new regulations are promulgated under this subparagraph, the Copyright Royalty Judges shall take into account the substance and effect of the rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004 and shall, to the extent practicable, avoid significant disruption of the function of the designated agents that are authorized to collect and distribute royalty fees as such functions exist on the day prior to the effective date of this Act.''.

(d) PHONORECORDS OF NONDRAMATIC MUSICAL WORKS.—Section 115(c)(3) is amended—

(1) in subparagraph (A)(ii), by striking ''(F)'' and inserting ''(E)'';

(2) in subparagraph (B)—

(A) by striking ''under this paragraph'' and inserting ''under this section''; and

(B) by striking ''subparagraphs (B) through (F)'' and inserting ''this subparagraph and subparagraphs (B) through (E)'';

(3) in subparagraph (C)—

(A) by amending the first sentence to read as follows: ''Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for the activities specified by this section during periods beginning with the effective date of such rates and terms, but not earlier than January 1 of the second year following the year in which the petition requesting the proceeding is filed, and ending on the effective date of successor rates and terms, or such other period as the parties may agree.'';

(B) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(C) in the fourth sentence, by striking ''negotiation'';

(4) in subparagraph (D)—

(A) by amending the first sentence to read as follows: ''The schedule of reasonable rates and terms determined by the Copyright Royalty

Judges shall, subject to subparagraph (E), be binding on all copyright owners of nondramatic musical works and persons entitled to obtain a compulsory license under subsection (a)(1) during the period specified in subparagraph (C), such other period as may be determined pursuant to subparagraphs (B) and (C), or such other period as the parties may agree.'';

(B) in the third sentence, by striking ''copyright arbitration royalty panel'' and inserting ''Copyright Royalty Judges''; and

(C) in the third sentence, by striking ''negotiated as provided in subparagraphs (B) and (C)'' and inserting ''described'';

(5) in subparagraph (E)—

(A) in clause (i)—

(i) in the first sentence, by striking ''Librarian of Congress'' and inserting ''Librarian of Congress, Copyright Royalty Judges, or a copyright arbitration royalty panel to the extent those determinations were accepted by the Librarian of Congress''; and

(ii) in the second sentence, by striking ''(C), (D) or (F) shall be given effect'' and inserting ''(C) or (D) shall be given effect as to digital phonorecord deliveries''; and

(B) in clause (ii)(I), by striking ''(C), (D) or (F)'' each place it appears and inserting ''(C) or (D)''; and

(6) by striking subparagraph (F) and redesignating subparagraphs (G) through (L) as subparagraphs (F) through (K), respectively.

(e) COIN-OPERATED PHONORECORD PLAYERS.—Section 116 is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

''(2) CHAPTER 8 PROCEEDING.—Parties not subject to such a negotiation may have the terms and rates and the division of fees described in paragraph (1) determined in a proceeding in accordance with the provisions of chapter 8.''; and

(2) in subsection (c)—

(A) in the subsection heading, by striking ''COPYRIGHT ARBITRATION ROYALTY PANEL DETERMINATIONS'' and inserting ''DETERMINATIONS BY COPYRIGHT ROYALTY JUDGES''; and

(B) by striking ''a copyright arbitration royalty panel'' and inserting ''the Copyright Royalty Judges''.

(f) USE OF CERTAIN WORKS IN CONNECTION WITH NONCOMMERCIAL BROADCASTING.—Section 118 is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(ii) by striking the second and third sentences;

(B) in paragraph (2), by striking ''Librarian of Congress:'' and all that follows through the end of the sentence and inserting ''Librarian of Congress, a copyright arbitration royalty panel, or the Copyright Royalty Judges, to the extent that they were accepted by the Librarian of Congress, if copies of such agreements are filed with the Copyright Royalty Judges within 30 days of execution in accordance with regulations that the Copyright Royalty Judges shall issue.''; and

(C) in paragraph (3)—

(i) in the second sentence—

(I) by striking ''copyright arbitration royalty panel'' and inserting ''Copyright Royalty Judges''; and

(II) by striking ''paragraph (2).'' and inserting ''paragraph (2) or (3).'';

(ii) in the last sentence, by striking '''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(iii) by striking ''(3) In'' and all that follows through the end of the first sentence and inserting the following:

''(3) Voluntary negotiation proceedings initiated pursuant to a petition filed under section 804(a) for the purpose of determining a schedule of terms and rates of royalty payments by public broadcasting entities to copyright owners in works specified by this subsection and the proportionate division of fees paid among various copyright owners shall cover the 5-year period beginning on January 1 of the second year following the year in which the petition is filed. The parties to each negotiation proceeding shall bear their own costs.

''(4) In the absence of license agreements negotiated under paragraph (2) or (3), the Copyright Royalty Judges shall, pursuant to chapter 8, conduct a proceeding to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Copyright Royalty Judges.'';

(2) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively;

(3) in subsection (c), as so redesignated, in the matter preceding paragraph (1)—

(A) by striking ''(b)(2)'' and inserting ''(b)(2) or (3)'';

(B) by striking ''(b)(3)'' and inserting ''(b)(4)''; and

(C) by striking ''a copyright arbitration royalty panel under subsection (b)(3)'' and inserting ''the Copyright Royalty Judges under subsection (b)(3), to the extent that they were accepted by the Librarian of Congress'';

(4) in subsection (d), as so redesignated—

(A) by striking ''in the Copyright Office'' and inserting ''with the Copyright Royalty Judges''; and

(B) by striking ''Register of Copyrights shall prescribe'' and inserting ''Copyright Royalty Judges shall prescribe as provided in section 803(b)(6)''; and

(5) in subsection (f), as so redesignated, by striking ''(d)'' and inserting ''(c)''.

(g) SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—Section 119(b) is amended—

(1) in paragraph (3), by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges''; and

(B) by amending subparagraphs (B) and (C) to read as follows:

''(B) DETERMINATION OF CONTROVERSY; DISTRIBUTIONS.—After the first day of August of each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents. If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

''(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have the discretion to proceed to distribute any amounts that are not in controversy.''.

(h) DIGITAL AUDIO RECORDING DEVICES.—

(1) ROYALTY PAYMENTS.—Section 1004(a)(3) is amended by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges''.

(2) ENTITLEMENT TO ROYALTY PAYMENTS.—Section 1006(c) is amended by striking ''Librarian of Congress shall convene a copyright arbitration royalty panel which'' and inserting ''Copyright Royalty Judges''.

(3) PROCEDURES FOR DISTRIBUTING ROYALTY PAYMENTS.—Section 1007 is amended—

(A) in subsection (a), by amending paragraph (1) to read as follows:

''(1) FILING OF CLAIMS.—During the first 2 months of each calendar year, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Judges a claim for payments collected during the preceding year in such form and manner as the Copyright Royalty Judges shall prescribe by regulation.''; and

(B) by amending subsections (b) and (c) to read as follows:

''(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—After the period established for the filing of claims under subsection (a), in each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a). The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.

''(c) RESOLUTION OF DISPUTES.—If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.''.

(4) DETERMINATION OF CERTAIN DISPUTES.—(A) Section 1010 is amended to read as follows:

''§ 1010. Determination of certain disputes

''(a) SCOPE OF DETERMINATION.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to petition the Copyright Royalty Judges to determine whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.

''(b) INITIATION OF PROCEEDINGS.—The parties under subsection (a) shall file the petition with the Copyright Royalty Judges requesting the commencement of a proceeding. Within 2 weeks after receiving such a petition, the Chief Copyright Royalty Judge shall cause notice to be published in the Federal Register of the initiation of the proceeding.

''(c) STAY OF JUDICIAL PROCEEDINGS.—Any civil action brought under section 1009 against a party to a proceeding under this section shall, on application of one of the parties to the proceeding, be stayed until completion of the proceeding.

''(d) PROCEEDING.—The Copyright Royalty Judges shall conduct a proceeding with respect to the matter concerned, in accordance with such procedures as the Copyright Royalty Judges may adopt. The Copyright Royalty Judges shall act on the basis of a fully documented written record. Any party to the proceeding may submit relevant information and proposals to the Copyright Royalty Judges. The parties to the proceeding shall each bear their respective costs of participation.

''(e) JUDICIAL REVIEW.—Any determination of the Copyright Royalty Judges under subsection

(d) may be appealed, by a party to the proceeding, in accordance with section 803(d) of this title. The pendency of an appeal under this subsection shall not stay the determination of the Copyright Royalty Judges. If the court modifies the determination of the Copyright Royalty Judges, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the determination of the Copyright Royalty Judges and remand the case for proceedings as provided in this section.''.

(B) The item relating to section 1010 in the table of sections for chapter 10 is amended to read as follows:

''1010. Determination of certain disputes.''.

SEC. 6. EFFECTIVE DATE AND TRANSITION PROVISIONS.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 6 months after the date of the enactment of this Act, except that the Librarian of Congress shall appoint 1 or more interim Copyright Royalty Judges under section 802(d) of title 17, United States Code, as amended by this Act, within 90 days after such date of enactment to carry out the functions of the Copyright Royalty Judges under title 17, United States Code, to the extent that Copyright Royalty Judges provided for in section 801(a) of title 17, United States Code, as amended by this Act, have not been appointed before the end of that 90-day period.

(b) TRANSITION PROVISIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this Act shall not affect any proceedings commenced, petitions filed, or voluntary agreements entered into before the enactment of this Act under the provisions of title 17, United States Code, amended by this Act, and pending on such date of enactment. Such proceedings shall continue, determinations made in such proceedings, and appeals taken therefrom, as if this Act had not been enacted, and shall continue in effect until modified under title 17, United States Code, as amended by this Act. Such petitions filed and voluntary agreements entered into shall remain in effect as if this Act had not been enacted. For the purposes of this paragraph, the Librarian of Congress may determine whether a proceeding has commenced.

(2) PENDING PROCEEDINGS.—Notwithstanding paragraph (1), any proceeding commenced before the enactment of this Act may be terminated by the Librarian of Congress, with the approval of the Copyright Royalty Judges. In such cases, the Copyright Royalty Judges shall initiate a new proceeding in accordance with regulations adopted pursuant to section 803(b)(6) of title 17, United States Code.

(3) EFFECTIVE PERIODS FOR CERTAIN RATEMAKING PROCEEDINGS.—Notwithstanding paragraph (1), terms and rates in effect under section 114(f)(2) or 112(e) of title 17, United States Code, for new subscription services, eligible nonsubscription services, and services exempt under section 114(d)(1)(C)(iv) of such title for the period 2003 through 2004, and any rates published in the Federal Register under the authority of the Small Webcaster Settlement Act of 2002 for the years 2003 through 2004, shall be effective until the later of the first applicable effective date for successor terms and rates specified in section 804(b)(2) or (3)(A) of title 17, United States Code, or until such later date as the parties may agree or the Copyright Royalty Judges may establish. If successor terms and rates have not yet been established by such date, licensees shall continue to make royalty payments at the rates and on the terms previously in effect, subject to retroactive adjustment when successor rates and terms for such services are established.

(c) EXISTING APPROPRIATIONS.—Any funds made available in an appropriations Act before the effective date of this Act to carry out chapter 8 of title 17, United States Code, shall be available to the extent necessary to carry out this section.

Mr. HATCH. Mr. President, I am pleased that the Senate is considering the Hatch-Leahy substitute to H.R. 1417, the ''Copyright Royalty and Distribution Reform Act of 2004,'' which provides a much-needed overhaul of the process by which statutory royalty rates are determined and the manner in which the fees paid pursuant to statutory licenses are distributed to copyright holders.

The extensive reforms made this bill are important to virtual all the participants in the process, and I hope that my colleagues will consent to move this bill without delay.

The measure we are considering today represents a recently-reached compromise which I am hopeful can be enacted without delay.

Because the areas of disagreement with H.R. 1417 were relatively narrow in scope, the Hatch-Leahy substitute to H.R. 1417 retains most of the House-passed bill, but does contain a few important changes that are the product of several months of negotiations and discussions between the Hatch and Leahy offices and various stakeholders. The most significant substantive change involves the scope of available discovery in ratemaking proceedings. The changes to the discovery provisions are self-explanatory, so I will not belabor them here.

This bill responds to widespread dissatisfaction among the participants in the current system involving Copyright Arbitration Royalty Panels—or ''CARPs''. I will refrain from going into detail about this highly-technical bill—which many would find about as interesting as watching astroturf grow—and will simply express my firm belief that it addresses many of the legitimate concerns expressed by the stakeholders, the members of the House and Senate Judiciary Committees, and the many others that have provided valuable input and that lent us their expertise during the legislative process. I am content simply to refer my colleagues to the comprehensive and detailed committee report drafted by the House if they desire an explanation of the concerns and problems this legislation addresses.

While we were not able to reach absolute consensus on a few difficult issues, for the most part this legislation reflects broad agreement on the fundamental changes that are required to make the existing CARP process more efficient, logical, and—some would content—bearable by participants.

In conclusion, I would be remiss if I did not publicly recognize that this legislation is the product of some very hard work by our counterparts in the House. Chairman SENSENBRENNER, Chairman SMITH, and Representative BERMAN deserve much of the credit for building a near consensus on this bill and for moving it through the House. I commend them for their bicameral, bipartisan approach to this legislation and for the hard work put in by their respective staffs.

In particular, I would like to thank Blaine Merritt, David Whitney, and Alec French for their hard work.

I would also like to thank Marybeth Peters, the Register of Copyrights, and David O. Carson, the General Counsel of the Copyright Office, for providing invaluable technical assistance to members in both chambers of Congress on this complicated bill.

I would be equally remiss if I did not recognize the outstanding efforts of some in the Senate, including Senator LEAHY and his staff—in particular Susan Davies, Rich Phillips, and Dan Fine—for their efforts on this bill. I also commend Mary Foden and Dave Jones of my staff for their hard work and their efforts to build a consensus around the bill in the Senate.

With that, I will urge my colleagues to vote for H.R. 1417 with the Hatch-Leahy substitute.

Mr. LEAHY. Mr. President, I am pleased that the Senate is taking up and passing the Copyright Royalty and Distribution Reform Act of 2004. I have been working to reform the copyright royalty arbitration procedures for several years. As early as 2002, I noted in a Judiciary Committee hearing that there was widespread dissatisfaction with the current law.

In particular, we heard the testimony of Frank Schliemann of Onion River Radio of Montpelier, VT. Mr. Schliemann noted that many small webcasters could not afford to take part in CARP proceedings, even though their livelihoods would depend on the outcome. We also heard from Billy Strauss, president of Websound, another small webcaster in Brattleboro, VT. Mr. Strauss noted many of the structural problems that plagued the old CARP procedures. In addition, I have been concerned that the current procedures are often hindered by unreasonable delays, and the outcomes subject to manipulation.

The Copyright Royalty and Distribution Reform Act responds to these concerns. It replaces arbitrators, who serve for only one CARP procedure and are paid by the parties, with full-time administrative judges. As a result, the financial burden of taking part in a CARP procedure is alleviated. In addition, all parties can rest assured that there will be continuity and stability in the resolution of these proceedings. At the same time, this bill preserves the traditional role of the Register of Copyrights. This bill also resolves long-standing disputes over the availability of discovery. Because discovery is available where it is needed, the copyright royalty judges will have the information necessary to render a correct determination but the costs of discovery will be kept to a minimum.

I am pleased to have cosponsored with Senator HATCH the amendment in the nature of a substitute to the House bill. I thank Chairman SENSENBRENNER, Chairman SMITH, and Congressman BERMAN for their leadership in this matter. We believe that in

adopting this version of the House bill, H.R. 1417, we will be able to move to final passage without delay. It is time these important reforms were implemented.

Ms. COLLINS. Madam President, I ask unanimous consent that the amendment that is at the desk be agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3975) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (H. R. 1417), as amended, was read the third time and passed.

ECONOMIC DEVELOPMENT ADMINISTRATION REAUTHORIZATION ACT OF 2004

Ms. COLLINS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 754, S. 1134.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1134) to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1134

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

[SECTION 1. SHORT TITLE.

[SHORT TITLE.—This Act may be cited as the ''Economic Development Administration Reauthorization Act of 2003''.

[SEC. 2. FINDINGS AND DECLARATIONS.

[Section 2 of the Public Works and Economic Development Act of 1965, as amended (''PWEDA'') (42 U.S.C. 3121), is revised to read as follows:

[''SEC. 2. FINDINGS AND DECLARATIONS.

[''(a) FINDINGS.—Congress finds that—

[''(1) while the fundamentals for growth in the American economy remain strong, there continue to be areas experiencing chronic high unemployment, underemployment, low per capita incomes, and outmigration as well as areas facing sudden and severe economic dislocations due to structural economic changes, changing trade patterns, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;

[''(2) sustained economic growth in our Nation, States, cities and rural areas is produced by expanding free enterprise through trade and enhanced competitiveness of regions;

[''(3) the goal of Federal economic development programs is to raise the standard of living for all citizens and increase the wealth and overall rate of growth of the economy by encouraging local and regional communities to develop a more competitive and diversified economic base by:

[''(A) promoting job creation through increased innovation, productivity, and entrepreneurship; and

[''(B) empowering local and regional communities experiencing chronic high unemployment and low per capita income to attract substantially increased private-sector capital investment;

[''(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private local, regional, tribal and State organizations to maximize the impact of existing resources and enable regions, communities, and citizens to participate more fully in the American dream and national prosperity;

[''(5) in order to avoid wasteful duplication of effort and achieve meaningful, long-lasting results, Federal, State, tribal and local economic development activities should have a clear focus, improved coordination, a comprehensive approach, common measures of success, and simplified and consistent requirements; and

[''(6) Federal economic development efforts will be more effective if they are coordinated with, and build upon, the trade, workforce investment, and technology programs of the United States.

[''(b) DECLARATIONS.—Congress declares that, in order to promote a strong and growing economy throughout the United States:

[''(1) assistance under this Act should be made available to both rural and urban distressed communities;

[''(2) local communities should work in partnership with neighboring communities, Indian tribes, the States, and the Federal Government to increase their capacity to develop and implement comprehensive economic development strategies to enhance regional competitiveness in the global economy and support long-term development of regional economies; and

[''(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to focus on strengthening entrepreneurship and competitiveness, and to take advantage of the development opportunities afforded by technological innovation and expanding and newly opened global markets.''.

[SEC. 3. DEFINITIONS.

[Section 3 of PWEDA (42 U.S.C. 3122) is amended as follows:

[(1) Subparagraph (4)(A) of this section is amended by striking subparagraph (i) and redesignating successive subparagraphs (ii) through (vii) as (i) through (vi) and revising subparagraph (iv) as re-designated to read as follows:

[''(iv) a city or other political subdivision of a State, including a special purpose unit of State or local government, or a consortium of political subdivisions;''.

[(2) Subparagraph 4(B) is amended by adding at the end thereof a new sentence:

[''The requirement under subparagraph (A)(vi) that the nonprofit organization or association is 'acting in cooperation with officials of a political subdivision of a State' does not apply in the case of research, training and technical assistance grants under section 207 that are national or regional in scope.''.

[(3) Paragraphs (8), (9) and (10) are amended by re-designating them as paragraphs (9), (10), and (11) and a new paragraph (8) is added as follows:

[''(8) REGIONAL COMMISSIONS.—The term 'Regional Commissions' as used in section 403 of this Act refers to the regional economic development authorities: the Delta Regional Authority (Public Law No. 106–554, sec. 1(a)(4) [div. B, title VI], 114 Stat. 2763A–268) (7 U.S.C. 2009aa et seq.), the Denali Commission (Public Law No. 105–277, div. C, title III, 112 Stat. 2681–637) (42 U.S.C. 3121 note), and the Northern Great Plains Regional Authority (Public Law No. 107–171, 116 Stat. 375) (7 U.S.C. 2009bb et seq.).''.

[(4) A new paragraph (12) is added at the end to read as follows:

[''(12) UNIVERSITY CENTER.—The term 'university center' refers to a University Center for Economic Development established pursuant to the authority of section 207(a)(2)(D) of this Act.''.

[SEC. 4. WORKING WITH NONPROFIT ORGANIZATIONS IN ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.

[Section 101 of PWEDA (42 U.S.C. 3131) is amended as follows:

[(1) In subsection (b) strike ''and multi-State regional organizations'' and insert in lieu thereof ''multi-State regional organizations, and nonprofit organizations''.

[(2) In subsection (d), strike ''adjoining'' each time it occurs.

[SEC. 5. SUB-GRANTS IN CONNECTION WITH PUBLIC WORKS PROJECTS.

[Section 201 of PWEDA (42 U.S.C. 3141) is amended by adding a new subsection (d) as follows:

[''(d) SUB-GRANTS.—

[''(1) Subject to paragraph (2), a recipient of a grant under this section may directly expend the grant funds or may redistribute the funds in the form of a sub-grant to other recipients eligible to receive assistance under this section to fund required components of the scope of work approved for the project.

[''(2) Under paragraph (1), a recipient may not redistribute grant funds to a for-profit entity.''.

[SEC. 6. CLARIFICATION OF GRANTS FOR STATE PLANNING.

[Section 203 of PWEDA (42 U.S.C. 3143) is amended as follows:

[(1) Revise paragraph (1) of subsection (d) to read as follows:

[''(1) DEVELOPMENT.—Any State plan developed with assistance under this section shall, to the maximum extent practicable, take into consideration regional economic development strategies.'';

[(2) Strike paragraph (3) of subsection (d) in its entirety and re-designate paragraphs (4) and (5) as (3) and (4);

[(3) Revise re-designated paragraph (3) of subsection (d) by striking ''and'' at the end of subparagraph (C) and re-designating current subparagraph (D) as (E) and adding a new subparagraph (D) to read as follows:

[''(D) assist in carrying out state's workforce investment strategy (as outlined in the State plan required under section 112 of the Workforce Investment Act of 1998 (29 U.S.C. 2822)); and'';

[(4) Add a new subsection (e) at the end thereof as follows:

[''(e) SUB-GRANTS.—

[''(1) Subject to paragraph (2), a recipient of a grant under this section may directly expend the grant funds or may redistribute the funds in the form of a sub-grant to other recipients eligible to receive assistance under this section to fund required components of the scope of work approved for the project.

[''(2) Under paragraph (1), a recipient may not redistribute grant funds to a for-profit entity.''.

[SEC. 7. SIMPLIFICATION OF DETERMINATION OF GRANT RATES.

[Sections 204 and 205 of PWEDA (42 U.S.C. 3144, 3145) are amended to read as follows:

["SEC. 204. COST SHARING.

["(a) FEDERAL SHARE.—The Secretary shall issue regulations to establish the applicable grant rates for projects based on the relative needs of the areas in which the projects are located. Except as provided in subsection (c) below, the amount of a grant for a project under this title may not exceed 80 percent of the cost of the project.

["(b) NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of the cost of a project, the Secretary may provide credit toward the non-Federal share for all contributions both in cash and in-kind, fairly evaluated, including contributions of space, equipment, and services, and assumptions of debt.

["(c) INCREASE IN FEDERAL SHARE.—

["(1) INDIAN TRIBES.—In the case of a grant to an Indian tribe, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

["(2) CERTAIN STATES, POLITICAL SUBDIVISIONS, AND NONPROFIT ORGANIZATIONS.—In the case of a grant to a State (or a political subdivision of a State), that the Secretary determines has exhausted its effective taxing and borrowing capacity, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted its effective borrowing capacity, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

["SEC. 205. GRANTS SUPPLEMENTING OTHER AGENCY GRANTS (42 U.S.C. 3145).

["(a) DEFINITION OF DESIGNATED FEDERAL GRANT PROGRAM.—In this section, the term 'designated Federal grant program' means any Federal grant program that—

["(1) provides assistance in the construction or equipping of public works, public service, or development facilities;

["(2) is designated as eligible for an allocation of funds under this section by the Secretary; and

["(3) assists projects that are—

["(A) eligible for assistance under this title; and

["(B) consistent with a comprehensive economic development strategy.

["(b) SUPPLEMENTARY GRANTS.—Subject to subsection (c) below, in order to assist eligible recipients to take advantage of designated Federal grant programs, on the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the eligible recipient is eligible but, because of the recipient's economic situation, for which the eligible recipient cannot provide the required non-Federal share.

["(c) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—

["(1) AMOUNT OF SUPPLEMENTARY GRANTS.—The share of the project cost supported by a supplementary grant under this section may not exceed the applicable grant rate under section 204.

["(2) FORM OF SUPPLEMENTARY GRANTS.—The Secretary shall make supplementary grants by—

["(A) the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs; or

["(B) the award of funds under this Act which will be combined with funds transferred from other Federal agencies in projects administered by the Secretary.

["(3) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any requirement as to the amount or source of non-Federal funds that may be applicable to a Federal program, funds provided under this section may be used to increase the Federal share for specific projects under the program that are carried out in areas described in section 301(a) above the Federal share of the cost of the project authorized by the law governing the program.''.

[SEC. 8. REGULATIONS ON ALLOCATIONS TO ENSURE JOB CREATION POTENTIAL.

[Subsection 206 of PWEDA (42 U.S.C. 3146) is amended by striking ''and'' at the end of subparagraph (1)(C), inserting ''and'' at the end of paragraph (2), and adding a new paragraph (3) at the end thereof to read as follows:

["(3) allocations of assistance under this title promote job creation through increased innovation, productivity, and entrepreneurship, and financial assistance extended pursuant to such allocations will have a high probability of meeting or exceeding applicable performance requirements established in connection with extension of the assistance.''.

[SEC. 9. INCREASED FLEXIBILITY IN GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.

[(a) Section 207 of PWEDA (42 U.S.C. 3147) is amended by striking ''and'' at the end of subparagraph (2)(F) of subsection (a), re-designating current subparagraph (G) as (H), and adding a new subparagraph (G) to read as follows:

["(G) studies that evaluate the effectiveness of collaborations between projects funded under this Act with projects funded under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); and''.

[(b) Section 207 is further amended by adding a new subsection (c) to read as follows:

["(c) SUB-GRANTS.—A recipient of a grant under this section may directly expend the grant funds or may redistribute the funds in the form of a sub-grant to other recipients eligible to receive assistance under this section to fund required components of the scope of work approved for the project.''.

[SEC. 10. REMOVAL OF SECTION.

[Section 208 of PWEDA (42 U.S.C. 3148) is stricken in its entirety and insert in lieu thereof:

["SEC. 208. [Repealed].''.

[SEC. 11. IMPROVEMENTS IN ADMINISTRATION GRANTS FOR ECONOMIC ADJUSTMENT INVOLVING REVOLVING LOAN FUND PROJECTS.

[(a) Subsection (d) of section 209 of PWEDA (42 U.S.C. 3149) is amended by striking ''an eligible'' in each case it occurs in paragraphs (1) and (2) and inserting in lieu thereof ''a recipient''.

[(b) Section 209 of PWEDA (42 U.S.C. 3149) is amended by adding a new subsection (e) at the end thereof as follows:

["(e) SPECIAL PROVISIONS RELATING TO REVOLVING LOAN FUND GRANTS.—The Secretary shall promulgate regulations to ensure the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.

["(1) EFFICIENT ADMINISTRATION.—In order to improve the ability to manage and administer the Federal interest in revolving loan funds and in accordance with regulations issued for such purposes, the Secretary may amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria. In addition, the Secretary may assign or transfer assets of a revolving loan fund to a third party for the purpose of liquidation and a third party may retain assets of the fund to defray costs related to liquidation. The Secretary may also take such other actions with respect to management and administration as the Secretary determines to be appropriate to carry out the purposes of this Act, including actions to enable revolving loan funds operators to sell or securitize loans to the secondary market (except that such actions may not include issuance of a Federal guaranty by the Secretary).

["(2) RELEASE OF FEDERAL INTERESTS.—The Secretary may release, in whole or in part, any property interest in connection with a revolving loan fund grant after the date that is 20 years after the date on which the grant was awarded, provided that the recipient—

["(A) is in compliance with the terms of its grant and operating the fund at an acceptable level of performance as determined by the Secretary; and

["(B) reimburses the government prior to the release for the amount of the Secretary's investment in the fund or the pro-rata share of the fund at the time of the release, whichever is less.

Any action taken by the Secretary pursuant to this subsection with respect to a revolving loan fund shall not constitute a new obligation provided that all grant funds associated with the original grant award have been disbursed to the recipient.''.

[SEC. 12. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

[Section 211 of PWEDA (42 U.S.C. 3151) is amended to read as follows:

["SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

["In any case in which the Secretary has made a grant for a construction project under sections 201 or 209 of this title, and before closeout of the project, the Secretary determines that the cost of the project based on the designs and specifications that were the basis of the grant has decreased because of decreases in costs—

["(1) without further appropriations action, the Secretary may approve the use of the excess funds or a portion of the funds to improve the project; and

["(2) any amount of excess funds remaining after application of paragraph (1) may be used for other investments authorized for support under this Act.

In addition to paragraphs (1) and (2) of this section, in the event of construction underruns in projects utilizing funds transferred from other Federal agencies pursuant to section 604 of this Act, the Secretary may utilize these funds in conjunction with paragraphs (1) or (2) with the approval of the originating agency or will return the funds to the originating agency.''.

[SEC. 13. SPECIAL IMPACT AREAS.

[Title II of PWEDA is further amended by adding a new section 214 as follows:

["SEC. 214. SPECIAL IMPACT AREAS.

["SPECIAL IMPACT AREAS.—The Secretary is authorized to make grants, enter into contracts and provide technical assistance for projects and programs that the Secretary finds will fulfill a pressing need of the area and be useful in alleviating or preventing conditions of excessive unemployment or underemployment or assist in providing useful employment opportunities for the unemployed or underemployed residents in the area. In extending assistance under this section, the Secretary may waive, in whole or in part, as appropriate, the provisions of section 302 of this Act provided that the Secretary determines that such assistance will carry out the purposes of the Act.''.

[SEC. 14. PERFORMANCE INCENTIVES.

[Title II of PWEDA is further amended by adding a new section 215 as follows:

["SEC. 215. PERFORMANCE INCENTIVES.

["(a) In accordance with regulations issued for such purposes, the Secretary may award

transferable performance credits in an amount that does not exceed 10 percent of the grant amount awarded under sections 201 or 209 of this Act on or after the effective date of this amendment. The Secretary shall base such performance incentives on the extent to which a recipient meets or exceeds performance requirements established in connection with extension of the assistance.

[''(b) A recipient awarded a transferable performance credit under this section may redeem the credit to increase the Federal share of a subsequent grant funded under sections 201 and 209 of this Act above the maximum Federal share allowable under section 204 up to 80 percent of the project cost. A performance credit must be redeemed within 5 years of its issue date.

[''(c) An original recipient may also sell or transfer the credit in its entirety to another eligible recipient for use in connection with a grant approved by the Secretary under this Act without reimbursement to the Secretary for redemption in accordance with subsection (b) above.

[''(d) The Secretary shall attach such terms and conditions or limitations as the Secretary deems appropriate in issuing a performance credit. Performance credits shall be paid out of appropriations for economic development assistance programs made available in the year of redemption to the extent of availability.

[''(e) The Secretary shall include information regarding issuance of performance credits in the annual report under section 603 of this Act.''.

[SEC. 15. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.

[Subparagraph (a)(3)(A) of section 302 of PWEDA (42 U.S.C. 3162) is amended by adding ''maximizes effective development and use of the workforce (consistent with any applicable state and local workforce investment strategy under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.),'' between ''access,'' and ''enhances''.

[SEC. 16. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS.

[Subparagraph (a)(3)(B) of section 401 of PWEDA (42 U.S.C. 3171) is amended by striking ''by each affected State and''.

[SEC. 17. DISTRICT INCENTIVES.

[Section 403 of PWEDA (42 U.S.C. 3173) is amended by striking it in its entirety and redesignating sections 404 and 405 as sections 403 and 404. Section 403 as re-designated is amended by adding at the end the following new sentence: ''If any part of an economic development district is in a region covered by one or more other Regional Commissions as defined in section 3(8) of this Act, the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the affected regional commission.''.

[SEC. 18. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.

[Section 502 of PWEDA (42 U.S.C. 3192) is amended to read as follows:

[''SEC 502. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE

[''In carrying out this Act, the Secretary shall—

[''(1) maintain a central information clearinghouse on the Internet with information on economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal Government, links to State economic development organizations, and links to other appropriate economic development resources;

[''(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal and State laws in locating and applying for the assistance;

[''(3) assist areas described in section 301(a) and other areas by providing to interested persons, communities, industries, and businesses in the areas any technical information, market research, or other forms of assistance, information, or advice that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment in the areas; and

[''(4) obtain appropriate information from other Federal agencies needed to carry out the duties under this Act.''.

[SEC. 19. REMOVAL OF UNUSED AUTHORITY.

[Section 505 of PWEDA (42 U.S.C. 3195) is amended by striking it in its entirety and sections 506 and 507 are re-designated as sections 505 and 506.

[SEC. 20. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

[Section 505 of PWEDA (42 U.S.C. 3196) as re-designated is amended as follows:

[(1) In subsection (c), strike ''after the effective date of the Economic Development Administration Reform Act of 1998''.

[(2) In paragraph (d)(2), strike ''and'' before ''disseminating results'' and insert '', and measuring the outcome-based results of the university centers' activities'' before the period at the end thereof.

[(3) In paragraph (d)(3) of section 506, insert before the period at the end thereof ''as evidenced by outcome-based results, including the number of jobs created or retained, and amount of private-sector funds leveraged''.

[(4) In subsection (e) of section 506, strike ''university center or'' each occasion it occurs.

[SEC. 21. CITATION CORRECTIONS.

[Section 602 PWEDA (42 U.S.C. 3212) is amended by striking the citations to ''40 U.S.C. 276A—276A–5'' and ''section 276c'' and inserting in lieu thereof, ''40 U.S.C. 3141 et seq.'' and ''section 3154'', respectively.

[SEC. 22. DELETION OF UNNECESSARY PROVISION.

[Section 609 of PWEDA (42 U.S.C. 3219) is amended by striking subsection (a) in its entirety and striking the subsection designation ''(b)''.

[SEC. 23. GENERAL AUTHORIZATION OF APPROPRIATIONS.

[Section 701 of PWEDA (42 U.S.C. 3231) is amended to read as follows:

[''SEC. 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.

[''(a) ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS.—There are authorized to be appropriated for economic development assistance programs to carry out this Act $331,027,000 for fiscal year 2004, and such sums as may be necessary for fiscal years 2005, 2006, 2007, and 2008, to remain available until expended.

[''(b) SALARIES AND EXPENSES.—There are authorized to be appropriated for salaries and expenses of administering this Act $33,377,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years from 2005 through 2008, to remain available until expended.''.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Economic Development Administration Reauthorization Act of 2004''.

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

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings and declarations.
Sec. 102. Definitions.
Sec. 103. Establishment of Economic Development partnerships.
Sec. 104. Coordination.

TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

Sec. 201. Grants for planning.
Sec. 202. Cost sharing.
Sec. 203. Supplementary grants.
Sec. 204. Regulations on relative needs and allocations.
Sec. 205. Grants for training, research, and technical assistance.
Sec. 206. Prevention of unfair competition.
Sec. 207. Grants for economic adjustment.
Sec. 208. Use of funds in projects constructed under projected cost.
Sec. 209. Special impact areas.
Sec. 210. Performance awards.
Sec. 211. Planning performance awards.
Sec. 212. Direct expenditure or redistribution by recipient.
Sec. 213. Brownfields redevelopment.

TITLE III—COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

Sec. 301. Eligibility of areas.
Sec. 302. Comprehensive Economic Development strategies.

TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

Sec. 401. Incentives.
Sec. 402. Provision of comprehensive Economic Development strategies to Regional Commissions.

TITLE V—ADMINISTRATION

Sec. 501. Economic Development information clearinghouse.
Sec. 502. Businesses desiring Federal contracts.
Sec. 503. Performance evaluations of grant recipients.
Sec. 504. Conforming amendments.

TITLE VI—MISCELLANEOUS

Sec. 601. Annual report to Congress.
Sec. 602. Relationship to assistance under other law.
Sec. 603. Sense of Congress regarding Economic Development Representatives.

TITLE VII—FUNDING

Sec. 701. Authorization of appropriations.
Sec. 702. Funding for grants for planning and grants for administrative expenses.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS AND DECLARATIONS.

Section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121) is amended to read as follows:

''SEC. 2. FINDINGS AND DECLARATIONS.

''(a) FINDINGS.—Congress finds that—

''(1) there continue to be areas of the United States experiencing chronic high unemployment, underemployment, outmigration, and low per capita incomes, as well as areas facing sudden and severe economic dislocations because of structural economic changes, changing trade patterns, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;

''(2) economic growth in the States, cities, and rural areas of the United States is produced by expanding economic opportunities, expanding free enterprise through trade, developing and strengthening public infrastructure, and creating a climate for job creation and business development;

''(3) the goal of Federal economic development programs is to raise the standard of living for all citizens and increase the wealth and overall rate of growth of the economy by encouraging communities to develop a more competitive and diversified economic base by—

''(A) creating an environment that promotes economic activity by improving and expanding public infrastructure;

''(B) promoting job creation through increased innovation, productivity, and entrepreneurship; and

''(C) empowering local and regional communities experiencing chronic high unemployment and low per capita income to develop private sector business and attract increased private sector capital investment;

''(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private State, regional, tribal, and local organizations to maximize the impact of existing resources and enable regions, communities, and citizens to participate more fully in the American dream and national prosperity;

''(5) in order to avoid duplication of effort and achieve meaningful, long-lasting results, Federal, State, tribal, and local economic development activities should have a clear focus, improved coordination, a comprehensive approach, and simplified and consistent requirements; and

''(6) Federal economic development efforts will be more effective if the efforts are coordinated with, and build upon, the trade, workforce investment, transportation, and technology programs of the United States.

''(b) DECLARATIONS.—In order to promote a strong and growing economy throughout the United States, Congress declares that—

''(1) assistance under this Act should be made available to both rural- and urban-distressed communities;

''(2) local communities should work in partnership with neighboring communities, the States, Indian tribes, and the Federal Government to increase the capacity of the local communities to develop and implement comprehensive economic development strategies to alleviate economic distress and enhance competitiveness in the global economy; and

''(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to support entrepreneurship to take advantage of the development opportunities afforded by technological innovation and expanding newly opened global markets.''.

SEC. 102. DEFINITIONS.

(a) ELIGIBLE RECIPIENT.—Section 3(4)(A) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122(4)(A)) is amended—

(1) by striking clause (i) and redesignating clauses (ii) through (vii) as clauses (i) through (vi), respectively; and

(2) in clause (iv) (as redesignated by paragraph (1)) by inserting '', including a special purpose unit of a State or local government engaged in economic or infrastructure development activities,'' after ''State''.

(b) REGIONAL COMMISSIONS; UNIVERSITY CENTER.—Section 3 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122) is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (11), respectively;

(2) by inserting after paragraph (7) the following:

''(8) REGIONAL COMMISSIONS.—The term 'Regional Commissions' means—

''(A) the Appalachian Regional Commission established under chapter 143 of title 40, United States Code;

''(B) the Delta Regional Authority established under subtitle F of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa et seq.);

''(C) the Denali Commission established under the Denali Commission Act of 1998 (42 U.S.C. 3121 note; 112 Stat. 2681–637 et seq.); and

''(D) the Northern Great Plains Regional Authority established under subtitle G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb et seq.).''; and

(3) by adding at the end the following:

''(12) UNIVERSITY CENTER.—The term 'university center' means an institution of higher education or a consortium of institutions of higher education established as a University Center for Economic Development under section 207(a)(2)(D).''.

SEC. 103. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.

Section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended—

(1) in subsection (b), by striking ''and multi-State regional organizations'' and inserting ''multi-State regional organizations, and nonprofit organizations''; and

(2) in subsection (d)(1), by striking ''adjoining'' each place it appears.

SEC. 104. COORDINATION.

Section 103 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Secretary'';

(2) in subsection (a) (as designated by paragraph (1)), by inserting ''Indian tribes,'' after ''districts,''; and

(3) by adding at the end the following:

''(b) MEETINGS.—To carry out subsection (a), or for any other purpose relating to economic development activities, the Secretary may convene meetings with Federal agencies, State and local governments, economic development districts, Indian tribes, and other appropriate planning and development organizations.''.

TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

SEC. 201. GRANTS FOR PLANNING.

Section 203(d) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3143(d)) is amended—

(1) in paragraph (1), by inserting '', to the maximum extent practicable,'' after ''developed'' the second place it appears;

(2) by striking paragraph (3) and inserting the following:

''(3) COORDINATION.—Before providing assistance for a State plan under this section, the Secretary shall consider the extent to which the State will consider local and economic development district plans.''; and

(3) in paragraph (4)—

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

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by adding after subparagraph (C) the following:

''(D) assist in carrying out the workforce investment strategy of a State;

''(E) promote the use of technology in economic development, including access to high-speed telecommunications; and''.

SEC. 202. COST SHARING.

(a) FEDERAL SHARE.—Section 204 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144) is amended by striking subsection (a) and inserting the following:

''(a) FEDERAL SHARE.—Except as provided in subsection (c), the Federal share of the cost of any project carried out under this title shall not exceed—

''(1) 50 percent; plus

''(2) an additional percent that—

''(A) shall not exceed 30 percent; and

''(B) is based on the relative needs of the area in which the project will be located, as determined in accordance with regulations promulgated by the Secretary.''.

(b) NON-FEDERAL SHARE.—Section 204(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144(b)) is amended by inserting ''assumptions of debt,'' after ''equipment,''.

(c) INCREASE IN FEDERAL SHARE.—Section 204 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144) is amended by adding at the end the following:

''(c) INCREASE IN FEDERAL SHARE.—

''(1) INDIAN TRIBES.—In the case of a grant to an Indian tribe for a project under this title, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

''(2) CERTAIN STATES, POLITICAL SUBDIVISIONS, AND NONPROFIT ORGANIZATIONS.—In the case of a grant to a State, or a political subdivision of a State, that the Secretary determines has exhausted the effective taxing and borrowing capacity of the State or political subdivision, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted the effective borrowing capacity of the nonprofit organization, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

''(3) TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.—In the case of a grant provided under section 207, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project if the Secretary determines that the project funded by the grant merits, and is not feasible without, such an increase.''.

SEC. 203. SUPPLEMENTARY GRANTS.

(a) IN GENERAL.—Section 205 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3145) is amended by striking subsection (b) and inserting the following:

''(b) SUPPLEMENTARY GRANTS.—Subject to subsection (c), in order to assist eligible recipients in taking advantage of designated Federal grant programs, on the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the recipient is eligible but for which the recipient cannot provide the required non-Federal share because of the economic situation of the recipient.''.

(b) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—Section 205(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3145(c)) is amended—

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

''(1) AMOUNT OF SUPPLEMENTARY GRANTS.—The share of the project cost supported by a supplementary grant under this section may not exceed the applicable Federal share under section 204.

''(2) FORM OF SUPPLEMENTARY GRANTS.—The Secretary shall make supplementary grants by—

''(A) the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs; or

''(B) the provision of funds under this Act, which will be combined with funds transferred from other Federal agencies in projects administered by the Secretary.''; and

(2) by striking paragraph (4).

SEC. 204. REGULATIONS ON RELATIVE NEEDS AND ALLOCATIONS.

Section 206 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3146) is amended—

(1) in paragraph (1)(C), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(3)(A) rural and urban economically distressed areas are not harmed by the establishment or implementation by the Secretary of a private sector leveraging goal for a project under this title;

''(B) any private sector leveraging goal established by the Secretary does not prohibit or discourage grant applicants under this title from public works in, or economic development of, rural or urban economically distressed areas; and

''(C) the relevant Committees of Congress are notified prior to making any changes to any private sector leveraging goal; and

''(4) grants made under this title promote job creation and will have a high probability of assisting the recipient in meeting or exceeding applicable performance requirements established in connection with the grants.''.

SEC. 205. GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Section 207(a)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (I); and

(3) by inserting after subparagraph (F) the following:

''(G) studies that evaluate the effectiveness of coordinating projects funded under this Act with projects funded under other Acts;

''(H) assessment, marketing, and establishment of business clusters; and''.

(b) COOPERATION REQUIREMENT.—Section 207(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)) is amended by striking paragraph (3) and inserting the following:

''(3) COOPERATION REQUIREMENT.—In the case of a project assisted under this section that is national or regional in scope, the Secretary may waive the provision in section 3(4)(A)(vi) requiring a nonprofit organization or association to act in cooperation with officials of a political subdivision of a State.''.

SEC. 206. PREVENTION OF UNFAIR COMPETITION.

(a) IN GENERAL.—Section 208 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3148) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 208.

SEC. 207. GRANTS FOR ECONOMIC ADJUSTMENT.

(a) ASSISTANCE TO MANUFACTURING COMMUNITIES.—Section 209(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)) is amended—

(1) in paragraph (3), by striking ''or'';

(2) in paragraph (4), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(5) the loss of manufacturing jobs, for reinvesting in and diversifying the economies of the communities.''.

(b) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT; SPECIAL PROVISIONS RELATING TO REVOLVING LOAN FUND GRANTS.—Section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149) is amended by striking subsection (d) and inserting the following:

''(d) SPECIAL PROVISIONS RELATING TO REVOLVING LOAN FUND GRANTS.—

''(1) IN GENERAL.—The Secretary shall promulgate regulations to maintain the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.

''(2) EFFICIENT ADMINISTRATION.—The Secretary may—

''(A) at the request of a grantee, amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria;

''(B) assign or transfer assets of a revolving loan fund to third party for the purpose of liquidation, and the third party may retain assets of the fund to defray costs related to liquidation; and

''(C) take such actions as are appropriate to enable revolving loan fund operators to sell or securitize loans (except that the actions may not include issuance of a Federal guaranty by the Secretary).

''(3) TREATMENT OF ACTIONS.—An action taken by the Secretary under this subsection with respect to a revolving loan fund shall not constitute a new obligation if all grant funds associated with the original grant award have been disbursed to the recipient.

''(4) PRESERVATION OF SECURITIES LAWS.—

''(A) NOT TREATED AS EXEMPTED SECURITIES.—No securities issued pursuant to paragraph (2)(C) shall be treated as exempted securities for purposes of the Securities Act of 1933 (15 U.S.C. 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless exempted by rule or regulation of the Securities and Exchange Commission.

''(B) PRESERVATION.—Except as provided in subparagraph (A), no provision of this subsection or any regulation promulgated by the Secretary under this subsection supersedes or otherwise affects the application of the securities laws (as the term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))) or the rules, regulations, or orders of the Securities and Exchange Commission or a self-regulatory organization under that Commission.''.

SEC. 208. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

Section 211 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151) is amended to read as follows:

''SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

''(a) IN GENERAL.—In the case of a grant to a recipient for a construction project under section 201 or 209, if the Secretary determines, before closeout of the project, that the cost of the project, based on the designs and specifications that were the basis of the grant, has decreased because of decreases in costs, the Secretary may approve, without further appropriation, the use of the excess funds (or a portion of the excess funds) by the recipient—

''(1) to increase the Federal share of the cost of a project under this title to the maximum percentage allowable under section 204; or

''(2) to improve the project.

''(b) OTHER USES OF EXCESS FUNDS.—Any amount of excess funds remaining after application of subsection (a) may be used by the Secretary for providing assistance under this Act.

''(c) TRANSFERRED FUNDS.—In the case of excess funds described in subsection (a) in projects using funds transferred from other Federal agencies pursuant to section 604, the Secretary shall—

''(1) use the funds in accordance with subsection (a), with the approval of the originating agency; or

''(2) return the funds to the originating agency.

''(d) REVIEW BY COMPTROLLER GENERAL.—

''(1) REVIEW.—The Comptroller General of the United States shall review the implementation of this section for each fiscal year.

''(2) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller General under this subsection.''.

SEC. 209. SPECIAL IMPACT AREAS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) is amended by adding at the end the following:

''SEC. 214. SPECIAL IMPACT AREAS.

''(a) IN GENERAL.—On the application of an eligible recipient that is determined by the Secretary to be unable to comply with the requirements of section 302, the Secretary may waive, in whole or in part, the requirements of section 302 and designate the area represented by the recipient as a special impact area.

''(b) CONDITIONS.—The Secretary may make a designation under subsection (a) only after determining that—

''(1) the project will fulfill a pressing need of the area; and

''(2) the project will—

''(A) be useful in alleviating or preventing conditions of excessive unemployment or underemployment; or

''(B) assist in providing useful employment opportunities for the unemployed or underemployed residents in the area.

''(c) NOTIFICATION.—At the time of the designation under subsection (a), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice of the designation, including a justification for the designation.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 213 the following:

''Sec. 214. Special impact areas.''.

SEC. 210. PERFORMANCE AWARDS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 209) is amended by adding at the end the following:

''SEC. 215. PERFORMANCE AWARDS.

''(a) IN GENERAL.—The Secretary may make a performance award in connection with a grant made, on or after the date of enactment of this section, to an eligible recipient for a project under section 201 or 209.

''(b) PERFORMANCE MEASURES.—

''(1) REGULATIONS.—The Secretary shall promulgate regulations to establish performance measures for making performance awards under subsection (a).

''(2) CONSIDERATIONS.—In promulgating regulations under paragraph (1), the Secretary shall consider the inclusion of performance measures that assess—

''(A) whether the recipient meets or exceeds scheduling goals;

''(B) whether the recipient meets or exceeds job creation goals;

''(C) amounts of private sector capital investments leveraged; and

''(D) such other factors as the Secretary determines to be appropriate.

''(c) AMOUNT OF AWARDS.—

''(1) IN GENERAL.—The Secretary shall base the amount of a performance award made under subsection (a) in connection with a grant on the extent to which a recipient meets or exceeds performance measures established in connection with the grant.

''(2) MAXIMUM AMOUNT.—The amount of a performance award may not exceed 10 percent of the amount of the grant.

''(d) USE OF AWARDS.—A recipient of a performance award under subsection (a) may use the award for any eligible purpose under this Act, in accordance with section 602 and such regulations as the Secretary may promulgate.

''(e) FEDERAL SHARE.—Notwithstanding section 204, the funds of a performance award may be used to pay up to 100 percent of the cost of an eligible project or activity.

''(f) TREATMENT IN MEETING NON-FEDERAL SHARE REQUIREMENTS.—For the purposes of meeting the non-Federal share requirements under this, or any other, Act the funds of a performance award shall be treated as funds from a non-Federal source.

''(g) TERMS AND CONDITIONS.—In making performance awards under subsection (a), the Secretary shall establish such terms and conditions as the Secretary considers to be appropriate.

''(h) FUNDING.—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.

''(i) REPORTING REQUIREMENT.—The Secretary shall include information regarding performance awards made under this section in the annual report required under section 603.

''(j) REVIEW BY COMPTROLLER GENERAL.—

''(1) REVIEW.—The Comptroller General shall review the implementation of this section for each fiscal year.

''(2) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller under this subsection.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 214 the following:

''Sec. 215. Performance awards.''.

SEC. 211. PLANNING PERFORMANCE AWARDS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 210) is amended by adding at the end the following:

''SEC. 216. PLANNING PERFORMANCE AWARDS.

''(a) IN GENERAL.—The Secretary may make a planning performance award in connection with a grant made, on or after the date of enactment of this section, to an eligible recipient for a project under this title located in an economic development district.

''(b) ELIGIBILITY.—The Secretary may make a planning performance award to an eligible recipient under subsection (a) in connection with a grant for a project if the Secretary determines before closeout of the project that—

''(1) the recipient actively participated in the economic development activities of the economic development district in which the project is located;

''(2) the project is consistent with the comprehensive economic development strategy of the district;

''(3) the recipient worked with Federal, State, and local economic development entities throughout the development of the project; and

''(4) the project was completed in accordance with the comprehensive economic development strategy of the district.

''(c) MAXIMUM AMOUNT.—The amount of a planning performance award made under subsection (a) in connection with a grant may not exceed 5 percent of the amount of the grant.

''(d) USE OF AWARDS.—A recipient of a planning performance award under subsection (a) shall use the award to increase the Federal share of the cost of a project under this title.

''(e) FEDERAL SHARE.—Notwithstanding section 204, the funds of a planning performance award may be used to pay up to 100 percent of the cost of a project under this title.

''(f) FUNDING.—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 215 the following:

''Sec. 216. Planning performance awards.''.

SEC. 212. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 211) is amended by adding at the end the following:

''SEC. 217. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.

''(a) IN GENERAL.—Subject to subsection (b), a recipient of a grant under section 201, 203, or 207 may directly expend the grant funds or may redistribute the funds in the form of a subgrant to other eligible recipients to fund required components of the scope of work approved for the project.

''(b) LIMITATION.—A recipient may not redistribute grant funds received under section 201 or 203 to a for-profit entity.

''(c) ECONOMIC ADJUSTMENT.—Subject to subsection (d), a recipient of a grant under section 209 may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

''(d) LIMITATION.—Under subsection (c), a recipient may not provide any grant to a private for-profit entity.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 216 the following:

''Sec. 217. Direct expenditure or redistribution by recipient.''.

SEC. 213. BROWNFIELDS REDEVELOPMENT.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 212) is amended by adding at the end the following:

''SEC. 218. BROWNFIELDS REDEVELOPMENT.

''(a) DEFINITION OF BROWNFIELD SITE.—In this section, the term 'brownfield site' has the meaning given the term in section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(39)).

''(b) GRANTS.—On the application of eligible recipients, the Secretary may make grants for projects on brownfield sites to alleviate or prevent conditions of inadequate private capital investment, unemployment, underemployment, blight, underutilized or abandoned land, outmigration or population loss, or infrastructure deterioration, including projects consisting of—

''(1) acquisition, development, or reuse of land and infrastructure improvements for a public works, service, or facility;

''(2) development of public facilities, including design and engineering, construction, rehabilitation, alteration, expansion, or improvement, and related machinery and equipment;

''(3) business development (including funding of a revolving loan fund);

''(4) planning;

''(5) technical assistance; and

''(6) any other assistance determined by the Secretary to alleviate the economic impacts of brownfield sites consistent with the objectives of this title.

''(c) PROHIBITION ON REMEDIATION.—

''(1) DEFINITIONS.—In this subsection:

''(A) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' has the meaning given the term in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

''(B) RELEASE.—The term 'release' has the meaning given the term in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(22)).

''(C) REMEDIATION.—The term 'remediation' does not include response activities described in section 104(a)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(a)(3)).

''(2) PROHIBITION.—Except as provided in paragraph (3), a grant made under this section shall not be used for remediation to prevent or minimize the release of hazardous substances.

''(3) EXCEPTION FOR INCIDENTAL REMEDIATION.—

''(A) IN GENERAL.—Paragraph (2) does not apply to remediation that is incidental to the economic redevelopment project.

''(B) LIMITATION.—Except as provided in subparagraph (C), incidental remediation shall not exceed $50,000 at any individual project.

''(C) EXCEPTIONAL CIRCUMSTANCES.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary may waive subparagraph (B) in exceptional circumstances that further the mission of the Economic Development Administration.

''(ii) LIMITATION.—If the Secretary waives subparagraph (B) for a project, the cost of the incidental remediation at the project shall not exceed $200,000.

''(D) STANDARDS.—A recipient of a grant under this section that is used for incidental remediation shall—

''(i) obtain written approval or clearance from the appropriate Federal and State regulatory authority for the hazardous waste remediation; and

''(ii) comply with all applicable Federal and State laws.

''(4) EFFECT ON FEDERAL AND STATE LAWS.—Nothing in this section affects any liability, obligation, or response authority under Federal or State law.

''(d) ADDITIONAL LIMITATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a grant made under this section shall be subject to section 104(k)(4)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)(4)(B)).

''(2) EXCEPTIONS.—

''(A) ADMINISTRATIVE COSTS.—A recipient of a grant made under this section may use grant funds for the administrative costs of economic development activities.

''(B) COMPLIANCE COSTS.—A recipient of a grant made under this section may use grant funds for the compliance costs of economic development activities.

''(C) BONA FIDE PROSPECTIVE PURCHASER.—For purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), a recipient of a grant under this section that otherwise satisfies the definition of 'bona fide prospective purchaser' under section 101(40) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(40)) shall be considered to be within that definition regardless of the date on which the grant recipient acquires ownership of a facility.

''(e) ASSISTANCE AT OTHER SITES.—Nothing in this section affects the authority of the Secretary to provide assistance to eligible recipients under this Act for economic development projects at a site other than a brownfield site.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 217 the following:

''Sec. 218. Brownfields redevelopment.''.

TITLE III—COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

SEC. 301. ELIGIBILITY OF AREAS.

Section 301(c)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(c)(1)) is amended by inserting after ''most recent Federal data available'' the following: ''(including data available from the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Census Bureau, the Bureau of Indian Affairs, or any other Federal source determined by the Secretary to be appropriate)''.

SEC. 302. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.

(a) IN GENERAL.—Section 302(a)(3)(A) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162(a)(3)(A)) is amended by inserting ''maximizes effective development and use of the workforce consistent with any applicable State or local workforce investment strategy, promotes the use of technology in economic development (including access to high-speed telecommunications),'' after ''access,''.

(b) APPROVAL OF OTHER PLAN.—Section 302(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162(c)) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(2) EXISTING STRATEGY.—To the maximum extent practicable, a plan submitted under this paragraph shall be consistent and coordinated with any existing comprehensive economic development strategy for the area.''.

TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

SEC. 401. INCENTIVES.

(a) IN GENERAL.—Section 403 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3173) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 403.

SEC. 402. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO REGIONAL COMMISSIONS.

(a) IN GENERAL.—Section 404 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3174) is amended to read as follows:

''SEC. 404. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO REGIONAL COMMISSIONS.

''If any part of an economic development district is in a region covered by 1 or more of the Regional Commissions, the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the affected Regional Commission.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 404 and inserting the following:

''Sec. 404. Provision of comprehensive economic development strategies to Regional Commissions.''.

TITLE V—ADMINISTRATION

SEC. 501. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.

Section 502 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3192) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) maintain a central information clearinghouse on the Internet with—

''(A) information on economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal Government;

''(B) links to State economic development organizations; and

''(C) links to other appropriate economic development resources;'';

(2) by striking paragraph (2) and inserting the following:

''(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal and State laws in locating and applying for the assistance;'';

(3) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(4) by adding at the end the following:

''(4) obtain appropriate information from other Federal agencies needed to carry out the duties under this Act.''.

SEC. 502. BUSINESSES DESIRING FEDERAL CONTRACTS.

(a) IN GENERAL.—Section 505 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3195) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 505.

SEC. 503. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

(a) IN GENERAL.—Section 506(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3196(c)) is amended by striking ''after the effective date of the Economic Development Administration Reform Act of 1998''.

(b) EVALUATION CRITERIA.—Section 506(d)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3196(d)(2)) is amended by inserting ''program performance,'' after ''applied research,''.

SEC. 504. CONFORMING AMENDMENTS.

Section 602 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3212) is amended—

(1) in the first sentence, by striking ''in accordance with'' and all that follows before the period at the end and inserting ''in accordance with subchapter IV of chapter 31 of title 40, United States Code''; and

(2) in the third sentence, by striking ''section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)'' and inserting ''section 3145 of title 40, United States Code''.

TITLE VI—MISCELLANEOUS

SEC. 601. ANNUAL REPORT TO CONGRESS.

Section 603 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3213) is amended—

(1) by striking ''Not later'' and inserting the following:

''(a) IN GENERAL.—Not later''; and

(2) by adding at the end the following:

''(b) INCLUSIONS.—Each report required under subsection (a) shall—

''(1) include a list of the waivers issued under section 218(c)(3)(C);

''(2) include a list of all grant recipients by State, including the projected private sector dollar to Federal dollar investment ratio for each grant recipient;

''(3) include a discussion of any private sector leveraging goal with respect to grants awarded to—

''(A) rural and urban economically distressed areas; and

''(B) highly distressed areas; and

''(4) after the completion of a project, include the realized private sector dollar to Federal dollar investment ratio for the project.''.

SEC. 602. RELATIONSHIP TO ASSISTANCE UNDER OTHER LAW.

Section 609 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3219) is amended—

(1) by striking subsection (a); and

(2) by striking ''(b) ASSISTANCE UNDER OTHER ACTS.—''.

SEC. 603. SENSE OF CONGRESS REGARDING ECONOMIC DEVELOPMENT REPRESENTATIVES.

(a) FINDINGS.—Congress finds that—

(1) planning and coordination among Federal agencies, State and local governments, Indian tribes, and economic development districts is vital to the success of an economic development program;

(2) economic development representatives of the Economic Development Administration provide distressed communities with the technical assistance necessary to foster this planning and coordination; and

(3) in the 5 years preceding the date of enactment of this Act, the number of economic development representatives has declined by almost 25 percent.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should maintain a sufficient number of economic development representatives to ensure that the Economic Development Administration is able to provide effective assistance to distressed communities and foster economic growth and development among the States.

TITLE VII—FUNDING

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Section 701 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231) is amended to read as follows:

''SEC. 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.

''(a) ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS.—There are authorized to be appropriated for economic development assistance programs to carry out this Act, to remain available until expended—

''(1) $400,000,000 for fiscal year 2004;

''(2) $425,000,000 for fiscal year 2005;

''(3) $450,000,000 for fiscal year 2006;

''(4) $475,000,000 for fiscal year 2007; and

''(5) $500,000,000 for fiscal year 2008.''

''(b) SALARIES AND EXPENSES.—There are authorized to be appropriated for salaries and expenses of administering this Act, to remain available until expended—

''(1) $33,377,000 for fiscal year 2004; and

''(2) such sums as are necessary for each fiscal year thereafter.''.

SEC. 702. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Title VII of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231 et seq.) is amended by adding at the end the following:

''SEC. 704. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

''(a) IN GENERAL.—Of the amounts made available under section 701 for each fiscal year, not less than $27,000,000 shall be made available for grants provided under section 203.

''(b) WAIVER.—Subsection (a) shall not apply in any case in which the total amount made available for a fiscal year for all programs under this Act (excluding programs described in paragraphs (1) and (2) of section 209(c)) is less than $255,000,000.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 703 the following:

''Sec. 704. Funding for grants for planning and grants for administrative expenses.''.

Mr. JEFFORDS. Mr. President, I am pleased that today we are about to enact S. 1134, the Economic Development Administration Reauthorization Act of 2004. This bipartisan bill, which I helped craft, will strengthen the agency's ability to assist economically distressed communities in Vermont and across the Nation by providing approximately $1.3 billion in economic development grants over the next 5 years.

Since its establishment in 1965, the Economic Development Administration, EDA, has invested more than $18.4 billion in more than 52,000 projects in all 50 States and in U.S. territories. These EDA investments have been supplemented by approximately $8.3 billion in matching funds from investment partners and have leveraged approximately $90.6 billion in private sector investment. In total, these investments have created more than 2.9 million jobs and saved more than 830,000 jobs.

In Vermont, for example, EDA funds have been used to develop a business incubator in Randolph and will soon be used to provide high-speed Internet access to the states most rural region of Caledonia, Essex, Orleans, Lamoille, Franklin, and Grand Isle Counties. My goal with this legislation has been to increase the investment of EDA dollars

in Vermont, and 5 years from now I believe that will be demonstrated.

The bill we are considering today is slightly altered from the one that we passed out of the Environment and Public Works Committee last June. In an effort to speed eventual enactment into law, this substitute bill is not only supported by myself, Senator INHOFE, the Chairman of the Environment and Public Works Committee, Senators BOND and REID, the Chairman and Ranking Member of the Environment Committee's Transportation and Infrastructure Subcommittee, but it is also supported by our House counterparts on the Transportation and Infrastructure Committee.

I am pleased we were able to increase funding for planning in this bill. EDA has an important role to play in supporting planning at the local level. EDA has an important role as well to encourage the leveraging of federal funds. However, there is language in this bill that ensures that rural and urban economically distressed areas are not adversely impacted by internal EDA leveraging goals.

Turning to brownfields, I am pleased this bill encourages EDA to promote the redevelopment of abandoned industrial facilities and brownfields. The economic and social benefits of brownfields redevelopment are well documented. For example, in June 2003, the U.S. Conference of Mayors estimated that brownfields redevelopment could generate more than 575,000 additional jobs and up to $1.9 billion annually in new tax revenues for cities. In addition, according to EPA, every acre of reused brownfields preserves an estimated 4.5 acres of unused open space. Estimates of the number of brownfields sites nationwide range from 450,000 to as many as a million.

This bill complements the 2002 Environmental Protection Agency brownfields cleanup law by encouraging EDA to make economic redevelopment of brownfields a priority. In other words, EPA's focus is to facilitate the environmental assessment and cleanup of abandoned sites, whereas EDA's role is to encourage the economic reuse of the property.

I agree with EDA Administrator David Sampson, who in response to a question from the EPW Committee, wrote, ''cleanup activities are most appropriately handled by state and federal environmental regulatory agencies with the background and technical expertise to address complex remediation issues.'' As such, I expect that EDA would only fund redevelopment projects at sites that have been certified as ''clean'' by EPA or the State environmental agency. In the rare circumstance that an EDA grant recipient discovers minimal contamination as part of a redevelopment project, this bill would require any remediation activities be conducted in compliance with all Federal, State, and local laws and standards. EDA grantees should obtain the prior written approval of EPA or the State environmental agency to ensure that the remediation is protective of human health and the environment.

Of course, EDA also must uphold the ''polluter pays'' principle by ensuring that Federal dollars are never given to the polluter to clean up contamination that they caused in the first place. Likewise, nothing in this bill in any way affects the liability of any party under Superfund, RCRA or any other federal or state law.

The final brownfields-related aspect of the bill requires a General Auditing Office study of EDA's brownfield grants. This study should provide valuable data on the extent to which EDA brownfield redevelopment grants involve remediation activities, the environmental standards applied and the role of Federal, State and local environmental agencies and public participation in the cleanup process. It is my hope that such information will enable future Congresses to revisit these issues to ensure more explicitly that any remediation performed is truly incidental to the larger economic redevelopment project and that cleanups performed using federal dollars are protective of human health and the environment.

In closing I praise the bipartisan member and staff effort that went into crafting this important bill. In particular, I acknowledge the work of Geoffrey Brown and Malcolm Woolf on my staff; Angie Giancarlo and Frank Fannon on Senator INHOFE's staff; David Montes on Senator REID's staff; and Nick Karellas and Ellen Stein on Senator BOND's staff.

Mrs. BOXER. Mr. President, the Economic Development Administration provides critical support to distressed communities. Included in this reauthorization bill is assistance for the productive reuse of abandoned industrial facilities and the redevelopment of brownfields. I support that effort.

Unfortunately, the bill also includes new language allowing EDA to do site assessment and remediation. This is, and should remain, the job of the Environmental Protection Agency. As is evident in the manager's amendment to the bill, it is Congress's intent that EDA abide by the same site assessment and remediation standards and protocols as does EPA.

Furthermore, under this bill, Federal funds provided by EDA for assessment or cleanup will only be provided consistent with the ''Polluter Pays'' principle. That is, funds will not be provided to those who are responsible for the pollution.

Specifically, EDA shall not provide funds for response costs to parties potentially responsible for those costs under section 107 of CERCLA, or to owners or operators responsible for corrective action under the Leaking Underground Storage Tank program pursuant to the Solid Waste Disposal Act, or to any other party responsible for the pollution.

Mr. President, EDA agrees with Congress's intent. On April 28, 2004, David Sampson, Assistant Secretary of Commerce for Economic Development, told the Senate Environment and Public Works Committee, ''EDA is not seeking to in any way relieve a responsible party from liability under CERCLA nor to provide funds to a party to undertake clean-ups required under CERCLA, since to do so would undercut the 'Polluter Pays' principle on which CERCLA was founded.''

Under any Federal program, when Federal funds are used for cleanup, it is very important to ensure that assessment and cleanup costs not be shifted away from the polluter and onto taxpayers. To the limited extent EDA is involved in funding cleanups, Congress's intent in this bill and EDA's policy is that polluters remain responsible for their own cleanup costs. Polluters must pay to clean up their own messes.

Mr. LAUTENBERG. Mr. President, I rise to speak on the bill to reauthorize the Economic Development Administration, EDA, which provides critical support to needed communities. Since its establishment, the Economic Development Administration has invested over $18 billion in more than 50,000 projects in all parts of the United States. These investments have been supplemented by matching funds from investment partners, and have leveraged a great deal of investment by the private sector.

The reauthorization bill before us today includes assistance for the productive use of abandoned industrial facilities and the redevelopment of brownfields. I support that effort. While the Environmental Protection Agency's role under the 2002 law is to facilitate the environmental assessment and cleanup of abandoned brownfield sites, EDA's role is to encourage the economic reuse of the property.

Under this bill, Federal funds provided by EDA for assessment or cleanup will only be provided consistent with the ''Polluter Pays'' principle. That is, funds will not be provided to those who are responsible for the pollution. They are responsible for cleaning up the mess they made. That is, funds will not be provided to those who are responsible for the pollution. They are responsible for cleaning up the mess they made.

Specifically, EDA shall not provide funds for response costs to parties potentially responsible for those costs under section 107 of CERCLA, or to owners or operators responsible for corrective action under the Leaking Underground Storage Tank program pursuant to the Solid Waste Disposal Act, or to any other party responsible for the pollution.

It is very important to ensure that assessment and clean-up costs are not shifted from the polluter to the taxpayers. To the extent that EDA is involved in funding cleanups, Congress'

intent in this bill and EDA's policy must be the same: polluters are responsible for paying to clean up their own messes.

Mr. INHOFE. Mr. President, I rise to discuss S. 1134, the Economic Development Administration reauthorization bill, that was approved by the Senate today. This is an important piece of legislation for our Nation's economically distressed communities. These areas count on EDA to help create favorable environments for long-term economic growth. Studies have shown that EDA uses Federal dollars efficiently and effectively—creating and retaining long-term jobs at an average cost that is among the lowest in government. The bill emphasizes coordination, flexibility and performance. These tools will allow the Secretary to continue and even improve and increase the good work done by the agency.

In particular, I would like to highlight the performance award program and the reforms to the revolving loan fund, RLF, program included in the bill. The performance award program will allow the Secretary to reward those grant recipients who meet or exceed expectations regarding performance measures such as jobs created and private sector investment.

The reforms to the RLF program are needed to ensure the agency can continue to capitalize new and recapitalize existing RLFs. The current administrative burden of these funds is large. This bill will allow the Secretary to reduce that burden, both for the agency and for the local RLF managers, while providing appropriate oversight.

Enactment of this legislation will be good for my home State of Oklahoma in several ways as well. First, it will ensure that the communities of Elgin and Durant are able to move forward with infrastructure improvements that will support the attraction of private sector investment and the creation of jobs. Enactment will also result in much needed investment in Ottawa County, providing funding for the city of Miami—a city that has suffered economic hardship due to its proximity to a Superfund site.

Additionally, the bill preserves the ability of Economic Development Districts to use planning funds to provide technical assistance and cover administrative costs. This is especially important for the small, rural communities of Oklahoma that do not have the resources to maintain the professional and technical capacity needed to develop and implement comprehensive economic development strategies. Economic Development Districts work to fill this hole and should not be prevented from doing so.

I would like to thank my colleagues here in the Senate, in the House of Representatives and in the administration for working so diligently and cooperatively with me to complete work on this very important legislation. I would also like to thank the staff for their hard work—from my staff: Angie Giancarlo and Frank Fannon; from Senator JEFFORDS' staff: Geoff Brown and Malcolm Woolf; from Senator BOND's staff: Nick Karellas and Ellen Stein; from Senator REID's staff: David Montes; and from EDA: Nat Wienecke, Paul Pisano, Ben Erulkar and Dennis Alvord.

Mr. JEFFORDS. Mr. President, the Economic Development Administration Reauthorization Act of 2004, S. 1134, contains important provisions relating to the redevelopment of brownfields. As the ranking member of the Environment and Public Works Committee, I want to take the opportunity to explain these provisions. Before I begin, let me acknowledge the contributions of Senator CHAFEE, chair of the Superfund and Waste Management subcommittee, in developing these provisions and note that he supports my comments today.

S. 1134 encourages EDA to promote the redevelopment of abandoned industrial facilities and brownfields. The economic and social benefits of brownfields redevelopment are well documented. For example, in June 2003, the U.S. Conference of Mayors estimated that brownfields redevelopment could generate more than 575,000 additional jobs and up to $1.9 billion annually in new tax revenues for cities. In addition, according to EPA, every acre of reused brownfields preserves an estimated 4.5 acres of unused open space. Estimates of the number of brownfields sites nationwide range from 450,000 to as many as a million.

This bill complements the 2002 Environmental Protection Agency brownfields cleanup law by encouraging EDA to make economic redevelopment of brownfields a priority. In other words, EPA's focus is to facilitate the environmental assessment and cleanup of abandoned sites, whereas EDA's role is to encourage the economic reuse of the property.

I agree with EDA Administrator David Sampson, who in response to a question from the EPW Committee, wrote, ''cleanup activities are most appropriately handled by state and federal environmental regulatory agencies with the background and technical expertise to address complex remediation issues.'' As such, I expect that EDA would only fund redevelopment projects at sites that have been certified as ''clean'' by EPA or the State environmental agency. In the rare circumstance that an EDA grant recipient discovers minimal contamination as part of a redevelopment project, this bill would require any remediation activities be conducted in compliance with all Federal, State, and local laws and standards. EDA grantees should obtain the prior written approval of EPA or the State environmental agency to ensure that the remediation is protective of human health the environment.

Of course, EDA also must uphold the ''polluter pays'' principle by ensuring that Federal dollars are never given to the polluter to clean up contamination that they caused in the first place. Likewise, nothing in this bill in any way affects the liability of any party under Superfund, RCRA or any other Federal or State law.

The final brownfields-related aspect of the bill requires a General Auditing Office study of EDA's brownfield grants. This study should provide valuable data on the extent to which EDA brownfield redevelopment grants involve remediation activities, the environmental standards applied and the role of Federal, State and local environmental agencies and public participation in the cleanup process. It is my hope that such information will enable future Congresses to revisit these issues to ensure more explicitly that any remediation performed is truly incidental to the larger economic redevelopment project and that cleanups performed using Federal dollars are protective of human health and the environment.

In closing I would like to praise the bipartisan Member and staff work that went into crafting this important bill and urge swift passage by the other body.

Ms. COLLINS. Madam President, I ask unanimous consent that the substitute amendment that is at the desk be agreed to, the committee-reported amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3976) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 1134), as amended, was read the third time and passed.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

Mr. BYRD. Mr. President, the Senate has voted overwhelmingly to invoke cloture on the national intelligence reform bill. I voted against cloture on the bill. The Senate leadership, in supporting cloture on this bill—I speak most respectfully—argued that this debate has gone on long enough. In essence, that is what has been stated.

I will soon begin my 47th year in this body. I never thought I would see the demise of the Senate as a debating institution. I am very sorry about that. I have seen the demise of the Senate as a debating institution. I have been here when debate on a bill went over 100 days.

Today's situation is eerily reminiscent of the autumn of 2002. A few years ago, the hue and cry went up for all Senators to support a massive bureaucratic reshuffling of our homeland security agencies and a war resolution—I will refer to in that way—against Iraq just weeks before election day.

Like a whipped dog fearing his master, the Senate obediently complied with the demands of the White House, to which our leadership said: let us get this matter behind us; let us get it behind us.

I know many of the Members who come to this body in this day and time are from the other body, and I speak most respectfully of the other body. I came from the other body likewise. But I can remember when I was in the other body I often said, Thank God for the Senate of the United States. That is when I was still in the other body. Thank God for the Senate of the United States. They take their time over there to debate. In this day and time, we do not take time to debate.

Hindsight reveals the mistakes that the Senate made 2 years ago. Today, the Department of Homeland Security finds itself bogged down by bureaucratic infighting, unresolved turf wars, and insufficient funding. The central argument for the war resolution against Iraq, the threat of weapons of mass destruction, has disintegrated into a mess of lies and hot air. The calls for Congress to act quickly were revealed to be ill-advised, misguided, misinformed.

The 108th Congress has an opportunity to learn from the mistakes of the 107th Congress. Yet the repeated calls by Senators for immediate action on this bill suggests we have learned very little.

Most of the hundreds of amendments offered to this bill, or certainly scores of amendments, have focused on trying to speed up reforms that we already do not understand. Apparently, few Senators have dared to speak about the need for caution in arranging a massive, secretive bureaucracy. It would be the most secretive around.

The risk that this bill will grow into a hydra-headed monster increases exponentially as election day nears. Many believe the House bill will include a number of provisions unrelated to intelligence reform, all the way from amendments on immigration to reauthorization of the PATRIOT Act. I hear lately the House has no intention of adding that last mentioned measure. In the rush to pass this bill on a political timetable, what type of Faustian bargains will be struck to jam this bill through the Congress? We have had it happen before. We have been jammed on these important bills. We have had our backs against the wall because of some nearing date, perhaps of a recess, and so forth. What kind of deals with the devil will be made in order to get this bill done in time for election day? That is the big rush—get this bill through in time for election day.

Even one Republican Member of the House of Representatives is concerned that a slam-dunk conference would open the door to politically motivated poison pills. Why is there such a clamor to vote on a bill that is increasingly viewed as a way to make political hay in the hours before a Presidential election? Will Senators even get to read the conference report on this bill before we are expected to vote on it? If we pass this bill, who knows what may be lurking in the walls surrounding that conference between the two Houses unless the House should decide to accept the Senate-passed bill, making it all the more important for the Senate to take our time and thoroughly debate the bill.

The mistake of how the Senate is choosing to consider this bill is not the fault of the 9/11 Commission. That panel is a group of experienced and dedicated public servants. Their research went straight to the heart of the question that has burned in the minds of millions of Americans for 3 years: Namely, how did such a powerful Nation fail to defend itself from those attacks?

In chilling detail, the panel's report lays out the facts about how the U.S. Government failed to stop 19 hijackers—not from Iraq—19 hijackers armed with box cutters; 19 hijackers, not from Iraq, not a one. Not even one of those 19 hijackers came from Iraq. Yet some have attempted to tie the hijackers with Iraq.

''The document is an improbable literary triumph,'' declared U.S. Circuit Judge Richard Posner in the New York Times Book Review. ''However, the commission's analysis and recommendations are unimpressive,'' he said, ''not sustained by the report's narrative,'' he said, ''come to very little . . . [and more] of the same.''

That is pretty harsh criticism. And contrary to what some believe about the critics of intelligence reform, Judge Posner is not protecting his turf, and he does not have an ax to grind.

The Senate Appropriations Committee held hearings 2 weeks ago on the September 11 recommendations. A bipartisan array of national security experts pleaded with the Congress as they gave testimony to the Appropriations Committee, pleaded with the Congress not to rush these reforms.

My, what an impressive list of names: The former chairman of the Senate Intelligence Committee, David Boren; former Senator Bill Bradley; former Secretary of Defense Frank Carlucci; former Secretary of Defense William Cohen—we all remember him. He has been an outstanding Secretary of Defense. He was a Republican—former CIA Director Robert Gates; former Deputy Secretary of Defense John Hamre; former Senator Gary Hart; former Secretary of State Henry Kissinger—he indicated we ought to take several months on this bill—former chairman of the Senate Armed Services Committee Sam Nunn—there is a good one for you. I served in the Senate with Sam Nunn. I served on the Armed Services Committee when he was chairman. Here is a man who is a careful, careful legislator—former Senator Warren Rudman, Republican from New Hampshire; former Secretary of State George Shultz, another Republican.

Among them they have decades of knowledge and experience, and the Congress stands ready to dismiss their concerns out of hand.

I pointed out that several of these distinguished persons are Republicans just to emphasize there are several preeminent Republicans who have had great experience in government who say: Wait, take your time. What is the hurry here? Why the big hurry?

This group of 11 experienced public servants who urged the Congress to stop, look, and listen, they have no turf to protect. They have long since left the service of the executive and legislative branches. Why does the Senate not take their advice? Why does the Senate not pause to listen to their sage advice?

Let us remember that 2 years ago Members of Congress fell all over themselves in a mad frenzy to adopt the advice of Senator Hart and Senator Rudman to create a Department of Homeland Security. Anyone who did not agree with the Hart-Rudman report was viewed as being obstructionist or out of touch. But today, the Senate sloughs off the counsel of those same two men to slow down—slow down. That is what the Senate is all about.

The Senate is not a second House of Representatives with a 6-year term. Thank God for that. As I said many years ago when I was a Member of the other body, the body that is closest to the people, I said thank God for the Senate. So I did not come to this body with any idea of changing the rules to make it a second House of Representatives with a 6-year term. I never thought that about it. I have thought that it is meant to be a place where men and women could argue as long as their feet would hold them erect. I have said time and again that as long as we have a forum in which elected representatives of the people can speak out, speak out without fear and speak out as long as they want to speak on a matter they feel very deeply about, thank God, the people's liberties will be secure.

But today, as I say, the Senate sloughs off the counsel of these eminent luminaries to slow down. How quickly we turn on the advice of our friends.

I fear the Senate wants change, in some instances, merely for the sake of

change, and that we do not yet possess an adequate understanding of why we are doing what we are doing. It is not even clear why or how the 9/11 Commissioners arrived at all of their recommendations. The Commission's report does not explain it. What recommendations did the Commission consider and reject, and why did they reject the recommendations? Did the 9/11 panel receive any independent assessments of their ideas before they were published? Will the Commission's proposals prevent intelligence failures in other areas, such as stopping a repeat of the Iraq weapons of mass destruction fiasco? Even as the Senate rushes to pass this intelligence reform bill, with one eye on the public opinion polls, of course, and the other on the adjournment date, we do not know the answer to these questions.

Given the Senate's failure to ask more questions about the creation of a Department of Homeland Security and the need for war in Iraq, I would hope this Chamber would be more circumspect about rushing to restructure our intelligence agencies on the eve of a Presidential election.

These agencies are very secretive—very secretive. And look at the power Congress is about to give the national intelligence director. Look at the power. He is not an elected individual. I would hope that the Senate would pause to consider the powers that may be shifted to the executive branch in this legislation. I also hope that Senators will consider if such a timid Congress could possibly exercise proper oversight over a powerful and secretive bureaucracy.

We are being naive about these intelligence reforms. It may be comforting to embrace the 9/11 report, and I hold in the highest regard the members, as I say, of that Commission and for its work. It may be comforting to embrace the 9/11 report, but its reforms ignore more fundamental intelligence problems.

At the Appropriations Committee hearing on September 21, 2004, I asked Henry Kissinger: If the 9/11 Commission's recommendations had been implemented in 2002, would our intelligence agencies have come to a different conclusion about Iraq's nonexistent weapons of mass destruction? His answer was no, nothing would have been different. There still would have been false claims of huge stockpiles of WMD in Iraq.

Mr. President, we are all too focused just on the failings of 9/11. The Senate has not focused enough attention on the intelligence failures leading to war in Iraq, in which, as of the last reading of the news reports, we have lost 1,061 men and women. For what? For what did they give their lives? I would wonder, if I had a grandchild who had gone and lost his life in this war, for what did he give his life? Was it worth it? Was it worth it to invade a country under the new doctrine of preemption, which flies right into the face of the Constitution of the United States?

I did not hear the Constitution mentioned last night in the debate. I am not sure, maybe I had my back turned at the moment. I have a sick wife and maybe, perhaps, I did not hear it. But I certainly did not hear it in the first debate between Mr. Bush and Mr. KERRY; not one time did I hear the Constitution mentioned. And I did not hear it mentioned last night. Yet it is mentioned every day throughout this country in the courtrooms of this Nation, the Constitution of the United States. Here we have these Presidential debates and nobody—if I find I am mistaken about last night's debate, I will certainly amend my words in this respect, but I do not believe I missed something there.

The Senate has not focused enough attention on the intelligence failures leading to the war in Iraq. We have not focused enough attention on the nuclear threat posed by Iran and North Korea. We have not focused enough attention on China. We have not focused enough attention on the proliferation of deadly germs and gases.

Any of these challenges could be responsible for the next catastrophic attack on our country or our interests, and they are conspicuously ignored by this bill. Congress is showing myopic vision in failing to see the universe of threats to this country. Terrorism may be the most immediate threat to our country, but it is not the only threat.

As a Member of the Senate and as the then-chairman of the Appropriations Committee in the Senate, I and my committee responded quickly to the attack of 9/11. Within 3 days, Congress passed an appropriations bill, appropriating $40 billion—within 3 days, $40 billion. Congress, both Houses, passed an appropriations bill appropriating $40 billion. In other words, $40 for every minute since Jesus Christ was born, $40 for every minute since Jesus Christ was born—$40 billion. So Congress acted quickly.

We all are concerned. There is no monopoly of concern on either side of the aisle here. I support the effort to reform our intelligence agencies. I support the creation of a national intelligence director. But I do not support this hurry in which we are engaged. We need to stop, look, and listen, debate, offer amendments, answer questions, hold more hearings, like TED STEVENS and I holding hearings in the Appropriations Committee.

I have been one of the harshest critics of the status quo. Intelligence agencies are expected to uncover terrorists plots against our country and produce unbiased, accurate intelligence, free from political interference. The CIA and other agencies have fallen tragically short on both marks. However, I am not convinced that the Congress fully understands the implications of the reforms proposed by the 9/11 Commission, and the rush to vote on these issues before the Presidential elections means it will not have that opportunity. Henry Kissinger called attention to that fact.

We are legislating in an atmosphere, just before a Presidential election, that is not conducive to thoughtful reform of these intelligence agencies. But the greatest contribution the Senate can make to the cause of the 9/11 families is to take the time to get those reforms right. Prematurely cutting off debate on this bill only succeeds in further politicizing a process that is more mindful of election day than it is the result of this debate.

Like 2 years ago, the Senate is being stampeded into voting on major, far-reaching legislation. The result of this ill-considered course is easily seen: Any reforms the Congress enacts will be the product of rush and haste rather than thoughtful deliberation. We owe more to the memories of those who lost their lives on September 11.

Mr. President, a little earlier I made the statement to the effect that I heard no one in last night's debate on either side mention the Constitution of the United States. My press has since called me and told me I was wrong. That, indeed, one of the candidates—and he said Senator EDWARDS—did mention the Constitution of the United States. Thank God for that.

Mr. LEVIN. Mr. President, I ask unanimous consent that following the remarks of the Senator from Virginia and I be recognized to offer a Warner-Levin amendment which which has now been worked out and cleared. I think Senator WARNER is somewhere nearby. If there is no objection, I ask unanimous consent to put us next in line with that amendment, which is a modified amendment and has been agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

HEALTH CARE

Mr. SANTORUM. Mr. President, I rise to talk about an issue that is getting quite a bit of play in the press, other than the security issue having to do with our intelligence community and homeland security. This is a different kind of security issue. It is an issue having to do with health care. I wanted to discuss with Members today the two approaches that the candidates for President have about health care and what the consequences are to the consumer, to the patient, as well as to the taxpayer and to our health care system in general.

This is a very important debate we are having about health care because there is an acute problem. It is a problem that, candidly, this Congress has not dealt with. We saw in the debates last night and other conversations about the importance of a Patients' Bill of Rights, which would have done nothing but add more cost to the health care system. It would have caused more uninsured, and that is the term I want to focus on today, ''the uninsured.''

As I travel around Pennsylvania—and I am sure this is true for my colleagues as they travel in their States—

what we hear repeatedly is the problem of the spiraling cost of health care. A Patients' Bill of Rights would have done nothing but add more cost to that system and add more to the uninsured problem. What we don't hear are answers from Congress on how to deal with the problem of the uninsured.

We have two Presidential candidates who have laid out a plan to deal with this very complex problem. I will say that Senator JUDD GREGG chaired a task force on our side of the aisle that put forth a variety of different proposals to deal with the uninsured because it is a very complicated group of people in the sense that there isn't one reason people are uninsured. Senator GREGG has given eloquent talks about the approach we have offered. But, candidly, we have not moved forward on this on either side of the aisle to try to bring it to fruition.

The Presidential candidates have put forward some ideas. I wanted to talk about both of those plans.

Let me first talk about Senator KERRY's plan. Senator KERRY has proposed a plan which, according to the revenue estimates, runs in the area of about $1.5 trillion over the next 10 years, $1.5 trillion in new spending for tax breaks to provide for the uninsured. What the Senator from Massachusetts has suggested is that this $1.5 trillion will cover roughly 27 million people who are currently uninsured, which would make up a little over half of the uninsured in America. But at a cost of $1.5 trillion over 10 years to get someone insured in America, one person under his proposal is $5,500 per insured per year—not per family, per insured per year, $5,500 in Government subsidies to provide for insurance per year. That is a very high-cost way of trying to provide insurance.

On top of that, not only is it a high-cost way, but as you will see in a moment, it is a very bureaucratic way. It is a very inefficient way, and it is a further Government takeover of the private health care system. It federalizes under Medicaid a dramatic expansion of Medicaid for a lot of the people who currently are either uninsured or in many cases insured by private sector employers.

I want to talk about the fiscal voodoo that is going on as to how this program is going to be paid for, which is one of the many proposals that Senator KERRY has put forth in the election. But this is by far the most expensive, $1.5 trillion. He says he is going to pay for it by repealing the Bush tax cuts.

As you can see from this chart, the Bush tax cuts, scored over the next 10 years, will cost the Treasury $1 trillion. So there is still an unaccounted for half a trillion dollars, if we repeal all of them.

Now, what he has said is he only wants to repeal the ones that are on those who make over $200,000. Well, if we go down here and look at what is the tax cut for those who make $200,000, it is roughly $612 billion over the next 10 years, which is less than half of this $1.5 trillion. There is still almost $900 billion in unaccounted-for new spending or tax incentives in the Kerry plan that are not paid for. He could add an additional $400 billion, roughly, in getting rid of the 10-percent bracket and the marriage penalty, the child credit, and the middle-class rate reductions. We can do that, too. We are still half a trillion dollars short.

The plan doesn't add up. It adds up to a fiscal disaster. As many know, the biggest group of people, as far as percentage, who pay in this bracket for which the Senator from Massachusetts wants to eliminate this tax reduction is small businesses. These are the job creators. He wants to eliminate tax incentives for people in small business who are the job creators. He wants to get rid of, I assume, or add other taxes on to pay for the additional $900 billion it is going to take to pay for this new proposal which spends $5,500 per person to provide insurance for them. I would just suggest that that is a very costly way.

Let me contrast that with the President's approach, which does not, as Senator KERRY's plan does through his program, displace private insurance. What do I mean by that? The reason this costs so much is because he is going to be insuring more people than the 27 million in his new program, but a lot of those people he is insuring are already insured.

He is going to take them from the private sector and move them to the public sector. That is why it costs so much. It is a new publicly borne cost that is now a privately borne cost. The taxpayers are going to pay for this, as opposed to employers and employees.

What the President has done is a much smarter, more targeted approach. He put together a plan that does not cost $1.5 trillion but $129 billion. It spends $1,900 to attract someone who is currently uninsured into the new insurance pool that will be created, and it does so in a way that doesn't take someone who has insurance and displaces them into a public pool, which is what the Kerry plan does. So this is a much more commonsense approach, leaving the private insurance market, which has served our country so well, in place and not replacing it with a public sector plan, but creating incentives through low-income tax credits, small employer tax credits, above-the-line deductions, some private market reforms, like AHPs and other things, to broaden the pool for people to be able to purchase health insurance.

This will add almost 7 million people to the ranks of the insured from the ranks of the uninsured. It does so at a responsible cost, something we can likely afford over the next 10 years, as opposed to blowing a hole through the deficit. I find it remarkable that we hear over and over again from the Senator from Massachusetts about how this President has very high deficits, yet we look at a plan here that, under the current scenario he proposes, is a $600 billion repeal of taxes to pay for a $1.5 trillion program. If you are talking about blowing a hole in the deficit, this will do so, and then some; it will add about $100 billion in new deficits every year as a result of this proposal.

This is only part of the problem. The other part of the problem is how the Kerry plan works. Unlike the Bush plan which, again, doesn't displace people from the private sector to the public sector, does not cost $5,500 per person to get them into the insured category, Senator KERRY's plan is incredibly complicated and promises things he cannot deliver. For example, he talks about how he is going to provide the same health plan that Members of Congress have, by participating in the Federal Employees Health Benefit system. He said that, and then the Federal Employees Union got to him and said, whoa, whoa, whoa, you are not going to do that; you are not going to put everybody into our insurance pools. That is going to drive up the cost of our health care dramatically. You can say you are going to give everybody what Members of Congress have, but we are going to set up a separate pool.

So he sets up a separate insurance pool. It is not what Members of Congress have. It is something completely different. It sets up this insurance pool that people can participate in, but the cost of that pool is going to be based on who enrolls in it. So I don't understand how that will save any money, because all insurance pools are based on who is enrolled in the plan. So there is this idea that somehow or other we are going to give you a congressional health care benefit—which, by the way, is the same as every other Federal employee—for nothing, when in fact they are going to get something like a congressional health care plan. Let me assure you, it won't be for nothing; it will be for a lot of money, in a very complicated way.

This is a chart that tries to describe how the Kerry plan works from the standpoint of the Medicare portion over here, including schools, by the way. Schools are going to be responsible for being a social service agency and signing up people for Medicaid. Now we talk so much about how schools are being asked to do so much more when it comes to education. Senator KERRY has another idea for them. They are going to take the responsibility for enrolling children into Medicaid as part of their responsibilities.

Over here, you have sort of how we interact with the doctors and the hospitals. You have this new agency, the premium rebate pool agency—not a particularly creative acronym. We have this agency that is going to determine what is covered, how much we pay. So you are going to have, in a sense, the Federal Government making these decisions as to what doctors you see, how much they are going to pay these doctors, what is going to be covered by these plans.

Again, it is not just an expansion of Medicaid, which is very costly, and bringing a lot of new people into the Medicaid Program, many of whom already have insurance, not only setting up this other plan to deal with how we are going to handle the ''private market reforms'' Senator KERRY wants to impose to help, in this case, those who are high-cost patients in the health care system. So here is the congressional health plan, and you have all these different organizations, or different functions with new organizations, and some are going to be organizations that will have increased responsibility to offer this new congressional health plan, which isn't a congressional health care plan.

You have a tax credit idea. It is not simple. In fact, Senator KERRY has not been particularly clear about how these tax credits will work. He has several of them, not just one. There are four different tax credits Senator KERRY is going to put in place here. Here they are. This is a very complicated system, and it is an extremely costly system, and one that puts more people into Government, less in the private sector, and when private sector reforms happen, puts more oversight into the Government over the private sector—all at the cost of $1.7 trillion.

This is not the direction we want to take in health care. We don't want more Government oversight of the private sector to drive up costs in the private sector. We don't want more people from the private markets going into the Government pools, and we don't want to create the shell game that Senator KERRY is in the area of the new congressional health plan, which isn't a congressional health plan.

The idea of tax credits has some appeal to me. The President's proposal is to try to provide tax credits. But this is a very complicated plan, and it has not been well spelled out. We worked very hard to try to understand it. It is not a very well thought out, planned out approach. I suggest this is bad policy. This is complicated policy. It is very costly policy. It doesn't deliver to people what has been promised. What it does deliver is a big tax bill, or very big deficits in the future, neither of which is something we should be desirous of here in the Senate.

With that, I think we have done a pretty good comparison of where the President wants to go, which is responsible reform and the encouragement of people who do not have insurance to be insured, without disrupting the private markets, without increasing the size of the Government-run health care plans, and doing so at a responsible cost, as opposed to Senator KERRY, who wants to dramatically increase Government's role in health care, increase the Government's role in overseeing private health care, and play a shell game because it sounds good that you are getting congressional health care for nothing, when in fact you are not, and for a lot. Again, I will give Senator KERRY credit for the tax credit idea, but it is very foggy and not particularly well thought out, in my opinion. So I think it is a failure on all fronts. It is very complicated and will not serve the best interests of the patients in America and will not serve the interests of taxpayers in America.

With that, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I am joined by my colleague, the ranking member of the Armed Services Committee, the Senator from Michigan. This is an amendment which we have jointly worked out together.

AMENDMENT NO. 3875, AS MODIFIED

Mr. WARNER. Mr. President, from a parliamentary standpoint, I now send a modification to amendment No. 3875 to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3875), as modified, is as follows:

On page 210, strike line 23 and insert the following:

SEC. 336. COMPONENTS OF NATIONAL INTELLIGENCE PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the National Intelligence Program shall consist of all programs, projects, and activities that are part of the National Foreign Intelligence Program as of the effective date of this section.

(b) JOINT REVIEW OF CERTAIN PROGRAMS.—(1) The National Intelligence Director and the Secretary of Defense shall jointly review the programs, projects, and activities as follows:

(A) The programs, projects, and activities within the Joint Military Intelligence Program as of the effective date of this section.

(B) The programs, projects, and activities within the Tactical Intelligence and Related Activities program as of the effective date of this section.

(C) The programs, projects, and activities of the Defense Intelligence Agency as of the effective date of this section that support the intelligence staff of the Chairman of the Joint Chiefs of Staff, the intelligence staffs of the unified combatant commands, and the portions of the sensitive compartmented communications systems that support components of the Department of Defense.

(2) As part of the review under paragraph (1), the Director shall consult with the head of each element of the intelligence community.

(3)(A) The review under paragraph (1) with respect to the programs, projects, and activities referred to in paragraph (1)(C) shall be completed not later than 60 days after the date on which the first individual nominated as National Intelligence Director after the date of the enactment of this Act is confirmed by the Senate.

(B) Upon completion of the review under paragraph (1) of the programs, projects, and activities referred to in paragraph (1)(C), the Director shall submit to the President recommendations regarding the programs, projects, or activities, if any, referred to in paragraph (1)(C) to be included in the National Intelligence Program, together with any comments that the Secretary of Defense considers appropriate.

(C) During the period of the review under paragraph (1) of the programs, projects, and activities referred to in paragraph (1)(C), no action shall be taken that would have the effect of prejudicing the outcome of such review.

(4)(A) The review under paragraph (1) with respect to the programs, projects, and activities referred to in subparagraphs (A) and (B) of paragraph (1) shall be completed not later than one year after the effective date of this section.

(B) Upon completion of the review under paragraph (1) of the programs, projects, and activities referred to in subparagraphs (A) and (B) of paragraph (1), the Director shall submit to the President recommendations regarding the programs, projects, or activities, if any, referred to in such subparagraphs to be included in the National Intelligence Program, together with any comments that the Secretary of Defense considers appropriate.

SEC. 337. GENERAL REFERENCES.

Mr. WARNER. I thank the Presiding Officer. I shall be very brief on this matter.

The distinguished manager and comanager have worked with my staff and Senator LEVIN and myself, and we have come to an agreement on this issue.

Again, it is an amendment by myself, Mr. LEVIN, Mr. STEVENS, Mr. INOUYE, Mr. ALLARD, Mr. SESSIONS, Mr. CORNYN, and Mr. CHAMBLISS.

I start by referring to the 9/11 report. This is a very important report which has been a roadmap for so many of the provisions and it is a roadmap I have used for this provision.

I read from page 412:

The Defense Department's military intelligence programs—the joint military intelligence program (JMIP) and the tactical intelligence and related activities programs (TIARA)—would remain part of that department's responsibility.

That is the purpose of this amendment. It is to clarify. I think it was the intent of the managers all along. They made statements comparable to what is in the 9/11 report from which I just quoted and, therefore, this amendment would leave in place those programs being performed by what we call the combat agencies, largely under a contractual relationship, and they would remain in place, but with the understanding that upon completion of a review, to be conducted by the national intelligence director and the Secretary of Defense, if they reach, as is specified under the bill, a joint opinion as to the desirability to move them into the national intelligence program, in all likelihood that can be achieved.

I thank the managers. I yield the floor to my distinguished colleague from Michigan. I thank my distinguished colleague, Senator LEVIN, for his work on this very important amendment, an aspect of which is tailored to meet a concern that the Senator from Michigan has.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, my concern about the definition of intelligence programs that the budget execution authority would be transferred to relates to the definition in the bill

that, in turn, relates to the Defense Intelligence Agency.

There are a number of Defense Intelligence Agency programs which, in my judgment, should not have their budget execution authority transferred to the new national intelligence program. Specifically, there are three programs. These are a small set of DIA programs but, nonetheless, there are three in particular to which I refer.

First is the intelligence staff of the Joint Chiefs of Staff. Second is the intelligence staff of the combatant commanders. Third is certain sensitive communications systems which support the Department of Defense command structure.

The principal purpose of those programs is to support joint or tactical military operations, and I think it would be a mistake to transfer the budget execution authority for those three programs to the national intelligence director. They are just simply too deeply embedded in supporting joint or tactical military operations for that to make sense.

However, rather than trying to resolve that debate here and rather than having the bill transfer the budget execution to the national intelligence program, what we have arrived at is a compromise which does the same thing relative to these programs, as Senator WARNER just outlined, relative to a number of other programs; that is, we assign and task the new national intelligence director and the Secretary of Defense to review these DIA programs, then to make a recommendation as to where the budget execution ought to rest, whether it should be in the national intelligence program or in the Department of Defense, and then to make a recommendation to the Office of Management and Budget and then to the President who would make the decision on this issue.

The review would be an expedited review. It would not take more than 60 days. But it would make it possible to have this decision in review based on the facts relating to this program rather than to make an abstract judgment about all programs in the Defense Intelligence Agency in this bill.

During this period of review, we have agreed that nothing would be done to prejudice the outcome of this review. With the adoption of this amendment, assuming it is adopted, then my amendment No. 3810 will be withdrawn because that is the purpose of this amendment.

Again, as I did with another amendment earlier today, I thank the managers of the bill for working with us to make this possible. It is a very rational approach, as well as a good compromise to a very complicated situation. We want to avoid—we want lines to be clear, but we do not want them to be arbitrary in a way which will force budget execution of programs to be where they logically should not be.

I also thank Senator WARNER for his leadership on a very related issue. The way in which we have addressed these two issues is similar but not exactly the same. It just makes a lot of sense.

I thank the managers for their willingness to work with us on this matter.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague and ranking member. Given that the two of us are about to start a hearing in 10 minutes, I guess it is best we go to the adoption of the amendment, but I yield for any comments the distinguished chairman may like to make.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, first, I thank the distinguished chairman and ranking member of the Armed Services Committee for working so closely with Mr. LIEBERMAN and me on this very important issue to set forth a process for determining what intelligence assets belong in the NIP, the national intelligence program, versus the joint military intelligence program and the tactical program.

The Collins-Lieberman bill gives the national intelligence director strong budgetary authority over the national intelligence program. Senator LIEBERMAN and I envision that his program will be composed of the intelligence assets that serve national purposes, meaning those that pertain to the interests of more than one department.

In the long run, I strongly believe the budgets for the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office should be wholly within the national intelligence program.

Currently, these agencies have split budgets, and the heads of these agencies tell us that leads to a great deal of administrative inefficiency. Now, it is possible that some intelligence assets from the Department of Defense's Joint Military Intelligence Program may ultimately be moved to the national intelligence program, but, of course, military intelligence assets that principally serve joint or tactical military needs should stay within the Department of Defense, and I think the language is very clear on this point.

Through this amendment, we have tried to address concerns that both Senators have raised. I think the compromise language does address and alleviate those concerns. The reviews that are underway will help us better define the parts of the intelligence budget that will be completed within 1 year after the effective date, in one case 60 days, in the case that Senator LEVIN is concerned with the three activities in the Defense Intelligence Agency.

The reviews mandated in this compromise amendment will provide a rational process for determining which assets belong in the national intelligence program and which do not. I very much appreciate the cooperation of our colleagues, and I do urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment as modified. In fact, I know that the chairman and ranking member of the Armed Services Committee have to go to a hearing, so that may only shorten the praise that I want to offer to them.

Mr. LEVIN. The Senator can take his time.

Mr. LIEBERMAN. Take my time?

Mr. LEVIN. Yes.

Mr. LIEBERMAN. I truly thank them for their extraordinary service on behalf of our national security generally but also for their work on this amendment. We had some very good discussions about this, and I never had a moment where I felt they were doing this just to protect turf. I know they were pursuing these questions with a genuine interest in what would work best for our national security, both the intelligence and the military sides of it.

This is not an uncomplicated problem. We are setting up a national intelligence director. We want that person to coordinate the intelligence community, and budget authority is a critical part of that. Senator WARNER is quite right, obviously, in the section that he read from the 9/11 Commission Report.

Interestingly, as my colleagues on the Governmental Affairs Committee may remember, when Dr. Zelikow, the chief of staff of the Commission, came before our committee, he said they had changed their mind a bit on putting the Joint Military Intelligence Program into the Department of Defense budget control because of the Commissioners' concern that the national intelligence assets—the National Security Agency, Geospatial Agency, and Reconnaissance—all have a single budgetary accountability, in this case to the national intelligence budget. I believe in the long run that is the way it ought to go.

I must say in my own mind, perhaps simplistically, I always believed that what we wanted to do was to say that the national intelligence director should have control over the national intelligence budget; that the Secretary of Defense should have clear control over TIARA, the tactical intelligence budget; and that the Joint Military Intelligence Program was somewhere in between. We had to find a rational way to decide where authority went.

I think in some sense what we are saying in this legislation is we are not quite ready to make those decisions. So this amendment that we agreed to essentially freezes the status quo with regard to the JMIP and the particular programs that we discussed in the Defense Intelligence Agency, subjects them to review, consideration of all of the factors—effectiveness, budgetary authority, all the rest, military effectiveness—and then has a decision made ultimately by the Office of Management and Budget on recommendation from the national intelligence director.

It is a very strong, balanced, reasonable conclusion which does no damage to the basic purpose of this legislation and provides for, ultimately, a rational allocation of budget authority in the shared interest of our national security, which is, after all, what this is all about.

So this is really what legislating is supposed to be about. I thank my colleagues for all the work they and our staffs have done, and I move adoption of the modified amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the yeas and nays had been ordered. I ask unanimous consent that the order for the yeas and nays on this amendment be vitiated and that we have a voice vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 3875), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I want to thank our colleagues and managers of the bill and, as always, thank Senator WARNER. The managers have worked so well with us, and I want to thank them for that, and also thank them for the way they worked with each other.

AMENDMENT NO. 3810, WITHDRAWN

Mr. LEVIN. I ask unanimous consent that amendment No. 3810 now be withdrawn since that was covered in the amendment which was just adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

AMENDMENT NO. 3827, AS MODIFIED

Mr. STEVENS. I call up amendment No. 3827, and I send to the desk a modified version of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

Mr. STEVENS. I think it is already before the Senate.

The PRESIDING OFFICER. The amendment has now been modified.

The amendment (No. 3827), as modified, is as follows:

(Purpose: To strike section 206, relating to information sharing)

On page 126, strike lines 23 through 25.

On page 127, line 1, strike ''(2)'' and insert ''(1)''.

On page 127, line 4, strike ''(3)'' and insert ''(2)''.

On page 128, strike lines 1 through 3 and insert the following:

(3) ENVIRONMENT.—The term ''Environment'' means the Information Sharing Environment as described under subsection (c).

On page 130, strike line 10 and insert the following:

(c) INFORMATION SHARING ENVIRONMENT.—

On page 130, line 20, strike ''Network'' and insert ''Environment''.

On page 133, lines 5 and 6, delete ''Director of the Office of Management and Budget'' and insert ''principal officer as designated in subsection 206(g)''.

On page 133, line 10, strike ''Network'' and insert ''Environment''.

On page 134, line 2, strike ''Network'' and insert ''Environment''.

On page 134, line 22, strike ''Network'' and insert ''Environment''.

On page 135, beginning on line 16, strike ''the Director of Management and Budget shall submit to the President and'' and insert ''the President shall submit''.

On page 135 strike lines 19 through 22 and insert ''Environment. The enterprise architecture and implementation plan shall be prepared by the principal officer in consultation with the Executive Council and shall include—''.

On page 135, line 24, strike ''Network'' and insert ''Environment''.

On page 136, line 3, strike ''Network'' and insert ''Environment''.

On page 136, line 5, strike ''Network'' and insert ''Environment''.

On page 136, line 7, strike ''Network'' and insert ''Environment''.

On page 137, beginning on line 4, strike ''Network'' and insert ''Environment''.

On page 137, line 8, strike ''Network'' and insert ''Environment''.

On page 137, line 11, strike ''Network'' and insert ''Environment''.

On page 137, line 14, strike ''Network'' and insert ''Environment''.

On page 137, line 16, strike ''Network;'' and insert ''Environment; and''.

On page 137, line 18, strike ''Network'' and insert ''Environment''.

On page 137, line 21, strike ''that the Director of Management and Budget determines'' and insert ''determined'' and insert a period.

On page 138, strike lines 1 through 3 and insert the following:

(g) RESPONSIBILITIES OF EXECUTIVE COUNCIL FOR INFORMATION SHARING ENVIRONMENT.—

On page 138, beginning on line 4, insert ''(1) Not later than 120 days after the date of enactment, with notification to Congress, the President shall designate an individual as the principal officer responsible for information sharing across the Federal government. That individual shall have and exercise governmentwide authority and have management expertise in enterprise architecture, information sharing, and interoperability.''

On page 138, beginning on line 6, strike ''The Director of Management and Budget'' and insert ''The principal officer designated under this subsection''.

On page 138, beginning on line 9, strike ''Network'' and insert ''Environment''.

On page 138, line 14, strike ''Network'' and insert ''Environment''.

On page 138, line 17, strike ''Network'' and insert ''Environment''.

On page 138, line 21, strike ''to the President and''.

On page 139, line 5, strike ''Network'' and insert ''Environment''.

On page 140, strike lines 5 through 17.

On page 140, strike lines 18 and 19 and insert the following:

(h) ESTABLISHMENT OF EXECUTIVE COUNCIL.—

On page 140, strike line 20 through line 24 and insert ''There is established an Executive Council on information sharing that shall assist the principal officer as designated under subsection 206(g) in the execution of the duties under this Act concerning information sharing.''.

On page 141, line 1, insert ''The Executive Council shall be chaired by the principal officer as designated in subsection 206(g).''

On page 141, beginning on line 4, strike '', who shall serve as the Chairman of the Executive Council''.

On page 142, beginning on line 2, strike ''assist the Director of Management and Budget in—'' and insert ''assist the President in—''.

On page 142, beginning on line 4, strike ''Network'' and insert ''Environment''.

On page 142, line 8, strike ''Network'' and insert ''Environment''.

On page 142, line 11, strike ''Network'' and insert ''Environment''.

On page 142, line 12, strike ''Network'' and insert ''Environment''.

On page 142, beginning on line 15, strike ''Network;'' and insert ''Environment; and''.

On page 142, strike lines 22 through 24, and insert ''(F) considering input provided by persons from outside the federal government with significant experience and expertise in policy, technical, and operational matters, including issues of security, privacy, or civil liberties.

On page 143, beginning on line 7, strike ''the Director of Management and Budget, in the capacity as Chair of the Executive Council,'' and insert ''the principal officer as designated in section 206(g)''.

On page 144, strike line 3 and all that follows through page 145, line 10.

On page 145 line 11, strike ''(j)'' and insert ''(i)''.

On page 145, beginning on line 14, strike ''through the Director of Management and Budget'' and insert ''principal officer as designated in section 206(g)''.

On page 145, line 16, strike ''Network'' and insert ''Environment''.

On page 145, line 21, strike ''Network'' and insert ''Environment''.

On page 145, line 22, strike ''Network'' and insert ''Environment''.

On page 146, line 4, strike ''Network'' and insert ''Environment''.

On page 146, line 7, strike ''Network'' and insert ''Environment''.

On page 146, line 9, strike ''Network'' and insert ''Environment''.

On page 146, line 13, strike ''Network'' and insert ''Environment''.

On page 147, line 2, strike ''Network'' and insert ''Environment''.

On page 147, line 6, strike ''Network'' and insert ''Environment''.

On page 147, line 8, strike ''Network'' and insert ''Environment''.

On page 147, line 11, strike ''Network'' and insert ''Environment''.

On page 147, line 17, strike ''Network'' and insert ''Environment''.

On page 147, line 22, strike ''Network'' and insert ''Environment''.

On page 148, line 6, strike ''Network'' and insert ''Environment''.

On page 148, line 8, strike ''Network'' and insert ''Environment''.

On page 148, line 16, strike ''Network'' and insert ''Environment''.

On page 148, line 17, strike ''(k)'' and insert ''(j)''.

On page 148, line 20, strike ''Network'' and insert ''Environment''.

On page 148, line 24, strike ''Network'' and insert ''Environment''.

On page 149, line 3, strike ''Network'' and insert ''Environment''.

On page 149, line 5, strike ''Network'' and insert ''Environment''.

On page 149, line 10, strike ''(l)'' and insert ''(k)''.

On page 149, line 13, strike ''Network'' and insert ''Environment''.

On page 149, line 14, strike ''Network'' and insert ''Environment''.

On page 149, beginning on line 14, strike ''the Director of Management and Budget'' and insert ''the principal officer as designated in section 206(g)''.

On page 149, line 19, strike ''Network'' and insert ''Environment''.
On page 150, line 2, strike ''Network'' and insert ''Environment''.
On page 150, line 9, strike ''Network'' and insert ''Environment''.
On page 150, line 13, strike ''Network'' and insert ''Environment''.
On page 150, line 16, strike ''Network'' and insert ''Environment''.
On page 150, line 18, strike ''(m)'' and insert ''(l)''.
On page 150, beginning on line 23, strike ''Network'' and insert ''Environment''.
On page 151, line 2, strike ''Network'' and insert ''Environment''.
On page 151, line 3, strike ''Network'' and insert ''Environment''.
On page 152, line 7, strike ''Network'' and insert ''Environment''.
On page 152, line 11, strike ''Network'' and insert ''Environment''.
On page 152, line 19, strike ''(n)'' and insert ''(m)''.
On page 152, beginning on line 21, strike ''to the Director of Management and Budget''.
On page 153, line 1, strike ''Network'' and insert ''Environment''.

Mr. STEVENS. Mr. President, I again thank the managers of the bill, Senator COLLINS and Senator LIEBERMAN and their staffs, for working with us on this amendment. That amendment has now been modified, and I think it meets the objections or the reservations that were set forth by the administration Statement of Position, the so-called SAP, that we received on this bill.

It has been modified to make certain that the President will have the authority to designate an entity. We all agree, we hope, that he will not delegate this matter to the national intelligence director. I think it is a function that is essential to carry out the purposes of this bill. Therefore, I am offering the modified amendment.

I ask unanimous consent that the amendment, as modified, be considered and adopted, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 3827), as modified, was agreed to.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3839, WITHDRAWN

Mr. STEVENS. I ask unanimous consent that amendment No. 3839 be withdrawn from consideration. I am still sad about the vote that was against the position I supported with regard to disclosing the aggregated top line of intelligence. I hope before we are through with this bill that we will find some way to accommodate some of the reservations I have about that process, but in any event I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. STEVENS. Mr. President, I say to the two Senators, it is my intention now to support this bill. I congratulate them for listening to us. Sometimes I have raised my voice. One newspaper said I shouted at the distinguished Senator from Maine. That is just my trial lawyer voice, and I apologize for it.

I do thank the Senator for her courtesy and apologize if I have been mistaken in terms of the tone of my voice, but that is my voice. I cannot do much about it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the senior Senator from Alaska for his cooperation and his many helpful suggestions for improving this bill. I have great affection and respect for the senior Senator. I very much appreciate the fact that he is going to support this bill on final passage. That means a great deal to me and will certainly assist us. I look forward to continuing to consult with him as we move through the conference process, and I will tell the senior Senator from Alaska that I am very relieved today to see that he is not wearing his ''Incredible Hulk'' tie but, rather, a very restrained tie from some national museum, I believe. I know that bodes well for the day ending well. Again, I thank the Senator. I very much enjoy working with him.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am delighted that we have reached a meeting of the minds on the information-sharing part of the bill, which preserves intact the considerable reforms that are called for which will protect our national security, as advanced by Senator DURBIN, but also quite appropriately embrace the concerns that Senator STEVENS and the administration had as to who would be in charge of this transformation.

Second, I grew up in a family where if you were not passionate and didn't raise your voice about things that mattered to you, it was thought that something was wrong. I also want to make clear that when you raised your voice the other day, I did not think you were only shouting at the Senator from Maine, I thought that I was also included as a recipient.

Look, it reminds me of the old Teddy Roosevelt line about being in the arena, not standing on the side reading a newspaper but getting into the arena and fighting with all your heart for what you believe in. I admire the Senator greatly for doing that. I would much rather have him on my side rather than against me, and that is why I am particularly thrilled to hear the announcement of the Senator from Alaska that he will support this measure as amended.

I thank him and I yield the floor.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have spoken just now with the two managers of the bill. There is not going to be a vote in the immediate future. As the record indicates, this legislation has to be completed by 4:30, so final passage certainly will take place at 4:30. There may be an amendment or two before that time, but there is nothing right now. If people are on their way over, they should turn around and go back. There probably won't be anything, probably within the next hour.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, of all the testimony presented to the Committee on Governmental Affairs during our eight hearings on the recommendations of the 9/11 Commission perhaps none was more powerful than that of Mary Fetchet. Her son, Brad, died in the World Trade Center on September 11. Here are a few of her words.

She said:

When American lives are at stake, indifference or inertia is unacceptable. When critical reforms are implemented to make our country safer, I will know that neither Brad's life nor the lives of nearly 3,000 others who perished on September 11 were lost in vain.

Throughout this debate it has been the families of the victims of 9/11 who have reminded us of why we are here and why these reforms are so important.

In passing the National Intelligence Reform Act of 2004—as I believe we will later this afternoon—the Senate will reject indifference and inertia. We will endure critical reforms to make our country safer. We will declare that the lives lost to terrorism were not lost in vain. The action we take in their memory will benefit people of good will in this country and throughout the world today and for many years to come.

This legislation will make the most sweeping changes in our intelligence structures in more than 50 years. It is the result of enormous effort. The issues are complex and many. The timetable was tight, but the stakes were so high and the times so dangerous that we simply could not delay this urgent task. Now we are on the threshold of getting the job done and getting it done right.

I am deeply grateful to my good friend Senator LIEBERMAN. This legislation would not have been possible without his tireless effort and his bipartisan spirit. From the moment we were first assigned the task of developing this legislation on July 22nd, our fellow members of the Governmental Affairs Committee dug in with energy and intellect. I am grateful to the Presiding Officer as one of the committee

members for his contributions. It was an August recess we will never forget.

We are very grateful to the leaders of the Senate. Senator FRIST and Senator DASCHLE had the confidence in our committee that they felt they could charge us with this enormous and critical undertaking.

Our whips, Senator REID and Senator MCCONNELL, have also been very helpful. Senator REID has been a constant presence in the Chamber throughout this debate.

We could not have accomplished all that we did without our dedicated staff, led by Michael Bopp and Joyce Rechtschaffen. We have worked so closely with them. We have worked arm in arm. They have literally worked day and night to produce this bill. I am so proud of their extraordinary efforts.

Our staffs were supplemented by hard-working detailees from the CIA, the DIA, and other agencies, as well as by members of the Commission staff who, rather than going back to their previous jobs and lives, worked with us on the committee to help give the benefit of their expertise. Without the efforts of all these staff members we never could have gotten the job done. I am very grateful to all of them.

This legislation, however, is not merely the result of months of extraordinary effort by our committee or of the expert and insightful testimony we heard from more than two dozen witnesses at eight hearings. Rather, it builds upon a rock-solid foundation laid by the 9/11 Commission and the investigation that it conducted over 20 months, including 19 days of hearings with 160 witnesses. I thank all Commission members for all of their extraordinary effort.

The need for reform in our intelligence system was not, however, suddenly revealed in hearings spurred by one catastrophic failure 3 years ago. The failures that led to that day are numerous and reach back many years. They were overlooked in terrorist attack after terrorist attack for more than a decade. The call for reform was made in studies, commission reports, and legislation going back half a century. It is a call we can no longer ignore.

Our committee was guided by clear principles. An intelligence community designed for the Cold War must be transformed into one designed to win the war against global terrorism and future national security threats. The new structure must build upon the strengths of the old and recognize the considerable improvements made since September 11.

The unique experience, expertise, and viewpoints of the 15 agencies that comprise our intelligence community are assets that must be preserved. The barriers to information sharing, cooperation, and coordination within the community, what the 9/11 Commission calls stovepipes, must be demolished. In their place must come a structure with the agility the times and the threats demand—not another layer of bureaucracy.

We were determined, in crafting this new structure, that we not infringe upon the freedoms that define us as Americans. The legislation that came out of our committee by a unanimous vote adhered to these important principles and it has been strengthened by the vigorous debate we have had in the Senate during the past week. The debate has not merely been vigorous but also highly informed. Throughout these proceedings, it has been clear the commitment that drove our committee to act is shared by the full Senate. From the authorities of the national intelligence director to the structure of our transformed intelligence community to the protection of civil liberties, many critical issues have been raised, debated, and resolved. I particularly thank the members of the Committee on Armed Services, the Select Committee on Intelligence, and the Appropriations Committee, particularly their chairs and ranking members. Their knowledge and their input have been invaluable.

Many important issues have been raised and will be resolved as this transformation continues. One of the most remarkable aspects of this debate has been the widespread recognition that intelligence reform is not a single act but an ongoing process.

The fundamental obligation of government is to protect its citizens and those protections must evolve to meet new threats. This legislation brings about much-needed reforms and it creates an environment in which this ongoing process can continue.

I began these remarks with a quote from a mother who has suffered the worst loss any parent can endure. She turned her loss into positive advocacy. It is Senator BYRD, however, who inspires me to end these remarks with a quote from the Constitution.

To form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our Posterity . . .

The opening lines of our Constitution provide, in some ways, a job description of America's Government that is a miracle of clarity as well as an awesome challenge. Rarely does one piece of legislation encompass all of its elements or do we have the opportunity to do so in a way that clearly demonstrates the spirit that animates it. This is one of those rare times. Let us do what the times demand. Let us act to approve this legislation this afternoon and by doing so make our country safer.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Has the Senator from Maine completed her statement?

Ms. COLLINS. Yes.

AMENDMENT NO. 3915, AS MODIFIED

Mr. LEAHY. Mr. President, after 9/11, there was broad agreement that the absence of an accurate, reliable, and comprehensive terrorist watch list was a serious deficiency. Unfortunately, 3 years later, we still have not accomplished this important task.

My amendment, which has been modified to reach an agreement with Senators COLLINS and LIEBERMAN, addresses this deficiency. It requires a report to Congress on the watch list, specifically on the standards in place to ensure we have a list that is reliable and accurate, and that we have procedures for determining threat levels and the consequences to listed individuals. It also mandates a process for individuals erroneously listed on the ''Automatic Selectee'' and ''No-Fly'' lists to have their names removed. Finally, it would require an assessment of the privacy and civil liberty implications of using these lists. It is critical that we have a complete, accurate and consolidated watch list, but we also need to be mindful of our liberties in the process.

We know that one of the most senior and respected Members of this Senate who for decades has taken the same flight was told he could not board because he was, apparently, on some kind of terrorist list. They said: Of course, it is an obvious error, and we will get it cleared up. But repeatedly when he tried to get on the same plane, he was continually stopped.

Now, as a Member of the Senate, after six or seven times of this happening, and after calls from the White House, the head of Homeland Security and others, the problem was finally corrected. Can you imagine what it is like if you are Jane Smith or John Jones from a small town somewhere in this country, but you have to travel on business and your name is there, and you lose important clients, you lose important business, or you are unable to get home to visit a friend or a family member, and you probably cannot pick up the phone and call the White House and say, ''Look, this is the sixth or seventh time I have been mistakenly barred from traveling. Please fix it''?

Now, there are other concerns I would like to have addressed, but this modified version reflects the agreement with Senators COLLINS and LIEBERMAN.

Mr. President, I believe the modified amendment is at the desk, and I ask unanimous consent it be in order to call up my amendment No. 3915 and that it be so modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, (No. 3915) as modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. TERRORIST WATCH LISTS

(a) CRITERIA FOR WATCH LIST.—The National Intelligence Director of the United States, in consultation with the Secretary of Homeland Security, the Secretary of State, and the Attorney General, shall report to Congress on the criteria for placing individuals on the Terrorist Screening Center consolidated screening watch list, including

minimum standards for reliability and accuracy of identifying information, the degree of information certainty and the range of threat levels that the individual poses, and the range of applicable consequences that apply to the person if located. To the greatest extent consistent with the protection of law enforcement sensitive information, classified information, and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(b) SAFEGUARDS AGAINST ERRONEOUS LISTINGS.—The Secretary of Homeland Security shall establish a process for individuals to challenge ''Automatic Selectee'' or ''No Fly'' designations on the applicable lists as maintained by the Transportation Security Administration and have their names removed from such lists, if erroneously present.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Department of Homeland Security Privacy Officer shall submit a report assessing the impact of the ''No Fly'' and ''Automatic Selectee'' lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Commerce, Science and Transportation of the Senate, and the Committee on the Judiciary, the Committee on Government Reform, the Committee on Transportation and Infrastructure, and the Select Committee on Homeland Security of the House of Representatives. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effects of such lists on privacy, discrimination, due process and other civil liberties, as well as the implications of applying those lists to other modes of transportation. In its analysis, the report shall also consider the effect these recommendations would have on the ability of such lists to protect the United States against terrorist attacks. To the greatest extent consistent with the protection of law enforcement sensitive information, classified information, and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall become effective on the date of enactment of this Act.

Mr. LEAHY. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank Senator LEAHY for working with Senator LIEBERMAN and me on his amendment. It requires two reports related to watch lists: one on the criteria for listing a name on the Terrorist Screening Center's consolidated watch list, and another on the effect of the ''automatic selectee'' and ''no-fly'' lists on privacy and civil liberties.

We worked with him to incorporate some modifications that make the amendment acceptable to the two managers and incorporate some recommendations from the administration.

I am well aware of some of the problems with the watch list. A constituent of mine from Camden, ME, a retired physician, has the misfortune to have a name that is identical to a name that is on the watch list. Every time he flies, he encounters great difficulties. I believe the Senator's amendment will help to address that.

It is important to ensure we are safe and that those who want to do us harm do not have access to aircraft. But at the same time we want to make sure that law-abiding travelers are not impeded from conducting their travels simply because they have the misfortune to share a name with someone on the watch list.

The process required by the Senator, I think, will be helpful. I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment, as modified.

The amendment (No. 3915), as modified, was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, first, I thank the distinguished chair of the committee for her cooperation and help, and also commend her and her distinguished ranking member for moving this far along.

AMENDMENT NO. 3916, AS MODIFIED

Mr. President, a major weakness uncovered after 9/11 was the failure of Government agencies to share information with one another. The 9/11 Commission recommended a government-wide information system to ensure that we connect the dots. The Commission also recommended that the ''[p]rotection of privacy rights should be one key element'' of implementing the system. Given the sweeping powers that Congress is about to grant for building an information sharing system, we have to protect the privacy and civil liberties of the American people.

After all, we fought a Revolution to guarantee our privacy. The distinguished Presiding Officer and the distinguished chair know, because they come from New England, that the Revolution was fought on our soil.

We all agree we must maximize this information, but we must also maximize the protection of personal information. And we need assurances that private information will be protected before we build the system, not after. We certainly do not want to repeat what happened with CAPPS II, when $100 million of taxpayer money was spent on deploying a system that then subsequently collapsed because we failed to adequately account for civil liberties and privacy concerns.

My amendment, which has been modified to reach an agreement with Senators COLLINS and LIEBERMAN, would require that we take advantage of available privacy-enhancing technology that would prevent unauthorized dissemination of information. It also requires the Administration to fulfill its obligations to report to Congress on plans for the network before spending funds to build it. This oversight is critical to ensuring the network maximizes security while balancing civil liberties and privacy.

Senators COLLINS and LIEBERMAN have agreed to accept this important amendment.

Mr. President, I ask unanimous consent that it be in order to call up amendment No. 3916, and that it be modified.

The PRESIDING OFFICER. The amendment is pending.

Without objection, the amendment is so modified.

The amendment, No. 3916, as modified, is as follows:

On page 132, line 23, strike ''and''.

On page 133, line 3, strike the period and insert ''; and''.

On page 133, between lines 3 and 4, insert the following:

(L) utilizing privacy-enhancing technologies that minimize the inappropriate dissemination and disclosure of personally identifiable information.

On page 153, between lines 2 and 3, insert the following:

(o) LIMITATION ON FUNDS.—Notwithstanding any other provision of this section, none of the funds provided pursuant to subsection (n) may be obligated for deployment or implementation of the Network unless the guidelines and requirements under subsection (e) are submitted to Congress.

Mr. LEAHY. Mr. President, I understand there is no objection to this amendment from the managers of the bill.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, again, I thank Senator LEAHY for modifying his amendment to address concerns that the manager raised. I have no objection to the modified amendment, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3916), as modified, was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3913 WITHDRAWN

Mr. LEAHY. Mr. President, I have an amendment No. 3913, which I will soon withdraw. It is on the subpoena powers of the civil liberties board created in this bill.

We have worked hard to strengthen the powers of the board both at the committee level and then here on the floor, and I believe we have made great progress. We added teeth to this oversight body and fought against efforts to weaken it.

I think the goal of this amendment, which is to give the board enforcement power for its subpoena authority, is an important one. However, in order to expedite the passage of this bill, I will withdraw the amendment now. I look forward to working with my colleagues on this important issue next year. But I also understand the need to expedite

the passage of this bill. There may be another time to bring this up. I will withdraw the amendment now, though I look forward to working with my colleagues on the issue next year.

I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. LEAHY. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Vermont for his cooperation on that last issue. As I have explained to my colleagues, the bill strikes a very delicate balance on the civil liberties board's power, and there were amendments to strengthen it as well as amendments to weaken it. I appreciate my colleagues' cooperation on both sides of the aisle. I am sure there will be more discussion of this issue as we go along.

I thank the Senator from Vermont and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSOLIDATION OF AMENDMENTS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that it be in order for previously agreed upon amendments, which I will list, to be consolidated into one title under the heading: ''9/11 Commission Report Implementation Act,'' with a short title section (a), short title: This act may be cited as the ''9/11 Commission Report Implementation Act of 2004.''

The amendments should be included in this order: No. 3942, No. 3807, No. 3702, No. 3774, No. 3705, No. 3766, No. 3806.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I yield the floor and suggest the absence of a quorum.

The legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I ask unanimous consent that I be permitted to speak for up to 30 minutes and have that time allotted against my 1 hour postcloture.

The PRESIDING OFFICER. Is there objection? The Senator from Maine.

Ms. COLLINS. Mr. President, reserving the right to object, will the Senator from Michigan inform me whether her statement is going to be germane to the bill as is required in the postcloture situation?

Ms. STABENOW. Mr. President, I will ask to speak as in morning business using this time.

The PRESIDING OFFICER. Is there objection?

Ms. COLLINS. Mr. President, I will not object because I am aware that the Senator could speak for up to an hour under the cloture rules, although I remind the Senator that she could not speak on the subject about which she appears to be ready to speak. But in the interest of moving forward, and since there have been others today who have also spoken as in morning business, I will not object. I do think it is unfortunate, however.

(The remarks of Mrs. STABENOW are printed in today's RECORD under ''Morning Business.'')

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I rise today to commend my colleagues on the adoption of amendment No. 3765 to S. 2845, the National Intelligence Reform Act of 2004, which will create an Office of Geospatial Management within the Department of Homeland Security, DHS.

This amendment originated as a stand alone bill, S. 1230, which was introduced by Senator ALLARD and amended by Senators COLLINS, LIEBERMAN, and myself in a Governmental Affairs Committee business meeting. I thank Senator ALLARD, who shares my interest in geospatial information sharing, for offering this amendment, as well as Senators COLLINS and LIEBERMAN for their continued support on this issue.

Much of the discussion that has grown from the 9/11 Commission report has centered around the institutional stovepipes that impede information sharing within the Government, which is why this amendment is so important. While the term ''geospatial'' is foreign to many, the tools it describes are relied upon by all. The 9/11 Commission recommended that the President ''lead a government-wide effort to bring major national security institutions into the information revolution.'' Geospatial coordination is a critical component of that effort.

Geospatial technologies, such as satellite imagery and aerial photography, provide data that create the maps and charts that can help prevent a disaster from occurring or lessen the impact of an unforeseeable event by equipping first responders with up-to-date information. In the event of a terrorist chemical attack, knowing which way a contaminated plume will travel can save lives. Similarly, the damage of a natural disaster, such as a wildfire, can be lessened by maps that help predict which areas will be in the path of the blaze.

All levels of government are more effective and efficient when employing geospatial technology, especially in the area of homeland security. According to DHS, geospatial information is used for intelligence, law enforcement, first response, disaster recovery, and agency management—virtually every function of the Department.

When the Department was created in 2003, it brought together components from 22 separate agencies, each of which managed its geospatial needs independently. In the past year, the Department has encountered significant difficulties integrating personnel, financial systems, and computer systems from the legacy agencies. Geospatial information has been no different.

A September 2004 Government Accountability Office, GAO, report entitled ''Maritime Security: Better Planning Needed to Help Ensure Effective Port Security Assessment Program,'' found that the development of a geographic information system, GIS—GIS is often used as a synonym for geospatial to map the Nation's most strategic ports would greatly benefit the Coast Guard as it implements the Port Security Assessment Program. A GIS would integrate all security information pertaining to one port into a single database so that it is easily accessible and can be frequently updated. In addition, it would give the Coast Guard the ability to visually map a port so that it can quickly identify the location and surrounding environment of an at-risk container before deploying a response team, for example.

However, GAO also found that:

> The Coast Guard lacks a strategy that clearly defines how the (GIS) program will be managed, how much it will cost, or what activities will continue over the long term.

The legacy agencies that make up DHS had traditionally managed their own geospatial procurement. But many of the homeland and non-homeland security missions of DHS complement each other. Sharing maps and data reduces redundancy, provides savings, and ensures better information for disaster response.

Currently, the DHS Chief Information Officer, CIO, is working to break down this geospatial stovepiping within the Department by naming a Geospatial Information Officer. However, there is no single office in DHS officially responsible for geospatial management and, therefore, no corresponding budget. In the present structure, the Geospatial Information Officer does not have the authority to compel the five DHS directorates to cooperate with his efforts. The entire agency should make geospatial coordination a priority.

A geospatial management office needs to be created and codified within DHS. A congressionally mandated office would give the Geospatial Information Officer more authority with which to do this job.

The Office of Geospatial Management has the potential to significantly increase the quality of the resources homeland security officials rely on by reducing redundancy and improving the quality of geospatial procurement. But in order to do this it needs authority and funding.

This office would also serve as a mechanism for coordinating with State and local authorities. Much of the geospatial information available today is created at the State and local levels. Centralizing this information will make it more widely available to first responders and other homeland security officials.

In order to facilitate this process, it is also important that local governments initiate their own coordination efforts. In June 2003, the city of Honolulu conducted a pilot program to foster geospatial coordination and collaboration among public and private stakeholders in critical infrastructure protection. Representatives from local and State government, utility companies, and other private organizations came together to identify potential impediments to geospatial information sharing in Honolulu and to develop a plan to circumvent those impediments. I commend the government of the City and County of Honolulu for hosting such an exemplary event. This sort of commitment at a local level is crucial to breaking down the geospatial stovepipes that exist at all levels of government. I hope other cities will follow suit.

This amendment will help DHS to better coordinate its activities, and will ultimately make our Nation safer and prevent duplicative spending. I appreciate my colleagues' endorsement of this important issue, and urge that this language be maintained in the final version of the intelligence reorganization bill that is sent to the President.

Mrs. MURRAY. Mr. President, I strongly support the intelligence reform bill now before the Senate, and I will vote for it.

The 9–11 Commission worked incredibly hard in a bipartisan manner to identify how to better protect our country from terrorism. They have given us a roadmap to protect our people, and we should move forward with it promptly.

In their report, the commissioners said we need clear direction for our country's intelligence community. They stressed better coordination as a key area where we can make the greatest difference. The bill on the floor does that, it has bipartisan support, and we should move it forward.

As a member of both the Homeland Security Appropriations Subcommittee and the Senate's 9/11 Working Group, I have looked closely at these challenges. And over the past few years, I have worked closely with the Department of Homeland Security, including the Coast Guard, FBI, TSA, Border Patrol, as well as the National Guard and local law enforcement throughout Washington State. Through our work together, I have learned first hand the difficulties they face every day in defending our country.

I especially want to commend the September 11 families who bravely stood up and spoke out. They forced our government to fully examine the terrorist attacks and to find ways to make our people safer. Their brave advocacy has made a difference.

Mr. President, this is an important step toward achieving a truly integrated national effort in the global war on terror. I am proud to support it.

Mr. KOHL. Mr. President, I rise today in support of S.2845, the National Intelligence Reform Act of 2004. The bill before us today is the result of tireless work by the Government Affairs Committee and its able chair and ranking member. It also reflects intensive consideration by other committees with jurisdiction over issues addressed in the bill, including the Judiciary and Appropriations Committees of which I am a member. The bill makes some important changes in the way our intelligence community is managed. It is a bipartisan bill which strikes a balance between ensuring that we have a strong national intelligence director, on the one hand, and that we meet the intelligence needs of the agencies which house our intelligence collection systems, on the other.

The 9/11 Commission threw down the gauntlet when it released its final report, calling on Congress and the President to enact meaningful reforms that will help prevent future catastrophic terrorist acts. In painstaking detail, the commission made clear how the attacks of September 11, 2001, took place and how our government struggled to respond. They then made 41 distinct recommendations across a wide range of policy areas creating a framework for our efforts. We have a responsibility to enact as many of these recommendations as feasible. With the threat of terrorism still high, we must have the best intelligence at our fingertips, a robust law enforcement effort, and an effective homeland defense if we are to foil future catastrophic terror attacks.

S. 2845 is an important first step. I believe the reforms in this bill fully implement the commission's recommendations on the need for a more unified intelligence effort. They address the lack of intelligence sharing among the 15 agencies which make up our intelligence community. Recognizing the limitations of the Director of Central Intelligence, who technically has the authority to manage all our intelligence resources, the bill centralizes the management and coordination of intelligence agencies by creating a national intelligence director or NID who has strong budgetary and personnel powers. The NID will also have the authority to create uniform classification standards and to set collection priorities. Yet the bill leaves the intelligence resources of each agency within their existing organizations so those agencies can effectively and efficiently meet their intelligence collection needs, so military operations and readiness are not compromised, and so we can maintain the diversity of views critical to sound intelligence analysis.

Beyond a more unified approach to intelligence collection and analysis, the Commission called for a more integrated response to our enemies. As the Commission noted, our bulky national security institutions are still structured to respond to the Cold War. In retrospect, it is no surprise that they were unable to respond to a non-state terrorist network. By unifying the intelligence resources dispersed across the government, we are striving to create a more nimble intelligence apparatus that can lead our response to these non-traditional threats. To that end, this bill enacts the Commission's recommendation to establish a civilian-led joint command for counterterrorism—a National counterterrorism Center—to act on joint intelligence by integrating civilian and military counterterrorism efforts across the government and to serve as the President's principal advisor on joint operations. The NCTC will help address many of the operational shortcomings identified in the 9/11 Commission report.

Intelligence reform is an important bulwark in the war on terror but it is not our only line of defense. Even if the intelligence reforms in this bill were in place before 9/11, they would not guarantee that the events of that fateful day could have been averted. That is why I supported the McCain transportation security and the Hutchison cargo security amendments. These amendments direct TSA to produce a national transportation strategy, to implement a system for comparing names of air passengers against the consolidated terrorist watch lists, to screen all air passengers and their carry-on bags for explosives, and to set up a system to screen air cargo. And I am pleased that we have accepted amendments that address the role of diplomacy, foreign aid, and the military in the war on terrorism. The 9/11 Commission recommendations in these areas have not received nearly as much attention as the recommendations relating to intelligence reform. I hope that we address these recommendations more fully in the next Congress. We must act broadly and on many fronts to put an end to the threat posed by al-Qaida and those who subscribe to its ideology.

As we work to bolster our national preparedness in areas of border security and emergency preparedness, we must balance the privacy and civil liberties of individuals against our national security requirements. While some have suggested otherwise, these principles are not mutually exclusive, and I strongly believe that we can preserve both. S.2485 recognizes the importance of individual rights by creating a

Privacy and Civil Liberties Oversight Board. By providing the Civil Liberties Board with appropriate authority, the legislation ensures that its members will have access to the information they need to provide informed advice to the Executive Branch, Congress, and the American public as to how we can best protect privacy without compromising security.

As we complete action on this bill, we are reminded of the deep sense of urgency that pervades our work. I appreciate that there are some in this body who wish we had taken a slower approach. Last month, the Senate Appropriations Committee held hearings on the 9/11 Commission recommendations with a particular focus on intelligence reform. Witnesses, including Dr. Henry Kissinger, raised concerns, some of which have been addressed in amendments. The general sentiment of those hearings, however, was that we should approach intelligence reform much more gingerly. Unfortunately, we do not have the luxury of time. Many of the reforms we enact today are based on recommendations that were made by previous commissions. These are not new ideas that require more study. The 9/11 Commission did us a tremendous service by creating a framework for action and by galvanizing the political will to enact these needed reforms.

Finally, Mr. President, I want to hail the bipartisan spirit in which this bill was crafted. For too long, Congress has ignored the views of the minority at its peril. We have budget resolutions that represent the priorities of just one party and conference committees that do the same. It is impossible to address the problems of the day unless we put our differences aside to work on real solutions that have broad support. This intelligence reform bill is an important reminder of how much more we could accomplish if we would just work together. I want to urge my colleagues who will serve on the conference committee to maintain the bipartisan spirit in which this bill has been considered in the Senate. When the final version of this bill comes before the Senate, it should not go beyond the recommendations of the 9/11 Commission in its scope, and it should not include partisan provisions that jeopardize passing meaningful reform in this Congress.

Mr. KYL. Mr. President, I rise today to discuss this body's efforts to reform the U.S. intelligence community.

My distinguished colleagues from Maine and Connecticut have worked hard to develop legislation to address some of the executive branch structural reforms recommended by the 9/11 Commission. To be sure, there is a need to change, the way we do business if we are to effectively battle terrorist organizations, like al-Qaida, and protect the American people from another devastating terrorist attack. But I believe that many provisions of the bill before us are tackling the problem from the wrong angle.

I think it is important that we move forward with deliberate speed. Past efforts, like the Goldwater-Nichols Act of 1986, should set an example. That overhaul of the Defense Department took several years from start to finish. It was a huge undertaking, as is our current effort to reform the intelligence community. The 9/11 Commission did a good job of cataloguing and critiquing the failures of 9/11—I believe it spent some 18 months on that effort. But it spent far less time developing the recommendations to solve the problems. We are now acting on those recommendations over a period of less than 2 weeks on the Senate floor. It is important to ask whether, in the middle of a war, it is wise to attempt such a fundamental reorganization with a deadline of October 8 for Senate consideration, a conference and then adoption of a conference report.

Nevertheless, I will support moving this legislation forward, as the President has strongly urged us to do, so that we may try to resolve outstanding issues in the Senate-House conference committee. As Congress prepares its final intelligence reform bill to be sent to the President, we must be especially careful to do no harm. I will continue to press the issues about which I am concerned during the conference.

Today I plan to discuss: No. 1, how the 9/11 Commission recommendations fail to thoroughly address the problems it identified; No. 2, deficiencies in the Governmental Affairs Committee proposal; and No. 3, what I think we should be doing instead—focusing on intelligence community reform, instead of just reorganization. I will also touch very briefly on two additional areas in which I had proposed amendments: visa reform, and tools and resources for fighting terror.

Former Secretary of Defense James Schlesinger identified one of the key problems with the 9/11 Commission recommendations:

> [The Commission] has . . . proposed a substantial reorganization of the intelligence community—changes that do not logically flow from the problems that the Commission identified in its narrative.

The Commission identified four categories of failures by the U.S. Government that ultimately led to the attacks of September 11, 2001: imagination, policy, capabilities, and management. After reviewing the 9/11 Commission's narrative of these failures and studying its 41 recommendations to prevent future such failures, I am hard pressed to see what most of the recommendations have to do with the problems identified.

I will briefly touch on each of these broad problems identified by the Commission and assess how they will be addressed by both the Commission and later the Senate's legislation.

First, lack of imagination. I agree that this problem was a significant contributor not only to the failure of intelligence community to predict the 9/11 attacks, but also the vast majority of the intelligence failures that have plagued our intelligence community over the past 20 years. A lack of imagination is simply an extension of the much broader and more pervasive cultural problems such as risk aversion, group think and a lack of competitive analysis that continue to hamper our intelligence and law enforcement agencies. I will deal with these problems in more detail later; but it is clear that none of the Commission's recommendations or this bill's provisions begin to address this culture problem; and, in fact, one recommendation could substantially increase risk aversion, a problem exacerbated by the bill's redundant provisions piling on layers of civil liberties and privacy review.

The Commission itself notes that ''Imagination is not a gift usually associated with bureaucracies,'' and so it is ironic that Commission proposes to create an even more bureaucratic intelligence structure. Chairman Kean and Vice Chairman Hamilton contend that an empowered NID will foster competitive analysis and quash group think because that individual will draw on the perspectives of all the intelligence agencies, rather than just the CIA, as the DCI is now more likely to do.

But a convincing case can be made that the creation of national intelligence director with budgetary authority over most of the intelligence community could actually exacerbate the community's lack of imagination. Under such a centralized system, it is far more likely that agencies, like DHS's Information Analysis office, will be inclined to provide a commonly accepted view because the NID will control their budgets. As such, they will lack the protection that their previous patron—the Department of Homeland Security, in this case—provided them. Risk aversion and group think are, therefore, likely to become even more widespread problems.

The second failure identified by the Commission is one of policy. Here the report faults not the intelligence community, but political leaders, including Members of Congress, for failing to act even when there was a clear threat. Terrorists had demonstrated time and time again that they were at war with us: in 1993 at the World Trade Center; in 1995 at a U.S. military barracks in Saudi Arabia; in 1998 at the U.S. Embassies in Kenya and Tanzania; and in 2000 with the bombing of the *USS Cole*. Almost a decade of attacks resulted in little more than a single cruise missile strike that destroyed a pharmaceutical plant.

This failure of decisionmaking really calls for a fix that can't be legislated—good leadership.

The Commission makes a number of related recommendations on how to fight the war on terror, with the goal of making another attack less likely. These range from the obvious, ''make a long-term commitment to Afghanistan,'' to the irrelevant and unwise, declassifying the overall intelligence

budget. On the whole, however, most of recommendations are already being implemented in some fashion, and have been underway since shortly after the attacks. I commend to my colleagues a fact sheet prepared by the White House detailing its implementation of the majority of the 9/11 Commission's recommendation.

On a more specific level, one area where not enough work has been done is that of terrorists' travel. The Commission correctly identifies the importance of the problem arguing, ''[f]or terrorists, travel documents are as important as weapons,'' and I am, therefore, surprised that the Commission and the committee have decided to put that issue on the backburner. I will return to this issue in more detail shortly, but it is one area where Congress can make an important contribution to U.S. security and we should not abdicate that responsibility.

The third failure is one of capabilities. It is here that the 9/11 Commission highlights numerous glaring weaknesses in how the intelligence community shared information, prepared for potential attacks and planned for U.S. responses. The Commission recommends improvements in information sharing and the parts of this legislation that seek to implement these are important.

Regardless of how we ultimately decide to organize the intelligence community, it is important that we improve and streamline information sharing. Congress has already taken some important steps toward that objective. For example, the PATRIOT Act, enacted shortly after the September 11 attacks, improved information sharing by breaking down legal barriers between intelligence and law enforcement, but it is clear we will not be able to make the PATRIOT Act provisions permanent in this bill.

Unfortunately, the 9/11 Commission overlooks the fact that solving the capabilities problem requires far more than just improving the sharing of information. The problem extends beyond what intelligence is available to an analyst at any given time. The 9/11 Commission, the Joint House-Senate Inquiry into the 9/11 attacks, and the recently completed Senate Select Committee on Intelligence investigation into pre-war intelligence on Iraq all point to far deeper deficiencies. They identify core cultural problems. Indeed, too often the right information is not collected due to, among other things, excessive risk aversion, and analysis of the information is not adequately questioned to ensure that group think has not replaced sound judgment.

The Commission focused on only one recommendation for fixing a laundry list of problems with the CIA's collection and analysis, and only one recommendation on improvements to the FBI's intelligence capabilities. On the other hand, the Commission devoted three recommendations to protecting civil liberties, though none is designed to prevent a future attack.

The last failure identified by the Commission is one of management. It is this failure that leads the Commission to recommend the creation of the National Intelligence Director. The report highlights the inability of then-DCI George Tenet to mobilize the entire intelligence community after he issued a memo stating, ''We are at war'' with terrorists. However, the 9/11 Commission's report states that the DCI's memo had ''little overall effect on mobilizing the CIA.'' If even the CIA, where the Director has complete budgetary and line control, did not respond to the DCI's memo, we should not be confident that simply putting someone at the top of a new organizational chart is the panacea that some claim.

It warrants noting that the 9/11 Commission details an example, from before 9/11 and the changes that followed, where the intelligence and law enforcement communities were able to mobilize, break down stovepipes and information was shared ''widely and abundantly.'' This example—termed the ''Millennium Exception'' by the Commission—focuses on the last weeks of December 1999, when the government ''acted in concert to deal with terrorism.'' The Government's approach to this threat, demonstrate the power of strong leadership and commitment, despite what some call a disjointed intelligence organization.

Too often problems of management have less to do with organizational structure, and more to do with the managers themselves. I fear that we are rushing to implement sweeping organizational changes because it is the easy thing to do, not because it is necessarily the right thing to do. In the meantime, the hard work of changing the culture of the community seems to have been pushed to the side.

The Senate is currently considering a reorganization package that contains a number of the 9/11 Commission's 41 recommendations. Among the most significant, the bill establishes a Senate-confirmed national intelligence director with strong budget, personnel, security, and other authorities; creates a national counterterrorism center, NCTC, to integrate intelligence capabilities and develop joint counterterrorism plans; redefines the National Foreign Intelligence Program as the National Intelligence Program—which includes the national collection agencies within the Defense Department, NSA, NGA, and NRO; and contains provisions that require the establishment of an information sharing network.

The bill is called the National Intelligence Reform Act of 2004. But it does not reform the intelligence community; it reorganizes it. It does not get at the fundamental problems in the intelligence community identified by the 9/11 Commission and the other intelligence investigations and inquiries over the last several years. And, unfortunately, in at least one glaring respect, it violates the first rule of medicine and legislating in that it does do harm. Moreover, even if the reshuffling of bureaucracy can ultimately be made to work, doing so now, while our country is at war, makes it very hard to supply our strategists, planners, and warfighters the information they need, when they need it.

I have taken under careful advisement the cautious tone of many former and current officials. For example, in his testimony to the Senate Armed Services Committee on August 17, 2004, Secretary of Defense Donald Rumsfeld stated:

> In pursuit of strengthening our nation's intelligence capabilities, I would offer a cautionary note. It is important that we move with all deliberate speed; however, moving too quickly risks enormous error . . . And we are considering these important matters while waging a war.

The Center for Strategic and International Studies, CSIS, recently released a statement, signed by an experienced group of former officials, urging similar caution. The statement was endorsed by: former Senators David Boren, Bill Bradley, Gary Hart, Sam Nunn, and Warren Rudman; former Secretaries of Defense Frank Carlucci and William Cohen; former Deputy Secretary of Defense John Hamre; former Director of Central Intelligence Robert Gates; former Secretary of State and National Security Advisor Henry Kissinger; and former Secretary of State George Shultz. It said:

> Rushing in with solutions before we understand all of the problems is a recipe for failure.

In his testimony, Secretary Rumsfeld discussed in detail his concerns about how intelligence community reorganization could potentially adversely affect the Defense Department. He expressed his strong reservations about the national collection agencies—the NSA, NGA, and NRO—being removed from the Defense Department, where they are now located, and aligned under the direct leadership of the national intelligence director. He stated:

> ''We wouldn't want to place new barriers or filters between the military Combatant Commanders and those agencies when they perform as combat support agencies. It would be a major step to separate these key agencies from the military Combatant Commanders, which are the major users of such capabilities.

The Defense Department worked tirelessly in the decade after the first gulf war to ensure that the speed and scope of intelligence support to military operations would be improved for future conflicts. It was General Schwartzkopf's view that the national intelligence support during Desert Storm was not adequate. Now, as we have seen from the success of our military operations in Afghanistan, Iraq, and the broader War on Terror, ''gaps and seams,'' as Secretary Rumsfeld refers to them, have been drastically reduced.

General Myers, Chairman of the Joint Chiefs of Staff, also expressed his

concerns on the subject during his testimony to the Senate Armed Services Committee, stating:

. . . for the warfighter, from the combatant commander down to the private on patrol, timely, accurate intelligence is literally a life and death matter every day. . . . As we move forward, we cannot create any institutional barriers between intelligence agencies—and of course that would include the National Security Agency, the National Geospacial-Intelligence Agency, and the National Reconnaissance office and the rest of the warfighting team.

I am concerned that the reorganization package before the Senate places this effective system in jeopardy.

In S. 2485, the NSA, NGA, and NRO remain within DOD; but this is somewhat deceiving. These national collection agencies will also be within the newly defined National Intelligence Program. The Committee-reported bill would essentially remove the Secretary of Defense from any meaningful management role over these agencies.

First, the national intelligence director would have the authority to appoint the heads of these agencies, albeit with the concurrence of the Secretary of Defense. What makes this unusual and potentially problematic? Well, consider the fact that the Director of the National Security Agency, a general officer, is dual-hatted as the Deputy Commander for Network Attack, Planning, and Integration at Strategic Command, or that the Director of the National Reconnaissance Office also serves as an Under Secretary of the Air Force. These positions truly support the mission of the Defense Department

Second, the national intelligence director would have the authority to execute the budgets of these agencies. It is one thing to say that the NID should manage the entire budget for the National Intelligence Program, and, therefore, to help develop agencies' budgets and even receive their appropriation. It is quite another to altogether remove the Secretary of Defense from the loop by requiring that the NID suballocate funding directly back to the agencies. This effectively removes the Secretary from the management loop.

I have studied the Defense Secretary's testimony to the Senate Armed Services Committee, as well as the testimony of other experts. I am also aware that there were some good amendments in the committee markup to help preserve the Defense Department's equities. But I am still not convinced that we are doing no harm. As General Myers commented during the course of the Senate Armed Services Committee's discussion on the subject, ''[T]he devil's in the details.''

I recognize that during the course of the Senate's debate on this bill, several of my colleagues have offered amendments to ensure that the equities of the Defense Department are protected, and I applaud them for their efforts.

So, while I am not convinced we are doing no harm—particularly with respect to ensuring our warfighters have the intelligence support they need—I am also not convinced that we are necessarily doing much good. Again, the solutions of the 9/11 Commission, and, in turn, the Senate bill, don't seem to match the problems.

I would like to discuss an example of what I believe we could do to help minimize our chances of another catastrophic terrorist attack—by addressing cultural problems in the intelligence community, including risk aversion, group think, and a failure of leadership.

I was a member of the Senate Intelligence Committee for 8 years and participated in the first of the post-9/11 evaluations—the joint Senate-House inquiry, formally named the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001. Along with the current Intelligence Committee chairman, I offered additional views to that report which, had I been part of the 9/11 Commission, I would similarly have submitted. Those additional views describe the core cultural problems in the intelligence community that can't simply be solved by reorganizing agencies. On this, the Commission report and the bill before us missed the mark in many respects.

First, let's consider risk aversion, which plays out not only in the intelligence community, but also in foreign policy decisionmaking, economics, business investments, and so on. There are many potential reasons for risk aversion—a particular action might have adverse, unintended consequences, might get one into trouble with one's superiors, or might simply draw unwanted attention, just to name a few. When an individual or a government acts, there is always a calculation of risk; but some governments and some individuals are more willing to take chances than others. This is a product of both leadership and environment.

An aversion to taking risks—even when they should be taken—plagues our intelligence community. Indeed, in the course of our congressional inquiry on the 9/11 attacks no intelligence or law-enforcement agency escaped being described by its own officials as hampered by an aversion to thinking critically, exposing their views to others, and being willing to boldly take risks. Time and time again, this has contributed to intelligence failures—most recently, of course, 9/11 and the intelligence communities' claims about Saddam's stockpiles of weapons of mass destruction.

The 9/11 Commission also addressed the issue of risk aversion within the CIA, noting the net result for that agency pre-9/11:

. . . an organization capable of attracting extraordinarily motivated people but institutionally averse to risk, with its capacity for covert action atrophied, predisposed to restrict the distribution of information, having difficulty assimilating new types of personnel, and accustomed to presenting descriptive reportage of the latest intelligence.

One of the most well known examples of the problem of risk aversion in the context of the 9/11 attacks was the FBI's failure to respond to the ''Phoenix Memorandum,'' written by a Phoenix special agent who wanted to alert his superiors about suspicious individuals seeking pilot training. The now-famous electronic communication to FBI headquarters recommended that the FBI consider seeking authority to obtain visa information from the State Department on individuals who obtained visas to attend flight school.

The intelligence operations specialists at headquarters who reviewed the memo told the staff of the congressional joint inquiry that they had decided among themselves that seeking that authority raised profiling concerns. These concerns stemmed at least in part from previous public allegations of racial profiling against FBI agents who had questioned two Middle Eastern men acting suspiciously on a flight from Phoenix to Washington, DC, in 1999.

On a broader—not case-specific—level, the intelligence community's clandestine service has been seriously hampered by an aversion to taking risks. According to the 9/11 Commission's report, James Pavitt, the head of the CIA's Directorate of Operations, recalled that covert action had gotten the clandestine service into trouble in the past, and he had no desire to see it happen again.

It is likely that this ''trouble'' was at least in part a result of congressional actions, for example the 1976 Church Committee investigation, which was set up in the wake of revelations about assassination plots organized by the CIA. The investigation resulted in some 183 recommendations, and subsequent legislative proposals and debate that consumed considerable attention over a number of years. In part, that debate focused on specific, clearly defined limitations and prohibitions on intelligence activities.

Obviously, as we move forward with reforming congressional oversight of the intelligence community, there will be a need to balance strong and effective oversight with not hamstringing the community and creating an even more risk averse environment.

The culture of risk aversion in the clandestine service was also accentuated by executive branch actions during the Clinton administration. For example, risk aversion in the clandestine service was compounded by the 1995 Deutch Guidelines, CIA guidelines promulgated by then-Director of the CIA, John Deutch, which severely limited the ability of CIA case officers to meet with and recruit foreign nationals who may have been involved in dubious activities or have blood on their hands. Incidentally, during his tenure, Mr. Deutch also conducted a CIA-wide ''asset scrub,'' which applied an inflexible reporting standard to all CIA spies

that, if not met, resulted in their automatic firing. How can you effectively penetrate an organization or adversarial regime without dealing with unsavory characters? Thankfully, the Deutch Guidelines were finally repealed by the DCI in July 2002; but, their repercussions had a lasting effect on the culture of the Directorate of Operations.

So, here we have a clandestine service unwilling to take the risks that are, by nature, part of the job. Compound that with the fact that the DO had few resources. Between 1992 and 1998, the Central Intelligence Agency closed one-third of its overseas field stations, lost one-quarter of its clandestine service case officers, lost 40 percent of its recruited spies, and CIA intelligence reports declined by nearly one-half.

The result of this deterioration of a key part of our intelligence community was that, before 9/11, we had not one human source inside al-Qaida's command structure. What did the 9/11 Commission recommend to transform the clandestine service into a unit more effectively able to penetrate al-Qaida.

> The CIA Director should emphasize . . . ''(b) transforming the clandestine service by building its human intelligence capabilities; (c) developing a stronger language program, with high standards and sufficient financial incentives; (d) renewing emphasis on recruiting diversity among operations officers so they can blend more easily in foreign cities; (e) ensuring a seamless relationship between human source collection and signals collection at the operational level; and (f) stressing a better balance between unilateral and liaison operations.

As Reuel Gerecht, American Enterprise Institute scholar, commented in a recent article in the Weekly Standard, ''That's it. In a 447-page report on the intelligence failings of 9/11, the clandestine service gets nine lines. The important bit—'transforming the clandestine service . . .' is a 10-word platitude.'' The intelligence reform bill we are considering this week similarly fails to delve into this central problem. Even if we put the resources back in, we have not figured out how to deal with the mentality now ingrained in our covert officers.

Finally, as I previously noted, I believe the bill currently before the Senate will exacerbate the risk aversion problem in at least one respect: its creation of an excessive, redundant bureaucracy to oversee the protection of privacy and civil liberties. Should there be protections and oversight? Yes. But should there be so many layers of such oversight that intelligence officers are more worried about getting into trouble than about adequately performing their missions? Certainly not.

The provisions in this bill dealing with privacy and civil liberties are quite extensive. In summary, the bill establishes: two officers within the National Intelligence Authority, one responsible for privacy, the other for civil rights and civil liberties; an Inspector General within the National Intelligence Authority, who, in part, monitors and informs the National Intelligence Director of any violations of civil liberties and privacy; an Ombudsman within the National Intelligence Authority to protect against so-called politicization of intelligence; an independent Privacy and Civil Liberties Oversight Board with extensive investigative authorities; and privacy and civil liberties officers within the Departments of Justice, Defense, State, Treasury, Health and Human Services, and Homeland Security, the National Intelligence Authority, the Central Intelligence Agency, and any other department, agency, or element of the Executive Branch designated by the Privacy and Civil Liberties Oversight Board to be appropriate for coverage.

These provisions reach far beyond what the 9/11 Commission recommended—an executive branch board to oversee the protection privacy and civil liberties. The President already created such a board through executive order on August 27.

Under the construct offered in the Governmental Affairs Committee bill there will simply be too many people performing the same task. It will be inefficient; it will be counterproductive; and it will add yet another legal hurdle for our intelligence officers to overcome. Our goal should be to make it easier for them to do their jobs—to detect and prevent future catastrophic terrorist attacks—not more difficult. Let's not forget why we are reforming the intelligence community. It is to prevent another 9/11. The problem is not that we invaded suspects' privacy, but that we didn't know enough about them to prevent the attack.

I offered an amendment to S. 2845, which I discussed several times on the floor of the Senate, to eliminate some of this redundant oversight. I withdrew that amendment reluctantly, but with the understanding that the issue would be resolved in conference. I plan to continue to press my case on this matter because I believe it is central to ensuring that we do not make worse the already existing problem of risk aversion within the intelligence community.

Second, group think. This problem is not unrelated to the problem of risk aversion. The result of analysts' fears of taking risks is often that they are unable to think outside the box, to break free of the generally-accepted assumptions held by their agency or by the rest of the intelligence community.

In his August 16 testimony to the Senate Armed Services Committee, former Secretary of Defense James Schlesinger discussed the problem at length, stating:

> Different organizations will drift gravitate towards different ways of organizing reality—based upon their range of responsibilities and, also, their interests in a narrower sense. Most individuals make themselves comfortable in their own organizations by not challenging a prevailing consensus.Q

Another cause of group think is simply a lack of imagination. In a recent op-ed in the Washington Post, Henry Kissinger raises some important questions about the reforms currently being pursued. He states that the basic premise of the ''current emphasis on centralization'' through the creation of a director of national intelligence ''seems to be that the cause of most intelligence failures is inadequate collection and coordination.'' Kissinger believes, however, that ''the breakdown usually occurs in the assessment stage.'' He attributes that breakdown to a failure of imagination to connect the dots of available knowledge. His op-ed describes in detail how a lack of imagination led to the major intelligence failures of the last 4 decades: the 1973 Middle East War, the Indian nuclear test of 1998, the September 11 attacks, and the failure to find WMD stockpiles in Iraq.

How do we solve this problem? Well, let's take the issue of Iraq's weapons. The Senate concluded in its bipartisan report on the intelligence community's assessment:

> The presumption that Iraq had active WMD programs was so strong that formalized IC mechanisms to challenge assumptions and ''group think,'' such as ''red teams,'' ''devil advocacy,'' and other types of alternative, or competitive analysis, were not utilized.

Former Defense Secretary James Schlesinger recommends precisely what the bipartisan report said was lacking. In his testimony, SASC, August 16, he stated:

> The only solution within an organization is to establish a Devil's Advocacy organization to challenge the prevailing beliefs.

This is an imperfect solution, as Secretary Schlesinger further notes, but, still, if we had had such mechanisms, we would have had a far greater chance of reaching the truth. Yet, neither the Commission nor the Committee recommends such a ''red team'' or ''devil's advocacy'' entity or process. We will have to do it by amendment.

This is one place where we can learn from our past successes and failures. Historically speaking, ''red teams,'' have been helpful inside and outside of the intelligence community. In the 1970s, for example, the intelligence community persisted in underestimating the size and scale of the Soviet arms build-up. In response, Congress created a ''red team'' called Team B to review the IC's analysis. Team B's report, which documented how far off the intelligence community was, laid the foundation for President Reagan to rebuild the U.S. military in the 1980s.

More recently, the Rumsfeld Commission on the ballistic missile threat was created to play devil's advocate with the findings of the intelligence community. Not surprisingly, the Commission found the estimates far off, dramatically underestimating the time it would take for a country to procure or produce a ballistic missile.

The chairmen of the 9/11 Commission, Thomas Kean and Lee Hamilton, recognize the group think problem in their

September 8 Washington Post op-ed, and offer that their proposed reforms ''institutionalize information-sharing, thus guaranteeing a competitive airing of views.'' They further state:

We don't want dissent quashed by groupthink; we want competing analyses to be shared broadly . . .

But as key experts, like Henry Kissinger and Jim Schlesinger, point out, it is valid to question whether centralized intelligence—which we are now pursuing—encourages conformity, making the problem of group think worse. At best, that structural change will do nothing to affect the problem.

Last, but certainly not least, leadership is a problem that simply cannot be solved legislatively. Conversely, good leadership can potentially solve the other cultural issues I have identified.

Al-Qaida's attack on Washington and New York occurred after a long period of poor leadership at the highest levels of the U.S. Government regarding terrorism. Despite repeated assaults on the United States and its interests, the U.S. Government was still unwilling to treat terrorism as a true national security issue until after 9/11.

This was, of course, partly a failure of political leadership. But the intelligence community is not absolved, either. The problem of inadequate allocation of resources in the intelligence community, for example, was at least partly a result of confused leadership in the community. In spite of a 1998 declaration of war on al-Qaida by the Director of Central Intelligence, two key organizations—namely, the Defense Intelligence Agency and the Federal Aviation Administration—were not allowed, though they offered, to throw their support behind the antiterror effort.

Counterterrorism analytic centers were fragmented across the administration at the Pentagon, the CIA, and various FBI locations. Only after 9/11 did various intelligence and law enforcement entities begin to put aside their parochialism and work together in a more productive manner. And certainly reorganization was a partial fix for the problem—in particular, the new Terrorist Threat Integration Center, TTIC, which merges and analyzes all threat information in a single location under the direction of the DCI, has been beneficial. But, with better leadership of the intelligence community, the condition would not have been so prevalent in the first place. It would not have taken a monumental disaster for these entities to cooperate more effectively with one another.

I would now like to briefly discuss visa reform. I am pleased that the Collins-Lieberman bill, with the addition of Kyl amendment No. 3926, will at least tighten up immigration law to require, in statute, that most temporary visa applicants be personally interviewed by State Department consular officers during the application process, and that all such applicants be required to actually complete their visa applications to get a visa. Past misuse of immigration law allowed 15 of the 19 September 11 hijackers to enter the United States without completing their applications or being interviewed.

Some might question why such State Department regulations need to be included as statutory language in the Immigration and Nationality Act. Section 214(b) of the INA governs the admission of nonimmigrants to the United States. It presumes that an alien who applies for a temporary visa actually intends to stay in the United States permanently ''until he establishes to the satisfaction of the consular office'' that he intends to stay temporarily. This means that the burden of proof is on the alien to show that he is eligible to receive a visa and that he will not overstay or otherwise violate the terms of the visa. Had the State Department required its consular affairs officers to implement section 214(b) correctly, and thus to conduct in-person interviews and require that visa applications be completely and accurately filled out, to meet the burden of proof requirement, the tragedy of 9/11 could have been prevented.

The intent of Section 214(b) was not carried out by the State Department consular affairs officers who issued visas to the 9/11 hijackers. Fifteen of the 19 men who flew hijacked airplanes into the World Trade Center, the Pentagon, and the Pennsylvania countryside were Saudi nationals who should have been denied admission to the United States under section 214(b) because their visa applications contained inaccuracies or omissions. These were not trivial mistakes in spelling or punctuation. The applications omitted such fundamental information as: means of financial support, home address, and destination or address while in the United States. According to an October 28, 2002 National Review article by Joel Mowbray under the title and subtitle ''Visas for Terrorists: They were ill-prepared. They were laughable. They were approved,'' only one of the 15 applicants listed an actual destination address for inside the United States. The rest listed locations such as ''California,'' ''New York,'' or simply ''Hotel.''

Section 214(b) should also have been used to require face-to-face interviews of those applying for nonimmigrant visas. Only two of the 15 Saudi hijackers were interviewed by State Department officials. Such laxity by consular officers, however, occurred under guidelines and practices put in place by senior State Department officials. According to cables and other written notices sent over time by Mary Ryan, who was Assistant Secretary for Consular Affairs on September 11, 2001, shortening the visa application process wherever possible was a ''very worthy goal.''

Such top-down guidelines were explored in an October 2002 GAO report, ''Border Security: Visa Process Should Be Strengthened as Antiterrorism Tool.'' The report says the State Department's written guidelines and resulting practices for visa issuance allowed for ''widespread discretionary adherence among consular officers in adhering to the burden of proof requirements included in section 214(b).'' The GAO report also says the State Department's ''Consular Best Practices Handbook'' gave consular managers and staff the discretion to ''waive personal appearance and interviews for certain nonimmigrant visa applicants.''

The 9/11 Commission was provided detailed information about the State Department's use of section 214(b) and its contribution, in my opinion, to the tragedy of 9/11. In a letter to the 9/11 Commission on April 23, 2004, I said how important it was that the 9/11 Commission focus on the State Department's contribution to the dysfunction of the visa-issuance system prior to September 11. In a followup letter on May 13, 2004 to the Commission, I stated that correct use of the statutory law governing nonimmigrant visa issuance could have kept several, if not all, of the 9/11 hijackers from entering the country.

The amendment that the bill managers have accepted is based on the regulations promulgated by the State Department in the Foreign Affairs Manual it issued after September 11. It requires that all aliens who apply for a nonimmigrant visa submit to an in-person interview with a consular affairs officer. Although the primary purpose of the in-person interview is to determine whether an applicant will overstay his or her visa, it is also a prime opportunity for a consular affairs officer to gauge the intent of the applicant to try to make sure that the applicant does not intend to harm the United States. I recognize that not every person may have to be interviewed, so my amendment allows applicants under the age of 12, individuals over the age of 65, diplomats, and certain other individuals to be exempt from the in-person interview requirement if the consular affairs officer deems it appropriate.

My amendment also requires that, even if the nonimmigrant visa applicant falls into a category for which an interview is not necessarily required, one will be required if he is not a national of the country in which he is applying for a visa; if he was previously refused a visa; or if he is listed in the Consular Lookout and Support System. CLASS is the State Department's database that lists all applicants about whom the Department has security concerns. Finally, my amendment requires that all applicants for nonimmigrant visas provide complete and accurate information in response to every question on the nonimmigrant visa application. This is to ensure that the application is completely filled out and that the applicant has provided enough information to meet the burden of proof required by section 214(b) of the INA.

The codification of these few provisions will help ensure that terrorists are not able to enter the country using legally issued visas. Provisions to that effect ought to be in any piece of legislation aimed at preventing additional terrorist attacks on this country. I appreciate the willingness of Senators COLLINS and LIEBERMAN to work with me to modify the amendment to make it acceptable.

Before I close, I want to note that I have separately discussed another related area in serious need of attention: making sure we have the legal authorities and resources we need to effectively fight terror. I had prepared several amendments on this topic, which I intended to introduce to this bill, but because some Members erroneously believed that these amendments were highly controversial, I chose not to pursue them.

These amendments, one of which was my Tools for Terrorism, TFTA, bill in its entirety, others of which were parts of that bill, should not have been considered controversial. TFTA is not new—it is composed of bills that have been pending, have been approved by the Justice Department, and have been the subject of nine separate hearings. TFTA consists of all or part of 11 bills currently pending in the House and Senate. Every provision of the bill previously has either been introduced as a bill in the House or Senate or had a committee hearing. Every provision of the bill has the full support of the Justice Department. Collectively, the provisions of this bill have been the subject of nine separate hearings before House and Senate committees and have been the subject of four separate committee reports. Furthermore, collectively, the bills included in TFTA have been pending before Congress for 13 years.

That said, in the interest of allowing the Senate to move forward quickly, and noting that some of the provisions of my TFTA bill are included in the House version of the Intelligence Reform bill, I have decided to continue to try to press my case during the House-Senate conference.

My intention today was not to create a sense of futility in this body's efforts, but rather to express reservations about the proposed solutions and highlight those areas I know need to be resolved if we are to effectively wage the war on terror. A careful reading of the congressional joint inquiry report, the Senate's Iraq intelligence investigation, and the 9/11 Commission's narrative of the failures that led to 9/11 all point to far deeper deficiencies than can be solved by bureaucratic reorganization.

I plan to vote for this bill, but I do so recognizing that it is imperfect, and also with the clear intention of continuing to press my case for various modifications in conference.

Finally, while it is true that, if we do reform right, we will be able to improve our intelligence, it will never be the case that our intelligence is perfect. It is next to impossible to imagine every possibly means by which we might be attacked. As Judge Richard Posner points out in his New York Times Book review:

> The [9/11 Commission] narrative points to something different, banal and deeply disturbing; that it is almost impossible to take effective action to prevent something that hasn't occurred previously.

This does not mean we should not try; it does mean that we have to be realistic about the limitations of intelligence.

Those limitations make solid political leadership all the more important. Intelligence, diplomacy, military, law enforcement—these are all tools in our arsenal to fight the war on terror and whatever other threats may come our way. Decisionmakers must be willing to use them effectively. That is what will offer our greatest protection against another devastating attack.

Mr. DASCHLE. Mr. President, Congress has no more solemn obligation than to ensure our Government can effectively defend the American people. We must put America's security first.

The attacks of September 11 exposed serious weaknesses at every level of our Government's response to terrorism.

Since that awful day, many of us in Congress have resolved to do everything possible to understand how a handful of terrorists could defeat the entire U.S. Government's defenses and then adapt those defenses in order to prevent future attacks and make America safer.

The bill we are about vote on reflects the lessons of our inquiries.

It is thorough, thoughtful, bipartisan, and most important, rooted firmly in the facts behind the greatest failure of American intelligence in our lifetime.

When enacted, this legislation will improve our Government's ability to disrupt and prevent the kind of devastating attacks we witnessed that fateful day 3 years ago. In short, it will make America and Americans more secure.

I can think of no more important action this Senate can take in the remaining days of this session than to pass this legislation and move it to a conference with the House.

Immediately following the attack of the World Trade Center and Pentagon, Congress began a thorough investigation to uncover precisely what went wrong in the days leading up to September 11.

The House and Senate Intelligence Committees conducted a bipartisan inquiry.

They received thousands of pages of documents, conducted hundreds of hours of hearings, and heard from scores of Government and nongovernment witnesses who offered meaningful insights into what happened and how.

The unanimous, bipartisan recommendations of that report were available in December 2002.

Independent of this effort, President Bush had asked GEN Brent Scowcroft, National Security Advisor to former President Bush, to examine our intelligence community and suggest reforms that could make it function more effectively.

According to press accounts, the recommendations of that investigation were available in March 2002.

In addition, despite opposition from the White House, a strong bipartisan coalition was forged in the Congress to establish an independent, blue ribbon commission to investigate the circumstances surrounding the 9/11 attacks and provide us with a roadmap for how to improve our defenses, specifically those of our intelligence community.

The White House eventually gave the Commission its support and its cooperation. The unanimous, bipartisan recommendations of that commission were released in July 2004.

That is three separate investigations in less than 3 years—three separate investigations that originated in either the Congress or the Bush administration. Each investigation represented different points of view and perspectives. Yet each investigation reached the same conclusion: If our intelligence community is to respond quickly and effectively to terrorism, there must be a single person in charge with the authority to allocate resources and direct personnel. There must be a single person responsible for setting the direction of our intelligence operations.

And there must be a single person accountable for the success or failure of those operations.

The legislation before us reflects the lessons learned from these investigations and it is particularly faithful to the 9/11 Commission's recommendations.

Not only does this legislation establish a national intelligence director with real power, it goes on to make a series of fundamental changes in the intelligence community and related Government agencies.

Just as important as what it does, is what it does not do. It does not stray from the 9/11 Commission's recommendations. It avoids extraneous issues that would have only brought divisiveness and delay to this debate. Time is of the essence.

As Governor Kean said when releasing his commission's report:

> Every day that passes is a day of increased risk if we do not make changes.

America could not wait and the Senate wisely focused on the most urgent challenges at hand.

I am especially grateful to Senators COLLINS and LIEBERMAN, the managers of this important legislation.

Shortly after the 9/11 Commission issued its report, Senator FRIST and I assigned them the difficult task of taking the Commission's recommendations on the executive branch and producing a bill that converts these proposals into legislative language.

They have not only done that, they have managed to grasp the details of this complicated bill and produce strong bipartisan support for their bill.

As I noted above, Senate passage will get this bill to a conference with the House and their version of this legislation. Unfortunately, it appears that some in the other body do not share this goal of swiftly enacting the 9/11 Commission's recommendations. They do not believe we should limit our work to the 9/11 Commission's work. Nor do they believe our top goal should be to defeat terrorists rather than push partisan political agendas.

Many of the people who are apparently willing to pursue this course have fought real reform efforts from the start. They opposed forming the 9/11 Commission. They opposed cooperating with the 9/11 Commission. They opposed giving the Commission the time and funding it needed to do its job. It is not surprising to learn now that they are now opposed to giving the Commission's recommendations a fair hearing.

We can't afford to keep kicking this can down the road. It may seem obvious, but there are some who seem not to understand that American lives are at stake.

This is the best—and perhaps last—opportunity to enact meaningful comprehensive reform legislation to make Americans more secure.

With today's strong bipartisan vote, the Senate can make a clear statement that we are ready to seize this opportunity to protect America and more effectively fight terrorism.

I hope our colleagues in the House who have opposed the Commission's work to this point will be able at long last to set aside their partisan agenda and follow the bipartisan example of the Senate.

The families of the victims of 9/11 and, indeed, all Americans should expect no less from their elected representatives.

Mr. FEINGOLD. Mr. President, I want to voice my strong support for S. 2845, the National Intelligence Reform Act of 2004, and to commend my colleagues on the Governmental Affairs Committee for their careful work in drafting this important legislation. In producing this bill, Senators COLLINS and LIEBERMAN have managed to combine urgent action with careful deliberation. I hope that this difficult balance can be maintained in conference.

While the authors of this bill deserve our thanks, the fact is that we would not be debating desperately needed intelligence reforms today had it not been for the work of the National Commission on Terrorist Attacks upon the United States—and for the work of the many concerned Americans, including families of 9/11 victims, who fought to establish the Commission and to protect its independence and authority. The 9/11 Commission worked hard to produce a thorough account of the facts concerning what the various elements of the U.S. Government knew, what action was taken to address the terrorist threat, and where communication and coordination broke down. All Americans deserve answers to these questions. And we have a duty to act on the Commission's recommendations and to put this country on a firmer, smarter footing to fight the terrorist forces that have attacked this country and wish to attack us again.

At the same time, we know that reorganization for its own sake is simply disruptive and distracting—a smokescreen of busy work and changing flow charts that can obscure serious flaws rather than remedy them. And needlessly trampling on the civil liberties, protected by our Constitution and guarded by generations of Americans, in the name of reform would be a horrible mistake. Hundreds of thousands of brave men and women have died defending our freedoms throughout our history. We cannot fail to guard those precious freedoms now.

The Senate bill creates a civil liberties board to evaluate new policies and ensure that civil liberties concerns are considered as the President and executive agencies propose and implement policies to protect the Nation against terrorism. The Commission specifically recommended the creation of such a board within the executive branch that would have as its primary mission the protection of our citizens' civil liberties. I am pleased that Senator KYL agreed to withdraw an amendment that would have undermined this provision. The supporters of this amendment suggested that efforts to protect our privacy and civil liberties will undermine the work of the intelligence and law enforcement community. I respectfully disagree. Americans reasonably expect their Federal Government to protect them from terrorism while respecting their privacy and civil liberties. We can, and must, do both.

The Collins-Lieberman bill is the right approach. It is important that the privacy and civil liberties oversight provisions in this bill be included in the final legislation that goes to the President's desk.

Similarly, it would be a grave mistake for the conference to add extraneous provisions increasing the power of the Government, such as those contained in another amendment offered by Senator KYL that derive from the so-called PATRIOT II proposal. We have not had the kind of full and informed debate on these proposals that the 9/11 Commission called for. For this bill to remain true to the Commission's recommendations, it cannot be used as a way to bypass the very deliberation that the Commission said is essential.

Even after we finish work on this bill, our work will be far from complete. The Commission's intelligence reform proposals have been the focus of most of the media attention surrounding the 9/11 report, and they are at the heart of the legislative efforts in which we are currently engaged. But the Commission's call for more focused, effective ways to attack the terrorists and their organizations, and, critically, to prevent the continued growth of terrorism, deserve equally intense examination and action.

We need to make a long-term commitment to denying terrorists sanctuaries, and to cultivating new generations of partners, not enemies, overseas. As the ranking member of the Subcommittee on African Affairs, I know that we do not have the intelligence resources or the diplomatic resources that we should around the world. We do not really have any policy at all to deal with Somalia, a failed state in which terrorists have operated and found sanctuary. And there is a great deal of work to be done to help countries in which we know terrorists have operated to improve the basic capacities of border patrols who could stop wanted individuals, and customs agents who could help stop weapons proliferation and auditors who could freeze terrorist assets. And we can do more to help root out the corruption that undermines these safeguards at every turn.

I am pleased that the Senate accepted an amendment that I offered to this bill, which arises from my experience with African affairs. I know many Africanists are concerned about terrorist activity in the Sahel, and the U.S. Government is working with partners in that region to address this issue. Some of these same terrorists are based in north Africa, above the Sahel, which various parts of the U.S. Government and our own congressional committees consider to be a different region of the world, one usually lumped together with the Middle East rather than sub-Saharan Africa. In other words, getting counter-terrorism right in Mali really requires understanding a number of things about Algeria, and getting it right in the Horn of Africa requires an understanding of Yemen as well as Kenya. But the policymakers who specialize in these places don't necessarily work together.

These geographic stovepipes hamper good policy, and cap fragment the picture that our intelligence community is able to piece together. And it is not just Africa, and it is not just terrorism. Where National Intelligence Centers are established with a specific regional focus, the National Intelligence Director needs to ensure that regular contact and cooperation among linked centers is institutionalized, not ad hoc. My amendment strengthens information sharing, and signals Congress's intent to ensure that the centers that are eventually established are as effective as possible.

There is also much more to getting our policies right when it comes to homeland security and emergency preparedness, and that work will continue long after we complete work on this bill. We still lack a comprehensive homeland security plan with clear priorities, deadlines, and accountability.

Without such plans, it is not possible to properly target our homeland security dollars to meet our most pressing needs. We are getting on the right track, however. The Commission recommended that future transportation security budgets be based on a thorough assessment of threats and vulnerabilities, and I am pleased that the Senate adopted my amendment to the fiscal year 2005 Department of Homeland Security bill to require just that. Senator MCCAIN also included a provision to require a national transportation security strategy, and I was pleased to support it. These steps will help, but there is more we must do.

I was also pleased to support the amendment offered by Senator COLLINS to coordinate and simplify the homeland security grant process, which is based on a bill I cosponsored. This important amendment will make it much easier for local first responders to get funding by reducing the many, and often redundant, grant application steps. The amendment also gives local officials far more flexibility in spending homeland security dollars, including paying for overtime costs associated with homeland security tasks and training. Successful programs, such as FIRE Act grants, the COPS program, and the Emergency Management Performance Grant program, are protected in this legislation. The amendment allocates funding based on threat, as recommended by the Commission, but also maintains baseline funding so that States and local officials can have a predictable stream of funding to meet the homeland security needs faced by all jurisdictions. This amendment will help simplify and rationalize the current homeland security grant system. However, I agree with Senator LIEBERMAN that more resources must be allocated to meet our homeland security needs.

I hope that the conference is able to quickly agree upon a final version of this bill that follows the Senate's approach and does not contain extraneous and controversial provisions. And I look forward to continuing to work with my colleagues on both sides of the aisle to ensure that what we have learned from the 9/11 Commission becomes a part of how we do business every day. This intelligence reform bill is a very good start, not the end, of the efforts we must make to bring about real changes that will enhance our security and the security of our children.

Mr. CHAMBLISS. Mr. President, first, let me again thank my colleagues from Maine and Connecticut for their hard work preparing and bringing an intelligence reform bill to the Senate floor. Reforming the intelligence community is serious business, and I appreciate the professional and thoughtful approach taken by the Government Affairs Committee, especially the chairman and ranking member.

I rise today to express some of my concerns on S. 2845, the National Intelligence Reform Act of 2004.

First, it is important to fully understand exactly why we are debating the reformation of our intelligence community in the first place. Our enemy has attacked us in new ways that no one ever thought about or occurred before in the entire history of mankind. The attacks on 9/11 were made on predominately civilian targets, using commercial civilian airlines, loaded with totally innocent, ordinary citizens. No one really planned for an attack of this nature because as a God-fearing nation, it was hard to imagine that some human beings could be so evil, so warped in their interpretation of their own religion that they believe the slaughter of innocent people by the thousands is somehow condoned or even approved by their God. Well, we now know the nature of our enemy, and it is dangerous beyond anything we have known in the past. And we are reminded of our enemy's evil nature every time we see a video of an innocent person pleading for their life or being beheaded in Iraq. These Islamic terrorists have in effect ''hijacked'' the Muslim faith, distorted it to meet their own twisted philosophy of life, and we must stop them.

Let me be absolutely clear on this point: the Islamic terrorists want to frighten us, they want to disrupt our economy and our way of life, and they want to kill us; they will stop at nothing, including suicide attacks to achieve their evil goals. I have said in this chamber many times that effective intelligence is our first line of defense against this enemy and only good intelligence will prevent them from ever again attacking us on our own homeland.

That is why we are here today to put more ''teeth'' into our intelligence community. We are here to debate and vote on legislation that should provide more security for our citizens.

The Collins-Lieberman legislation that we are considering is a good bill in many ways, but it only marks the beginning of a process to rebuild our intelligence capabilities, not the end.

The bill establishes a National Intelligence Director; a position that I view as the ''foundation'' upon which all other intelligence reform measures will be built. However, there are some other measures relative to intelligence reform that will require our attention as soon as possible.

This bill leaves the intelligence community at fifteen members, eight of which are in the Department of Defense. As you know, I had a bipartisan amendment that was co-sponsored by my colleague from Nebraska, Senator BEN NELSON, that would create a unified command for military intelligence giving the new National Intelligence Director a single point of contact for military-related intelligence requirements and collection capabilities instead of eight. This is a major issue that must be addressed soon; otherwise the National Intelligence Director will have an unrealistically large span of control.

Collectively, the eight members of the intelligence community that this bill leaves in the Department of Defense are huge, with tens of thousands of people and multi-billion dollar budgets. How someone outside of the Department of Defense, like the national intelligence director, could adequately and efficiently manage these vast intelligence capabilities by dealing with eight separate military members is beyond me. Senator NELSON and I are committed to fix this shortcoming by introducing a bill to create a unified combatant command for military intelligence this coming January.

The Central Intelligence Agency is left intact in this bill, which is the right decision. But the bill does not adequately address the importance of human intelligence, HUMINT, or emphasize rebuilding this critical capability. HUMINT is a dirty and dangerous occupation, and it, more than any other intelligence discipline, will be the key to eliminating al-Qaida and all other terrorist organizations. We really owe our HUMINT case officers in the Central Intelligence Agency, the Defense Intelligence Agency, and other agencies all our thanks, support, and the resources necessary to get the job done.

The portion of this bill that creates a civil liberties board with broad subpoena power is particularly troubling to me. We need to take more risks in HUMINT and we need to rebuild the morale of our HUMINT collectors. What kind of message are we sending to our intelligence agents in the field who are risking their lives to protect us by creating a board designed to look over their shoulders and, which is redundant to the President's Board on Safeguarding Americans' Civil Liberties? We could create a morale problem throughout our intelligence community that might take years to repair and, I hasten to add, at a time when we need HUMINT more than ever to protect our citizens.

I am voting for S. 2845, the National Intelligence Reform Act of 2004, because it does establish the national intelligence director and gives statutory authority for the newly created National Counterterrorism Center. However, I will continually seek ways to address my concerns with this bill, some of which I have mentioned above. I want to reiterate again, that this bill marks only the beginning of the process to reform our intelligence community, not the end.

I yield the floor.

Mr. ENSIGN. Mr. President, I rise to discuss the recommendations of the 9/11 Commission Report that deal with the integrity of our borders and visitor access to America.

In the decade before 9/11, al-Qaida studied how to exploit gaps and weaknesses in the passport, visa, and entry systems of the United States and other countries. Al-Qaida actually set up its own passport office in Kandahar and developed working relationships with

travel facilitators—travel agents, document forgers, and corrupt government officials.

Since 9/11, some important steps have been taken to strengthen our homeland security. While these efforts have made us safer, we are not safe enough. A real world example was reported this past Saturday by the Washington Post. Peru and the U.S. intercepted a criminal network with possible al-Qaida links that smuggled Arabs into America after receiving false papers in Lima. Keeping Americans secure means being diligent on all fronts, at home and abroad.

The amendment that I am offering ties directly to two important recommendations of the Commission Report prohibiting terrorist travel to our country.

The first is the Commission recommendation that ''Targeting travel is at least as powerful a weapon against terrorists as targeting their money. . . Better technology and training to detect terrorist travel documents are the most important immediate steps to reduce America's vulnerability to clandestine entry.''

Americans need to know that every reasonable step is being taken to ensure that those who would harm our country and our citizens do not travel freely and easily into the United States. This is a task that deserves our full attention when the vast number of travel documents handled in our embassies, consulates, and border stations is considered. Specialists must be developed and deployed in consulates and at the border to detect terrorists through their travel practices, including their documents.

Last year there were about seven hundred consular officers stationed overseas in 211 posts. In addition to processing six million non-immigrant visa applications and nearly 600,000 immigrant visa applications, they provided a full range of services to American citizens. Chronic understaffing has led to an over-reliance on foreign workers to screen and review visa applications, jobs that normally would be handled by American officers. This process leaves too many gray areas; one mistake or intentional oversight in a foreign nationals review of an application could mean the lives of thousands of innocents. My amendment goes a long way to bolster the visa application process by mandating that American consular officials review and approve each and every immigrant and non-immigrant visa application.

Over the last 2 years the State Department has hired an average of 65 new consular officials. That number has not proven enough. My amendment provides the State Department the authority to increase the number of consular officials by 150 each year for 4 years, ensuring that trusted American resources are responsible for reviewing all visa applications.

Currently, consular officers only receive an overview in fraudulent document training. My amendment mandates that these consular officers are suitably trained in detecting fraudulent documents and document forensics, prior to beginning their service.

Our due diligence cannot stop here.

The second Commission recommendation that relates to my amendment states that we should ''. . . raise U.S. and border security standards for travel and border crossing over the medium and long term . . .'' The Commission goes on to say that ''It is elemental to border security to know who is coming into the country. Today more than 9 million people are in the United States outside the legal immigration system.''

Pre-9/11 the INS had only about 2,000 agents for interior enforcement and only 9,800 border patrol agents. With the priorities of the agency concentrated on immigration and narcotics, our northern border was often neglected and no major counterterrorism effort was underway. These gaps in our security created a weakness that allowed the loss of over 3,000 innocent citizens. More robust enforcement of routine immigration laws could have made a difference.

We must have the resources to be able to detect and, if need be, detain terrorists who seek entry through our borders. My amendment makes providing the necessary personnel for border security and immigration enforcement a top priority. It provides authority to increase the number of border patrol agents by 1,000 each year for a 5-year period. It also increases the number Immigration and Customs Enforcement investigators by 800 per year for a period of 5 years.

The Commission found that many of the 19 9/11 hijackers, including known operatives, could have been watchlisted and were vulnerable to detection by border authorities; however, without adequate staff and coordinated efforts, the evildoers were allowed unhampered entry.

The world has changed dramatically since 9/11 when the evil doers used our open and trusting society against us. We can not allow a repeat of that tragedy. This amendment will allow those who guard our frontiers the tools they need to ensure the safety of the citizens of the United States of America.

Ms. SNOWE. Mr President, I rise to address a very specific but invaluable component of the intelligence reform package before us today.

As many may know, before the release of the 9/11 Commission report earlier this year, I introduced stand-alone legislation—cosponsored by Senator MIKULSKI—creating an Inspector General for Intelligence. The ''Intelligence Community Accountability Act of 2004'' proposed an independent inspector general for the entire intelligence community—all fifteen agencies and department members. I introduced this legislation largely as a result of my experience as a member of the Senate Intelligence Committee which undertook a year-long investigation on the pre-war intelligence of Iraq.

I commend the efforts and tremendous work of the authors of the underlying bill—they have embraced the concept and spirit of my earlier bill and have included language in their legislation creating an Inspector General for the National Intelligence Director. I would also like to thank Senators ROBERTS, MIKULSKI and FEINSTEIN for their support in being original cosponsors of an amendment I was prepared to offer on this subject. I will not offer that amendment but I want to make clear my intentions to continue working for better and more comprehensive accountability in our intelligence community.

In that vein, I want to express my strong opposition to any amendment or proposal that would weaken the language on the authorities and powers of the NID's inspector general. Any such amendment, if accepted or approved, would be a grave step backward in an area that is in critical need of a step forward. . . . I am of course talking about accountability in the intelligence community.

Any amendment to scale back the IG provisions of the bill would fly in the face of the 521-page report that followed the committee's investigation on Iraq pre-war intelligence and would ignore vital problems of information sharing that have been found throughout the community.

Any inspector general who is to serve the National Intelligence Director must have the power and authority to access employees and information in the agencies that lie in the national intelligence program. How can an IG be effective if his hands are tied because of turf battles and arguments over jurisdiction?

My preference would be to enhance some of the authorities of the NID's inspector general as proposed by the underlying bill, but I would rather work to preserve the bill's language as it exists now than to gut it through the passage of any proposal that rescinds the abilities of the IG to delve into the coordination and communication between and among the various entities of the intelligence community.

Issues of accountability have often been central to the work we as Senators do in seeking to bring better government to our constituents—particularly when matters of national security are at stake.

I saw firsthand the consequences of serious inadequacies in accountability during my 12 years as a member of the House Foreign Affairs International Operations Subcommittee and as Chair of the International Operations Subcommittee of the Senate Foreign Relations Committee. During the 99th Congress, I worked to bring the State Department Accountability Review Board into fruition as part of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986.

Among other issues, it was a lack of accountability that permitted the radical Egyptian Sheik Rahman, the mastermind of the first World Trade Center bombing in 1993, to enter and exit the U.S. five times totally unimpeded even after he was put on the State Department's Lookout List in 1987, and allowed him to get permanent residence status by the INS even after the State Department issued a certification of visa revocation. In 1995 and again after the terrorist attacks of 9/11, I introduced legislation establishing Terrorist Lookout Committees in our embassies and consulates abroad—all in an effort to create more accountability in the protection of our homeland.

In this same vein, my membership on the Senate Select Committee on Intelligence has allowed me to realize that the need for greater levels of accountability in our intelligence community is and must be a priority. It is all too evident that in addressing the key concerns and problems seen in the management of our intelligence agencies, accountability is an area unquestionably in need of dramatic improvement.

I am pleased that as intelligence community reform has gained momentum, the concept of an inspector general has been very much a part of the debate. Indeed, an inspector general is included in the broad and comprehensive intelligence reform legislation authored by Senator FEINSTEIN—legislation that I was proud to co-sponsor earlier this year.

An inspector general for the whole intelligence community was also included in reform legislation offered by Senator GRAHAM, the former chairman of the Senate intelligence community. Language creating a community-wide inspector general was contained in the proposal by current Intelligence Committee Chairman ROBERTS as well as the recent bill offered by Senators MCCAIN and LIEBERMAN.

And as I indicated, an inspector general is included in the underlying bill crafted by the Senate Governmental Affairs Committee. I commend and, once again, thank all of my colleagues for including this key component in their proposals. This bill takes a step forward in addressing the key issue of intelligence community accountability and it should not be weakened by any additional amendments or modifications.

The belief that any new Director of National Intelligence should have an independent inspector general is one that few seriously dispute. In testimony before the intelligence committee in July, former Deputy Secretary of Defense John Hamre stated that an inspector general ''will help far more in driving and shaping the quality of outputs from this community.'' And Secretary of State Colin Powell called an inspector general a ''good idea'' while speaking before the Governmental Affairs Committee.

When I first drafted and then introduced my stand-alone legislation in early June, I had certainly envisioned that the inspector general the bill would establish would reside within a newly re-organized intelligence community. When I introduced my bill, I stated then that it was intended to be part of a larger initiative to overhaul the entire intelligence community's organizational structure. We have reached that point, and I am here today to continue my efforts to ensure that the final product the Senate approves contains the best possible mechanisms to bring accountability to the community.

As I indicated earlier, I have participated in this national debate on bettering our diplomatic, intelligence and national security services on many fronts and for many years. But it was as a member of the Senate Intelligence Committee, which spent a year reviewing the pre-war intelligence on Iraq's weapons of mass destruction programs, the regime's ties to terrorism, Saddam Hussein's human rights abuses and his regime's impact on regional stability that I realized the real and dire need for intelligence community change.

In looking at the intelligence community, we must remember that it is an amorphous entity made of up fifteen agencies, parts of departments, and independent bodies all spread out within our Federal Government. They each have their own mission, chain of command, procedures, history and institutional paradigms. The necessity for a stronger, independent head of the intelligence community became obvious to me and that measures must be legislated and instituted to hold the community and its amalgamation of agencies more accountable for the failures and shortcomings we had discovered.

The committee's report on the pre-war intelligence on Iraq revealed systemic flaws in the intelligence community, perhaps, most notably in many instances, a stunning lack of accountability and sound, ''hands-on'' management practices. These poor management practices contributed to the mischaracterization of intelligence reporting on Iraq's WMD programs.

I recognize that intelligence analysis is an imprecise art, with rarely—if ever—any absolutes; however, our report revealed that many judgements regarding Iraq's weapons of mass destruction programs and capabilities were based on old assumptions allowed to be carried over year after year, virtually unchecked and unchallenged, without any critical re-examination of the issue.

In short, there was a lack of analytic rigor performed on one of the most critical and defining issues spanning more than a decade—that of the preponderance of weapons of mass destruction within Iraq and the looming threat they posed to Iraq's neighbors and to the U.S.

Intelligence community managers, collectors and analysts believed that Iraq had WMDs, a notion that dates back to Iraq's pre-1991 efforts to retain, build and hide those programs. In many cases, the committee's report showed that the intelligence community made intelligence information fit into its preconceived notions about Iraq's WMD programs.

From our review, we know the intelligence community relied on sources that supported its predetermined ideas, and we also know that there was no alternative analysis or ''red teaming'' performed on such a critical issue, allowing assessments to go unchallenged. This loss of objectivity or unbiased approach to intelligence collection and analysis led to erroneous assumptions about Iraq's WMD program.

For example, the committee's review showed that analysts minimized reporting from a biological weapons source because the source reported information that did not fit with their beliefs about the existence of mobile biological weapons facilities.

We also know that the key judgment in the National Intelligence Estimate that Iraq was developing an unmanned aerial vehicle ''probably intended to deliver biological warfare agents'' overstated what was in the intelligence reporting. This review revealed that some intelligence community UAV analysts failed to objectively assess significant evidence that clearly indicated that non-biological weapons delivery missions were more likely.

In addition, the committee's report revealed that, despite overwhelming evidence suggesting that the aluminum tubes Iraq was trying to procure were for artillery rockets, some intelligence community analysts rejected information and analysis from experts, including the International Atomic Energy Agency and the Department of Energy, who refuted the claim that the tubes were being procured for use in Iraq's nuclear weapons program. This information was rejected because it did not fit into some analysts' notion that Iraq was procuring these tubes as part of its nuclear reconstitution effort.

Clearly stated, the intelligence community failed to ''think outside the box,'' a phrase often used by the community's analytic cadre to describe more innovative approaches to examining a problem set.

Critical thinking and objectivity are crucial elements in both the collection and analytic trade crafts and ought to be ingrained, by appropriate training and effective oversight by management, in every collector and analyst entering the ranks of the intelligence community. Management has the responsibility to ensure analysts are trained to produce—and actually produce—the best, most objective, unvarnished assessments, and both management and the analysts and collectors have the responsibility to ensure that their trade-craft is practiced properly.

Along this same line of accountability, our report revealed how poor leadership and management resulted in the intelligence community's failure to convey the uncertainties in many of

the assessments in the National Intelligence Estimate on Iraq's Continuing Programs for Weapons of Mass Destruction.

For example, the intelligence community assessed that Iraq had mobile transportable facilities for producing biological warfare agents but failed to alert intelligence consumers that this assessment was based primarily on reporting from a single human intelligence source to whom the intelligence community never had direct access and with whom there were credibility problems.

In the analysis on Iraq's chemical weapons activities, the intelligence community failed to explain that several assessments were based on layers of analysis of a single stream of intelligence reporting regarding the presence of a tanker truck that was assessed to be involved in the possible transshipment of chemical munitions.

Finally, during coordination sessions with Secretary Powell in preparation for his speech before the United Nations in February 2003, the intelligence community was instructed to include in the presentation only corroborated, solid intelligence.

In fact, from our review we learned that the DCI told a national intelligence officer who was also working on the speech to ''back up the material and make sure we had good stuff to support everything.'' When Secretary Powell spoke before the UN, he said that every statement he was about to make would be ''backed up by sources, solid sources . . . based on solid intelligence.''

Incredibly, from our review, we know that much of the intelligence provided or cleared by the CIA for inclusion in Secretary Powell's speech was incorrect and uncorroborated. For example, the IC never alerted Secretary Powell that most of the intelligence regarding Iraq's mobile biological warfare program came from one source with questionable credibility nor did anyone alert Secretary Powell to the fact one of the sources cited in his speech was deemed to be a fabricator—something known by IC analysts since the May 2002 issuance of a ''fabrication notice.''

An independent, over-arching community-level inspector general who can delve into the communication between and among agencies, or the lack thereof, can assist in bridging the disconnects that lead to such failures. This IG should be properly empowered to reach into and across the bureaucratic and organization lines that separate each community agency so that next time, if the Department of Energy's assessments about the intended use of aluminum tubes by a dangerous regime are ignored or cast aside, someone can be held accountable.

There is no question that the intelligence community requires systemic changes. We are here today to do just that. Americans have a right to know that their intelligence services are doing the best job possible in protecting their security. I say this even while I must recognize the dedication and professionalism of the thousands of Americans who make up our intelligence community.

Each day across this country and around the world, they labor, mostly without recognition, to keep this country safe from harm. Our intelligence employees work under very demanding conditions and in environments that are extremely dangerous and can often shift without notice.

It is their vigilance upon which we rely to give us the forewarning necessary to counter the many dangers present in our world. Although it is impossible to directly express our deep appreciation for their efforts, we have an obligation to express our eternal gratitude to those who serve America so well.

Yet, however appreciative we are of the service done by those who work in the fifteen agencies that make up our nation's intelligence community, we as a Congress have a responsibility to continue to work to find ways to help them do an even better job, and more importantly, to ensure that any failures are not repeated and that we learn from past mistakes. At the same time, we have an obligation to the people of this country to ensure that both pride and comfort in our intelligence services exist. The people of this Nation, and those of us elected to represent them, have a right to know that when mistakes are made, corrections soon follow. That is what brings us here today.

I ask unanimous consent that a chart entitled ''Decades of Terrorism'' be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECADES OF TERRORISM

Oct. 23, 1983—Beirut Barracks bombing; Dec. 12, 1983—US Embassy bombing, Kuwait; Sept. 20, 1984—East Beirut bombing; Dec. 3, 1984—Kuwait Airways hijacking; April 12, 1985—Madrid restaurant bombing.

June 14, 1985—TWA flight 847 hijacking; Oct. 7, 1985—Achille Lauro attack; Dec. 18, 1985—Rome and Vienna bombings; April 2, 1986—TWA flight 840 bombing; April 5, 1986—Germany disco bombing.

Dec. 21, 1988—Pan-Am Flight 103 bombing; Feb. 26, 1993—World Trade Center bombing; Nov. 13, 1995—US Military HQ attack, Saudi Arabia; June 5, 1996—Khobar Towers bombing; Aug. 7, 1998—US Embassy bombings in Africa.

Oct. 12, 2000—USS Cole attack; Sept. 11, 2001—9/11; May 12, 2003—Housing compound bombing in Saudi Arabia; May 29–31, 2004—Saudi oil company attacks; June 11–19, 2004—Paul Johnson kidnaping/execution.

9/11 COMMISSION REPORT

''The massive departments and agencies that prevailed in the great struggles of the twentieth century must work together in new ways, so that all the instruments of national power can be combined.''

Ms. SNOWE. This chart beside me illustrates in the starkest of terms, what we are dealing with. . . ..and what this legislation is all about. I call the contents of this chart to the attention of my colleagues to serve as a reminder of ''the big picture.'' The goal of this reform movement is and has always been to make sure our intelligence agencies are better equipped, organized and managed so that we are in a greater position to detect threats and stop attacks. We want an intelligence community that is better prepared to ensure we don't keep adding to this list.

I also refer my colleagues to a quote from the preface of the 9/11 Commission Report: ''The massive departments and agencies that prevailed in the greatest struggles of the twentieth century mush work together in new ways, so that all the instruments of national power can be combined.'' This bill we are debating today speaks directly to this charge. And it is my view that a strong Inspector general is a vital component of that effort.

An inspector general will help to enhance the authorities of the National Intelligence Director that we will shortly create, assisting this person in instituting better management accountability, and helping him/her to resolve problems within the intelligence community systematically.

Ideally, the inspector general for intelligence should have the ability to investigate current issues within the intelligence community, not just conduct ''lessons learned'' studies. The IG should have the abilities to seek to identify problem areas and identify the most efficient and effective business practices required to ensure that critical deficiencies can be addressed before it is too late, before we have another intelligence failure, before lives are lost.

In short, an inspector general for intelligence that can look across the entire intelligence community will help improve management, coordination, cooperation and information sharing among the intelligence agencies. A strong, effective IG will help break down the barriers that have perpetuated the parochial, stove-pipe approaches to intelligence community management and operations.

As I stated earlier, I was prepared to offer an amendment that would have expanded on the language already included in the underlying bill—but let me be clear, there are many positive aspects of the inspector general as contained in this bill.

I am pleased, for example, that the bill ensures independence of the IG by including a separate budget account for his office. I also welcome the language pertaining to staffing, reports, subpoena powers and complaint procedures.

I have no doubt that the authors of the underlying bill and I share the same goal—an independent IG with proper authorities to assist in preventing some of the failures I've detailed here today.

As the Chairman of the intelligence committee stated last week on the Senate floor, members of the committee received a frightening briefing

last week in closed session where we were told that despite the current terrorist threat we face, and the high state of alert we live under, information sharing between the intelligence agencies is still not taking place and no one is holding anyone accountable for their failure to do so.

Too many incidents of failure to prevent attacks, failure to properly collect the needed intelligence, failure to adequately analyze that intelligence and failure to share information within the community beg for better accountability in the entirety of the community. Who better to do this than a single IG, who can reach across the community, work with the existing individual agency IG's, and confront any problem with a macro, overarching view? It is my hope that the new inspector general for the NID, as authorized in this bill, will take great strides to guarantee that information sharing and accountability are woven into the fabric of the intelligence community. Mr. President, this is the whole reason we are here today.

Mr. LIEBERMAN. Mr. President, I thought I would take this moment of quiet on the floor—we are just about a half hour away from voting final passage of this bill—to thank my staff and the staff of Senator COLLINS, which is led by Michael Bopp. My staff is led by Joyce Rechtschaffen and Kevin Landy, who has been a team leader on this effort. It has been a mighty team. They worked very hard to help Senator COLLINS and me put the hearings together on the 9/11 Commission Report; to work, many of them, over August in addition to working on the hearings, to draft the legislation I introduced with Senator MCCAIN to adopt the nonintelligence parts of the Commission report, and then to work in the week and a half—this being the eighth day of consideration on the floor—to see this bill at the point it is now.

I am very proud that the committee, in the first instance, and now the Senate itself, has responded to the challenge of the 9/11 Commission Report. But, more to the point, it has responded to the deficiencies in our current systems of intelligence and homeland security generally and brought forth a bill that I am convinced, if we can hold it through conference, which we certainly intend to do, will make the American people a lot safer in an age of terrorism.

I want to list the names of all the members of my staff who have worked so hard to bring this legislation to the edge of adoption: Mike Alexander, David Barten, Rajesh De, Chistine Healey, Larry Novey, Holly Idelson, Beth Grossman, Mary Beth Shultz, Andrew Weinschenk, Fred Downey, Kathy Sedden, Donny Williams, Jason Yanussi, Dave Berick, Adam Sedgewick, Megan Finlayson, Rachel Sotsky, Tim Profeta, William Bonvillian, Laurie Rubenstein, Leslie Phillips, Chuck Ludlam, and Janet Burrell.

Mr. REID. Mr. President, while the distinguished comanager of the bill is on the floor—I am sorry Senator COLLINS is not on the floor—on behalf of the whole Senate, we need to extend to you our congratulations. We all applaud and commend the great work done. This has been a very difficult job. While those of us who were home in August, doing the things we do—having townhall meetings and doing campaign events—you and SUSAN were here doing work to get us in a position so when we came back here there would be an instrument that you could recommend to the other members of your committee who worked with you during this downtime in August—most of it down. This vehicle is now about to be completed. It is a sea change. It is the first part of what the 9/11 Commission recommended, and it is good work. The Senator from Connecticut and Senator COLLINS should feel very good about their accomplishment. I think it is not only a significant improvement from what we had, it is a sea change in what we had before. The American people are going to be safer as a result of this. Congress is going to be more responsible as a result.

Mr. LIEBERMAN. Mr. President, I thank my friend from Nevada for his kind words. I thank him for his characteristic presence and support on the floor.

This has been an extraordinary chapter in my own legislative career here and one that I am very grateful to have had. It has been a real honor to work with Senator COLLINS. I think from the beginning she and I went into this process having had a good relationship working on the committee as Chair and ranking member. This was a moment where we should be working together without any regard to party liabilities or party caucuses; this was an urgent matter of national security.

America was attacked on 9/11, 2001. The 9/11 Commission report was an indictment of various parts of our intelligence and security systems—border security, for instance—and an appeal for urgent action to close those gaps, to strengthen where we are vulnerable; again, an enemy to cause us harm and death, the likes of which we have never faced before; as someone else wrote, ''an enemy who hates us more than they love their own lives.''

Senator COLLINS and I from the beginning went forward on not only a bipartisan basis but on a nonpartisan basis—which turned out to be the case in our committee as well—and with the strong support of the bipartisan leadership of Senator FRIST and Senator DASCHLE. That has been the case on the floor of the Senate.

I am proud to say that I believe the proposal came from the Governmental Affairs Committee as a strong proposal. I feel that within a half hour of moving to final passage it has grown stronger as a result of action taken by the full Senate on the floor.

There is work yet to be done. Obviously, passing the Senate doesn't make it law; we have to go to conference and present something to the President which he can sign. But I think everyone here has caught the moment of urgency and responded to it in the national interest. This is a great way for us to end this session. I am speaking now apart from the national security implications—just what service in the Senate is all about and what message we send to the American people.

The message here is not just in the content of this law proposal but in the way we have done it, which is we are capable still in an increasingly political or partisan time, particularly prior to a national election, to put all that aside and do what is best for the American people.

I note the presence on the floor of my friend and colleague from Arizona. He and I have worked very hard together.

We thank our colleagues on both sides. In addition to the core parts of the Governmental Affairs Committee bill which adopted the critical intelligence recommendations of the 9/11 Commission establishing a national intelligence director, a national counterterrorism center, Senator MCCAIN and I offered amendments which accomplish and respond to all of the other major recommendations of the 9/11 Commission with regard to border security, for instance, and foreign policy; outreach to the Muslim world so that this bill, as we are ready to vote on it, really meets the challenges of the 9/11 Commission and responds to the pleas of the families who lost loved ones on 9/11 to do whatever we humanly could to make sure nothing like 9/11 ever happens again in the United States of America. I believe the product we are about to vote on does exactly that.

I thank the Chair and note the presence of other colleagues on the floor. I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise at this time as we head toward a vote on final passage to voice my strong support for this legislation. But equally important, I wish to pay tribute to the work of Senator LIEBERMAN and Senator COLLINS in fashioning this legislation in a bipartisan way. I am pleased to serve on the Governmental Affairs Committee with both of them.

This has been put together in a way that reflects the core recommendations of the September 11 Commission. It takes our intelligence-gathering system and creates a strong intelligence director but gives that director the kind of budget and personnel responsibility that will enable him to be effective as we continue to fight a long war on terrorism—a global fight the length of which we can't determine right now but whose priority and importance is undisputed. It takes all of the assets of our intelligence-gathering network—the assets that serve our national intelligence operation but puts them

under the national intelligence director—and gives that director the authority and the flexibility that is going to be necessary to be effective.

It deals with important issues such as border security and transportation today under the responsibility of the Commerce Committee. It creates a counterterrorism center—something that has already been done. But it is important that we authorize the counterterrorism center which is going to be responsible for putting together all of our efforts in dealing with terrorist threats, collecting and distributing that to law enforcement officials, and making sure that our objective of identifying threats to this country, whether it is through financing or the movement of personnel and materials, is done effectively.

While this legislation responds to the September 11 Commission recommendations, I think it is also important to recognize that the September 11 Commission report dealt with the weaknesses that led to the attacks in New York City and Washington and the downing of the plane in Pennsylvania. In order for this legislation to be effective, we need to continue to make sure all of our intelligence assets are focused on the future. There are going to be new threats and new challenges in what will be an evolving fight. The counterterrorism center is going to have to evolve over time to deal with new threats from different parts of the world.

We are going to have to improve our techniques for information sharing. We are going to have to develop new technologies for information gathering around the world. We will have to continue to improve our human intelligence system—something that was, unfortunately, lacking in the years which led up to September 11. This is going to be a continuing process of change.

I think it is most important that this legislation creates the infrastructure and a culture and a leadership structure that can respond to these changes which can evolve with the times and that can deal with the unexpected.

If there is one thing we can be sure of, it is that the fighting of terrorism around the world will include many unexpected, unpredictable events. But if we are to succeed, we want to make sure our intelligence-gathering operation has all the tools and the support that is necessary.

This is a very strong piece of legislation. It was put together in a bipartisan way, but it is not strong because it is bipartisan. I think it is receiving the bipartisan support because it is a strong, thoughtful piece of legislation.

We have a lot of work left to do. We are going to go to a conference with the House, and that in and of itself will be a long process to overcome any differences in the legislation. But I hope in the end and I believe in the end this will be a bill that makes our intelligence-gathering capability and our ability to fight terrorism around the world stronger and which will meet with the core and the thrust of the September 11 Commission report.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, later this afternoon the Senate is expected to adopt an amendment by the majority leader that establishes a national counterproliferation center. Establishing such a center now is premature and prejudges the ongoing work of the WMD Commission on which I have the honor of serving.

I am one who said we have to get this done, and have done everything under my power to be of some small assistance to the managers of the bill to complete our work on the 9/11 Commission's recommendations. So I find myself in kind of an interesting position saying that we ought to slow down on this one, but I am saying it because this issue was not addressed by the 9/11 Commission.

The President asked the WMD Commission to examine whether the U.S. Government should establish a national counterproliferation center and to offer our recommendation. If I may quote from the President's remarks on the day that he announced the establishment of the WMD Commission:

> Given the growing threat of weapons and missile proliferation in our world, it may also be necessary to create a similar center in our government to bring together our intelligence analysis planning and operations to track and prevent the spread of weapons of mass destruction. I asked the committee commission headed by Judge Laurence Silberman and Senator Chuck Robb to determine the merits of creating such a center.

In other words, the WMD Commission has been chartered to determine the creation of such a center. I have to tell my colleagues, as a member of that Commission, we have not yet reached a point where we could either recommend or not recommend. The Commission and its staff have held a number of discussions on the desirability of establishing a counterproliferation center, and we will soon examine the structure and responsibilities that such a center might entail, if it should be established at all. In response to the President's specific request, we will issue a formal recommendation in our final report in March.

This amendment could seriously undermine the work of the WMD Commission. The amendment would establish a national counterproliferation center before the Commission has even had a chance to fully study the issue. Rather than waiting for an in-depth review of the pros and cons of moving ahead with such a center—a review that will be fully completed in March—this amendment goes ahead and does it anyway. The proponents of this amendment, and I understand that, have argued that the center would not be established for a year after enactment of the underlying bill and the structures and responsibilities could be changed later. But if we are planning to delay establishing the center for a year and if we are open to changes which would presumably require changes in law, then why are we passing this amendment? Why interrupt the work of the WMD Commission when we could have the benefit of their assessment in a few months?

If the WMD Commission concludes no center is needed, or something different is more appropriate, then it would be very hard to find an opportunity to take this recommendation into account, short of passing legislation that will rescind this amendment if it is enacted.

I don't believe we should interfere with the WMD Commission's work. What we should do is allow all of the facts to be considered and debated, and then we can take the appropriate actions at that time.

Let's make no mistake, establishing this center would be a very significant action by the Congress. It cuts to the heart of the security issues that we all agree are critical to our Nation. We need to make sure that if we are going to do this, we do it right. We should await the WMD Commission's report, hear a variety of opinions, and structure the center, if it is needed, in a way that makes the most sense of the task at hand. We should not take the shortcuts on an issue of such importance, but I am afraid we are on the verge of doing just that.

We owe it to the American people to fully assess the implications of building a national counterproliferation center. This will be far reaching. I don't believe any Members have had a chance to examine this in any detail. The amendment puts the cart before the horse and I strongly oppose it.

I repeat again, the 9/11 Commission did not address the issue of counterproliferation. They addressed a broad variety of issues but counterproliferation was not one of them. And weapons of mass destruction, in the sense of the charter of the WMD Commission, was not part of their deliberations.

I have strongly supported the 9/11 Commission recommendations. I am proud of the work Senator COLLINS and Senator LIEBERMAN have done in addressing every single one of the 9/11 Commission recommendations with the exception of two that have to do with the congressional reorganization.

Having said that, this amendment is out of the purview of the September 11 Commission and, frankly, out of the purview of this pending legislation.

The majority leader has assured me there will be language, certain caveats about how it could be changed, et cetera, and I appreciate that. We have had a significant dialog on the issue. But the difference I have with the amendment and the majority leader is basically that we have said we are going to establish this national counterproliferation center, period.

This is not an issue of national emergency. I think it does a disservice to the WMD Commission on which I serve, which would report out in March their recommendations and conclusions, and we would be acting, then, on far firmer ground.

Maybe we can talk about it more after this bill is passed. I know the White House has severe reservations about this amendment. Maybe we could continue a dialog on it and at least make this amendment significantly more palatable so that the Weapons of Mass Destruction Commission recommendations that come out in March can be fully and completely considered.

I thank the majority leader for his commitment to maintaining a dialog on this issue. I may not be able to speak again in the Senate, but I again express my profound and deep appreciation to Senator COLLINS and Senator LIEBERMAN who have displayed adequately for all Americans as well as Members of this body that if there is a cause great enough and people good enough that we will act in a bipartisan fashion for the good of this Nation.

I have been in this body for only 18 years, but this is one of my prouder moments because of the way this entire body has acted in the national interest.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 3895, AS FURTHER MODIFIED

Mr. FRIST. Mr. President, I rise to comment on the amendment we will be voting on in a bit. It does center on the establishment of a counterproliferation center.

I appreciate the comments of my distinguished colleague from Arizona. We have had the opportunity to talk over the course of today about this amendment and we have a modification. I have talked to the White House and, based on that conversation, made further modifications.

The reason we should vote on this amendment and it should be a part of this package that we can all be very proud of passing here in 10, 15, or 20 minutes is that the greatest threat facing our country is not a terrorist. We all know it is not just the terrorists. The greatest threat is a terrorist armed with some sort of weapon of mass destruction.

In debate the other night before 60 million people, President Bush and Senator KERRY cited the nexus between proliferation and terrorism being their single greatest concern and the most significant challenge our country faces. This whole concept of counterproliferation—talk about a counterproliferation center is not a new idea, but it is a new component of U.S. policy and has been looking at the safety and security of the American people and an overhaul of our intelligence gathering and intelligence system. The counterproliferation is an important component to be addressed.

Counterproliferation is a broad topic and it includes everything the United States and its allies do to halt, to deter, to stop, to roll back the trafficking of weapons of mass destruction, their delivery systems and related materials.

It means interdicting these dangerous materials before they get into the hands of the world's most dangerous terrorists. It means stopping these items before terrorist groups can assemble them into weapons and deliver them to our homeland.

Again, we are talking about counterproliferation, not just counterterrorism. But counterproliferation also means unraveling those proliferation networks that supply, sustain, finance, and enable proliferation suppliers and customers. They are the linkages and supply chains between countries that proliferate, firms that proliferate, middlemen, and their customers around the globe.

The most famous network unraveled by the U.S. and its partners was the AQ Khan network. It was this network that supplied Libya, Iran, and possibly others, with nuclear equipment, materials, and know-how. Counterproliferation works, but it takes close cooperation, it takes close coordination, and it takes teamwork within the United States, and with our friends and allies around the world.

The most famous interdiction of recent times was the stopping of the BBC China, a ship that was delivering nuclear parts and components to Libya before being interdicted at a friendly port by some of our European allies. This interdiction had a major effect on prompting Colonel Qadhafi to come clean and to give up his programs.

With more and more countries possibly pursuing weapons of mass destruction programs, and with those same proliferators skirting international laws, treaties, and export control regimes, counterproliferation can help fill the gap and slow or stop this dangerous trade.

The President's Proliferation Security Initiative was a positive step in this direction, but there is more that we can do and we should do. This amendment directs what we can and should do.

The President's Proliferation Security Initiative is supported by over 60 countries, and nearly two dozen are active participants. As we expand globally, however, we, at the same time, need to develop internally. Indeed, the 9/11 Commission called for strengthening the Proliferation Security Initiative in its report and its recommendations.

Establishing a National Counterterrorism Center is necessary. We are doing that. But the National Counterterrorism Center will be focusing on terrorists and terrorist groups. The Nation needs a similar center that, working closely with the National counterterrorism Center, will focus, clarify, and coordinate our country's counterproliferation efforts.

In other words, as the counterterrorism center focuses on the customers, the end users of these dangerous weapons—the terrorists—the national counterproliferation center will be focusing on the suppliers and brokers and distributors of these weapons. This separate center will endeavor to stop these activities before they ever reach the terrorists, before they ever reach the bad guys.

That is what my amendment does. Establishing a national counterproliferation center not only promotes this critical function called counterproliferation that is so necessary to defend our country, it also breaks down the stovepipes that currently exist within the executive branch.

This amendment tracks very closely to the structure, authorities, and roles established for the National Counterterrorism Center. Further, we have made changes to this amendment as amendments to the National Counterterrorism Center have been offered on the floor.

This amendment has also been modified to make clear that counterproliferation does not include programs such as the Cooperative Threat Reduction Program and other threat reduction programs; that our traditional nonproliferation efforts as they pertain to treaties and regimes are not included; and that it does not apply to programs that provide protective gear, clothing, and other items that protect our troops on the battlefield from weapons of mass destruction attacks.

Finally, as my distinguished colleague from Arizona said, I am well aware—we all are—that the President has a Commission studying this issue. That is why this amendment sets the parameters for a national counterproliferation center without getting into the explicit detail. It also does not call for any existing agencies or efforts to be disestablished.

The amendment is also consistent with the framework and authorities for the NID that have been established in the underlying bill.

I have also modified the implementation date so that this center does not have to be established until late next year.

All of this gives the President the flexibility to fine-tune the center based on the findings of his Commission. It also gives him time to establish the center, particularly since the administration will be busy in the coming months setting up the counterterrorism center.

The bottom line is this: Just as we take the offensive in the global war on terrorism, we must similarly take the offensive in stopping the proliferation of weapons of mass destruction. Our nonproliferation efforts are a good defense, but they are not sufficient. We need a good offense, and counterproliferation is just the answer.

The role of the national counterproliferation center, therefore, is to coordinate, plan, and manage

those efforts. It is to break down the stovepipes that exist in this nascent effort. It is to deny the terrorists and others access to weapons of mass destruction and their materials while the National Counterterrorism Center works to dismantle terrorist groups and bring terrorists to justice.

Mr. President, establishing a national counterproliferation center is not only the smart thing to do, it is something we must do. I encourage my colleagues to give this amendment their full support. Doing so will make the country and the American people much safer.

Let me also add, in response to the Senator from Arizona, we have received input from the White House on how to improve this amendment. We have incorporated their ideas. The White House, at this point, does not oppose this amendment.

I am confident this amendment does strike the proper balance between establishing the national counterproliferation center and, at the same time, leaving the President more than sufficient time—a year—and flexibility to modify it as he sees fit or as the Commission recommends.

This amendment is crafted in a manner so as to leave the whole range of details for the President and the Commission to flush out as they see fit.

Finally, the modified amendment also includes a provision we worked on with a number of Senators, including Senator MCCAIN's staff, that makes clear that the intent of this amendment is not to undermine or override the Commission.

Mr. President, I yield the floor and do appreciate the consideration of my colleagues in supporting this amendment.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I know of no further debate on the leader's amendment. The modification has been sent to the desk. Mr. President, this is the Frist amendment No. 3895, as further modified.

The PRESIDING OFFICER. The amendment is further modified.

The amendment, as further modified, is as follows:

On page 94, strike line 5 and insert the following:

SEC. 144. NATIONAL COUNTERPROLIFERATION CENTER.

(a) NATIONAL COUNTERPROLIFERATION CENTER.—(1) Within one year of enactment of this Act there shall be established within the National Intelligence Authority a National Counterproliferation Center.

(2) The purpose of the Center is to develop, direct, and coordinate the efforts and activities of the United States Government to interdict the trafficking of weapons of mass destruction, related materials and technologies, and their delivery systems to terrorists, terrorist organizations, other nonstate actors of concern, and state actors of concern.

(b) DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—(1) There is a Director of the National Counterproliferation Center, who shall be the head of the National Counterproliferation Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as the Director of the National Counterproliferation Center shall have significant expertise in matters relating to the national security of the United States and matters relating to the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies that threaten the national security of the United States, its interests, and allies.

(3) The individual serving as the Director of the National Counterproliferation Center may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Director of the National Counterproliferation Center is doing so in an acting capacity.

(c) SUPERVISION.—(1) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the budget, personnel, activities, and programs of the National Counterproliferation Center.

(2) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the activities of the Directorate of Intelligence of the National Counterproliferation Center under subsection (g).

(3) The Director of the National Counterproliferation Center shall report to the President and the National Intelligence Director on the planning and progress of Counterproliferation operations.

(d) PRIMARY MISSIONS.—The primary missions of the National Counterproliferation Center shall be as follows:

(1) To develop and unify strategy for the Counterproliferation efforts of the United States Government.

(2) To make recommendations to the National Intelligence Director with regard to the collection and analysis requirements and priorities of the National Counterproliferation Center.

(3) To integrate Counterproliferation intelligence activities of the United States Government, both inside and outside the United States, and with other governments.

(4) To conduct stgrategic planning and develop recommended courses of action for multilateral and United States Government Counterproliferation activities, which—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President) of the United States Government; and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency operational activities, recommendations for operational activities, and assignment of national, departmental, or agency responsibilities.

(5) To ensure that the collection, analysis, and utilization of Counterproliferation intelligence, and the conduct of Counterproliferation operations, by the United States Government are informed by the analysis of all-source intelligence.

(e) DUTIES AND RESPONSIBILITIES OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—Notwithstanding any other provision of law, at the direction of the President and the National Intelligence Director, the Director of the National Counterproliferation Center shall—

(1) serve as a principal adviser to the President and the National Intelligence Director on operations relating to interagency Counterproliferation planning and activities;

(2) provide unified strategic direction for the Counterproliferation efforts of the United States Government and for the effective integration and deconfliction of counterproliferation intelligence and operations across agency boundaries, both inside and outside the United States, and with foreign governments;

(3) advise the President and the National Intelligence Director on the extent to which the Counterproliferation program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the policies and priorities established by the President and the National Security Council;

(4) advise the President on, the selections of personnel to head the nonmilitary operating entities of the United States Government with principal missions relating to Counterproliferation;

(5) advise the President and the National Intelligence Director on the science and technology research and development requirements and priorities of the Counterproliferation programs and activities of the United States Government; and

(6) perform such other duties as the National Intelligence Director may prescribe or are prescribed by law;

(f) DIRECTORATE OF INTELLIGENCE.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Intelligence.

(2) The Directorate shall have primary responsibility within the United States Government for the analysis of information regarding proliferators (including individuals, entities, organizations, companies, and states) and their networks, from all sources of intelligence, whether collected inside or outside the United States.

(3) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected proliferators, their networks, their activities, and their capabilities;

(B) propose intelligence collection and analysis requirements and priorities for action by elements of the intelligence community inside and outside the United States;

(C) have primary responsibility within the United States Government for net assessments and warnings about weapons of mass destruction proliferation threats, which assessments and warnings shall be based on a comparison of the intentions and capabilities of proliferators with assessed national vulnerabilities and countermeasures;

(D) conduct through a separate office independent analyses (commonly referred to as ''red teaming'') of intelligence collected and analyzed with respect to proliferation; and

(E) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(g) DIRECTORATE OF PLANNING.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for conducting strategic planning and developing courses of action for Counterproliferation activities, as described in subsection (d)(4).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter proliferation activities based on policy objectives and priorities established by the National Security Council;

(B) develop plans under subparagraph (A) utilizing input from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to Counterproliferation;

(C) assign responsibilities and propose courses of action for Counterproliferation operations to the departments and agencies of the United States Government (including the Department of Defense, the Department of State, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government), consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the performance of the departments, agencies, and elements of the United States with regard to the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(h) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterproliferation Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist the Director of the National Counterproliferation Center in fulfilling the duties and responsibilities of the Director of the National Counterproliferation Center under this section, the National Intelligence Director shall employ in the National Counterproliferation Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterproliferation Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterproliferation Center is comprised primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to the National Counterproliferation Center from any element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government and not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterproliferation Center under this subsection shall be under the authority, direction, and control of the Director of the National Counterproliferation Center on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterproliferation Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterproliferation Center may, with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director may delegate to the Director of the National Counterproliferation Center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (8).

(10) The National Intelligence Director shall ensure that the staff of the National Counterproliferation Center has access to all databases and information maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(i) SUPPORT AND COOPERATION OF OTHER AGENCIES.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterproliferation Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterproliferation Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (h)(4);

(B) cooperative work with the Director of the National Counterproliferation Center to ensure that ongoing operations of such department, agency, or element do not conflict with operations planned by the Center;

(C) reports, upon request, to the Director of the National Counterproliferation Center on the performance of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterproliferation Center electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterproliferation Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the President of the necessity of resolving the disagreement.

(j) DEFINITIONS.—In this section:

(1) The term ''Counterproliferation'' means—

(A) activities, programs and measures for interdicting (including deterring, preventing, halting, and rolling back) the transfer or transport (whether by air, land or sea) of weapons of mass destruction, their delivery systems, and related materials and technologies to and from states and non-state actors (especially terrorists and terrorist organizations) of proliferation concern;

(B) enhanced law enforcement activities and cooperation to deter, prevent, halt, and rollback proliferation-related networks, activities, organizations, and individuals, and bring those involved to justice; and

(C) activities, programs, and measures for identifying, collecting, and analyzing information and intelligence related to the transfer or transport of weapons, systems, materials, and technologies as described in subparagraph (A).

(2) ''Counterproliferation'' does not include—

(A) the Cooperative Threat Reduction and other threat reduction programs run or administered by the Department of Defense, Department of Energy and Department of State;

(B) the nonproliferation efforts and activities of the United States Government as they apply to the implementation and management of nonproliferation treaties, conventions, and regimes; or,

(C) programs designated to protect members of the Armed Forces from the employment of weapons of mass destruction by developing and fielding protective equipment, gear and clothing, and other means to enhance the survivability of Armed Forces personnel on the battlefield.

(3) The term ''states and non-state actors of proliferation concern'' refers to countries or entities (including individuals, entities, organizations, companies, and networks) that should be subject to counterproliferation activities because of their actions or intent to engage in proliferation through—

(A) efforts to develop or acquire chemical, biological, or nuclear weapons and associated delivery systems; or

(B) transfers (either selling, receiving, or facilitating) of weapons of mass destruction, their delivery systems, or related materials.

(k) REPORTS ON EESTABLISHMENT.—(1)(A) The President shall submit to Congress a report on the plans of the President to establish the National Counterproliferation Center as required by this section.

(B) The report shall be submitted not later than six months after the date of the enactment of this Act, and not later than 30 days before the date of the establishment of the National Counterproliferation Center.

(2) The President shall submit to Congress from time to time such updates of the plans under paragraph (1)(a) as the President considers appropriate. Each update shall include such recommendations for legislative or administrative action as the President considers appropriate to improve the effectiveness of the National Counterproliferation Center consistent with its mission.

(m) CONSTRUCTION WITH CERTAIN CONDITIONS.—Nothing in this section shall override recommendations contained in the forthcoming final report of the President's Commission on Weapons of Mass Destruction, established by Executive Order in February 2004, that will improve the effectiveness of the National Counterproliferation Center:

Provided further, That in the case of a conflict between the WMD Commission's final report and the National Counterproliferation Center as established in this section, the Congress and the President shall consider the Commission's recommendations and act as soon as practicable thereafter to make such modifications to statute as deemed necessary.

SEC. 145. NATIONAL INTELLIGENCE CENTERS.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as further modified.

The amendment (No. 3895), as further modified, was agreed to.

Ms. COLLINS. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. Mr. President, I have a series of cleared amendments at the desk. Some of them are modifications of previously submitted amendments. Therefore, I ask unanimous consent that the amendments be considered en bloc, modified as necessary, agreed to en bloc, with the motions to reconsider laid upon the table.

Mr. REID. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3896

Ms. COLLINS. Mr. President, I ask unanimous consent that the Frist amendment No. 3896 be considered at this point.

The PRESIDING OFFICER. Without objection, the amendment is now pending.

Ms. COLLINS. Mr. President, I know of no further debate on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3896) was agreed to.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3876, WITHDRAWN

Mr. WARNER. Mr. President, I have worked with the distinguished managers. Like so many things in the course of our legislative process, we have worked out a very large number of items, and they have been accepted. One remains and, in my judgment, the various good-faith proposals simply do not meet the criteria that I feel has to be established. So I have two courses of action. One, which I intend to follow, is to withdraw the amendment. The second, of course, would be to press this on with a vote. Frankly, given the structure of the vote—I don't say this as criticism—it does not allow the time in which to get sufficient information and viewpoints to my colleagues to prevail on such a vote. So I think the better course of action for this Senator is to continue to press my concerns in the course of the conference.

At this time, I call up amendment No. 3876.

The PRESIDING OFFICER. The amendment is pending.

Mr. WARNER. Mr. President, I ask that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. For a little expression of the explanation of the amendment, I go back to two very important documents. The first is a letter dated September 28, 2004, Statement of Administration Policy. I ask unanimous consent that the following paragraph be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The Administration notes that the Committee bill did not include Section 6 (''Preservation of Authority and Accountability'') of the Administration's proposal; the Administration supports inclusion of this provision in the Senate bill. The legislation should also recognize that its provisions would be executed to the extent consistent with the constitutional authority of the President: to conduct the foreign affairs of the United States; to withhold information the disclosure of which could impair the foreign relations, the national security, deliberative processes of the Executive, or the performanceof the Executive's constitutional duties; to recommend for congressional consideration such measures as the President may judge necessary or expedient; and to supervise the unitary executive.

Mr. WARNER. That paragraph states that:

The Administration opposes the Committee's attempt to define in statute programs that should be included in the National Intelligence Program.

I believe we have to work this out in a clearer fashion. It is also more clear than what is in the amendment structure today, so I will put that aside and then go to the subject of this amendment.

The last paragraph of the September 28 letter reads:

The Administration notes that the Committee did not include Section 6, (''Preservation of Authority and Accountability'') of the Administration's proposal; the Administration supports the inclusion of this provision in the Senate bill.

That was the basic intent of my amendment; therefore, I will take the opportunity to work on that during the course of conference in the hopes of achieving that goal.

I thank the managers for their effort to work on it, and we will hopefully work on it further to achieve this administration goal.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I very much appreciate the cooperation of the chairman of the Armed Services Committee. We have incorporated many of his suggestions into the bill. I appreciate his advice.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION TO NO. 3807

Ms. COLLINS. Mr. President, I ask unanimous consent to modify amendment No. 3807, with the changes at the desk, notwithstanding its prior adoption.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is as follows:

hold driver's licenses and personal identification cards.

(4) NEGOTIATED RULEMAKING.—

(A) IN GENERAL.—Before publishing the proposed regulations required by paragraph (2) to carry out this title, the Secretary of Transportation shall establish a negotiated rulemaking process pursuant to subchapter IV of chapter 5 of title 5, United States Code (5 U.S.C. 561 et seq.).

(B) REPRESENTATION ON NEGOTIATED RULEMAKING COMMITTEE.—Any negotiated rulemaking committee established by the Secretary of Transportation pursuant to subparagraph (A) shall include representatives from—

(i) among State offices that issue driver's licenses or personal identification cards;

(ii) among State elected officials;

(iii) the Department of Homeland Security; and

(iv) among interested parties, including organizations with technological and operational expertise in document security and organizations that represent the interests of applicants for such licenses or identification cards.

(C) TIME REQUIREMENT.—The process described in subparagraph (A) shall be conducted in a timely manner to ensure that—

(i) any recommendation for a proposed rule or report is provided to the Secretary of Transportation not later than 9 months after the date of enactment of this Act; and

(ii) a final rule is promulgated not later than 18 months after the date of enactment of this Act.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary of Transportation shall award grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

(2) ALLOCATION OF GRANTS.—The Secretary of Transportation shall award grants to States under this subsection based on the proportion that the estimated average annual number of driver's licenses and personal identification cards issued by a State applying for a grant bears to the average annual number of such documents issued by all States.

(3) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), each State shall receive not less than 0.5 percent of the grant funds made available under this subsection.

(d) EXTENSION OF EFFECTIVE DATE.—The Secretary of Transportation may extend the date specified under subsection (b)(1)(A) for up to 2 years for driver's licenses issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under such subsection but was unable to do so.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. ___08. SOCIAL SECURITY CARDS.

(a) SECURITY ENHANCEMENTS.—The Commissioner of Social Security shall—

(1) not later than 180 days after the date of enactment of this section, issue regulations to restrict the issuance of multiple replacement social security cards to any individual to minimize fraud;

(2) within 1 year after the date of enactment of this section, require verification of records provided by an applicant for an original social security card, other than for purposes of enumeration at birth; and

(3) within 18 months after the date of enactment of this section, add death, fraud, and work authorization indicators to the social security number verification system.

(b) INTERAGENCY SECURITY TASK FORCE.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Not later than 1 year after the date of enactment of this section, the task force shall establish security requirements, including—

(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

(2) requirements for verifying documents submitted for the issuance of replacement cards; and

(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

AMENDMENTS NOS. 3733, AS MODIFIED, 3760, 3837, AS MODIFIED, 3861, AS MODIFIED, 3880, AS MODIFIED, 3924, AS MODIFIED, 3977, 3978, 3979, AND 3980

Ms. COLLINS. Mr. President, Senator LIEBERMAN and I have a series of cleared amendments at the desk. Some of these are modifications of previously submitted amendments. Therefore, I ask unanimous consent that the amendments be considered en bloc, modified as necessary, agreed to en bloc, with the motions to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 3733, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. REPORT ON USE OF DATABASES.

(a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist, criminal, or other law enforcement related activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—Beginning one year after the effective date of this section the National Intelligence Director shall submit a report, public to the extent possible with a classified annex, to Congress on all activities of the intelligence community to use or develop data-mining technology.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology, the plans for the use of such technology, the data that will be used, and the target dates for the deployment of the data-mining technology.

(B) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(C) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(D) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence and Committee on the Judiciary of the House of Representatives.

(3) TIME FOR REPORT.—The report required under paragraph (1) shall be submitted not later than September 30th of each year.

(4) EXPIRATION.—The requirements of this subsection shall expire 4 years after the date of enactment of this Act.

AMENDMENT NO. 3760

(Purpose: To provide that the Privacy and Civil Liberties Oversight Board include in certain reports, any proposal that the Board advised against, but actions were taken to implement)

On page 158, line 5, strike ''and''.

On page 158, line 9, strike the period and insert ''; and''.

On page 158, insert between lines 9 and 10, the following:

(C) each proposal reviewed by the Board under subsection (d)(1) that—

(i) the Board advised against implementation; and

(ii) notwithstanding such advice, actions were taken to implement.

AMENDMENT NO. 3837, AS MODIFIED

At the end, add the following:

TITLE IV—ADVANCED TECHNOLOGY NORTHERN BORDER SECURITY PILOT PROGRAM

SEC. 401. ESTABLISHMENT.

The Secretary of Homeland Security may carry out a pilot program to test various advanced technologies that will improve border security between ports of entry along the northern border of the United States.

SEC. 402. PROGRAM REQUIREMENTS.

(a) REQUIRED FEATURES.—The Secretary of Homeland Security shall design the pilot program under this title to have the following features:

(1) Use of advanced technological systems, including sensors, video, and unmanned aerial vehicles, for border surveillance.

(2) Use of advanced computing and decision integration software for—

(A) evaluation of data indicating border incursions;

(B) assessment of threat potential; and

(C) rapid real-time communication, monitoring, intelligence gathering, deployment, and response.

(3) Testing of advanced technology systems and software to determine best and most cost-effective uses of advanced technology to improve border security.

(4) Operation of the program in remote stretches of border lands with long distances between 24-hour ports of entry with a relatively small presence of United States border patrol officers.

(5) Capability to expand the program upon a determination by the Secretary that expansion would be an appropriate and cost-effective means of improving border security.

(b) COORDINATION WITH OTHER AGENCIES.—The Secretary of Homeland Security shall ensure that the operation of the pilot program under this title—

(1) is coordinated among United States, State and local, and Canadian law enforcement and border security agencies; and

(2) includes ongoing communication among such agencies.

SEC. 403. ADMINISTRATIVE PROVISIONS.

(a) PROCUREMENT OF ADVANCED TECHNOLOGY.—The Secretary of Homeland Security may enter into contracts for the procurement or use of such advanced technologies as the Secretary determines appropriate for the pilot program under this title.

(b) PROGRAM PARTNERSHIPS.—In carrying out the pilot program, the Secretary of Homeland Security may provide for the establishment of cooperative arrangements for participation in the pilot program by such participants as law enforcement and border security agencies referred to in section 402(b), institutions of higher education, and private sector entities.

SEC. 404. REPORT.

(a) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the pilot program under this title.

(b) CONTENT.—The report under subsection (a) shall include the following matters:

(1) A discussion of the implementation of the pilot program, including the experience under the pilot program.

(2) A recommendation regarding whether to expand the pilot program along the entire northern border of the United States and a timeline for the implementation of the expansion.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the pilot program under this title.

AMENDMENT NO. 3861, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. BORDER SURVEILLANCE.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the President and the appropriate committees of Congress a comprehensive plan for the systematic surveillance of the

Southwest border of the United States by remotely piloted aircraft.

(b) CONTENTS.—The plan submitted under subsection (a) shall include—

(1) recommendations for establishing command and control centers, operations sites, infrastructure, maintenance, and procurement;

(2) cost estimates for the implementation of the plan and ongoing operations;

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

(A) protecting the lives of people seeking illegal entry into the United States;

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

(D) using remotely piloted aircraft to serve as platforms for the collection of intelligence against smugglers and criminal networks along the border; and

(E) further validating and testing of remotely piloted aircraft for airspace security missions; and

(6) the equipment necessary to carry out the plan.

(7) A recommendation regarding whether to expand the pilot program along the entire southwestern border.

(c) IMPLEMENTATION.—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as a pilot program as soon as sufficient funds are appropriated and available for this purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

AMENDMENT NO. 3880, AS MODIFIED

On page 19, between lines 14 and 15, insert the following:

(c) CONSISTENCY OF PERSONNEL POLICIES AND PROGRAMS WITH CERTAIN OTHER PERSONNEL POLICIES AND STANDARDS.—(1) The personnel policies and programs developed and implemented under subsection (a)(8) with respect to members of the uniformed services shall be consistent with any other personnel policies and standards applicable to the members of the uniformed services.

(2) It is the sense of the Senate that the NID shall seek input from the Secretary of Defense, the secretaries of the military departments, and, as appropriate, the Secretary of Homeland Security in developing and implementing such policies and programs.

On page 19, line 15, strike ''(c)'' and insert ''(d)''.

On page 20, line 4, strike ''(d)'' and insert ''(e)''.

AMENDMENT NNO. 3924, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. ENTERPRISE ARCHITECTURE.

(a) DEFINITION OF ENTERPRISE ARCHITECTURE.—In this section, the term ''enterprise architecture'' means a detailed outline or blueprint of the information technology of the Federal Bureau of Investigation that will satisfy the ongoing mission and goals of the Federal Bureau of Investigation and that sets forth specific and identifiable benchmarks.

(b) ENTERPRISE ARCHITECTURE.—The Federal Bureau of Investigation shall—

(1) continually maintain and update an enterprise architecture; and

(2) maintain a state of the art and up to date information technology infrastructure that is in compliance with the enterprise architecture of the Federal Bureau of Investigation.

(c) REPORT.—Subject to subsection (d), the Director of the Federal Bureau of Investigation shall report to the House and Senate Judiciary Committees, on an annual basis, on whether the major information technology investments of the Federal Bureau of Investigation are in compliance with the enterprise architecture of the Federal Bureau of Investigation and identify any inability or expectation of inability to meet the terms set forth in the enterprise architecture.

(d) FAILURE TO MEET TERMS.—If the Director of the Federal Bureau of Investigation identifies any inability or expectation of inability to meet the terms set forth in the enterprise architecture in a report under subsection (c), the report under subsection (c) shall—

(1) be twice a year until the inability is corrected;

(2) include a statement as to whether the inability or expectation of inability to meet the terms set forth in the enterprise architecture is substantially related to resources; and

(3) if the inability or expectation of inability is substantially related to resources, include a request for additional funding that would resolve the problem or a request to reprogram funds that would resolve the problem.

(e) Federal Bureau of Investigation's Enterprise Architecture, Agency Plans and Reports—This section shall be carried out in compliance with the requirements set forth in Sec. 206(f) and (1).

AMENDMENT NO. 3977

On page 4, beginning on line 10, strike ''information gathered, and activities'' and inserting ''foreign intelligence gathered, and information gathering and other activities''.

On page 4, line 16, insert before the period the following: '', but does not include personnel, physical, document, or communications security programs''.

On page 23, line 8, strike the period and insert ''as it pertains to those programs, projects, and activities within the National Intelligence Program''.

On page 24, line 10, insert ''transactional deposit'' after ''establish''.

On page 181, line 9, insert ''or involving intelligence acquired through clandestine means'' before the period.

AMENDMENT NO. 3978

(Purpose: to authorize the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators)

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: ''All immigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: ''All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: ''As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.''.

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) REQUIREMENT FOR SPECIALIST.—

(A) IN GENERAL.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify the diplomatic and consular posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

(B) EXCEPTIONS.—The Secretary of State is not required to assign or designate a specialist as described in subparagraph (A) at a diplomatic and consular post if an employee of the Department of Homeland Security is assigned on a full-time basis to such post under the authority in section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were made available during the preceding fiscal year. Of the additional border patrol agents, in each fiscal year not less than 20 percent of such agents shall be assigned to duty stations along the northern border of the United States.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were made available during the preceding fiscal year.

AMENDMENT NO. 3979

(Purpose: To amend the Immigration and Nationality Act to ensure that nonimmigrant visas are not issued to individuals with connections to terrorism or who intend to carry out terrorist activities in the United States)

At the end, add the following new title:

TITLE IV—VISA REQUIREMENTS

SEC. 401. IN PERSON INTERVIEWS OF VISA APPLICANTS.

(a) REQUIREMENT FOR INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a nonimmigrant visa—

''(1) who is at least 12 years of age and not more than 65 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

''(A) by a consular official and such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

''(B) by a consular official and such alien is applying for a visa—

''(i) not more than 12 months after the date on which the alien's prior visa expired;

''(ii) for the classification under section 101(a)(15) for which such prior visa was issued;

''(iii) from the consular post located in the country in which the alien is a national; and

''(iv) the consular officer has no indication that the alien has not complied with the immigration laws and regulations of the United States; or

''(C) by the Secretary of State if the Secretary determines that such waiver is—

''(i) in the national interest of the United States; or

''(ii) necessary as a result of unusual circumstances; and

''(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

''(A) is not a national of the country in which the alien is applying for a visa;

''(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

''(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

''(D) may not obtain a visa until a security advisory opinion or other Department of State clearance is issued unless such alien is—

''(i) within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

''(ii) not a national of a country that is officially designated by the Secretary of State as a state sponsor of terrorism; or

''(E) is identified as a member of a group or sector that the Secretary of State determines—

''(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

''(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

''(iii) poses a security threat to the United States.''.

SEC. 402. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting ''The alien shall provide complete and accurate information in response to any request for information contained in the application.'' after the second sentence.

SEC. 403. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect 90 days after date of the enactment of this Act.

AMENDMENT NO. 3980

(Purpose: To require the establishment of pilot projects relating to the coordination of information among emergency first responders, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. REGIONAL MODEL STRATEGIC PLAN PILOT PROJECTS.

(a) PILOT PROJECTS.—Consistent with sections 302 and 430 of the Homeland Security Act of 2002 (6 U.S.C. 182, 238), not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Executive Director of the Office of State and Local Government Coordination and Preparedness and the Undersecretary for Science and Technology, shall establish not fewer than 2 pilot projects in high threat urban areas or regions that are likely to implement a national model strategic plan.

(b) PURPOSES.—The purposes of the pilot projects required by this section shall be to develop a regional strategic plan to foster interagency communication in the area in which it is established and coordinate the gathering of all Federal, State, and local first responders in that area, consistent with the national strategic plan developed by the Department of Homeland Security.

(c) SELECTION CRITERIA.—In selecting urban areas for the location of pilot projects under this section, the Secretary shall consider—

(1) the level of threat risk to the area, as determined by the Department of Homeland Security;

(2) the number of Federal, State, and local law enforcement agencies located in the area;

(3) the number of potential victims from a large scale terrorist attack in the area; and

(4) such other criteria reflecting a community's risk and vulnerability as the Secretary determines is appropriate.

(d) INTERAGENCY ASSISTANCE.—The Secretary of Defense shall provide assistance to the Secretary of Homeland Security, as necessary for the development of the pilot projects required by this section, including examining relevant standards, equipment, and protocols in order to improve interagency communication among first responders.

(e) REPORTS TO CONGRESS.—The Secretary of Homeland Security shall submit to Congress—

(1) an interim report regarding the progress of the interagency communications pilot projects required by this section 6 months after the date of enactment of this Act; and

(2) a final report 18 months after that date of enactment.

(f) FUNDING.—There are authorized to be made available to the Secretary of Homeland Security, such sums as may be necessary to carry out this section.

Ms. COLLINS. Mr. President, I thank everyone who has worked so hard on this bill, particularly my colleague and partner, Senator LIEBERMAN.

I believe we are ready to move to third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

Ms. COLLINS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. BENNETT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—96

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (FL)	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Campbell	Hagel	Rockefeller
Cantwell	Harkin	Santorum
Carper	Hatch	Sarbanes
Chafee	Hutchison	Schumer
Chambliss	Inhofe	Sessions
Clinton	Inouye	Shelby
Cochran	Jeffords	Smith
Coleman	Johnson	Snowe
Collins	Kennedy	Specter
Conrad	Kohl	Stabenow
Cornyn	Kyl	Stevens
Corzine	Landrieu	Sununu
Craig	Lautenberg	Talent
Crapo	Leahy	Thomas
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wyden

NAYS—2

Byrd	Hollings

NOT VOTING—2

Edwards	Kerry

The bill (S. 2845), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE COMMITTEE REORGANIZATION

The PRESIDING OFFICER (Mr. ALEXANDER). Under the previous order, the Senate will now proceed to the consideration of S. Res. 445, which the clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 445) to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

AMENDMENT NO. 3981

(Purpose: To implement the Congressional oversight recommendations of the 9/11 Commission)

Mr. MCCONNELL. Mr. President, on behalf of Senator REID and myself, I send to the desk an amendment in the nature of a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE, proposes an amendment numbered 3981.

Mr. MCCONNELL. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert the following:

SEC. 100. PURPOSE.

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

SEC. 101. HOMELAND SECURITY.

(a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

(1) Department of Homeland Security, except matters relating to the Coast Guard, to the Transportation Security Administration, to the Federal Law Enforcement Training Center and the revenue functions of the Customs Service.

(2) Archives of the United States.

(3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(4) Census and collection of statistics, including economic and social statistics.

(5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

(6) Federal Civil Service.

(7) Government information.

(8) Intergovernmental relations.

(9) Municipal affairs of the District of Columbia, except appropriations therefor.

(10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) ADDITIONAL DUTIES.—The committee shall have the duty of—

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) JURISDICTION OF SENATE COMMITTEES.—The jurisdiction of the Committee on Homeland Security and Governmental Affairs provided in subsection (b) shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate.

TITLE II—INTELLIGENCE OVERSIGHT REFORM

SEC. 201. INTELLIGENCE OVERSIGHT.

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress) (referred to in this section as ''S. Res. 400'') is amended by—

(1) inserting ''(A)'' after ''(3)''; and

(2) inserting at the end the following:

''(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.''.

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

(1) in paragraph (1), by inserting ''not to exceed'' before ''fifteen members'';

(2) in paragraph (1)(E), by inserting ''not to exceed'' before ''seven''; and

(3) in paragraph (2), by striking the second sentence and inserting ''Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin.''.

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND RANKING MEMBER.—Section 2(b) of S. Res. 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: ''At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.''.

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end the following:

''(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman and Vice Chairman of the select Committee, respectively.''.

(f) REPORTS.—Section 4(a) of S. Res. 400 is amended by inserting '', but not less than quarterly,'' after ''periodic''.

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

''SEC. 15. (a) The select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

''(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces, and shall have full access to select Committee staff, information, records, and databases.

''(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee clearance requirements for employment by the select Committee.''.

(h) NOMINEES.—S. Res. 400 is amended by adding at the end the following:

''SEC. 17. (a) The select Committee shall have final responsibility for reviewing, holding hearings, and voting on civilian persons nominated by the President to fill a position within the intelligence community that requires the advice and consent of the Senate.

''(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with that person.''.

TITLE III—COMMITTEE STATUS

SEC. 301. COMMITTEE STATUS.

(a) HOMELAND SECURITY.—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) INTELLIGENCE.—The Select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES

SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.

(a) ESTABLISHMENT.—There is established in the Select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) RESPONSIBILITY.—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

(a) ESTABLISHMENT.—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Subcommittee on Military Construction shall be combined with the Subcommittee on Defense into 1 subcommittee.

(b) JURISDICTION.—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This resolution shall take effect on the convening of the 109th Congress.

Mr. MCCONNELL. Mr. President, I rise today to introduce, along with Senator REID and the majority and Democratic leaders, an amendment to a resolution to reform the Senate's oversight of intelligence and homeland security matters. If enacted, it will mark the most significant changes made in this body since the 1970s relating to the way the Senate operates.

Let me speak for a moment about why we must make significant reforms. The world did not change on September 11, 2001, only our perception of it did. In fact, the world had changed long before that particular clear September day. Frankly, we are nearly a decade late realizing it.

The first clue the world had changed and that a new enemy lurked in the shadows occurred on February 26, 1993, when Islamic terrorists bombed the World Trade Center, killing six and injuring hundreds.

These terrorists had ties to al-Qaida, which was busy then building its army of terrorists in the Sudan.

Four years later, on August 7, 1998, al-Qaida attacked two U.S. embassies in Kenya and Tanzania, killing hundreds and injuring thousands.

And on October 12, 2000—nearly 4 years ago today—these same al-Qaida terrorists attacked the USS *Cole* while it was in port in Yemen. These terrorists killed 17 soldiers and injured 40 more.

And yet it took the carnage of September 11 to awaken America, the Congress, our governmental institutions, and our CIA analysts to the magnitude of the threat that Islamic terrorism poses to the American people.

It took September 11 to show us how much the world had changed since the days of the Cold War.

In the wake of those attacks, Congress and the President swung into action—and brought the fight to the enemy.

We in Congress passed the PATRIOT Act, which reformed the FBI and provided our law enforcement agencies with greater tools to combat terrorism. We fast-tracked the procurement of specialized equipment such as the Predator unmanned aerial vehicle for our military forces in Afghanistan.

Congress created the Department of Homeland Security to consolidate and coordinate Government activities that protect America, and to solve some of the problems that contributed to the failure to anticipate September 11.

The administration has issued important executive orders reforming the intelligence community in a way that facilitates coordination of essential information.

Today, the Senate passed the Intelligence Reform Act of 2004, which dramatically reforms our intelligence agencies. These reforms will improve the collection, analysis, and integration of our Nation's most vital intelligence, assuring that red flags are no longer ignored.

What we have not done, however, is reform ourselves.

Congress, as did our intelligence agencies, failed to appreciate the threat prior to September 11. We certainly appreciate it now. And I hope we can reform this institution in a way that allows us to better monitor and influence the executive agencies tasked with keeping America safe.

It is time to put our own house in order.

In August, Senator FRIST and Senator DASCHLE—in response to the 9/11 Commission recommendations—asked the Senate to do just that. They created a working group of 22 senior Members of the Senate, and asked Senator REID and me to chair it.

We worked closely with these Members to discuss the advantages and disadvantages of the 9/11 Commission recommendations, and also to brainstorm new ideas and improvements to our oversight of the intelligence community and Department of Homeland Security.

I want to thank these Members for their many good ideas and for their patience and willingness to work on a bipartisan basis to do something that is very difficult but also very worthwhile.

After convening a number of meetings with our Members, Senator REID and I met frequently to hammer out a list of recommendations that broadly reflects the consensus or majority views of our group.

Not every Senator will be happy with each and every recommendation. But such is the nature of compromise. We have endeavored to be honest brokers, and I hope we have achieved that goal.

Some Members will complain this reform goes too far. Others will complain it does not go far enough.

I hope most Members will agree with me that it is an appropriate balance of reform that improves our ability to conduct oversight of intelligence and homeland security during a very serious time for our country.

Neither Senator REID, nor I, nor the 20 other members of our working group have a monopoly on wisdom. And were our recommendations part of the New Testament, they would not be written in red ink.

The resolution before us today is not a final product. It is a work in progress. And we hope Members who want to improve upon this resolution will come to the floor and offer amendments.

We would like to accept non-controversial amendments, and to allow Members to vote on amendments that may be a bit more contentious. We want the Senate to work its will.

But before ceding control of this resolution to the will of the Senate, let me describe the philosophy behind our recommendations, as well as some of the recommendations themselves.

The most sweeping change we recommend is to consolidate Congressional jurisdiction over the Department of Homeland Security. If you don't think this is major reform, ask the roughly 25 Senate committee or subcommittee chairmen who currently have jurisdiction over Homeland Security agencies or programs.

Trust me. They have made sure Senator REID and I know how significant this reform is.

The current system of homeland security is broken. These 25 different Senate committees or subcomittes can only have a narrow view of part of the department's activities.

Congressional oversight is like a team of blindfolded scientists, each examining a different part of a horse and trying to describe what kind of animal it is. No committee can step back and look at the horse as a whole.

The Department of Homeland Security deserves its own authorization committee. We wouldn't divide jurisdiction over the Department of Defense by creating an Army committee, a Navy/Marine committee, and an Air Force committee. So why have we done so with Homeland Security?

The status quo also hampers the Department's ability to do its primary job: protecting the homeland.

Currently, the department has to report to 88 House and Senate committees or subcommittees.

This year alone, Secretary Ridge or his subordinates have testified at 164 hearings. They have given over 1300 briefings. And the year isn't over yet.

Mr. President, that's almost 40 briefings a week. In fact, there are probably Homeland Security personnel crawling around Capitol Hill right now, when they should be back in their offices working to keep us safe.

We didn't create the Department of Homeland Security so that it can provide us with a gluttony of power point presentations but to keep America safe. We should consolidate jurisdiction so that both Congress and the Department can do their job more effectively, and more efficiently.

To do this, we recommend that jurisdiction over the Department be integrated under the Governmental Affairs Committee, which should be renamed the Homeland Security and Governmental Affairs Committee.

There will be exceptions to this jurisdictional consolidation. And we encourage Members who are concerned about jurisdictional issues to file amendments to work with the chairman and ranking member of Governmental Affairs to reach agreements about appropriate jurisdictional arrangements.

We welcome amendments and debate on these issues.

On Intelligence oversight, the working group believed that our oversight of intelligence must be strengthened.

The task force wanted to work with the committee to help structure it so it was comprised of devoted experts who have the time and expertise in the intelligence field. The members now serving on the committee have done so with great distinction. But they need better tools and fewer competing demands on their time in order to conduct focused and comprehensive oversight.

And so we have recommended the status of the committee be raised from B to A. This may seem like a minor and arcane detail, but it means a great deal. On my side of the aisle, Senators can serve on the committee without having to give up any other assignments. Some Members serve on three or four other committees in addition to intelligence.

Quite simply, they cannot devote the time necessary to conduct effective oversight with so many other obligations.

This elevation in status will require Senators interested in intelligence to make a choice to serve on the committee. But once on the committee, they will not be term limited, and each member of the committee will be able to play an integral role in conducting oversight.

The Intelligence Committee is an important committee, and a popular committee, and I am confident that a good number of members will want to serve on it.

As I have said, we also have removed term limits, in order to allow members to develop the expertise needed to conduct effective oversight. No other Committee in the Senate says after you've spent 8 years becoming an expert that you get the boot. Now the Intelligence Committee won't have to say goodbye to its most experienced members.

We have allowed members to hire personal designated staff, to give them a trusted representative on the committee. There was strong support for this recommendation, which will reinstate previous committee policy.

In addition to the 14 suggested improvements to the Select Committee on Intelligence, we also have recommended the Appropriations Committee create a Subcommittee on Intelligence.

Appropriations jurisdiction over oversight is currently dispersed throughout multiple subcommittees. We propose the creation of an Intelligence Subcommittee of Appropriations that would consolidate the roughly 80 percent of the intelligence budget that will come under the jurisdiction of the national intelligence director.

This subcommittee will improve the Appropriations Committee's ability to live up to its responsibility to exercise oversight over the national intelligence budget. For the same reasons that homeland security jurisdiction should be consolidated, so, too, should intelligence appropriations jurisdiction.

Not all of us agree on this recommendation, and I fully expect that Senators will offer an amendment to implement the 9/11 Commission's recommendation to create a combined authorization and appropriations committee.

These recommendations require us to use a different set of muscles in our oversight. And some of these reforms are not easy. But few things worth doing are.

We have a historic opportunity to reform this Chamber for the better, and I believe we should not shirk our responsibility to do so. We must do it now in order to do all we can to protect the American people from the next major terrorist attack.

This is a partisan body, and we have pointed fingers for 3 years about who was to blame for the failures of our intelligence and homeland security prior to 9/11. Some blamed the Clinton Administration, others blamed the Bush Administration. Some saw fault in the FBI, others in the CIA, and still other in the military's aversion to covert operations. We are good at pointing fingers at others, but we have not pointed them at ourselves.

Just as our CIA analysts failed to piece together the clues about al-Qaida's intention to attack our cities with hijacked airplanes, so, too, did we fail to question their assessments. We failed to question their focus on old threats. We failed to challenge them to take risks. We failed to question the lack of CIA operatives in Iraq, or why our human intelligence capabilities had become so eroded. Despite the numerous attacks on American targets by Islamic radicals, we failed to put more money in the intelligence budget to hire Arabic linguists.

These are not the faults of the Clinton administration or the Bush administration. They are our fault, too, and we have a chance today to correct them.

I say to my colleagues, I believe we have an opportunity to improve our oversight of the arms of Government that keep America safe. Let us not cause some future generation to look back 50 years from this moment and ask the question: Why did they not act?

Now is our opportunity to do just that, and I encourage my fellow Senators to come to the floor and offer amendments so that we can move this package forward as soon as possible.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, about an hour ago, the Senate marked a historical moment with the passage of S. 2845, the National Intelligence Reform Act of 2004. Passage of that act was a major milestone—a major milestone—on the road to the most significant overhaul of our intelligence community in over 50 years.

The Senate bill includes nearly all of the recommendations made by the 9/11 Commission as they centered on intelligence reform within the executive branch—39 recommendations.

It is important to note, however, the Commission said that overhauling the executive branch is not enough and, thus, we are now on the Senate resolution to address the final two recommendations of the 9/11 Commission, and that is the overhaul of how we do business in oversight of intelligence functions.

The Democratic leader and I were just talking about how pleased we were in the fulfillment of the process we set out at the end of July where both arms—one being the one we just completed on the Senate floor in the form of the executive branch intelligence jurisdiction, and the second arm being the overhaul of our Senate oversight—has worked so well to date, but we still have that second arm to address, and that is what we are on today.

The Democratic leader and I have come to the floor to outline to our colleagues, A, the importance of completing that oversight function reform in this body but, B, and equally important, to point out we do not have very much time to address this issue with the range and number of other issues we have to address. We have plenty of time to address these issues, but we need to do so in an expeditious way, in a way that allows people to have their amendments considered, to have them debated, and to have them voted upon, but we need to do so in a timely manner.

We ask our colleagues to bring their amendments to the resolution to the managers so they can be considered.

With that, I turn to the Democratic leader, and then I will have further comments on other legislation we have to address before departing.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I associate myself with the remarks of the majority leader. He made note of the fact that this is a historic day. This is a day when the Senate, with an overwhelmingly bipartisan vote, responded to the recommendations of the 9/11 Commission and other commissions that have urged our Government to take action to make us safer. We made a major step today in creating the infrastructure to make America safer.

I compliment the majority leader for his efforts and also, of course, the two managers. Senator COLLINS and Senator LIEBERMAN deserve great credit for the work product we voted on only moments ago. This is historic not only for its substance, but I would like to think it is also historic for the process that brought us here.

As the majority leader has noted, we have an opportunity to replicate the substance and the process with the second piece of our work. I think in an equally bipartisan fashion, Senator MCCONNELL and Senator REID have worked hand in glove. They deserve great commendation and credit for the work they have done.

They have consulted with every Member of the Senate. They have worked particularly with our chairs and ranking members, and they have now brought us a work product that was amended slightly as a result of that consultative process last night.

After working and laying out the work product, they listened, they responded, and we have the response they put into the RECORD last night. So everybody has had a chance to review their work, and we are now, as the majority leader noted, asking for the

same degree of cooperation and bipartisanship on this legislative work as we have on the bill.

In that context, it will be important for Senators to indicate to us as quickly as possible their intent with regard to amendments. I know both cloakrooms are going to be seeking the response of Senators who may wish to offer amendments.

Based on that response, because of the time of year, we may be required to file cloture just so we can accelerate the consideration of this effort. I will support that effort if it may be required, but, again, as we have done each day during the deliberations of the bill, I hope we could start the day with somewhat of a status report on where we are and what needs to be done and a reiteration of the importance of this work and our efforts in doing it in the same manner.

So I hope we can continue as we have. As I said, this is a historic day, but there is much more history to be made and so much more work to be done.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, while the Democratic leader and I are both on the floor, because it reflects the discussions we have had over the course of today, there is other business that we will be conducting over the course of the week. There has been huge progress made today on a bill in conference, the FSC/ETI manufacturing jobs bill. We expect to address that hopefully very soon—I believe the House will be addressing it tomorrow—maybe tomorrow night or late tomorrow afternoon. It is a bill we are both committed to addressing before we leave.

As everyone knows, we had planned to leave on Friday, October 8. It is a bill that also has been handled in an admirable way in conference by Chairman GRASSLEY, and Chairman THOMAS from the House, with a very open discussion, open debate, and votes in the conference. We plan on addressing that bill as soon as it is available and the plans will be to complete that as well before we depart.

Homeland Security appropriations is currently in conference and we expect to be able to address that as well.

I mention all of those bills because tonight is Wednesday and we have Thursday and Friday. Although our shared goal is that we leave Friday, if it requires being here Saturday or later, it means that we would have to do just that. It should not. The way these bills have been handled over the last several weeks, it simply should not require going into Saturday, but if necessary, we may just have to do that.

I will comment briefly on the resolution as well because I have not had the opportunity to do so. I know the managers want to be able to proceed directly, but I just wanted to outline that in mid-August Senator DASCHLE and I did assemble a task force of 22 Members to look at the recommendations proposed by the 9/11 Commission that deal with reform of the Congress. We charged this task force to look at the range of issues and possibilities and to present the Democratic and Republican leaders with a proposal and their recommendations.

To reflect the leadership's commitment to the importance of this issue of congressional reform, we asked our respective assistant leaders, Senator MCCONNELL and Senator REID, who are managing the bill now, to chair this task force. Over the past several weeks, Senators MCCONNELL and REID have held a series of meetings, collectively and individually. As Senator DASCHLE has said and as I have also said, we have had the opportunity to meet as conferences and caucuses to address these issues.

The managers of the bill have also consulted with the 9/11 Commission and others to solicit their ideas and their reflections and recommendations. The product of their efforts is captured in the Senate resolution today and the amendment that has just been introduced.

Right now, as we talk, the amendment may or may not be a perfect product—it is probably not a perfect product—but it is a very good and very solid product. It does reflect the majority view of the task force as they looked at a whole range of options and alternatives, individual items to improve Senate oversight of intelligence, which is the objective, and that is what will be achieved by this resolution.

There are a number of contentious issues that have not been fully addressed, that we expect to be addressed tonight on the Senate floor.

When the Democratic leader said we are reaching out to people to bring those potential amendments forward, that is exactly what we mean. It was Senator MCCONNELL's and Senator REID's recommendation, rightly I believe, to have the Members decide through debate and through the offering of amendments on the floor how we might make that proposal better. That is about as open and transparent a process as one can have, but it does require Members to come forward and participate in that floor debate.

I will close by saying that I personally thank Senators MCCONNELL and REID for their efforts and to the other Members of the leadership task force and to all the Members for their cooperation and their participation in, once again, a nonpartisan manner.

I reiterate that it is the leadership's desire on both sides of the aisle to complete this before we depart.

I close where I began, and that is, without Senate reform of the way we conduct oversight of intelligence and homeland security, our efforts to overhaul the executive branch, which we took a major step forward just an hour ago in this body, will be incomplete, inadequate, and really inconsistent with our obligations to the American people.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I, first, extend my appreciation to Senator MCCONNELL. Senator MCCONNELL and I were given a task and we have done the best we can. I have served in the Congress now for 22 years. This is one of the hardest things I have ever had to do, if not the hardest. It has been a very difficult 3 or 4 weeks that Senator MCCONNELL and I have spent working with Members.

I have known MITCH MCCONNELL for many years, the senior Senator from Kentucky, but as happens when one is thrown into a situation of stress, working closely together, one develops a different relationship, and the bond Senator MITCH MCCONNELL and I have formed over this last month is one that will be with us forever.

I appreciate his willingness to allow me to drop in his office unannounced and call on him all times of the night and day. He has a fine staff and he has worked extremely well with my staff. Without belaboring the point, I appreciate all he has done to get us to this point. Without him, we could not be where we are now.

I have five children. My oldest child is a girl. I have one girl, my daughter Lana. I can remember as if it were yesterday, my little girl was going away to school, to college. I can still remember I cried that day, I felt so sad that my little girl was going to go away. I still feel some emotion when I think about it.

The reason I mention that is my daughter leaving to go to college is only an example of how difficult change is. Why did I feel bad? Because of change. I had been with my little girl for 18 years, and suddenly she was going to leave. Change in our lives is always very difficult. Change in the life of the Senate is difficult. What Senator MCCONNELL and I have brought before the Senate is a change. I repeat, I only give the example of my daughter for illustrative purposes. But change here for 98 Senators with whom we have been working is difficult. It is not the same as sending a daughter to school, but it is still a change. Any time you change, it is difficult. That is what this has been about.

We have been considering ways to reform the executive branch of Government for 2 weeks. It is now done. Now it is time to turn the focus on reform of the Senate. A lot of change is taking place here in the waning days of this Congress, important changes brought about as a result of more than 3,000 Americans being killed through a terrorist act. That is why we are doing this.

A commission was appointed, led by long-time Congressman Lee Hamilton and former Governor of New Jersey Thomas Kean. They had members who worked very hard for a year. They had 80 full-time staff. They came to us with recommendations as to how we had to change the executive branch of Government. We have done the best we can in

that regard. We have changed, as far as the Senate sees it, the executive branch of Government. It has been painful. It has been painful for a lot of Senators. But we did it because we had to do it.

I will elaborate on that a little bit later, but the Commission said doing one without the other is doing nothing. If we walked away from this body now, as some have suggested, and said we have done our job, we have done the executive improvement, we may not have done everything, but we have done all we have time to do—we cannot leave here without having done this.

What we do tonight and tomorrow is nothing the President has to sign. The bill that passed here earlier this evening by a vote of 96 to 2 is something the President has to sign. He does not have to sign this. This is something the Senate is doing on its own. We are doing it because the Commission said you cannot have one without the other.

As I said, some have said, Why do this? Some have said, Maybe the House isn't going to do anything; why does the Senate have to tackle this issue?

We can't maintain the status quo after 9/11. We have to look at every facet of our Government. We did this: The homeland security functions, our intelligence functions, and our congressional oversight.

I extend my appreciation to Senators ROBERTS and ROCKEFELLER. They have, during the most difficult times in the history of the Intelligence Committee, been asked to guide this country through these perilous times, and they did it without having much to do it with. The Intelligence Committee, as indicated by the 9/11 Commission, is weak and toothless. So I appreciate very much the work of these two very wise men. Being able to work together—it wasn't easy. They had a difficult time. The members of the Intelligence Committee also worked well.

But, as the 9/11 Commission indicated, we need to give the Intelligence Committee more authority and power. That is what we are in the process of doing. We, in effect, said, Can we do better? Can we do better for ROCKEFELLER and ROBERTS and others, not only today but in the years to come? We have found, under the leadership of the 9/11 Commission, that oversight of the intelligence community is not strong enough—not enough power, not enough resources, not enough muscle.

As my friend Senator MCCONNELL has indicated, the homeland security oversight is now splintered among 88 committees and subcommittees—not 8 in the Senate, not 8 in the House—Governor Ridge and I came together in 1982, each as a Member of Congress. I don't know the exact number of times he has come here, but I think it was 164 times so far this year. Think about it. We can do better.

We do not need these weak and fractionalized subcommittees and committees, all wanting a piece of the Secretary of Homeland Security. We are not going to make a tweak here and a tweak there. As the 9/11 Commission found:

> Tinkering with the existing committee structure is not sufficient. The United States needs a strong, stable and capable committee structure to give America's national intelligence agencies oversight, support and leadership.

We can't make all these changes in the executive branch which we did in this bill we just passed and not put our own house in order. The 9/11 Commission made that point very clear:

> The other reforms suggested, such as the National Counterterrorism Center and a National Intelligence Director, will not work if Congressional oversight does not change too.

It has not been easy. We have taken 10 standing committees and taken jurisdiction from each of the 10 and given them to this new committee that will be formed from the Governmental Affairs Committee. It will now be the Homeland Security/Governmental Affairs.

People have had to give things up. Some have given them up graciously. Some have given them up kicking and screaming. There will be amendments offered here to reverse some of the changes we have recommended in the amendment that is now before the Senate. Senator MCCONNELL and I recognize that should be a fair, open process. We are not infallible. Maybe we made some mistakes, but we certainly tried not to.

The Commission made the point clear that it will not work if congressional oversight does not change also. So here we are, with a resolution encompassing some of the most important recommendations of the 9/11 Commission—no doubt the most difficult. Obviously we would not be here without the fine work of the 9/11 Commission that I boasted about more than once, and without the urging of many brave families whose lives were shaken by the tragedy of 9/11.

I served in the House of Representatives with Lee Hamilton. I served under his leadership on the Foreign Affairs Committee in the House of Representatives. He is a fine man. He was a mentor to me. He and Governor Kean have made their mark upon the country with their excellent report. We are also here on the verge of landmark reform because of the strong partisan interest of our colleagues in reforming this institution. There may be different opinions about some of the details, but I believe the consensus is very strong about bringing much-needed reform to the intelligence and homeland security functions.

As I started my statement using an example of my dear daughter Lana, I said change is hard. I understand that. I am a member of committees. The committees on which I serve have given up things to make this work.

I also want to extend my grudging appreciation to the two leaders, Senators DASCHLE and FRIST. The next time they have one of these nice things to pass out, they will think of someone else. This has been very hard for Senator MCCONNELL and me, but they have stood with us. They are fine leaders. And if we get this done—and I am hopeful and confident we will—it all goes directly to their leadership. Both of these men are so busy that they look to their assistants. I am the assistant Democratic leader, the whip. Senator MCCONNELL is the assistant Republican leader, the whip. We have done our best representing our caucuses. We run separate and apart from our two leaders. I run elected on my own, as does Senator MCCONNELL. But we believe this was the time when without any question the two leaders were doing absolutely the right thing. That is why we have spent so much of our time, energy, and effort in carrying out what they have directed us to do.

I jokingly said I grudgingly send my appreciation. I really don't do that. I am happy Senator DASCHLE had enough confidence in me to allow me to go forward on this noble experiment.

I have spoken to members of the 9/11 Commission on quite a few occasions in conference calls and personal meetings, and I appreciate their time. The time is up for this Commission, but they are still devoting large blocks of time to people like me who come to them for direction, guidance, and understanding. They wanted first of all to know what we were doing was nonpartisan. I think Senator MCCONNELL and I proved to them time and time again that it was.

Let us talk about the specifics.

The so-called task force recommended that the Senate inplement virtually all of the congressional reform recommendations made by the 9/11 Commission. I will go over what we have done. There are three basic areas we looked at. One is to reform the Intelligence Committee process. The other is to create a different, new committee on homeland security, which I have talked about, and the other is to make sure the appropriations process was part of this.

What we have done to strengthen collection of intelligence is eliminate term limits. We have to ensure that the majority has no more than a one-member advantage. This came directly from the 9/11 Commission. We maintain apportioned slots for these committees. The chairman and ranking member of Armed Services. I will offer an amendment because I heard directly from the Intelligence Committee itself that they also wanted in addition to the Armed Services Committee members of the Foreign Relations Committee doing that. In this instance, it will be Senator LUGAR, chairman of the committee, and Senator BIDEN, ranking member, who will serve as ex officio members. I will offer an amendment at a subsequent time, and elevate the status, as I heard Senator MCCONNELL talk about, from B to A.

We have maintained the majority and minority leaders' ability to appoint all committee members. Members not appointed will serve without term limits.

This is so important. Frankly, this is not anything that the 9/11 Commission recommended, but it came from Senator WARNER in meetings we had with Senator MCCONNELL and me. Senator WARNER has been here a long time. I have served with him from the day after I came here as a member of the Environment and Public Works Committee. He has been so easy to work with. If there were ever a stereotype of a southern gentleman, it is JOHN WARNER. And JOHN WARNER in his typical gentlemanly fashion suggested to us that for a committee which is important, the chairman and ranking member should serve at the pleasure of the two leaders.

The reason for this is what I refer to as the ''Wilbur Mills problem.'' Wilbur Mills was a long-time Member of Congress and became chairman of the powerful Ways and Means Committee. This was a man who never had a problem in the world as far as anything dealing with ethics and morality. Suddenly, for whatever reason, Wilbur Mills—this distinguished Member of Congress who served 30 years—started doing a lot of things very publicly that were an embarrassment to this institution. He was there based on seniority and there was no way he could be disposed of. We don't want that. It is something that probably would never happen, but we need that protection. The people who are representing and leading this Intelligence Committee have to be above reproach ethically and morally. The two leaders should have the ability to do that.

That is why Senator MCCONNELL and I, along with Senator WARNER—that is where this came from. We believe that committees around here are too large. One of the things we set out to do was not have more committees. We wanted to do what we could to make the committees smaller. We did this. We reduced the size of the committee from 17 to 15. That may not sound like much, but it was a step forward. We have followed our philosophy and reduced the size of the committee. This is something the 9/11 Commission recommended. The staff positions for each member—maintain nonpartisan professional staff, give the Intelligence Committee a stronger role in reviewing civilian intelligence nominees. This is something else the 9/11 Commission recommended.

That is one of the things they recommended in intelligence. We have done that. But we have gone a step further, and said not only that but the Intelligence Committee should be able to form whatever subcommittee they feel would help that committee perform the functions they have for the country.

Maintain committee subpoena authority; require the committee to make regular reports to the full Senate.

For the purpose of showing how much we did related to the recommendations of the of 9/11 Commission, all we have to do is look right here. We have done what they have recommended, and more.

If you look here, the committee conducts ongoing oversight, checked off; create subcommittee dedicated to oversight, another check; ensure committee has subpoena authority, check that off; ensure majority has not more than one-member advantage, check that off; ensure apportioned members slots for Armed Services, Appropriations, Foreign Relations and Judiciary; one-year term limit; reduce the size of the Intelligence Committee; ensure the Intelligence Committee has a nonpartisan professional staff.

I think we have done that. It is good work. It was not easy, but good.

We have talked about the operations committee, which recommended 14 specific measures to give the committee greater stature and power.

We believe the proposed measures such as elevating the committee from B to A, ending term limits, and creating a subcommittee on oversight will give the committee muscle and that will be oversight of the intelligence agencies.

I have talked about the need for the Appropriations subcommittee to focus on investigations. We have done that.

What I have not talked about is Senator BOB GRAHAM. BOB GRAHAM was chairman of the Intelligence Committee, ranking member, served in a very good way, former Governor of Florida, served in the Senate for 18 years. He is leaving now. He is retiring. When someone suggested to him that you should put the function of the appropriations and authorization all in one committee, he said it would concentrate power in too small a number of people and it would be devastatingly wrong for the intelligence community. So what we came up with, we feel, is something better than that; that is, as one distinguished Senator said, if we can have an Appropriations subcommittee for the District of Columbia, for agriculture, and the legislative branch of Government, we ought to have one for intelligence. It is simply too important, and we agree. Senator MCCONNELL and I agree.

Therefore, we have now merged the Military Construction Subcommittee, which I chaired for a Congress or two, with Defense—again, we don't want to create more subcommittees or more committees—leaving 12 subcommittees for Appropriations. We have created another one on intelligence.

There has been a lot of complaints that the monetary function of the Intelligence Committee was hidden in the Defense Subcommittee on Appropriations. That won't be the case anymore. It will have chairmen selected based on seniority. I am sure it will be one of the senior members of the Senate. That is about all you have on the Appropriations Committee, and I think it would do well. This is a significant development.

We will increase the number of members and staff who oversee the intelligence community spending and finally shed light on programs that have been tucked away far too long.

Governor Kean was asked at a recent Select Committee on Intelligence hearing about the creation of an appropriations subcommittee on intelligence. Governor Kean said:

> I think [an intelligence appropriations subcommittee] would be very much in my mind, be within the spirit of our recommendations.

I have spoken to Congressman Hamilton and indicated to him what we were going to do. He feels the same as Governor Kean about this.

Now, an appropriations subcommittee on intelligence is exactly the kind of conforming change that is required now that we have passed the Collins-Lieberman bill, where centralization and coordination of the intelligence community is achieved through the establishment of a national intelligence director.

Some Members suggest a joint authorizing and appropriating committee, but there are very strong feelings that creates too much power and too much secrecy for a handful of members, so it actually results in fewer checks and balances and much weaker oversight.

There was a broad consensus to consolidate the oversight of the Department of Homeland Security. Without any question, we should not have to have the director or his assistants appear before 88 committees and subcommittees of the Congress. We ought to have a single homeland security authorizing committee. This would match the Homeland Security Appropriations Subcommittee we created last year.

With this we achieve the much-needed consolidation by replacing homeland security oversight in the Governmental Affairs Committee and renaming the committee Homeland Security and Governmental Affairs.

What we have now before the Senate is significant and sweeping reform. This resolution with the amendment we placed therein, though it might not be perfect, and Senator MCCONNELL and I would never say it was, is extremely powerful and makes the required structural changes at the same time it sends a clear message to the American people that the Senate understands the problems, and we are ready to make changes that will help keep our country safe.

Let's end what the Commission calls a ''dysfunctional'' oversight process. It is the right thing to do. This is the right time to do it.

We welcome anyone who wants to offer amendments. We do recognize, however, as the two leaders mentioned earlier, that it is almost 7 o'clock tonight, and we are supposed to leave Friday. We need to finish this legislation. People cannot wait us out. If

Members do not come tonight and tomorrow to offer amendments, we are going to go to third reading. We are not going to wait around while people do other things. This is not January or March or April or May or September. It is just a few days until the leaders have said we are going to go home. At the very best, it will be difficult to get out of here late Friday or even Saturday.

The two leaders are absolutely right in saying we want everyone to have an opportunity to review this resolution. The amendment was filed last night, and everyone has had more than 24 hours to read it, to study it, to prepare their amendments. It is not a 400-page amendment. It is a few pages in length, very simple and direct, and is something we are doing to change this body. It is a significant change, and we recognize that, but a most important change.

Members offering extraneous matters on this—and that is always possible—should understand they are doing it in the face of what the 9/11 Commission said: we have to do this. I hope Members would not come and offer amendments relating to extraneous matters.

If there is something wrong with the amendment Senator MCCONNELL and I sent to the desk, let us know. We have worked with a lot of folks. But we cannot go back to the way things were before. We cannot have a committee called the Department of Homeland Security and not have anything that deals with homeland security. We have to have a committee on homeland security that has the ability to oversee what is going on and have more homeland security for our country.

The time is here. It seems logical that there will not be any votes tonight, but that is up to the leaders to announce. I repeat: This cannot go on forever. There has to come a time when people offer amendments. I hope that would happen before too long. We are here for business, Senator MCCONNELL and I.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LITTLE ROCK CENTRAL HIGH

Mr. PRYOR. Mr. President, I thank my colleagues for something they have done not just for me or even for the city of Little Rock or the State of Arkansas but for the country. They are trying to help on a project we are working on, Little Rock Central High School.

In 1957, the two biggest stories in the world that year were Sputnik and Little Rock Central High School because Little Rock was the first major southern school district to try to integrate their schools to try to follow the law as laid out in Brown v. Board of Education, Topeka, KS, and to try with all deliberate speed to integrate their schools.

They took that charge seriously and, as we all know, the situation there got chaotic and very difficult. There has been a lot written about it. It is one of the major milestones in the history of the struggle for civil rights in this country.

In September of 2007, Little Rock Central will celebrate the 50th anniversary of the desegregation crisis at Little Rock Central High. We all know the story of the Little Rock Nine—Ernest Green, Elizabeth Eckford, Gloria Ray Karlmark, Carlotta Walls LaNier, Minnijean Brown Trickey, Terrence Roberts, Jefferson Thomas, Thelma Mothershed Wair, and Melba Pattillo Beals.

We all know the story of these brave children who went into the lion's den, so to speak, to strike a blow against the old system of ''separate but equal'' that was not working, and was fair. That was not right.

They showed tremendous courage not just for themselves and their personal safety, but they led by example. It is very important we as a Nation honor them and honor Little Rock for making the effort, and honor the school for all the progress they made since 1957.

Little Rock Central High School now is considered one of the best high schools in America. It has been an amazing success story. It shows how things can work when the community pulls together and tries to put difficulties of the past behind them.

I could talk on and on about how proud I am of the Little Rock Nine and the way Little Rock has handled the situation, but today I thank Members of this Senate for their support of S. 420. It is critical to acknowledge what happened at Little Rock 47 years ago.

I thank two Members of this body specifically who really helped get this on track: first, CONRAD BURNS, who is the Interior Subcommittee chairman; and then the ranking member on that subcommittee, BYRON DORGAN. They have both been fantastic. Their staffs have helped. They have made arrangements for us to get $733,000 in this Interior appropriations bill in order to do the design phase of the new visitor center at Little Rock Central High School.

Our goal is to try to have the visitor center completed and totally constructed and up and running by the September 2007 anniversary. But we could not have done this without Senator BURNS and Senator DORGAN because they have shown a great deal of leadership. Also, I must say, Bruce Evans, Ric Molen, and Peter Kiefhaber, on their staffs, have been great to work with.

Another group that Senator LINCOLN and I both want to thank is the Congressional Black Caucus over on the House side. They have been fantastic. In fact, they have entered a sister resolution to this, and all 38 members of the Black Caucus signed on to the resolution. They have been great. Chairman ELIJAH CUMMINGS has shown some great leadership on this issue, and it has brought hope to the civil rights community for this hopefully very positive celebration they will have in 2007.

The last person I want to thank, who is always there working behind the scenes trying to get things done for his congressional district, is Congressman VIC SNYDER. VIC SNYDER has shown great leadership in this matter, as he does consistently in everything he does. He has worked behind the scenes and he has worked with all sides. He is doing everything he can to make sure this becomes a reality, again not just for his district or the State but really for the Nation.

So, Mr. President, again, I thank everyone for their help and their support in what we are trying to do at Little Rock Central High School. I happen to have gone there. I am very proud of that school. It is a great landmark in the struggle for civil rights. The people in Arkansas decided to make Little Rock Central not stand for a negative but stand for a positive, stand for progress. It is something that certainly the community but also the State has rallied around. We are very proud of what they have done at Little Rock.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the pending amendment to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate the pending amendment on S. Res. 445, a resolution to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Bill Frist, Mitch McConnell, Harry Reid, John Cornyn, Craig Thomas, Jim Inhofe, Mike Crapo, Conrad Burns, Norm Coleman, Tom Daschle, Lamar Alexander, Jim Talent, Wayne Allard, Gordon Smith, Larry Craig, Robert F. Bennett, Pete Domenici, Susan Collins.

Mr. MCCONNELL. Mr. President, we have hotlined in both cloakrooms all offices asking for an indication of how many amendments might be offered to the underlying resolution. Regretfully, it is roughly 50.

I am authorized to say on behalf of the majority leader, it is our intention to wrap up business this week. We have

no intention of trying to shut out any Senators who want to offer amendments. We had hoped some might come over tonight and offer them. We will certainly have all day tomorrow to deal with any and all amendments that Senators feel strongly about and on which they would like to have votes. But we really must move the process along, and that is the reason the majority leader wished to file a cloture motion tonight.

Mr. REID. Will the Senator yield?

Mr. MCCONNELL. Yes, I yield to my friend and colleague from Nevada.

Mr. REID. Mr. President, around here, we do not often see cloture motions signed by all four leaders. This cloture motion does have four leaders. We are serious about completing this bill at the earliest possible date. It would be a travesty if, having just completed a very significant piece of legislation led by Senators COLLINS and LIEBERMAN, we not do our share of the legislative reform that needs to be done.

The cloture motion was filed with reluctance. No one wanted to do it. But with the 8th of October staring us in the face literally, we have no choice but to do this. I hope people tomorrow will recognize there will be an effort made to offer these amendments. At 1 o'clock tomorrow, all first-degree amendments must be filed. That is the rule.

I hope people will come and discuss with us what problems they see with this amendment. We will be happy to work with them, but I think people should be ready to offer their amendments.

We have taken what we thought needed to be done from the 10 committees to give this committee, the homeland security committee, some strength. We hope people recognize that.

I understand how people are concerned about maintaining the jurisdiction of what they have, but this is a time when people have to give up a little bit for the good of the country and for the good of the Senate.

I totally support the cloture petition that was filed by the distinguished Senator from Kentucky on behalf of the two leaders because that is basically what happened.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a second cloture motion to the resolution to the desk as well.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. Res. 445, a resolution to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Bill Frist, Mitch McConnell, Harry Reid, John Cornyn, Craig Thomas, Jim Inhofe, Mike Crapo, Conrad Burns, Norm Coleman, Tom Daschle, Lamar Alexander, James Talent, Wayne Allard, Gordon Smith, Larry Craig, Robert F. Bennett, Pete Domenici, Susan Collins.

Mr. MCCONNELL. Mr. President, as my good friend from Nevada has indicated, we hope to process all of the amendments that Members of the Senate feel strongly about. We will be open for business on this resolution all day tomorrow, and there should be ample time to deal with all of the amendments that our colleagues feel strongly about and wish to offer.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I think everyone within the sound of our voices should understand the majority leader and minority leader were on the Senate floor and they both said we are going to stay here until we finish this, the Homeland Security conference report and the FSC tax bill. Those matters are going to be finished. If we can finish on Friday, we will be out of here. If we are finished on Saturday, we will be out of here. But the two leaders have said we are going to work to finish this legislation.

We are dealing with Senators who know all the rules just as we do, but I will indicate that this is a little different time. We are trying to bring Congress to a close, at least this part of it. Everyone should understand the determination of the two leaders to move this matter forward and the other things that are going to come before the Senate.

Mr. MCCONNELL. Mr. President, the assistant Democratic leader has clearly outlined what the goal of the two leaders, both Republican and Democrat, are for the balance of this session before we adjourn for the election. We are hoping to complete all of those items no later than Friday.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Ms. STABENOW. Mr. President, I appreciate those comments. I actually would not be here asking to do this if it were not for the earlier comments of the Senator from Pennsylvania, speaking as in morning business, as it relates to Senator KERRY's health care plan. I felt in fairness, as someone who works extensively on health care, that it was important to come down and speak to the errors that were presented earlier as my colleague spoke on the other side of the aisle.

First, it is important to know that it does not matter who we talk to today, it does not matter who comes into my office or what conversation I have with people throughout the great State of Michigan, the issue of health care always comes up.

Right now the big three automakers, struggling to compete internationally with their business competitors around the world, are talking about the need to address the high cost of health care. They have indicated to me on more than one occasion that this needs to be one of our top priorities of the Congress and the President of the United States: to tackle the explosion in health care costs.

We also know that half of those costs is the explosion in prescription drug prices, and that specifically needs to be addressed. We have proposals we have been consistently bringing to this body and bringing to the President of the United States that will bring prices down. So when we talk to our manufacturers in Michigan, this is a huge issue. If I talk to the workers who work for our manufacturers, it is a huge issue for them. They are being asked to pay more copays, more premiums, to take pay cuts, in some cases layoffs, as a result of the high cost of health care and the fact that there has been no action to address this while premiums and costs continue to go up faster and faster.

I could talk to a group of seniors in Michigan and certainly talk about medicine and the fact that the bill that passed this last year for Medicare is more about helping the prescription drug industry than it is about helping our seniors in this country. They know what we need to be doing. They want to see the pharmacists be able to do business with pharmacists in Canada, be able to bring prices down, cut them in half or, in some cases, 70 percent.

Seniors understand we have a crisis as it relates to the cost of medicine and health care in this country, and they certainly know when we look at the fact that this administration has announced the largest Medicare premium increase—17½ percent—in the history of the program since 1965 when it was instituted even though it is estimated that Social Security will go up possibly only as much as 3 percent. I have a bill that has been introduced with colleagues of mine to cap that Medicare increase at the cost of Social Security increases, and up to now we have not been able to get a vote on this. Yet this will be taking effect in January and taking more out of the pockets of our seniors.

We know that one of the major reasons for the increase—it is not just

normal inflation—is because of the costs that are being rolled into the premium increases relating to privatization that was part of the prescription drug bill. We were told privatization would save money. The reality is, we have the highest Medicare increases in the history of the program.

So we can talk to seniors. We can talk to families who are struggling every day and seeing their costs go up. We see the real household income in 2000 has gone down $1,535. Family health care premiums have gone up, $3,000 on average, to $3,599. This is not what ought to be happening. We have a crisis going on in our country.

I can talk to young people getting out of college who find themselves no longer eligible to be on their parents' insurance, who now go into their first job and maybe do not have health insurance on their first job. This is a very real story for me in my own family. Young people are hoping and praying they remain healthy, that nothing happens to them until they can get into a job that has some health care.

We know that the majority of people, about 80 percent of the people who do not have health insurance in this country, are working. We are not talking about people who are not working; we are talking about people who are working one job, two jobs, three jobs, working for small businesses. I can go to any small business in Michigan and, I would guess, across our great country, and they want to talk to me about what is happening in health care and health insurance, an explosion in pricing. The average premium for small businesses has more than doubled in the last 5 years.

This is a crisis, and I am proud of the fact that JOHN KERRY and JOHN EDWARDS are stepping up to say this will be one of our highest priorities, to address this crisis. Everybody knows we have it. Everybody, from manufacturers to small businesses to seniors to workers to young families to students right out of college, everybody understands that we have a crisis in this country. I believe it is one of the major moral issues of our time. In the last 4 years we have seen this over and over again. Whenever it was a choice between the pharmaceutical lobby and the people of our country, the pharmaceutical lobby has won. Whenever it was a choice between the insurance industry and the people of this country, the insurance industries have won, the HMOs have won.

Frankly, on behalf of the people of my great State, we want somebody fighting for us, for the people of our country. The proposals that are put forward by Senator KERRY and Senator EDWARDS address the costs of health care and the access to health care. It is overdue for families. Again, this chart shows incomes going down, family health care premiums going up. We can do something about this. A big piece of this is the cost of prescription drugs. Frankly, the rest of the premiums that we see going up are because of folks who do not have insurance.

Our Secretary of Health and Human Services said, when asked about why—I believe it was in the context of why our Government is supporting the development of a health care system in Iraq with American tax dollars, but why we did not see the administration having the same sense of passion and urgency about Americans and health care. The Secretary of Health and Human Services said: Well, we kind of have universal health care coverage in our country because if someone is sick and goes into an emergency room, they get treated.

Well, that is true. When folks go into the emergency room and they go in sicker than they should be, go in instead of going to the doctor or instead of getting preventive care, they get treated. And what happens? The hospital then is forced to turn around and put those costs back on folks with insurance, resulting in family health care premiums skyrocketing.

This is not by accident. Part of this is a result of the fact that we have folks walking into the emergency room sicker than they should be or inappropriately getting care that should be in a doctor's office, that should be on the front end where it is more effective, more efficient, costs less.

In Michigan alone, last year my hospitals tell me that they spent over $1 billion in uncompensated care for folks walking into the emergency room. We now see it materializing in requests to expand emergency rooms. I have all kinds of requests from hospitals that are bulging at the seams to expand their emergency rooms. So we are paying for this on the back end. Families are paying through family health care premiums rising more. We all pay because of emergency rooms being expanded. Businesses are paying in loss of competitiveness. Seniors are paying.

What JOHN KERRY and JOHN EDWARDS are saying is we need to face that, we can do better than that, and we need to tackle it on the front end. So what are they suggesting? Well, I will mention just a few things. First, half of the premium increases are prescription drugs. It is very simple. They say Medicare, first, ought to be able to negotiate group discounts. Everybody else can. The VA can on behalf of veterans. Any other insurance system negotiates group discounts, but Medicare is prohibited under the new bill. We know why. The insurance lobby did their job. The prescription drug lobby did their job. So they are going to go back and change that. We negotiate group discounts. We can actually close the gap in coverage so it is a better benefit.

We also have seen from both JOHN KERRY and JOHN EDWARDS a complete commitment to allow us to do, on a bipartisan basis, what we have the votes to do in the Senate if we could ever get this up for a vote, and that is to open the border to Canada and to other countries where it is safe, under strict FDA rules and regulations, to allow our pharmacists to do business with pharmacists in Canada and in other countries to bring back prescription drugs to the local pharmacy at half the price.

I am tired of putting seniors on a bus. Just a week ago I was involved, again with AARP, out at the Ambassador Bridge in Detroit. We had people at the other two bridges in Michigan, talking about and demonstrating the difference in prices. I am, frankly, tired of seeing in my State people who have to drive across the bridge or through the tunnel in order to be able to demonstrate lower prices or be able to purchase at lower prices. The Kerry-Edwards administration will bring back those prices to the local pharmacy. It will make a major difference.

What else are they suggesting? I hear this all the time. We know one of the major problems right now under the insurance system is, particularly for a small business, for example, a small business may have 10 employees, and they may have low rates. Then one person gets very ill—gets cancer, has a car accident, something else happens—and they have a tremendous amount of costs for their care. That one case throws the insurance rates of the business up dramatically. What the Kerry-Edwards administration is talking about is having the Federal Government come in and, when the costs exceed $50,000 for an individual, the Federal Government would serve as reinsurance, to cover those few cases that are very expensive and throw the entire cost off for the business. It makes sense. We can do that.

We have also indicated we need to make a commitment to cover all children in our country—and we do. This is a moral obligation. It is all about priorities. It is always about priorities. It is always about our values and priorities. If we make the right choices, we can make sure every child has the health care they need.

Then they have also said that every person in this country ought to have the same ability to buy into the Federal employee health care system as we do. In our country we have the employer, meaning taxpayers or American citizens, who have less health care than the employees—us or other Federal employees. They want to change that. They can do that through an umbrella, allow people to buy in, businesses to buy in. They can choose either traditional programs or HMOs, but they would have the benefit of sharing administrative costs and bulk purchasing and sharing other efficiencies to bring costs down.

They have a number of very specific proposals that will allow greater access, that will allow costs to come down, and will directly tackle the stranglehold that has been occurring in this country, where a few special interests have been able to stop this body and this administration and others from making choices about what is best for American families.

We know there are folks who benefit by the current system. The pharmaceutical industry and insurance industry do well. They control what the price will be, what the access will be, and they don't want to change. They and their spokespeople will come forward and scare people, that somehow to do any change at all means some big, bureaucratic, top-down government system and socialized medicine, and they use all these other words, but it is used to scare people and to stop us from moving together and doing what needs to be done.

We need to be working together, partnering with business, with communities, with local governments and State and Federal Government to create a system where we make better decisions, provide health care to people on the front end rather than when they are very sick and walking into an emergency room, and bringing prices down by designing a system that works for us.

There is no doubt in my mind that we are capable of doing that. If we have the will, the political will and the right leadership in this country, there is no question that we cannot sit down, figure out a system that provides and maintains the best of what is great about American medicine and American health care, and also create some new opportunities to benefit from what is the best and yet create a better system for everyone.

We can do that. But first we have to have the right leadership, which is why I am supporting JOHN KERRY and JOHN EDWARDS. They understand. Senator KERRY has said his first initiative to come forward to the Congress as President of the United States will be on health care. My biggest concern since coming here, related to health care, has been there is not the sense of urgency we need to sit down and get this done. We need the political will to stand up to folks, the special interests with a lot of money who benefit from the way the system is today. We need to have the courage and the leadership to be able to design a system and tackle this in a way that makes sense for people.

There is absolutely no doubt in my mind that this can be done. There is also absolutely no doubt in my mind that it must be done. If our businesses are going to survive in a global economy, if our families are going to survive, in terms of providing health care for their children and moms and dads and grandpas and grandmas, if we are going to survive in terms of older care and care for the disabled in this country, if we are going to continue to have the quality of life Americans need and deserve, we have to tackle the health care issue and have more than just slogans and scare tactics for people.

We have to do better than the last 4 years. Real household income is down. Family health care premiums are up. This is the wrong direction. We can do better and with a change in administrations, working together in a bipartisan way, we will do better.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On August 25, 2000, in Palm Springs, CA, a judge ordered a U.S. Marine, Lance Horton, to pay $4,300 to a gay couple he admitted beating and to complete charity work as part of his 5-year probation. Horton pleaded guilty to two counts of assault and to two hate crimes.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NOTICE OF CHANGE IN SENATE PUBLIC TRANSPORTATION SUBSIDY REGULATIONS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that in accordance with Title V of the Rules of Procedure of the Senate Committee on Rules and Administration, the Committee has updated the Senate Public Transportation Subsidy regulations effective October 1, 2004.

Based on the Committee's review of the 1992 regulations which authorize the issuance of tax free ''de minimis fringe benefit'': transit fare media, and a review of the Transportation Equity Act for the 21st Century (P.L. 105–78), the Committee has concluded that its regulations should be updated to reflect statutory changes in the dollar amount allowed to be issued as a ''de minimis fringe benefit.'' In addition, the Committee has streamlined the process for office participation in this program.

PUBLIC TRANSPORTATION SUBSIDY REGULATIONS

Sec. 1. Policy

It is the policy of the Senate to encourage employees to use public mass transportation in commuting to and from Senate offices.

Sec. 2. Authority

The Tax Reform Act of 1986, as amended by the Transportation Equity Act for the 21st Century (P.L. 105–78) allows employers to give employees as a tax free ''de minimis fringe benefit'' transit fare media of a value not exceeding $100 per month. The Fiscal Year 1991 Treasury-Postal Appropriations Act (Pub. L. 101–509) allows Federal agencies to participate in state or local government transit programs that encourage employees to use public transportation.

Sec. 3. Definitions

(a) Public Mass Transportation—A transportation system operated by a State or local government, e.g. bus or rail transit system.

(b) Fare Media—A ticket, pass, or other device, other than cash, used to pay for transportation on a public mass transit system.

(c) Office—Refers to a Senate employee's appointing authority, that is, the Senator, committee chairman, elected officer, or an official of the Senate who appointed the employee. For purposes of these regulations, an employee in the Office of the President pro tempore, Deputy President pro tempore, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority shall be considered to be an employee, whose appointing authority is the Senator holding such position.

(d) Qualified Employee—An individual employed in a Senate office whose salary is disbursed by the Secretary of the Senate, whose salary is within the limit set by his or her appointing authority for participation in a transit program under these regulations, and who is not a member of a car pool or the holder of any Senate parking privilege.

(e) Qualified program refers to the program of a public mass transportation system that encourages employees to use public transportation in accordance with the requirements of Pub. L. 101–509 whose participation in the Senate program in accordance with these regulations has been approved by the Committee on Rules and Administration.

Sec. 4. Program requirements

(a) Each office within the Senate is authorized to provide to qualified employees under its supervision a de minimis fringe employment benefit of transit fare media of a value not to exceed the amount authorized by statute currently not to exceed $100 per month.

(b) Each appointing authority may establish a salary limit for participation in this program by his or her employees. If such salary limit is established, all staff paid at or below that limit, and who meet the other criteria established in these regulations, must be permitted to participate in this program.

(c) For purposes of these regulations, an individual employed for a partial month in an office shall be considered employed for the full month in that office.

(d) The fare media purchased by participating offices under this program shall only be used by qualified employees for travel to and from their official duty station.

(e) Any fare media purchased under this program may not be sold or exchanged although exchanges of Metro Card Media for transportation on the Virginia Railway Express (VRE) or the Maryland Transit Administration's MARC trains are permissible.

(f) In addition to any criminal liability, any person misusing, selling, exchanging or obtaining or using a fare media in violation of these regulations shall be required to reimburse the office for the full amount of the fare media involved and may be disqualified from further participation in this program.

Sec. 5. Office administration of program

Each office electing to participate in this program shall be responsible for its administration in accordance with these regulations, shall designate an individual to manage its program, and may adopt rules for its participation consistent with these regulations.

An employee who wishes to participate in this program shall make application with his or her office on a form which shall include a

certification that such person is not a member of a motor pool, does not have any Senate parking privilege (or has relinquished same as a condition of participation), will use the fare media personally for traveling to and from his or her duty station, and will not exchange or sell the fare media provided under this program. The application shall include the following statement:

This certification concerns a matter within the jurisdiction of an agency of the United States and making a false, fictitious, or fraudulent certification may render the maker subject to criminal prosecution under 18 U.S.C.§1001.

Safekeeping and distribution of fare media purchased for an office is the responsibility of the program manager in that office. Participating offices may not refund or replace any damaged, misplaced, lost, or stolen fare media.

Sec. 6. Senate stationery room responsibilities

The only program currently available in the Washington, DC metropolitan area at this time is ''Metro Pool,'' a program established through Metro by the District of Columbia. Transit benefits will be provided through Metro Pool for participating offices in the Washington, D. C. area. The Committee on Rules and Administration shall enter into an agreement with Metro Pool for purchase of fare media by the Senate Stationery Room as required by participating offices on a monthly basis.

A participating office shall purchase the fare media with its authorized appropriated funds from the Senate Stationery Room through its stationery account pursuant to 2 U.S.C.§119.

Each office shall present to the Senate Stationery Room [two copies of] the certification referred to in section 7 of these regulations. A new certification shall be submitted when an employer is added to or deleted from the program. The Stationery Room shall make available to the Senate Rules Committee Audit Section a monthly summary of office participation in this program. In addition, the Stationery Room may not refund or replace any damaged, misplaced, lost, or stolen fare media that has been purchased through the office's stationery account.

Sec. 7. Certification

The certification required by section 6 shall be approved by the appointing authority and shall include the name, and social security number of each participating employee within that office, and the following statements:

(a) Each person included on the list is currently a qualified employee as defined in Section 3.

(b) No person included on the list has any current Senate parking privilege and that no parking privileges will be restored to any person on the list during the period for which the fare media is purchased.

(c) That each month's fare media for each participating employee does not exceed the maximum dollar amount specified in statute (currently $100).

Sec. 8. Other participating programs

Section 6 provides for procedures for participation by Washington offices in the Metro Pool program established through Metro by the District of Columbia. Additional programs in the Washington, D. C. metropolitan area, or programs offered in other locations where Members have offices that meet the requirements of the law and these regulations, may be used for qualified employees, subject to the following requirements:

(A) Authorization—The public transit system shall submit information to the Committee on Rules and Administration that it participates in an established state or local government program to encourage the use of public transportation for employees in accordance with the provisions of Pub. L. 101–509 and these regulations. If the program meets the requirements of the statute and these regulations and is approved by the Committee on Rules and Administration, any Senate office served by such transit system may provide benefits to its employees pursuant to these regulations.

(B) Procedures—

(1) A qualified program operating in the Washington, D.C. metropolitan area that permits purchase arrangements similar to those provided by the Metro Pool program shall participate in the Senate program in accordance with the procedures set forth in Section 6.

(2) A qualified program operating in the Washington, D. C. metropolitan area that does not have purchase arrangements similar to Metro Pool, or a qualified program located outside that metropolitan area, that permits purchases directly by an office, may make arrangements for purchase of media directly with a participating office. Such an office may provide for direct payment to that system and shall submit the certification in accordance with Section 7.

(3) In the case of a qualified program that does not permit purchase arrangements as provided in paragraphs (1) or (2) above, an office may provide for reimbursement to a qualified employee and shall submit a certification in accordance with Section 7.

(C) Documentation—The following documentation must accompany a voucher submitted under paragraph 8(B)(2) or (3):

(1) A copy of the Rules Committee approval, in accordance with section 8(A), with the first voucher submitted for that transit program, provided subsequent vouchers identify the transit program.

(2) The certification.

(3) Proof of purchase of the fare media.

(D) Voucher Guidance—In the case of a Senator's state office, reimbursement for payment to either a qualified transit system, or a qualified employee shall be from the Senators' Official Personnel and Office Expense Account (SOP& OEA) as a home state office expense on a seven part voucher. In the Washington, DC metropolitan area, reimbursement for payment to either a qualified transit system, or a qualified employee shall be as follows:

(1) in the case of a Senator's office from the SOP & OEA as an ''other official expense'' (discretionary expense).

(2) in the case of a Senate committee or administrative office as an ''Other'' expense.

Sec. 9. Special circumstances

Any circumstances not covered under these regulations shall be considered on application to the Committee on Rules and Administration.

Sec. 10. Effective date

These regulations shall take effect on the first day of the month following date of approval.

HONORING OUR ARMED FORCES

LANCE CORPORAL MICHAEL ALLRED, USMC

LANCE CORPORAL QUINN A. KEITH, USMC

LANCE CORPORAL CESAR F. MACHADO-OLMOS, USMC

Mr. HATCH. Mr. President, September was a hard month for the people of Utah. Three more of our sons were called home into the arms of God. Each was a Marine, each a Lance Corporal, each did not live to see their 23rd birthday. I hope that my colleagues will join me in saluting these brave men of honor, who died to defend this nation and to bring freedom to an oppressed people.

Lance Corporal Michael Allred was a young man who knew he wanted to be in the military. His brother Brad said it best, that Lance Corporal Allred ''was happy to serve, and he knew what he was doing was right . . . he died doing something he loved.''

Ironically, Lance Corporal Allred was killed in the same attack that also took the life of another one of Utah's sons, Lance Corporal Quinn A. Keith. His family asked that I write a few words that were shared at his funeral. While I was learning about his life, I will always remember what his uncle Clyde said about Lance Corporal Keith, ''He was scared to be there, but he knew he had to be there.''

The third name to be added to this list of honor is Lance Corporal Cesar F. Machado-Olmos. His life is also extraordinary, since at the time of his death, he had not yet become an American citizen. Imagine, a young man who loved this country so much that before he even became a citizen he entered into a life of service and chose to earn the title of United States Marine.

Our Nation is truly blessed, not because of our material wealth or our influence across the globe. Our Nation is blessed because the ideas of freedom and liberty still echo in the minds of the young men and women of this country, and in the most selfless of acts, they volunteered to defend our Nation. These three men, Lance Corporal Michael Allred, Lance Corporal Quinn A. Keith and Lance Corporal Cesar F. Machado-Olmos epitomized the sacrifice and devotion to duty that is required to earn the noble title of United States Marine. The United States Senate and I stand in humble tribute to these Marines. They will be missed but never forgotten.

NOTICE

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

ORDERS FOR THURSDAY, OCTOBER 7, 2004

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, October 7. I further ask unanimous consent that following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that there then be a period for morning business for up to 30 minutes with the first 15 minutes under the control of the Democratic leader or his designee, and the second 15 minutes under the control of the majority leader or his designee; provided that following morning business the Senate then resume consideration of S. Res. 445, the Senate intelligence reform resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCONNELL. Mr. President, tomorrow morning the Senate will continue to debate on the Senate intelligence reform resolution. Amendments will be offered and debated throughout the day tomorrow. I reminded all of our colleagues a few moments ago that I filed a cloture motion on the resolution. It is our hope that we can complete action on the resolution without having to take a cloture vote. However, in order to ensure that we can complete the Senate's business by Friday, we are scheduled to vote on cloture on Friday morning, if that is necessary.

In addition to the Senate intelligence resolution, the Senate may begin consideration of the FSC JOBS conference report tomorrow.

Senators should, therefore, expect a very busy day tomorrow with rollcalls possible throughout the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:01 p.m., adjourned until Thursday, October 7, 2004, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate October 6, 2004:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. BRUCE A. WRIGHT, 0000

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

CHRISTOPHER J. LAFLEUR, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

B. LYNN PASCOE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF INDONESIA.

DEPARTMENT OF STATE NOMINATIONS BEGINNING WITH RYAN C. CROCKER AND ENDING WITH JOHNNY YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

RYAN C. CROCKER, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

MARCIE B. RIES, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

THE SENATE COMMITTEE ON FOREIGN RELATIONS WAS DISCHARGED FROM FURTHER CONSIDERATION OF THE FOLLOWING NOMINATIONS AND THE NOMINATIONS WERE PLACED ON THE EXECUTIVE CALENDAR:

*CATHERINE TODD BAILEY, OF KENTUCKY, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LATVIA.

*DOUGLAS MENARCHIK, OF TEXAS, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

*HECTOR E. MORALES, OF TEXAS, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF THREE YEARS.

*LLOYD O. PIERSON, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

*LLOYD O. PIERSON, AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2009.

*NOMINEE HAS COMMITTED TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 6, 2004:

DEPARTMENT OF STATE

CHRISTOPHER J. LAFLEUR, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

B. LYNN PASCOE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF INDONESIA.

RYAN C. CROCKER, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

MARCIE B. RIES, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

DEPARTMENT OF STATE NOMINATIONS BEGINNING RYAN C. CROCKER AND ENDING JOHNNY YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

WITHDRAWAL

Executive message transmitted by the President to the Senate on October 06, 2004, withdrawing from further Senate consideration the following nomination:

LT. GEN. BRUCE A. WRIGHT, TO BE GENERAL, IN THE UNITED STATES AIR FORCE, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 7, 2004.

EXTENSIONS OF REMARKS

RECOGNIZING WILLIAM (BILL) HOWARD AHMANSON

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McKEON. Mr. Speaker, on October 9, 2004, the Los Angeles Police Reserve Foundation will recognize William (Bill) Howard Ahmanson for his untiring and committed efforts on behalf of his community, and the County of Los Angeles. He will be presented with the coveted "Twice A Citizen" Award for his extraordinary volunteer work, as well as his long record of dedicated support and service to the law enforcement community.

In 1986, Bill became a Los Angeles Police Reserve Officer. His experience includes the specialized CRASH (Community Relations Against Street Hoodlums) unit, Newton, Hollywood and Rampart Divisions. Currently he maintains a Specialist Reserve Status and is credited with being a member of the host committee for the 2004 International Association of the Chiefs of Police Convention that was held in Los Angeles. He is also the director of the Los Angeles Police Memorial Foundation that provides assistance to families of police officers who were killed in the line of duty. Recognizing that the rich history of the Los Angeles Police Department must be preserved for posterity, Bill is a director of the Los Angeles Police Historical Society (LAPHS). LAPHS was founded in 1989 to create a world-class museum that reflects the departments many contributions since its inception in 1869.

Horses are also an area of concern for Bill. As the vice president of the Los Angeles Police Equestrian Fund, he is able to direct the humane retirement of the department's horses and supervise acquisition of equipment for the officers and horses of the Los Angeles Police Mounted Unit.

Many of his civic responsibilities revolve around Los Angeles. Bill is a trustee of the Ahmanson Foundation whose philanthropy is directed toward organizations and institutions serving the greater Los Angeles community. He is also a trustee of the Los Angeles County Museum of Art. It was established to serve the public through the collection, conservation, exhibition and interpretation of significant works of art and to provide cultural experiences for a wide array of audiences.

He is a member of the Los Angeles County Workforce Investment Board (WIB). Nominated by Supervisor Yvonne Brathwaite Burke and appointed by the Los Angeles County Board of Supervisors. WIB implements the workforce Investment Act of 1998. This Board's mandate is to provide key policy decisions affecting the local workforce development system, and to identify and certify Work Source California Centers in Los Angeles County.

Bill is on the advisory board for the Stennis Family Foundation. The Stennis Family Foundation was founded by Erin and Michael Stennis to heighten awareness within the minority community on the prevention and cure of colorectal cancer, the nation's second leading cancer killer. Bill is also associated with Christ The King Roman Catholic Church and the Wilshire/Los Angeles Chapter of Rotary International.

Bill and his wife, Karla, along with their three children, Chris, Katie and Kara are Los Angeles residents.

Because he exemplifies all that is right with our nation's grassroots volunteer efforts, I am pleased to have the opportunity to recognize William "Bill" Howard Ahmanson as a dedicated, compassionate and committed American.

NORTH KOREAN HUMAN RIGHTS ACT OF 2004

SPEECH OF

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. WOLF. Madam Speaker, I strongly support H.R. 4011, the North Korean Human Rights Act of 2004, and urge all members to support this important legislation. The leadership of the North Korean government has proven to be volatile and unpredictable with a tight rein on a very closed, repressed society. The North Korean government is one of the worse abusers of human rights in the world. Freedom of religion does not exist and the government controls all information, expression, and access to media. Despite international aid efforts, it is estimated that 2 million North Koreans have died of starvation in the last 10 years. One out of every ten children is malnourished.

There are an estimated 200,000 political prisoners in camps. Prisoners are often used as slave labor and conditions in these camps are extremely harsh. Many prisoners die from disease, starvation, beatings, and torture.

In 2002 a former female political prisoner, who testified before Congress about the conditions in these camps described: kneeling Christians in a prison camp having molten steel poured over them by guards because they would not recant their faith; prisoners quarantined into small rooms because of illness and then being forced to lay on top of each other such that all of those underneath were suffocated and died; prisoners used as lab experiments; and numerous executions. The list of horrendous conditions goes on.

The North Korea Human Rights Act reaffirms that human rights in North Korea should remain a key concern in future dialogue and conditions direct aid to North Korea upon substantial improvements in transparency and accountability.

I call on every member of Congress to vote in favor of this important legislation. We must send a strong message to Kim Jong Il that the world will not sit by while his government systemically abuses its citizens.

POEM BY CALVIN DUNN OF LEXINGTON, MISSOURI

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. SKELTON. Mr. Speaker, Calvin Dunn, of my hometown of Lexington, Missouri, wrote an excellent poem, entitled "Our Flag–911." Mr. Dunn wrote this poem on the day after the events of September 11, 2001. I wish to share Mr. Dunn's writing with the rest of the chamber:

"Our Flag–911"

"Old Glory" what a beautiful sight, as she rises in the morn and gets put away at night.
For over 200 years she has waved in the wind, battled the rain and the snow again and again
She had been tattered, torn, ripped and burned, but bounces back each time with a lesson learned.
She has been spit on, trampled and even wollered in the dirt, yet she feels no pain and shows no hurt.
She is loved, adored, worshiped and praised and she will continue to fly for a million more days.
She is in foreign lands, across the sea, she's at the ball park waving "oh say can you see"
She's at the federal building flying high, she's at each veteran's final goodbye.
She flys at half mast where tragedy has been, but you can bet tomorrow, she'll fly high again.
So wherever you see her salute her and brag and remember those that died for that "rugged old flag."

ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF CYPRUS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mrs. MALONEY. Mr. Speaker, I rise today to honor of the 44th Anniversary of the Republic of Cyprus. It was on October 1, 1960, that Cyprus became an independent republic after decades of British colonial rule.

I am very fortunate and privileged to represent Astoria, Queens—one of the largest and most vibrant communities of Greek and Cypriot Americans in this country. It is truly one of my greatest pleasures as a Member of Congress to participate in the life of this community, and the wonderful and vital Cypriot friends that I have come to know are one of its greatest rewards.

Since the last celebration of Cyprus Independence Day, Cyprus has experienced events of major historic importance. On May 1, Cyprus became a full-fledged member of the European Union along with nine other countries from Central and Eastern Europe.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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

Cyprus's accession to the EU is a historic achievement. As an EU member, Cyprus will represent European values and policies and, at the same time, will work toward even stronger transatlantic ties with the United States. This has been a long time in coming, and I believe that Cyprus will have much to contribute to the EU.

However, the commemoration of Cyprus' Independence Day this year, as in the past, is clouded by the fact that the Mediterranean island nation's territory continues to be illegally occupied by the Turkish military forces, in violation of UN Security Council resolutions. Unfortunately, the proposed UN reunification plan did not provide for a functional or durable solution to the island's division. Seventy-six percent of Greek Cypriot voters opposed it, citing concerns about security, property restitution, and the structure of the proposed government.

Cyprus and the United States have a great deal in common. We share a deep and abiding commitment to democracy, human rights, free markets, and the ideal and practice of equal justice under the law.

In fact, Cyprus was among the first nations to express its solidarity with the U.S. immediately following the September 11th terrorist attacks. Cyprus has taken many concrete and active steps to target the perpetrators, collaborators and financiers of terrorism. For example, Cyprus has endorsed and implemented all resolutions and decisions of the U.N. Security Council, the EU and other International Organizations pertaining to the fight against terrorism.

Unfortunately, Cyprus is not without its own difficult history. 37 percent of this nation is still occupied by a hostile foreign power, and it has been for 30 years. On July 20, 1974, Turkey invaded Cyprus, and to this day continues to maintain an estimated 35,000 heavily armed troops. Nearly 200,000 Greek Cypriots, who fell victim to a policy of ethnic cleansing, were forcibly evicted from their homes and became refugees in their own country.

Despite the hardships and trauma caused by the ongoing Turkish occupation, Cyprus has registered remarkable economic growth, and the people living in the Government-controlled areas enjoy one of the world's highest standards of living. Sadly, the people living in the occupied area continue to be mired in poverty.

Last year, the Turkish occupation regime partially lifted restrictions on freedom of movement across the artificial line of division created by Turkey's military occupation. Hundreds of thousands of Greek Cypriots and Turkish Cypriots have crossed the UN ceasefire line to visit their homes and properties or areas of their own country that were inaccessible to them for nearly 30 years. The peaceful and cooperative spirit in the person-to-person, family-to-family interactions between Greek Cypriots and Turkish Cypriots bodes well for the successful reunification of Cyprus.

In the times we are facing, it is clear that divisions among people create harmful, destructive environments. We must find a peaceful solution to the Cyprus problem. The relationship between Cyprus and the United States is strong and enduring, and we stand together celebrating democracy and freedom.

RECOGNIZING ALAN J. SKOBIN

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McKEON. Mr. Speaker, I rise today to pay tribute to a very special man, Alan J. Skobin, who has a record of community and civic service that spans more than thirty years. His tireless efforts have made a significant, positive impact on the community and he will be honored on October 9, 2004 with the coveted ''Twice A Citizen'' Award from the Los Angeles Police Reserve Foundation for his extraordinary volunteer work.

Commissioner Skobin has served as a Reserve Deputy Sheriff with the Los Angeles County Sheriff's Department for more than twenty years, reaching the rank of Reserve Commander. His experience includes patrol and detective work as well as administration. He has also served on the Department's Valor Awards Evaluation Committee, and has received the coveted Distinguished Service Award from the Sheriff's Department for his overall service. Prior to joining the Sheriff's Department, he served as a Reserve Police Officer with the San Fernando Police Department for eight years, attaining the rank of Sergeant. He is also a graduate of the Federal Bureau of Investigation Citizens Academy.

Commissioner Skobin has also been recognized by a number of private organizations, including the California Peace Officers Association and Baseballers Against Drugs, which honored him with their Positive Image Award.

Alan J. Skobin was appointed to the Board of Police Commissioners by Mayor James K. Hahn in July of 2003, and was immediately elected Vice President. He previously served as Vice President of the Los Angeles City Board of Transportation Commissioners.

Commissioner Skobin is also a member of the State of California New Motor Vehicle Board, where he has served as Board President, chair of the Policy and Procedures Committee and a member of the Administration Committee. He previously served as a Commissioner on the Los Angeles County Institutional Inspections Commission. He is a founding director and member of the Executive Committee of the Sheriff's Youth Foundation of Los Angeles County, which funds education and intervention programs for thousands of at-risk youth each year, and has served as chair of the Youth Foundation's annual Salute to Youth Dinner. Commissioner Skobin is also on the Board of Directors, and is Website and Technology Chair, of the Los Angeles Business Council. He is a past member of the International Board of Trustees of Hugh O'Brian Youth Leadership (HOBY), an international leadership development program for high school students, the Western Region Advisory Committee to the United States Secretary of the Air Force Public Affairs Office, the Los Angeles Junior Chamber of Commerce, which recognized his leadership and service as Chair of the Justice and Protective Agencies Committee, and the Mid-Valley Community Police Council, where he served as President. A cancer and brain tumor survivor himself, Commissioner Skobin and his family are active with Padres Contra El Cancer, a nonprofit organization that improves the quality of life for children with cancer and their families.

Commissioner Skobin is a member of the San Fernando Valley Bar Association, the Los Angeles County Bar Association, the American Bar Association, the American Corporate Counsel Association, and is admitted to practice law in both state and Federal courts. Commissioner Skobin has also served as a member of the Judicial Election Evaluations Committee of the Los Angeles County Bar Association, and was an extern in the United States Federal District Court. Commissioner Skobin is Vice President and General Counsel of Galpin Motors, Inc., and has been in management with the Galpin organization since 1977. He has direct responsibility for, or is integrally involved with, a number of significant functions, including legal, information technology, risk management and insurance, real estate, investments and human resources.

Commissioner Skobin and his wife, Romi, are longtime San Fernando Valley residents. They, along with their two children, Jeff and Jennifer, have made community and civic endeavors an integral part of their lifestyle.

Because he exemplifies all that is right with our nation's grassroots volunteer efforts, I am pleased to have the opportunity to recognize Alan J. Skobin as a dedicated, compassionate and committed American.

CLEMENT J. ZABLOCKI ELEMENTARY SCHOOL IS DESIGNATED AS A 2004 BLUE RIBBON SCHOOL

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. KLECZKA. Mr. Speaker, it is with great pride that I acknowledge the outstanding achievements of the children, parents, teachers and principal at the Clement J. Zablocki Elementary School. The designation of a 2004 No Child Left Behind-Blue Ribbon Award honors only those schools that have successfully achieved excellence in academics and have closed the achievement gap in academic proficiency for all of their students.

The designation of the Clement J. Zablocki Elementary School is particularly meaningful to me because it is named for the former Congressman Clement J. Zablocki who was my predecessor in the United States Congress, and an effective and beloved Representative who served the citizens of Milwaukee's south side for many years.

It is evident that the principles of accountability, focusing on what works, increased flexibility, reduction of bureaucracy and the empowerment of parents, has been successfully integrated into the daily philosophy of the Zablocki Elementary School.

Under the outstanding leadership of Dr. Patricia Waldia this school has not only achieved academic excellence for the students, but has initiated innovative and creative ways of having the children of Zablocki Elementary School involved with community organizations, agencies and businesses that have enriched their lives and broadened their view of the community and world. Dr. Waldia has successfully established bonds between her staff, parents and the community that support all of the goals of the school.

The Clement J. Zablocki Elementary School is only the 5th elementary school in the Milwaukee Public Schools system to be designated as a Blue Ribbon school since 1982.

This is an extraordinary and remarkable achievement.

I ask my colleagues in the House of Representatives to join me in paying tribute to the children, teachers and principal at the Clement J. Zablocki Elementary School and commend their efforts in providing a standard of excellence in the field of education.

RECOGNIZING THE WOMEN IN THE LAW FORUM

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today on behalf of the Congressional Caucus for Women's Issues to recognize the Women in the Law forum being hosted by the Women's Caucus on October 6, 2004. At this forum, we honor the achievements of the first women Justices of the United States Supreme Court, the Honorable Sandra Day O'Connor and the Honorable Ruth Bader Ginsburg, for their pioneering achievements and service to our nation as members of the highest court in the land.

Justice O'Connor was the 102nd Supreme Court Justice to be named to the bench and the first female member of the Court. A quietly determined woman who blazed new trails for her gender, Justice O'Connor is a role model for all Americans. She has left a thoughtful and enduring mark on American Jurisprudence, which has been molded through her wisdom and strong character.

Justice Ginsburg, the 107th Justice to serve on the Supreme Court and second woman Justice to be named to the bench, has advanced the development of our Nation's jurisprudence in order to make our society more equitable for both women and men. Justice Ginsburg brought with her a career of advocacy and experience which she effectively utilizes to empower Americans who have been historically disadvantaged.

Today, women owe their success in the legal profession, in part, to the groundbreaking actions of the women who came before us. Pioneers, such as Belva Lockwood and Susan B. Anthony, defied stereotypes and it is on their shoulders we stand today. Justices O'Connor and Ginsburg continue in this pioneering tradition as women in the law, distinguishing themselves with brilliant careers and exceptional legal minds.

It is an honor for the Congressional Caucus on Women's Issues to recognize Justices O'Connor and Ginsburg for their achievements.

On behalf of the Congressional Women's Caucus leadership, Representative SHELLEY MOORE-CAPITO, Representative LOUISE M. SLAUGHTER, Representative HILDA L. SOLIS, and every member of the Women's Caucus, I thank Justice O'Connor and Justice Ginsburg for their courage, fortitude, and perseverance. They both serve as inspirations to every woman in America.

HONORING BOBBY SHERMAN

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MCKEON. Mr. Speaker, on October 9, 2004, the Los Angeles Police Reserve Foundation will recognize Bobby Sherman for his commitment and dedication to the Los Angeles County Reserve Foundation. He will be presented with the coveted "Twice A Citizen" Award for his extraordinary volunteer work.

Reserve officers are volunteers who supplement the deployment of full-time officers by performing a wide range of duties, including working as uniformed patrol officers, desk officers, detectives, chaplains and community-relations officers. During 2003, reserve officers donated 200,000 hours of service, the equivalent to more than 5 million dollars in officer salaries. The LAPD Reserve Officers live up to their motto; "To Be A Reserve Is To Be Twice A Citizen."

Bobby Sherman is one of the most successful and diversified figures in the entertainment industry. The first performer to star in three television serials before the age of 30, he has gone on to earn a fine reputation not only as an actor and singer, but as a producer, director and composer as well.

His career success allows him to devote much of his time and energy to charitable and community activities. He is a certified EMT Instructor, a technical reserve officer with the Los Angeles Police Department and a Reserve Deputy Sheriff with the San Bernardino County Sheriff's Department. He has been named LAPD's Reserve Officer of the Year for 1999, received the FBI's Exceptional Service Award and is the Vice Commander of the Court Services Reserve Unit for the San Bernardino County Sheriff. For fifteen years, he has served as a medical training officer at the Los Angels Police Academy, instructing thousands of police officers in first aid and CPR. Through The Bobby Sherman Volunteer EMT Foundation, he provides free first aid and emergency medical services at dozens of charitable and community events each year.

Bobby began his career on ABC's, Shindig, the first prime time rock and roll showcase. He starred for two seasons as Jeremy Bolt in ABC's Here Comes the Brides and then his own series Getting Together. He was a frequent guest star on the series Murder, She Wrote and Frazier and appeared in the motion pictures Wild In Streets, He is My Brother and Get Crazy. His records includes Hey Little Woman, Easy Come Easy Go, Julie Do Ya Love Me? and Cried Like a Baby, which along with others sold more than 10 million records and won seven gold singles and five gold albums. His Christmas album remains a perennial favorite and personal appearances sold out the Houston Astrodome and The Los Angeles Forum.

Bobby's autobiography Bobby Sherman:—Remembering You has been on several best-seller lists. He built and maintains a 24–track digital recording studio where he composed, arranged and performed the musical scores for many television programs and videos. He lives in San Fernando Valley and is the father of two sons, Christopher and Tyler.

Bobby is a stellar example of the statement "to protect and serve." We can only say a simple and heartfelt thank you to Bobby Sherman and to all the men and women who courageously protect and serve the citizens of America.

EXPRESSING SENSE OF CONGRESS REGARDING OPPRESSION BY CHINA OF FALUN GONG IN UNITED STATES AND CHINA

SPEECH OF

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. WOLF. Mr. Speaker, I strongly support H. Con. Res. 304, expressing the sense of Congress regarding oppression by the Government of China against the Falun Gong in the United States and in China. I urge all members of Congress to support this important legislation.

The United States must stand up for basic decency and human rights and for men and women who are being persecuted on account of their religious or political beliefs. As a congress, our policy must be a policy that helps promote human rights and freedom, not a policy that sides with dictators who oppress their own citizens.

H. Con. Res. 304 calls on the Government of China to stop the harassment of Falun Gong practitioners in the United States, calls for the immediate release from detention of all prisoners of conscience, and calls on the Attorney General to investigate reports that Chinese officials in the United States have committed illegal acts while attempting to intimidate Falun Gong practitioners.

Those who are persecuted for their religious or political beliefs around the world are encouraged when the United States speaks out on their behalf. America must be true to its founders and continue to stand up for basic decency and human rights. Thomas Jefferson said the God who gave us life, gave us liberty. Every man and woman—with inalienable rights. Those are the rights, not just for those who are blessed to be Americans, but for every man, woman and child in this world.

I call on every member of Congress to vote in favor of this important resolution.

CONGRATULATIONS TO MISSOURI TEACHER OF THE YEAR, LINDA EISINGER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. SKELTON. Mr. Speaker, let me take this opportunity to congratulate Mrs. Linda Eisinger for receiving the Missouri Teacher of the Year Award.

Mrs. Eisinger was born on October 8, 1951, in Independence, Missouri. After graduating from Raytown High School, she attended Central Missouri State University where she graduated in 1973 with a degree in Elementary Education. In 1977, she received a Masters degree in Education from Central Missouri State University.

Mrs. Eisinger has been a teacher for over three decades, and this year she begins her

27th year as a teacher in Jefferson City. Currently, she is a third grade teacher at West Elementary School in Jefferson City.

Last spring, Mrs. Eisinger was chosen from more than 100 applications as the Jefferson City District's Teacher of the Year. Then, out of a group of six teachers competing for the State honor, she was chosen as the Missouri Teacher of the Year. As Missouri's Teacher of the Year, Mrs. Eisinger automatically will be entered in the National Teacher of the Year Competition.

Mr. Speaker, once again, I wish to extend my congratulations to Mrs. Linda Eisinger. It is with great pride that I honor her for being named the Missouri Teacher of the Year.

OXI DAY SPEECH

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mrs. MALONEY. Mr. Speaker, I rise to join the Hellenic-Americans and Philhellenes in my district and throughout the country in celebrating ''OXI Day (No Day),'' which falls on the 28th of October. This year marks the 64th anniversary of a very important day in Hellenic history, the day on which brave Greek patriots said ''No'' to fascism, ''No'' to injustice, and ''No'' to slavery.

For those individuals who lived through that momentous period and their descendants, many of whom live in the 14th Congressional District of New York, ''OXI Day'' is more than a memory: It is the embodiment of Hellenism and its highest ideals.

On October 28, 1940, a terrifying sound went up throughout all Greek cities and towns, the sound of sirens and klaxons announcing the invasion of Greece by the Nazis. Walls that before had echoed only with the tolling of church bells now reverberated with the din of alarms.

At a time when Europe was descending into the inferno of another world war, the people of Greece did not panic. Men went calmly to their closets and retrieved their military uniforms and weapons. Women went about their necessary tasks, and the children assisted as they were able. With level-headed determination and steadfast resolve, the citizenry of Greece mobilized against the coming invaders and delivered their resounding ''No!'' to the Axis aggressors.

On OXI Day, the people of Greece chose the harder path, the path of resistance. If they had opened their gates to the invaders, much bloodshed and many deprivations might have been avoided. That brave generation of Hellenes, refused to submit to oppression, even at the cost of their homes, their land, and their lives. They chose to fight and even to die so that their children and the children of other nations might live in liberty. Theirs was an act of self-sacrifice that clearly proclaimed the humanitarian ideals of their Orthodox Christian faith and their ethnic heritage.

Demonstrating poise under pressure, the heroes of that period fought against tyranny and delayed the Axis onslaught in the Balkan Peninsula. The Greek nation which said ''OXI'' contributed to the eventual downfall of the Fascist powers in Europe.

This year the Hellenic community is celebrating another great moment in their history, having successfully hosted a magnificent and peaceful Olympics at a time when terrorism imperils every public gathering. The smallest nation to ever host the Olympics, Greeks once again showed that they always rise to the occasion.

Mr. Speaker, I ask my colleagues to join me in saluting the heroes of OXI Day. In their brave words and deeds we see all of the highest virtues of Hellenic heritage: Passion for justice, courage at a time of trial, unity in the midst of conflict, and willingness to sacrifice one's life for the good of others. On this day, we thank Greece for saying ''OXI.''

RECOGNIZING ROBERT T. ''TOM'' FLESH

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McKEON. Mr. Speaker, on October 9, 2004, the Los Angeles Police Reserve Foundation will recognize Robert T. ''Tom'' Flesh for his untiring and committed efforts on behalf of his community, the county of Los Angeles, and the State of California. He will be presented with the coveted ''Twice A Citizen'' Award for his extraordinary volunteer work, as well as his long record of dedicated support and service to the law enforcement community.

Tom is the Vice Chairman of the Los Angeles County Sheriff's Youth Foundation, an organization dedicated to the creation and implementation of effective programs for at-risk children and active intervention with their development. He also serves on the LA County Sheriff's Office Foundation, and he is on the Board of Directors of the Sinai Temple in Los Angeles. For many years, he served the West Los Angeles Little League as a commission, coach, and held offices on the Board of Directors. In addition, he is a member of the Board of Councilors in the School of Gerontology at the University of Southern California, the State Bar of California, a USC Associate, a member of the Los Angeles Business Council and many other professional and charitable organizations.

Mr. Flesh is a Public Member and President Emeritus of New Motor Vehicle Board of California. Tom was originally appointed by former Governor Pete Wilson and later reappointed by former Governor Gray Davis. Among his many accomplishments was the creation of a forum for industry manufacturers and dealers to dialog and exchange ideas in an effort to foster good relations. The forum has received national attention and has now been replicated in several states.

Tom's community leadership began in Los Angeles, where he attended local public school, graduating from Palisades High School and the University of Southern California. Later he attended Loyola Law School where he graduated with a Juris Doctorate Degree in 1975.

Tom started his career with Thrifty Oil Company, where he rose to the level of senior Vice President/General Counsel. Today, he is President and CEO of Safety Investment Company and Community Asset Management, a national real estate acquisition, development and management company emphasizing manufactured housing communities. The company has been in business since 1989.

Tom Flesh and his wife, Judy, live in Los Angeles. They, along with four children, Daniel, Jacqueline, Jamie and Michelle make community and civic endeavors a priority in their lives.

Because he exemplifies all that is right with our nation's grassroots volunteer efforts, I am pleased to have the opportunity to recognize Tom Flesh for his dedication, compassion and commitment.

TRIBUTE TO COLONEL MICHAEL SMITH ON HIS RETIREMENT FROM THE 440TH AIRLIFT WING

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. KLECZKA. Mr. Speaker, on Saturday, October 23, 2004, the 440th Airlift Wing will be honoring its Commander, Colonel Michael L. Smith, as he enters retirement following an illustrious thirty-three year career in the Air Force and Air Force Reserve.

Growing up in the cornfields of Iowa, Colonel Smith looked to the sky and dreamed of flying and serving his country. He pushed himself academically and entered United States Air Force Academy as a cadet in 1967, distinguishing himself as a student in engineering management. Following graduation, he attended pilot training, served actively in the Air Force for four years, and then transferred to the Air Force Reserves where he utilized what he learned at the academy by serving as an advisor to the director at the Headquarters of the Military Airlift Command and Air Force Reserves.

For the past nine years, he has become a fixture in Milwaukee as the 440th's Commander. He has trained his base and troops to be ready for any challenge that may come. Committed to the Air Force motto, ''integrity first, service before self, and excellence in all [the members] do,'' Colonel Smith has shown himself to be an embodiment of those core values and has expected the same from those who serve with him.

Although Col. Smith is leaving his current post, he will continue to serve the men and women of the Armed Forces as an Ombudsman with the National Committee for Employer Support of the Guard and Reserve, ensuring that Wisconsin National Guard Members and Reservists receive the necessary support from their employers.

The same precision, enthusiasm and skill he shows when flying and leading the Airlift Wing will be useful when he is pursuing his other passions: golf, woodworking and photography with his wife Joni, and children, Brett and Abigail.

It is with both great appreciation and sadness that I join the 440th Airlift Wing, his family, and Milwaukee area as a whole in thanking Col. Michael Smith for his 33 years of exemplary service. I wish him all the best in his future endeavors.

PERSONAL EXPLANATION

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GINNY BROWN-WAITE of Florida. Mr. Speaker, on October 4, I was detained in Florida due to a speaking engagement and as a result, missed three votes. I ask that my absence be excused and the CONGRESSIONAL RECORD show that had I been present:

For rollcall No. 487—the motion to suspend the rules and pass S. Con. Res. 76, I would have voted ''aye;'' for rollcall No. 488—the motion to suspend the rules and pass S. 1814, I would have voted ''yea,'' and for rollcall No. 489—the motion to suspend the rules and pass H.R. 567, I would have voted ''yea.''

INDIANA STATE DELEGATION WORKING TO PROMOTE CIVIC EDUCATION

HON. BARON P. HILL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. HILL. Mr. Speaker, Alexander Hamilton once said, ''Here, sir, the people govern.'' These words grace the entrance to the House of Representatives to remind us of the promise of our representative democracy. The Founders of this nation understood that a free society must rely on the knowledge, skills, and virtue of its citizens and those serving in public office on their behalf. That is why civic education in our schools is so important. In my state of Indiana, and throughout the nation, I am pleased to learn that a proactive effort has recently been initiated to improve civic learning and instruction.

On September 20–22 of last year the First Annual Congressional Conference on Civic Education was launched. The conference was sponsored by the Alliance for Representative Democracy and co-hosted by the four leaders of the U.S. Congress.

One of the very positive outcomes of the congressional conference was the establishment of state delegations that would return to the state to enact specific policies designed to restore the civic mission of our schools. I would like to recognize John J. Patrick, the facilitator of the Indiana delegation, for leadership in working to design an action plan to improve civic education in our state. These state activities include: (1) organizing conferences for professors of Indiana colleges and universities to emphasize civic education in the preparation of teachers; (2) producing reports about exemplary practices of civic education; (3) supporting programs to improve teaching and learning about the United States Constitution in schools, and (4) building a network of organizations and individuals to promote civic education in Indiana.

Mr. Speaker. I look forward to the success of the Indiana civic education delegation and their participation at the Second Annual Congressional Conference on Civic Education on December 4–6 of this year.

TRIBUTE TO 100TH ANNIVERSARY OF TRINITY EVANGELICAL LUTHERAN

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to the 100th year anniversary of the Trinity Evangelical Lutheran Church in Kalamazoo, Michigan. This celebrated Church has stood and continues to stand as a symbol of faith, hope, and reverence.

The Trinity Evangelical Lutheran Church began as a mission congregation on December 4, 1904. The first service was held at ''The Auditorium'' on Portage Street, and the church was referred to as the English Lutheran in the 1905 Kalamazoo City Directory. When the congregation had grown to need a larger facility, the present site was purchased on April 11, 1926 for $7,200.00. The ''new'' Trinity Lutheran Church construction began September 12, 1927, with the cornerstone being laid on Reformation Sunday. The building was dedicated June 10, 1928, and 262 members moved into the new building.

Another stint with over crowded conditions and the need for more space led to another building project—the 34-room Parish Education Building. The cornerstone was laid in 1956 and the new $160,000.00 project was dedicated on October 13, 1957. Several projects over the years have changed the appearance of this wonderful church building, both ''inside and out,'' bringing it to the current configuration 100 years later.

It goes without mention that God has richly blessed Trinity Lutheran Church in Kalamazoo and there is and always has been much talent, enthusiasm, and dedication among Trinity's members. Of even greater significance has been their repeated desire for and response to the Word of God for direction.

RECOGNIZING THE RETIREMENT OF CAPTAIN ROBERT J. APRILL

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize the retirement of Captain Robert J. Aprill of the United States Naval Reserve. Captain Aprill joined the Reserve Officer Candidate program in February of 1974 while pursuing dual degrees at Eastern Michigan University in Political Science and History. After his graduation, Captain April attended Officer Candidate School in Newport, Rhode Island and received his commission in the Naval Reserve in December 1975.

In his twenty nine years with the Naval Reserves, Captain Aprill has served America honorably. His many reserve duty assignments included: Training Officer and Executive USS *W.S. Sims*, Commanding Officer USS *Elmer Montgomery* and Gaining Command Liaison Officer USS *Elmer Montgomery.*

Mr. Speaker, since 1915 it has been the mission of the United States Naval Reserve to maintain a state of constant readiness and availability, able to deploy rapidly and effectively in times of peace or war. With the new threats facing America in the War on Terror, this mission has been paramount to America's security, but it cannot be accomplished without dedicated civilian soldiers like Captain Aprill. I would like to ask my colleagues to join me in thanking Captain Aprill for his service to America and to wish him the best in his retirement.

9/11 COMMISSION IMPLEMENTATION

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. DELAY. Mr. Speaker, in this, the final week of this legislative session, Congress will cap off two years of diligent, important work protecting America's security, prosperity, and families. We have strengthened and improved health care for American seniors, funded the liberation of two enslaved nations, protected our homeland, outlawed partial-birth abortion and protected pregnant mothers, held the line on spending, and provided pro-growth tax relief to millions of American families.

And this week, the House will finish its work on the most sweeping homeland security and intelligence reform legislation in decades: the 9/11 Commission Implementation Act.

When the 9/11 Commission first released its report, many sought for Congress to either rubber-stamp or reject outright the commission's findings. But we in the House took a novel approach: we read them. And we studied them, in six committees, in more than 20 hearings.

The bill has been marked up by five full committees—Armed Services, Intelligence, Judiciary, Government Reform and Oversight, and Financial Services—and two more committees have approved it without markup. In other words, Mr. Speaker, we set out to craft a comprehensive, thoughtful, and valuable reform package, and that's exactly what we've got.

The 9/11 Commission Implementation Act takes the findings of the commission, shapes them into legislative language, and then adds in necessary details where the report lacked specifics. The 9/11 Commission's report is not just 41 recommendations. It is 567 pages of problems we face defending America. This bill goes right to those problems and begins the process of solving them one at a time.

The bill will reform America's intelligence infrastructure by establishing a National Intelligence Director and a National Counter-Terrorism Center, both strong recommendations of the commission. We will also include provisions that will help our intelligence and homeland security officers better fight terrorists, prevent them from ever endangering the American people, and prosecute those who do. And we will work to better secure our borders from penetration by terrorists, and make it easier for authorities to throw terrorists out once they do get in.

These are important reforms, all necessary to the protection of the American people and our victory in the war on terror, the most critical priority of this Congress and the entire government. Passage of these reforms will mark a fitting close to the legislative session, and, I should add, the debate surrounding it

will serve—on its own—as a fitting reminder to the American people that those of us in Congress are more interested in winning the war than just winning the next election.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. SHAYS. Mr. Speaker, on October 4, 2004, I had a meeting in my district and, therefore, missed three recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted ''aye'' on rollcall Vote No. 487, ''aye'' on rollcall Vote No. 488, and ''aye'' on rollcall Vote No. 489.

PERSONAL EXPLANATION

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. PORTMAN. Mr. Speaker, yesterday I was absent attending to a previously scheduled commitment and missed the votes on rollcall Vote No. 487, on S. Con. Res. 76, Recognizing November 2, 2003 as ''A Tribute to Survivors'' at the United States Holocaust Memorial Museum; rollcall Vote No. 488, on S. 1814, to Transfer Federal Lands Between the Secretary of Agriculture and Secretary of the Interior; and rollcall Vote No. 489, on H. Res. 567, Congratulating the American Dental Association for sponsoring the second annual ''Give Kids a Smile'' program.

Had I been present, I would have voted ''yea'' on rollcall Vote No. 487, ''yea'' on rollcall Vote No. 488; and ''yea'' on rollcall Vote No. 489.

IN MEMORY OF TROY H. LAGRONE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. BURGESS. Mr. Speaker, my remarks today are to honor my friend, Troy H. LaGrone, retired President of Ben E. Keith Beers. Troy was a fixture in both the business and academic community in my hometown of Denton.

Troy LaGrone was a graduate of Carthage High School and later attended Draughton's Business College in Dallas before joining the Ben E. Keith Company as a clerk in 1953. After 47 years of service, in 2000, Mr. LaGrone retired as President of the company, but he continued to serve on its board of directors and for the company's Foundation.

In addition to his extensive business career, Mr. LaGrone had served in the U.S. Army and was consistently involved in local and community projects. Throughout the years, Troy served on the board of directors of the Denton State School, Denton Orchestra, Denton Public Schools Foundation and North Texas Fair. He organized the President's Fellows of the University of North Texas and chaired the President's Council. He also served on the President's Council of Texas Woman's University.

Mr. Troy LaGrone is survived by his wife, Sarah LaGrone and their three children, Joanna LaGrone-Headrick, Robert A. Strawn and James A. Strawn; one brother, Joe Ben LaGrone of Oak Ridge, Tennessee; four grandchildren; and one great-grandson.

As a Texan and a friend, I can say we were blessed to have had him with us as a guide, to encourage us and to direct our paths. I am glad I had the chance to know him, and I honor his life here today.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GALLEGLY. Mr. Speaker, on Monday, October 4, I was unable to vote on the motion to suspend the Rules and agree to S. Con. Res. 76, (rollcall No. 487), on the motion to suspend the Rules and pass S. 1814 (rollcall No. 488), and on the motion to suspend the Rules and agree to H. Res. 567 (rollcall No. 489). Had I been present, I would have voted ''yea'' on all three measures.

RECOGNIZING THE CONTRIBUTIONS OF JOHN A. PEREZ

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. SOLIS. Mr. Speaker, today I rise to recognize John A. Perez, the Director of Political Affairs for the United Food and Commercial Workers Union Local 324.

Mr. Perez has spent over a decade working as a labor organizer and political operative. He initially gained an appreciation for politics while growing up in the working class community of Highland Park, a nearby suburb of Los Angeles. From a young age, he appreciated the impact of politics on the lives of working people.

He channeled that appreciation into a career helping working people organize and gain political power. After graduating from the University of California Berkeley, John began working on designing and organizing education programs for several community-based organizations and unions. In the 2002 election, he served as Political Director of the California Labor Federation of the AFL–CIO, which represents over 2.1 million working families. He co-chairs the California Democratic Party Finance Committee and is an elected member of the Democratic National Committee.

In addition to his efforts to improve the lives of working families, Mr. Perez is very active in other areas including AIDS Project Los Angeles, the CORO Foundation, and the California League of Conservation Voters.

He has been an asset to the labor movement and numerous Democratic organizations. I commend him for his dedication to improving the lives of hard working people throughout Southern California.

HONORING PETER H. DIAMANDIS

HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. AKIN. Mr. Speaker, I rise today to honor Peter H. Diamandis, the X Prize Foundation and SpaceshipOne. The X Prize Foundation is based in St. Louis and SpaceShipOne is the now famous commercial rocket which won the Foundation's $10 million award for successfully completing two trips into space within a 14-day time span on October 4, 2004. Without the leadership and initiative of Peter H. Diamandis, president and founder of the Foundation, this historic feat would not have been accomplished.

Resurrecting the ingenuity of the Spirit of St. Louis Organization and the legacy of Charles Lindbergh, the X Prize Foundation ensures that Americans will continue to lead. The X Prize Foundation utilized the inspiration and ''can-do spirit'' so characteristic of other great American entrepreneurs and innovators. Astounding the world and catapulting the commercial aviation industry into a new economic stratosphere, Charles Lindbergh's flight in 1927 was truly transformative. Lindbergh proved that the vision and leadership of the individual and private industry compose the greatest impetus to secure new technology and expand the horizons of human accomplishment. Seventy-seven years later, the X Prize Foundation provided the opportunity for pilots Brian Binnie and Michael Melvill to complete the two trips in order to claim the prize. With this most recent triumph, the horizon is no longer the objective, but rather the runway to the stars.

Beginning with the 1904 World's Fair, St. Louis has played an integral role in the aerospace industry. St. Louis has been home to the designers and builders of the beginnings of the Apollo Moon landings, the origin of Lindbergh's historic flight, a center of aerospace manufacturing and, most recently, the X Prize Foundation.

Mr. Speaker, I ask my colleagues to join me in honoring the initiative and ingenuity of the X Prize Foundation and the crew of SpaceShipOne for their great accomplishment of opening the door to the heavens more widely to everyone.

HONORING MRS. PAULA D. HAVERON, CONGRESSIONAL LIAISON REPRESENTATIVE

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Mrs. Paula D. Haveron, who retired on July 31, 2004, after completing over 42 years of Federal Service.

Mrs. Haveron began her Civil Service career in 1958 as a clerk-stenographer in the Office of Air Force Civil Engineers.

Having demonstrated her competence in working with Members of Congress and their staffs, Mrs. Haveron was selected for service in the Office of the Secretary of the Air Force, Legislative Liaison Inquiry Division, in 1960.

Over the years, she served in numerous roles, culminating in her current duties as a Congressional Liaison Representative in 1997. In this capacity, Mrs. Haveron has been responsible for well over 100,000 constituent inquiries, from all 50 states and territories. In fact, she was the first civilian action officer to draft and successfully staff a Congressional response for signature by the Air Force Chief of Staff.

During her 42 years of work in the Office of Legislative Liaison, Mrs. Haveron has provided dedicated and professional service to both the U.S. Senate and the House of Representatives. She has developed close working relationships with many of our staffs, and her efforts have greatly enhanced congressional understanding of Air Force personnel matters. The distinctive accomplishments of Mrs. Paula D. Haveron highlight a long and distinguished career in the service of the Federal Government, and reflect great credit upon herself and the Department of the Air Force.

IN HONOR OF THE NORTH AMERICAN CONFERENCE ON ETHIOPIAN JEWRY

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to the North American Conference on Ethiopian Jewry on the occasion of the first annual Adopt-A-Student reunion in Israel. On October 13th there will be a first-time reunion of Ethiopian Israeli graduates that were able to obtain education because of NACOEJ. Hundreds of American sponsors who provide support, correspondence and financial assistance have arranged to travel to Israel to take part in the celebration.

NACOEJ was founded in 1982 to help Jews cope with living conditions in Ethiopia; provide educational opportunities; aid with their emigration to Israel; and help aid the absorption of the émigrés into Israel's society while preserving their unique and ancient culture. In Ethiopia, NACOEJ is the sole supporter of compounds in Addis Ababa and Gondar Province providing 10,000 meals to babies, children, and pregnant or nursing women daily. In addition, it supports Jewish Day Schools for 3,500 students, as well as adult education, employment training, family food distributions and religious facilities.

In Ethiopia generations of Jews were always among the poorest inhabitants. Families faced poverty, famines and malaria epidemics while malnutrition, disease and civil war were a part of daily life. Yet since 1984, 2,200 Ethiopian Israeli university students have received NACOEJ living stipends that many times can mean the difference between dropping out and graduating. Many people that relocated to Israel are now leading free, fulfilling and fruitful lives because of the work this group does.

For their generosity, for their commitment to freedom and democracy in Ethiopia and Israel, and for their unyielding commitment to improving the lives of people in the worst of conditions, it is my privilege to honor the North American Conference on Ethiopian Jewry.

PERSONAL EXPLANATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MENENDEZ. Mr. Speaker, I was absent from votes in the House late in the afternoon on Thursday, September 30th, due to an unavoidable commitment, and, for the first two votes on Monday, October 4th, due to mechanical problems on the plane from Newark International Airport. Had I been present, I would have voted the following way:

On rollcall Vote No. 484, H.J. Res. 106, an amendment to the Constitution of the United States relating to marriage, ''no'';

On rollcall Vote No. 485, H. Con. Res. 501, honoring the life and work of Duke Ellington, ''aye''

On rollcall Vote No. 486, H. Res. 792, honoring the United Negro College Fund on the occasion of the Funds 60th anniversary, ''aye'';

On rollcall Vote No. 487, S. Con. Res. 76, recognizing that November 2, 2003, shall be dedicated to ''A Tribute to Survivors'' at the United States Holocaust Memorial Museum, ''aye''; and

On rollcall Vote No. 488, S. 1814, the Mingo Job Corps Civilian Conservation Center legislation, ''aye''.

MARRIAGE PROTECTION AMENDMENT

SPEECH OF

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. FRANK of Massachusetts. Mr. Speaker, during the debate last week on the amendment that would overturn Massachusetts' decision to allow same-sex marriage, I received permission to put into the RECORD an excellent article by M.V. Lee Badgett, refuting the shoddy scholarship of Stanley Kurtz, who has alleged with no logical basis that same-sex marriages have somehow caused a decline in heterosexual marriages in some European countries. I should note that Mr. Kurtz completely ignores, in his research, the most relevant example for us—civil unions in Vermont. But even with regard to the handful of European countries he analyzes, his work does not support the conclusion he is so desperate to sustain.

M.V. Lee Badgett has done a very good job of refuting Mr. Kurtz, and I was glad to have a chance to insert her analysis in the record of the debate from last Thursday. Unfortunately, her name was omitted. I recommend, Mr. Speaker, that those reading this insertion who are interested in the subject go to the CONGRESSIONAL RECORD for September 30, at page H7914, to read the article entitled ''Will Providing Marriage Rights To Same-Sex Couples Undermine Heterosexual Marriage?'' in which Ms. Badgett demolishes Mr. Kurtz.

A TRIBUTE TO SONNY HALL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. TOWNS. Mr. Speaker, I rise in honor of Sonny Hall, the President of Transport Workers Union of America International, in commemoration of his 50 years of dedicated service to the union.

As the International President of TWU, Sonny Hall represents more than 110,000 men and women employed in the nation's transportation and allied industries. Hall was elected to this post at the Unions 19th Constitutional Convention in October 1993. Previously Sonny had served as President of TWU Local 100, the largest local union of TWU, representing nearly 38,000 members who operate the New York City subway system and both public and private bus lines.

Sonny, served in virtually every union position from Shop Steward on up. He was named President of Local 100 in May, 1985 and subsequently elected to full three-year terms in December 1985, 1988 and 1991. He joined TWU in 1950 as a Bus Cleaner for the old Omnibus Corp. and became a Bus Operator in 1957. In between, he served tours of duty in both the Marines and the Army.

Mr. Hall was elected an International Vice President at TWUs 17th Constitutional Convention in September 1985. He was appointed Executive Vice President by the International Executive Council on January 9, 1989, and was elected to that post for a four-year term at the Unions 18th Constitutional Convention in October, 1989.

Sonny was elected Secretary-Treasurer to the AFL–CIO Transportation Trades Department in 1995 and President of that organization in 1998. He was elected to the AFL–CIO's Executive Council at the Federation's Convention in October 1995. In addition to the aforementioned duties, Sonny is also a Board Member of the Mount Sinai Hospital Health and Safety Department; on the Board of Governors of the New York Chapter Arthritis Foundation, and the President's Advisory Council of the Deborah Heart and Lung Center of the Deborah Heart and Lung Foundation. He also serves as President of START (Safe Transit And Rail Transportation).

Sonny holds a B.A. from the Cornell Labor College and studied military and criminal law at the University of New Mexico. He is the son of a retired New York City Bus Operator, now deceased, who served the riding public for 30 years and was an early member of Local 100.

Mr. Speaker, after 50 years of dedicated service to the TWU, Sonny Hall is stepping down as International President of TWU. During this time, he has worked hard to improve the lives of TWU members, their members and all of organized labor. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

COMMENDING Rx NEW HAMPSHIRE

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. BASS. Mr. Speaker, I rise to commend six months of operation of Rx New Hampshire, a website and program designed to bring affordable prescription drug costs to New Hampshire residents. Launched on April 5, 2004, it has already hosted more than 14,000 visits and is responsible for hundreds of anecdotal cases of Granite Staters using the information to save on their needed medications.

New Hampshire Governor Craig Benson is a leader on this issue and has demonstrated that affordable prescription drugs and safety are not mutually exclusive goals. In order to provide citizens with the confidence to use any of the screened pharmacies located in Canada listed on the State website at http://www.state.nh.us/governor/prescription/prescription.httnl, Governor Benson directed the New Hampshire Department of Health and Human Services to identify only those Canadian pharmacies that meet strict domestic and international accreditation standards. Onsite inspections of facilities in Canada have also been performed by independent New Hampshire pharmacists for each listed provider. Samples have been bought and shipped through the normal process and were analyzed for active ingredients at the NH State Police Forensic Laboratory and examined by the NH Board of Pharmacy. No significant difference between these drugs and a duplicate prescription list that was filled from local U.S. chain pharmacies was found.

For more information, I have linked the prescription drug section of my Congressional Web site at www.house.gov/bass to the Rx New Hampshire page and urge my House colleagues and all Americans to visit and examine the good work and solutions offered in the Granite State.

I again call on Congress and the Federal Drug Administration to adopt importation policies that do not stand in the way of such innovative and proven solutions to these growing costs. I am certain that Governor Benson and the New Hampshire Department of Health and Human Services would be willing to lend their expertise to any other State or Federal agency wise enough to follow their lead.

HONORING MRS. GREDIA GRECIA ALAJAR

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. PORTER. Mr. Speaker, I rise today to honor Mrs. Gredia Grecia Alajar, a retired teacher and Nevada's recipient of the Outstanding Older Worker Award. The work for and dedication to the community of retired individuals, like Mrs. Alajar, are inspiring to all of us as we seek to improve our districts and our States.

Mrs. Alajar, after a lifetime of teaching in the Philippines, Los Angeles, California, and Las Vegas, Nevada, returned to the workforce, this time as a member of health care delivery system. She is an integral part of the operations of the First Choice Home Health Care Agency.

Mrs. Alajar was born and raised in the Philippines, where she taught high school before moving to the United States in 1970. After overcoming the language barrier, she began teaching mentally challenged children. Her good works continued as she impacted the lives of many children facing challenges. I applaud Mrs. Alajar and her dedication to our community as an excellent role model for us all.

HONORING THE FORMER FIRST LADY OF NORTH SAINT PAUL, DOLORES SANDBERG

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. McCOLLUM. Mr. Speaker, I rise today to honor a dear friend of mine, the former First Lady of North Saint Paul, Dolores Sandberg.

Dolores Sandberg passed away last month, surrounded by her family including her loving husband William, her daughter Karen and two grandchildren, Caroline and William.

Dolores was a woman of great character and strength. She always had a tremendous sense of humor and wit and was always positive even as she dealt with her illness.

She was also a woman who supported and loved North St. Paul and its people along with her husband Mayor Sandberg, our beloved mayor. I know that I am not the only one who will miss her kind words, warm smile and soft voice.

We will miss Dolores dearly. She led a life of dignity and warmth, and will be remembered fondly in the hearts of many.

HONORING THE ANI DANCE ENSEMBLE

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. SCHIFF. Mr. Speaker, Mr. WAXMAN and I rise today to honor ''the Ani Dance Ensemble,'' part of the Armenian Educational and Cultural Society, Hamazkayin, as it celebrates its 30th anniversary. Hamazkayin was founded by a group of community leaders on May 28, 1928, in Cairo, Egypt with the objective of providing a sound education to the new generation and preserving the ethnic identity and cultural heritage of the Armenian people forced to live outside their homeland after the 1915 Armenian genocide.

Subsequently, Hamazkayin chapters sprouted throughout the Middle East, Europe, the United States, Canada, South America and Armenia to instill, perpetuate and preserve the centuries of Armenian culture. Hamazkayin has been successful in establishing secondary and higher educational institutions which have prepared scholars, literary figures, and community leaders throughout Armenia and the Diaspora. The establishment of ''the Ani Dance Ensemble'' achieves the objectives of Hamazkayin through their unique performances of traditional Armenian folk dances.

''The Ani Dance Ensemble'' was established in 1974 in Los Angeles, California under the leadership of artistic directors/choreographers Ms. Suzy Barseghian-Tarpinian and Mr. Yeghia Hasholian. The ensemble has had more than 80 dances in its repertoire, and presently consists of 40 dancers. Since its inception it has performed and captivated audiences throughout California as well as cities across the nation including Washington DC, Chicago, Illinois; Falls Church, Virginia; and Las Vegas, Nevada. In addition, the group has performed in Armenia and Karabagh in 1999, 2001, and 2004. The ensemble has also represented Armenian Culture through Armenian folk dances at the American Ethnic Day in Washington, DC in 1987. They are frequently invited by American, ethnic and Armenian organizations to perform at functions. As one of the oldest and most accomplished Armenian Dance Ensembles in the United States, it is recognized as one of the best ethnic dance groups in America.

It is our distinct honor to recognize the cultural contributions of ''the Ani Dance Ensemble.'' I ask all members to join me in congratulating the ''the Ani Dance Ensemble's'' 30 years of performing traditional Armenian folk dances.

SENSE OF CONGRESS REGARDING HUMANITARIAN ASSISTANCE TO COUNTRIES OF CARIBBEAN DEVASTATED BY HURRICANES CHARLEY, FRANCES, IVAN, AND JEANNE

SPEECH OF

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. MEEK of Florida. Mr. Speaker, I rise today in support of H. Con. Res. 496, a bill I cosponsored, which expresses the sense of Congress on the need for humanitarian assistance to hurricane-ravaged Caribbean countries. As you know, Hurricanes Charley, Frances, Ivan and Jeanne struck the Caribbean, leading to widespread destruction and devastation.

This is a matter of great concern to me because many of my constituents in Dade and Broward Counties are from, have ancestors from, or have relatives presently living on the islands of the Caribbean. I also represent the largest Haitian constituency in the country. Of all the islands in the Caribbean, Haiti was particularly hard hit. As of today, the toll was more than 2,900 dead or missing and presumed dead. An estimated 300,000 Haitians are left homeless. The extent of this destruction has severely strained the already meager resources of the government, law enforcement authorities, and the United Nations forces in Haiti.

Haiti especially has suffered. Just yesterday, the Washington Post reported the heartwrenching story of Monise Alsenor, a Haitian mother, two of whose children are missing after water tore through her house and swept her family away. She could not reach her children as they yelled ''save me!'' in Creole. She and her husband spent the night holding onto a tree while the water tugged at them and the tree thorns ripped off

their clothes. There are still reports of people living on roofs and of food and water shortages. The New York Times reported that two men were found lying in a semi-conscious state on the ground near an Argentine-run clinic. Doctors said that the two men appeared to have not eaten in several days and demonstrated signs of psychological trauma. I cite these accounts as examples of the terrible circumstances under which Haitians have suffered. Similar stories could sadly, easily be found thousands of times over throughout this poorest of nations and other countries in the Caribbean.

After Hurricane Jeanne ravaged the city of Gonaives, the international community's response was impressive. Trinidad-Tobago pledged $5 million in aid. Venezuela pledged $1 million and sent food, water, and medicine. Argentina dispatched rescue workers and supplies. Brazilians sent medical supplies. Chile also sent emergency aid, as did the Spanish, and the French.

Incredibly, the Bush Administration has been slow to respond to this tragedy. In the first several days after the disaster, as news reports out of Haiti detailed the widespread death, destruction and suffering, the United States was virtually silent while other nations, including European Union countries and Venezuela, immediately stepped in to help. For this reason, I wrote to President Bush to ask for substantial and immediate aid to help the flood victims. A copy of my letter follows this statement.

President Bush has proposed $12.2 billion for hurricane relief and recovery in Florida and the Southern states. $50 million of these funds are set aside for the Caribbean nations, and almost half is intended for Haiti. However, in the words of the Washington Post: ''The amount set aside for the Caribbean nations is a pittance—not to mention a fraction of what was spent on U.S. military interventions in Haiti and Grenada.'' Millions more will be needed to help Haiti alone recover from Hurricane Jeanne's aftermath. The Bush administration should be supportive in a more substantial way.

It is because of these horrendous conditions that I support Congresswoman LEE's resolution. I call on this administration to provide greater humanitarian and emergency assistance to Haiti and other Caribbean nations.

SEPTEMBER 22, 2004.

President GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR PRESIDENT BUSH: I write to bring to your personal attention a humanitarian crisis of the highest magnitude in Haiti and to ask that your Administration follow the lead of other nations and provide substantial and immediate assistance to help ease the desperate suffering of the people of Haiti.

Tropical Storm Jeanne caused devastating floods that ravaged this impoverished country this past weekend. As of this morning, the death toll in Haiti exceeded 800, with 1,000 missing. The death toll increases steadily as the water recedes.

Haiti is already the poorest nation in the Western Hemisphere, and this latest crisis has made conditions there even worse. This crisis also comes on the heels of ruinous floods four months ago when over 3,000 Haitians were killed, missing, or presumed dead. According to eyewitness accounts, there are bodies scattered in the streets. Some are forced to camp on the roofs of mud-filled homes. Unimaginably, families were sleeping in trees because of the destruction.

Numerous news reports document a desperate need for food, water, medicine, shelter and clothing. The Bishop of the Catholic Diocese of Gonaives said that the possibility exists that several thousand Haitians may die of starvation. ''We have nothing,'' he is quoted by the Associated Press as saying. ''About 80 to 90 percent of the houses are under water.''

The present interim government of Haiti is totally unequipped and unable to deal with this massive crisis. It has neither the necessary resources nor the organization. Private voluntary groups are also reportedly overwhelmed by the enormity of this crisis, and there are numerous reports of mobs seizing aid vehicles. Transportation in Haiti, extremely difficult even in the best of times, is particularly crippled now.

However, despite the fact that this crisis struck Haiti over four days ago, the Administration reportedly has released only $60,000 in relief assistance to CARE. This is wholly inadequate to properly respond to this disaster. It pales compared to the $1.8 million provided by the European Union and $1 million and rescue supplies from Venezuela. Other nations are already acting. It is a national embarrassment that the United States of America should respond so slowly and inadequately to so great a crisis in a country so close to our shores. While your Administration assesses, monitors and watches, the suffering in Haiti gets worse.

Haiti does not need expressions of sympathy; it does not need promises. Haiti needs concrete help, and it needs it right now. Your Administration has a responsibility to immediately send significant U.S. emergency assistance to Haiti in the form of food, medicine, fresh water, clothing and emergency shelter and to immediately coordinate, with the international community, the manpower, transportation and distribution of these needed commodities to provide immediate relief to the people of Gonaives and the surrounding countryside.

The time frame for this aid should be hours, not weeks or months. Thank you for your attention and I look forward to your prompt reply to this urgent matter.

Sincerely yours,

KENDRICK B. MEEK,
Member of Congress.

PERSONAL EXPLANATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. OWENS. Mr. Speaker, because of an emergency in my district, I missed rollcall votes Nos. 487, 488 and 489. If present, I would have voted ''yea'' on rollcall votes Nos. 487, 488 and 489.

THE INTRODUCTION OF THE RAILROAD SECURITY AND PUBLIC AWARENESS ACT OF 2004

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. CASTLE. Mr. Speaker, not enough is being invested in improving rail and transit security. We have seen massive efforts to shore up security in our skies and even on our roads, but efforts to boost rail security have not received the same federal commitment.

At present, rail and transit systems move 14 million passengers a day—almost eight times as many passengers as the U.S. aviation system, which carries 1.8 million air travelers daily. The federal government spends $9.16 per aviation passenger for aviation security yet only $115 million has been appropriated for transit security over the last 2 years, or sixtenths of a penny per passenger. Our national homeland security strategy is only as strong as our weakest link. This funding balance needs to be addressed in any comprehensive legislation implementing the 9/11 Commission's recommendations.

For these reasons, today Representative KIRK and I are introducing the Railroad Security and Public Awareness Act of 2004, which would enhance rail worker security training; fund station, train and infrastructure security projects; and increase passenger awareness of railroad security. Rail security is a priority for many Americans, who depend on rail for both inter-city travel and commuter service. I know that many states, including my own state of Delaware, rely on rail—for commuters, personal transportation, economic necessity, or a combination of services.

Few of us doubt that there is a real threat to our transportation systems, including the U.S. rail system. On April 2, the FBI and Department of Homeland Security (DHS) sent out an uncorroborated bulletin stating that terrorists could attempt this summer to conceal explosives in luggage and carry-on bags, such as duffel bags and backpacks. The bulletin indicated that such bombs could be made of ammonium nitrate fertilizer and diesel fuel, similar to what was used to blow up the Oklahoma City federal building in 1995.

Awareness among workers and riders must continue, so that Americans are well educated on the threats to our nation's rail systems, and our rail systems are well equipped to respond to an attack. The March attacks on Madrid's commuter rail system clearly shows that al Qaeda is targeting and will strike rail targets throughout the world using simplified methods of delivery.

Areas of vulnerability within our rail systems and the various delivery methods for attacks should be outlined and incorporated into a strong plan for employee training, passenger screening, and incident response. I realize that the answers to rail security are not the same answers to air security. Standard security precautions may not be practical for rail, many of which have the potential to drastically reduce ridership and cargo use.

My legislation would do the following:

(1) Require the Secretary of DHS to develop and issue detailed guidance for a rail worker security-training program to prepare front-line workers for potential threat conditions. Each railroad carrier would develop a rail worker security-training program in accordance with that guidance and submit it to the Secretary for approval. The legislation authorizes the Secretary of Homeland Security to make grants to railroads, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges, and research centers, and State and local governments (for railroad facilities and infrastructure) for full or partial reimbursement of costs incurred to implement the program

(2) The Secretary of Homeland Security would develop and implement a national plan for public outreach and awareness. The plan

would be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security.

(3) The bill authorizes the Secretary of Homeland Security to make grants to railroads (including Amtrak), hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges, and research centers, and State and local governments (for railroad facilities and infrastructure) for full or partial reimbursement of costs incurred to prevent or respond to acts of terrorism, sabotage, or other railroad security threats. As examples, these areas can include such steps as securing critical communications, electric power (including traction power), computer, and train control systems essential for secure railroad operations or to continue railroad operations after an attack impacting railroad operations; secure passenger railroad stations, trains, and infrastructure; and all provisions included in the Railroad Transportation Security Directive established by the Transportation Security Administration on May 20, 2004.

The convenience of rail could easily be jeopardized if our security and response solutions are not well planned. We must ensure that attacks like those committed in Madrid in March are prevented but also that proper response training is undertaken to prepare for such an incident.

PERSONAL EXPLANATION

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. NUNES. Mr. Speaker, on the legislative day of Thursday, September 23, 2004, the House had rollcall Votes Nos. 469, 470, 471, and 472. Unfortunately, I was unavoidably detained. Had I been present, I would have voted ''yea'' on all four rollcall votes.

Mr. Speaker, on the legislative day of Monday, October 4, 2004, the House had rollcall Votes Nos. 487, 488, and 489. Unfortunately, I was unavoidably detained. Had I been present, I would have voted ''yea'' on all three rollcall votes.

TAIWAN'S NATIONAL DAY

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mrs. JONES of Ohio. Mr. Speaker, on behalf of my constituents I want to take this opportunity to extend to Taiwan President Chen Shui-bian, and the good people of Taiwan, our congratulations on their National Day.

President Chen is to be commended for his capable and skilled leadership, which is reflected by Taiwan's high standards of living and political reforms.

President Chen is to be further commended for his efforts seeking greater international understanding and harmony in the region. Taiwan and the United States share a long lasting friendship that has extended for over five decades.

Mr. Speaker, on Taiwan's National Day, I join my colleagues in the United States Congress to salute and honor the 23 million citizens of Taiwan. I join with all Americans who take pride in the many accomplishments of the Taiwanese people.

IN MEMORY OF IGNACIO GARCIA OF HOUSTON

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GREEN of Texas. Mr. Speaker, the following obituary was printed in the Houston Chronicle, Thursday September 30, 2004, after the death of a good friend and great Houstonian, Ignacio Garcia.

''Ignacio Garcia was born September 3, 1917, died September 28, 2004. Ignacio immigrated to the United States under the Bracero program and settled in Houston, August of 1959. He worked as an auto mechanic in the near north side of Houston and owned and operated an ''Enco'' gasoline station at North Main and Pinckney for over fifteen years. He then opened a garage with his son Victor and they worked together until his retirement in the early 1980's. Although officially retired, he was a constant help and source of inspiration and wisdom to his children, grandchildren, and anyone who met him. Ignacio Garcia was a 32–degree Mason and Past Worshipful Master of the Lorenzo De Zavala Masonic Lodge #1397 A.F. & A.M.

Survivors include his wife of 55 years, Mary Garcia and his Children and Grandchildren: Victor Garcia and his wife Elsa and Children, Victor Jr., Krista and Sara; Bernardo Garcia and his wife Gloria and children, Bernardo Jr., Adriana and Leia; Ignacio Garcia Jr. and his wife Elena; Rosa Gonzalez and her husband Juan and children Rosalinda, Raquel and Elisa; Adrian Garcia and his wife Monica and daughter, Nina. Mr. Garcia was preceded in death by his son Gilbert Garcia in 1995.

Mr. Speaker, I have personally known Mr. Garcia for many years and our community and his family will miss him.

RECOGNIZING TAIWAN'S NATIONAL DAY

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. HINCHEY. Mr. Speaker, I would like to join the people of the Republic of China in celebrating their forthcoming National Day on October 10th. I believe it is appropriate to recognize the substantial political and economic achievements of the Taiwanese people during the last few decades and to highlight the strong and important relationship that continues to grow between the people of Taiwan and the people of the United States.

Taiwan has established itself as a stable and successful Asian democracy in recent decades. The elected representatives at every level of Taiwan's government have successfully confronted the most significant challenge that faces an emerging democracy—the peaceful transition of power from an incumbent leader to a newly elected leader in accordance with the results of a free, fair, and legitimate election. Additionally, Taiwan boasts a thriving, multi-party democracy in which citizens and elected representatives alike freely debate and discuss the full range of issues that face Taiwan.

Just as the state of democracy in Taiwan has continued to strengthen, so too has the relationship between Taiwan and the United States. The relationship between the United States and Taiwan has grown stronger each year since the passage of the Taiwan Relations Act in 1979. Both nations have an unwavering commitment to democracy and a firm belief in the protection of fundamental human rights. Furthermore, Taiwan and the United States share important economic interests as well. Bilateral trade between Taiwan and the United States exceeded $65 billion last year, making Taiwan America's eighth largest trading partner. Additionally, last year nearly 30,000 Taiwanese students studied in colleges and universities in the United States; and aside from Asia, the people of Taiwan visit the United States more than any other country—even more evidence of the increasing interconnectivity between the peoples of Taiwan and the United States.

Unfortunately, at a time when Taiwan's political and economic example could most benefit the world community of nations, some countries continue to insist on Taiwan's isolation from that community. Restoration of Taiwan's membership to the United Nations and the World Health Organization would serve as beginning steps toward ending that isolation. As other new democracies emerge, I am convinced that the world could greatly benefit from the counsel of a nation that has recently transformed itself into a democracy as effectively and successfully as Taiwan. As an ally and friend to the United States, Taiwan is a nation of great importance, deserving not only of our recognition but also of our support.

Therefore, Mr. Speaker, on Taiwan's National Day, I would like to salute Taiwan's President Chen Shui-bian and the 23 million people of Taiwan for their many and varied accomplishments, and acknowledge the ever-growing bond that exists between Taiwan and the United States.

RONALD REAGAN'S VOICE OF FREEDOM PARK

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. BOEHNER. Mr. Speaker, I rise today to commend my neighbors in Butler County, Ohio for renaming a park at the former site of the Voice of America's Bethany station ''Ronald Reagan's Voice of Freedom Park.'' This park is enjoyed by Butler County families each and every day, and it has been made all the more special by the fact that it is located on the same spot from where Voice of America broadcasts originated from 1944 to 1994.

In many ways, this ''name change'' isn't much of a ''name change'' at all. Ronald Reagan was and in many ways still is the Voice of America.

It's that voice which brought us back from the Vietnam era and the malaise of the 1970s. It's that voice that urged Mr. Gorbachev to

"tear down this wall." And it's that voice that ended the Cold War through his policy of "peace through strength."

So, we're not marking the end of one name for this park and beginning of a new one. Instead, we're celebrating the passage of title from one Cold War messenger of freedom to another. Ronald Reagan recognized what an effective and influential tool the Voice of America was in our battle to end the Cold War. In fact, in 1983 he delivered an address via Voice of America, in which he outlined his vision for long-term negotiations with the Soviet Union. He recognized the vital role Voice of America played in our struggle against the Soviets, and he used it to the advantage of our nation and our fight for freedom.

Last week, another American President—George W. Bush—spoke in that park. He spoke of a different battle—this time against the evils of terrorism—in which we are currently engaged. Just like the Cold War, it will be a long struggle—but one which we know we will win. Why? Because we have the same message of freedom on our side that we did when Reagan and the Voice of America led us to victory against communism. And so that message of freedom and the Voice of America continues, in that park and across the globe.

Mr. Speaker, I thank my friends back home in Butler County who were involved in the effort to place President Reagan's name on the park. In this year of tributes to a man I know as a hero, I can think of very few higher than this one.

PAYING TRIBUTE TO THE UNITED CHURCH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the 120th anniversary of the United Church in Walsenburg, Colorado. Through good times and bad the church has stood the test of time, and I would like to join my colleagues here today in recognizing the Church and its long tenure of service before this body of Congress and this Nation.

The United Church, a Methodist congregation, was founded in 1884 by miners in Walsenburg. On a plot of land sold to them by the town's namesake for one dollar, the church built its first building. In 1929, the United Church built its current building with funds from its membership, a local bank, and the Methodists' Board of Church Extension. Although the Church struggled to survive during the depression and poor economic times, they were able to pay off all debts by 1944. In 1961, the United Church merged with the Community Congregational Church, and today has a membership of about 80 people.

Mr. Speaker, it is a privilege to recognize the United Church in the year of its 120th anniversary. For over a century it has provided compassion and spiritual guidance to the community, and I am honored to congratulate them on their anniversary before this body of Congress and this nation.

HONORING THE VOLUNTEER MEDICAL SERVICES CORPS OF LOWER MERION AND NARBERTH, PENNSYLVANIA

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GERLACH. Mr. Speaker, I rise today to honor the Volunteer Medical Services Corps, VMSC, of Lower Merion and Narberth, Pennsylvania, which is celebrating 60 years of service to their community.

In 1944, during the height of World War II, the residents of Narberth Borough felt it was their duty to provide routine transportation for those involved in the war to and from the ports of Philadelphia. The group quickly became incorporated as the Volunteer Medical Corps of Narberth with the main goal was to provide first aid care to those in need and to facilitate non-emergency transports.

In 1951, the corps leased property from the Borough of Narberth and built a new building that could accommodate their needs and growing business. Since 1951, times have changed and medical services have continued to grow in size and scope, and VMSC of Lower Merion and Narberth has proven itself versatile as it has grown with the times. In the 1960's and 1970's when EMS became a specialty, the State health department and the Lower Merion Police Department recommended that VMSC expand its role and provide all emergency care for Lower Merion Township. VMSC quickly became the provider of emergency medical services not only to Lower Merion Township, but Narberth Borough as well.

In the 1990's, the VMSC again grew considerably thanks to its paid staff and volunteers. The company moved to a new headquarters in Ardmore, Pennsylvania and, during that time, it integrated another ambulance company into its own. In 1999, Pleasant Valley Ambulance was integrated in to VMSC, providing ALS services to the Conshohocken Area. This move also helped to reduce response time and the volunteers were able to provide a more timely service. The integration of Pleasant Valley Ambulance also gave VMSC the ability to bring advanced life-support units to those in need.

In 2002, VMSC founded a bike patrol unit. The bike patrol teams consist of two EMTs or medics who can help reduce responder time in large or crowded medical emergencies. The state-of-the-art equipment includes a full range of cardiac medicine, bandaging and splinting supplies, oxygen, and a defibrillator. The bike patrol is extremely important because the EMTs on bikes have the capability of arriving at the scene of an accident well before an ambulance and they can provide life saving care.

Today, VMSC prides itself on providing high-quality, cost-effective emergency and non-emergency medical transportation services to the ill and injured citizens of Lower Merion and Narberth, Pennsylvania. Mr. Speaker, I ask that my colleagues join me today in honoring the Volunteer Medical Services Corps of Lower Merion and Narberth for their commitment to providing quality care, mutual respect, and open communication with their community. It is an honor to recognize an organization that selflessly provides for its community each day and in turn creates a better quality of life for the citizens of Narberth and Lower Merion Township.

TAIWAN AND THE UNITED NATIONS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. RUSH. Mr. Speaker, Taiwan has been excluded from the United Nations since 1971 and since then, Taiwan's 23 million people have had no representation in the United Nations. Exclusion of Taiwan is a violation of the United Nations principle of universality.

I, therefore urge my colleagues and friends of Taiwan to support Taiwan's return to the United Nations because Taiwan's political reforms should be recognized by the international community. Taiwan's return to the United Nations will not hinder the eventual reunification of Taiwan with the Chinese mainland as long as such reunification has the approval of the 23 million people of Taiwan.

Mr. Speaker, I would also like to take this opportunity to welcome Taiwan's ambassador, Dr. David Lee, to Washington. Prior to his Washington assignment, he was Taiwan's premier diplomat in Europe and Taiwan's Political Vice Foreign Minister. I had the pleasure of having Ambassador Lee and his wife at my table during the Congressional Black Caucus' dinner during the Annual Legislative Conference. Ambassador Lee struck me as highly intelligent, poised and well-mannered. My colleagues and I look forward to working with him and his deputies.

Finally Mr. Speaker, my best wishes to Taiwan President Chen Shui-bian for his well-received Inaugural speech on May 20. His conciliatory attitude toward mainland China is most laudatory. President Chen should be recognized for his work towards permanent peace and stability in the Taiwan Strait.

PAYING TRIBUTE TO PEGGY LUE REECE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Peggy Lue Reece, a truly amazing woman from Gunnison, Colorado. Peggy Lue spent nearly half a century working to better the Stockgrowers industry. She amassed an impressive record of accomplishments during her tenure, and I am honored to recognize her service before this body of Congress and this Nation.

Peggy Lou Reece began her service in the agriculture industry as Secretary for the Gunnison County Stockgrowers Association in 1963. For the last 41 years, she has held the post under the leadership of 21 presidents. In addition to secretarial duties, Peggy Lue also served as the organization's treasurer. She came from an agricultural family, and brought with her a great passion for the industry. Even in her retirement, Peggy Lue plans to help whenever she is needed.

Mr. Speaker, it is a privilege to honor Peggy Lue for her dedication to the Stockgrowers of Gunnison County and Colorado's Agriculture industry. She has served her community and state well for over 40 years and deserves our gratitude. It is with great pleasure that I recognize her today before this body of Congress and this Nation. Thanks Peggy Lue, and I wish you well with all of your future endeavors.

HONORING THE GREEN VALLEYS ASSOCIATION

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GERLACH. Mr. Speaker, I rise today to honor the Green Valleys Association on the occasion of their 40th Anniversary. For forty years, the Green Valleys Association has been working diligently to protect the watersheds and ecosystems in northern Chester County, Pennsylvania.

The Green Valleys Association was founded in 1964 by landowners who were threatened by the proposed damming of the French Creek in Chester County. The proposed damming would have transformed the area into a reservoir, so the landowners took a stand and created a formidable defense against the dam—a group called the French Creek Watershed Association. This spirit and drive has been, and still is, a part of all who work within the Association, now known as Green Valleys Association. Six years later, in 1972, the Association expanded to oversee all five of the northern and eastern Chester County's Schuylkill River watersheds. This area includes Pigeon Creek, Stony Run, Pickering Creek, French Creek, and Valley Creek. The region covered by the Association is largely rural and more than 70 percent of the population who live there depend on the activism of the Green Valleys Association to help protect their water resources. Today, the Association's activity spreads throughout 21 municipalities and over 155 square miles. The Green Valleys Association is unique in its work and purpose as it is the only watershed association in northern Chester County.

Throughout the past forty years, the Association has worked to protect the natural resources in northern Chester County by helping to limit the Warner Quarry expansion, protecting Valley Creek and by achieving ''Exceptional Value'' status for the upper French Creek. In fact, all of the watersheds under Green Valleys Association's oversight have been designated either ''High Quality'' or ''Exceptional Value.'' Exceptional Value is the highest protective designation offered by the Commonwealth of Pennsylvania.

The Green Valleys Association has also taken on the task of educating the public on resources and the environment. They provide the community with information on environmental laws; organize meetings on water resources, effective land-use planning and wildlife resources; and bring the community together for local participation in stream watches. They also provide summer camps and school programs for students introducing them to important environmental concerns. The Green Valleys Association has also developed the Sustainable Watershed Management program to be utilized as a tool for local municipalities to incorporate in regulations of water use.

Mr. Speaker, I ask that my colleagues join me today in honoring Green Valleys Association's role as an educator and a protector of the watersheds of northern Chester County, Pennsylvania. They have done tremendous work, and for that, they should be commended.

CELEBRATING TAIWAN'S NATIONAL DAY—OCTOBER 10

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. DAVIS of Illinois. Mr. Speaker, as the Republic of China (Taiwan) gets ready to celebrate its National Day this October 10, I join my colleagues in sending my best wishes and congratulations to Taiwan President Chen Shui-bian and the Taiwanese people on this happy occasion.

In recent years Taiwan has continued to press forward with democratic reforms and economic development. We wish Taiwan continued success as a democracy and economic power and an early return to the World Health Organization.

The United States maintains a strong relationship with Taiwan. We appreciate Taiwan's continuing commitment to combating global terrorism and we are committed to help Taiwan find peaceful solutions to any and all external challenges it may face. I am sure that this strong relationship with Taiwan will grow and flourish in the years to come.

I commend President Chen Shui-bian for his commitment to a policy of mutual respect and dialog with China. I share his view that such a stance is the only reliable foundation for long-term peace and stability for the people and later generations on both sides of the Taiwan Strait. We all hope that peace and stability will forever prevail in the Taiwan Strait.

Greetings and congratulations, President Chen, to the people of Taiwan on your National Day.

PAYING TRIBUTE TO CHARLES CALVIN MOORE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, it is with a sad heart that I rise to recognize the passing of Charles Calvin Moore, a great man from Silverton, Colorado. Charles was a community leader, public servant, and a great friend to many. He made a tremendous impact on Silverton, and I am honored today to bring his contributions to the attention of this body of Congress and this nation.

Charles Moore arrived in Silverton in 1969 with his wife Penny with the intention of only staying two years. Thirty-four years later, he had made a profound impact on the city's institutions and its people. Charles began his life in Silverton as a science teacher, a position he held for eleven years. He also served his community as a leader in both the police department, and as the San Juan county Under Sheriff from 1987 to 2003. Charles also contributed as a member of the San Juan Regional Planning Commission, the Silverton Board of Trustees, the Silverton Ambulance Association, and the Treasurer of the Silverton Congregational Church.

Mr. Speaker, Charles Calvin Moore was a dedicated man that selflessly served his community and country, and I am honored to pay tribute to him before this body today. His lifetime of service is an incredible model for all Americans. My thoughts and prayers go out to his family and friends during this time of bereavement.

HONORING STANLEY BALZEKAS ON THE OCCASION OF HIS 80TH BIRTHDAY

HON. WILLIAM O. LIPINSKI

OF ILLNOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to a remarkable gentleman, and friend, Mr. Stanley Balzekas in the celebration of his 80th birthday on October 8, 1924. It is with great honor that I recognize the contributions of a man who continues to serve the community of the Third Congressional District of Illinois.

The Balzekas family's years of service have been an invaluable contribution to the City of Chicago and beyond, as the Balzekas family members have been prominent leaders in the business and cultural life of our community. Stanley Balzekas's personal sacrifices of time and energy to family, friends and country stand as a testament of a truly fine individual. For his service to our Nation in the United States Army during World War II, we owe Mr. Balzekas a debt of gratitude.

Mr. Balzekas's interest and dedication to Chicago's great Lithuanian population has made him one of the foremost leaders amongst Chicago's diverse, ethnic communities; his great desire to bring peace to all people for the betterment of mankind is just one of his many noble qualities. He has worked with leading institutions, such as the Library of Congress, the National Endowment of the Arts and Humanities, Baltic freedom organizations, and the Chicago Public Library to enhance the world's understanding of Lithuania's deep history.

Mr. Balzekas has enriched the diverse fabric of our entire Chicago community by founding the Balzekas Museum of Lithuanian Culture, one of the largest ethnic museums and libraries in the United States. Through such measures, Mr. Balzekas has been a dedicated guardian of the heritage, history and culture of this nation's Lithuanian ancestry.

Currently, Mr. Balzekas proudly serves as the Honorary Consul General of the Consulate for the Republic of Lithuania in Palm Beach, Florida. He also presides over the Ethnic Cultural Preservation Council, Chicago Sister Cities International Committee, the Baltic Foundation, Ukrainian Institute of Modern Art and as vice-chairman for the Lithuanian-American Council.

Mr. Balzekas has been blessed with a wonderful family of three children and four grandchildren, all of which will be celebrating his birthday this week.

Mr. Speaker, I ask that my colleagues join me in honoring Mr. Stanley Balzekas on reaching the milestone year of 80, and I wish him many future years of happiness and enjoyment in his personal and professional endeavors.

TRIBUTE TO CINDY ROTH

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. CALVERT. Mr. Speaker, I rise today to honor an individual whose dedication and contributions to the community of Riverside, California are exceptional. Riverside County has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent to making their communities a better place to live and work. Cindy Roth is one of these individuals.

Cindy currently serves as the President and Chief Executive Officer of the Greater Riverside Chambers of Commerce. In this key position, Cindy has been instrumental in the development of Riverside's business community. She became the first woman to hold this post, and her leadership is a testament to her diligence and understanding of business management in Riverside.

Additionally, Cindy serves as the President of the Southern California Association of Chamber of Commerce Executives and is a past board member of the Western Association of Chamber of Commerce Executives.

Cindy's dedication is not only to local business, but also to the wider community. She serves as part of numerous organizations, including the Monday Morning Group of Western Riverside County, the Science and Technology Education Partnership, the Raincross Exchange Club, the Foundation Board of Trustees for La Sierra University, and the Honorary Commanders of March Field. She has received the 1996 Community Service Award from the Rotary Club of Arlington, the 2000 Athena of the Inland Valleys Award, and has been honored as the 2003 Woman of the Year by Assemblyman John Benoit.

It is no surprise that she is now honored as the 2004 Distinguished Citizen of the Inland Empire by the California Inland Empire Council, Boy Scouts of America. Cindy's tireless passion for community service has contributed immensely to the betterment of the community of Riverside. She has been the heart and soul of many community organizations and events and I am proud to call her a fellow community member, American and friend. I know that many in our community are grateful for her service and salute her as she receives this award.

PAYING TRIBUTE TO BRYAN HESS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MCINNIS. Mr. Speaker, I rise today to pay tribute to Bryan Hess, a dedicated manager of Emergency Medical Services at the Gunnison Valley Hospital in Colorado. Bryan was recently awarded the Rural Healthcare Excellence Award by the Colorado Rural Health Center for his tireless efforts in the Gunnison community. It is my privilege to stand before this body of Congress and this Nation today to recognize Bryan receiving this well-deserved award.

Bryan began his medical career at the young age of sixteen as an Emergency Medical Technician in rural Pennsylvania. He currently serves as the manager of Emergency Medical Services at Gunnison Valley Hospital, as well as the Director and Coordinator of the local EMS training center. Through his leadership, several new technological innovations have been implemented for the services the organizations provide. These include the Life Pack 12 monitors that give an electrical representation of a patient's heart, and automated external defibrillators which aide first responders in procedures at the scene of an accident. One of the most important changes implemented by Bryan is a rigorous training program for the Gunnison Volunteer Fire Department and local search and rescue teams. The hard work and dedication of Bryan and his crew has paid off in providing excellent personal patient care in very stressful situations.

Mr. Speaker, Bryan Hess is a strong, dedicated individual who devotes his time to helping those in need. His work as a paramedic and director of Emergency Medical Services has taken him away from friends and family, often putting him in harm's way. It is my honor to stand here before this body and recognize the efforts of such a selfless and benevolent man. Congratulations on your award Bryan, and I wish you all the best in your future endeavors.

RECOGNIZING THE FARMWORKER HOUSING DEVELOPMENT CORPORATION

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to honor Roberto Franco, who is stepping down as director of the Farmworker Housing Development Corporation, FHDC, after years of effective service to Oregon's farmworker community.

FHDC is a non-profit community-based organization that was founded in 1990 to help serve farm workers in Oregon's Mid-Willamette Valley by developing affordable housing for workers and their families. Despite many hurdles, under Mr. Franco's leadership at FHDC has been very successful in achieving its mission and now provides housing for over 100 families. The group's major complex, Nuevo Amenecer or ''New Dawn,'' gives 93 families who otherwise might not have acceptable living quarters an opportunity to live in clean, decent, and dignified housing.

But FHDC has done more than put a roof over the head of those it serves. Mr. Franco led a successful effort to create the Cipriano Ferrel Education Center, a multipurpose community facility that serves the needs of Nuevo Amenecer residents and others in the community. With the opening of the center last year, FHDC has begun offering opportunities for self-enhancement to those who wish to get ahead. Earlier this year I visited Cipriano Ferrel to address a group working to improve financial literacy and homeownership opportunities for Oregon's Latino community.

Cipriano Ferrel includes a Head Start program, child care, and a computer lab that provides opportunities for both young and old alike to learn technology skills that will help them get ahead. In addition, Cipriano Ferrel provides adult educational programs, including literacy and language classes, homeownership education, preparation for becoming a U.S. citizen, and a microenterprise program that helps people start their own businesses. A recently announced grant by Microsoft to upgrade the computer lab will provide software and help fund an instructor, thus offering even more opportunities for Nuevo Amenecer residents and members of the community.

I want to thank Roberto Franco and the Farmworker Housing Development Corporation for their work in offering low-income farm workers additional opportunities. Thanks to you, hundreds of families truly have experienced a New Dawn.

CRIME PREVENTION FOUNDATION OF BROWN COUNTY

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GREEN of Wisconsin. Mr. Speaker, the Crime Prevention Foundation of Brown County is the first of its kind in the United States. Its sole purpose is to provide financial support for crime prevention programs in Brown County, Wisconsin, and is managed by the Greater Green Bay Community Foundation. It will support programs like DARE, Crimestoppers, School Liaison Officers and Teen Court—programs that keep our children safe.

This program is completely privately funded, and will provide a stable, long-term funding source for these programs that face elimination because of state and local budget cuts. The Crime Prevention Foundation of Brown County is governed by a Board of Directors independent of any political body. The mission of the board is simply to support the most effective crime prevention activities in Brown County, Wisconsin.

This program is an innovative way to help continue effective programs that help keep our communities and kids out of harms way. I am proud to recognize the innovative efforts of the Crime Prevention Foundation of Brown County, and wish them great success.

PAYING TRIBUTE TO WILLIAM MOYER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the legacy of William Moyer from Grand Junction, Colorado. William was a leader of the community who left an indelible print on the city of Grand

Junction, and I would like to join my colleagues here today in recognizing his tremendous generosity before this body of Congress and this Nation.

Born in Pennsylvania in 1859, William Moyer traveled the country as a salesman. After a trip to Grand Junction in 1888, he decided to move there permanently in 1890. Four years later, he opened the Fair Store and married a local girl, Ida Shantz. William was an active member of the community and in addition to owning the Fair Store; he also had partial interests in the Grand Valley National Bank and the Valley Building and Loan Company. He used these associations to help students pay for college and to help small businesses survive difficult times with low or no interest loans.

When, in 1921 a young boy died while swimming the Colorado River, William knew something had to be done. He approached the city council and asked to build a swimming pool. William offered more than $25,000 for construction and made only one stipulation; that children would be able to swim free at the pool at least one day a week. The city council agreed and the pool was opened in 1922. This year a new pool is being opened that will bear the Moyer name. In addition, consistent with his original request, the pool will allow children to swim free every Wednesday.

Mr. Speaker, it is a privilege to honor William Moyer for his selfless contributions to the people of Grand Junction. Even today, 61 years after he passed away, he is fondly remembered in the community. Thanks, William, for everything you did. This Congressman and the people of Grand Junction will never forget you.

TRIBUTE TO ARMY STAFF SERGEANT (SSG) DARREN J. CUNNINGHAM

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MEEHAN. Mr. Speaker, I rise to pay tribute to a fallen hero, Army Staff Sergeant (SSG) Darren J. Cunningham of Groton, Massachusetts. SSG Cunningham was deployed as part of Operation Iraqi Freedom and died tragically on September 30th when his unit came under mortar attack in Baghdad. He gave his life in service to our country, and we will forever be grateful.

Ever since he was a young boy, SSG Cunningham knew he wanted to pursue a career in the military. His eighth grade teacher recalls Darren talking about wanting to join the armed forces so that he could serve our country with pride. For Darren, the military stood for more than a respectable job: it offered education, discipline, and a chance to travel. The quote on high school yearbook page said it all: ''My ambition is to enjoy life to the fullest, see the world.''

At the age of eighteen, Darren graduated from high school and immediately enlisted in the Army. He moved up through the ranks of the 545th Military Police Company of the Army's First Cavalry, stationed at Fort Hood in Texas. He served nobly during the Persian Gulf War in 1991 and returned to Iraq as part of Operation Iraqi Freedom to train Iraqi police and help rebuild local infrastructure. He planned to retire next year.

SSG Cunningham leaves behind a wife and two children who adored him. His friends and family remember him as spirited, outgoing, fun, and a jokester. A great athlete, one of his proudest moments was being chosen as co-captain of the high school varsity basketball team. Today, SSG Cunningham's relatives, friends, community, and Nation mourn his loss.

SSG Cunningham died fighting for the country he loved, alongside his comrades-in-arms. Our Nation is humbled and grateful for his sacrifice. I ask my colleagues to join me in paying tribute to a father, husband and hero who made the ultimate sacrifice for our country.

TRIBUTE TO THE 2004 RIVER CATS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MATSUI. Mr. Speaker, I rise in tribute to the 2004 River Cats, the deserving winners of the 2004 Pacific Coast League Championship. The 2004 River Cats successfully recaptured the Pacific Coast League championship for the second consecutive year by sweeping the Iowa Cubs in a hard fought thrilling three-game series. The 2004 Sacramento River Cats displayed their trademark determination and teamwork that continue to make them a great source of civic pride and a prominent local attraction for years to come. I ask all of my colleagues to join with me in saluting the triumphant 2004 Sacramento River Cats.

The 2004 Sacramento River Cats are comprised of an outstanding blend of experienced professionals with major league experience and bright young prospects who are destined to become the stars of tomorrow. The 2004 River Cats team is led by the excellent all-around play of 2004 Pacific Coast League Most Valuable Player and Playoff Most Valuable Player Dan Johnson. In addition, the outstanding roster was anchored by the consistent contributions of recently promoted major leaguers: Nick Swisher, Jairo Garcia, Esteban German, Joe Blanton, and Justin Lehr. All the aforementioned River Cats are among the best touted prospects in all of baseball. Whether a seasoned veteran or an up and coming prospect, every member of the 2004 River Cats demonstrated outstanding commitment to team play and hard work as they march toward the 2004 Pacific Coast League Championship.

In addition to a wonderful roster, the 2004 River Cats also benefited greatly from the tutelage of one of the best coaching staffs and the leadership of one of the most accomplished and innovative front offices in all of professional baseball. On the bench, the River Cats were lead by the 2003 Sporting News Minor League Manager of the Year Tony DeFrancesco. Mr. DeFrancesco and his able assistants were able to cultivate a spirit of camaraderie and an unyielding commitment to hard work and fair play in the clubhouse. In the front office, the River Cats are led by the extraordinary leadership of President and CEO Art Savage and the astute management of Executive Vice Presidents Warren Smith and Robert Hemond. Under this leadership team, the River Cats have taken great steps to forge one of the strongest and most unique relationships in all of sports with their team supporters. Given the River Cats front office's commitment to the city of Sacramento, it is no wonder why the River Cats have led all of Minor League Baseball in attendance during each of their five years in Sacramento.

Mr. Speaker, as the Sacramento River Cats conclude its second consecutive championship season and prepare to achieve greater triumphs in the future, I am honored to pay tribute to the many hard working men and women of the River Cats organization who brought so much joy and pride to the people of the Capitol Region and River Cats fans everywhere. Their successes are highly commendable, and it is a great honor for me to have the opportunity to pay tribute to their accomplishments. I ask all my colleagues to join with me in congratulating the Sacramento River Cats on a wonderful season and wishing them greater success in future seasons.

PAYING TRIBUTE TO DICK AND NANCY KNOWLTON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Dick and Nancy Knowlton, two generous and loving people whose extraordinary compassion and dedication to each other and the State of Colorado is highly commendable. Dick and Nancy will celebrate their fiftieth wedding anniversary this year, and I am honored today to bring their story and their contributions to their community to the attention of this body of Congress and this Nation.

When Dick was young, his father Lyle suffered a debilitating heart attack at the age of 42 and was laid-off from his job for medical reasons. To make ends meet, the family would buy dilapidated homes and fix them up for profit. As a result, their living conditions were often barely habitable. Dick and his six brothers and sisters were raised by both Lyle and Rose. Rose was a sweet and lovely woman who took loving care of each of her children. It was Rose's love and guidance that led all of her seven children to lead successful lives. Upon graduation from high school, Dick attended college on a football scholarship at the University of Colorado where he would meet his future bride, Nancy VanDerbur. After he graduated from college, he received his papers for government service, and Dick and Nancy were married shortly before he left to serve his country.

Following his military service, Dick returned to work at the Hormel Company where he had begun working during the summers at the young age of fifteen. Through hard work and many hours of dedication, Dick worked his way up to become President, CEO, and Chairman of the Board of the Hormel Company. Along the way, Dick worked every job in the company from the gut shanty to the corner office and each job in between. When he retired, Dick received the Horatio-Alger Award in recognition of his status as a successful, self-made man. Fellow recipients of this prestigious award are Colin Powell, Henry Kissinger, Wayne Huizenga and fellow Coloradan

Phil Anschutz. Dick is still very active in the Horatio Alger organization, which provides scholarships for kids with disadvantaged backgrounds.

Nancy was born and raised in Denver. Her grandfather founded Olinger Mortuaries, which Nancy's father eventually took over. Nancy and her sisters Gwen, Val, and Marilyn worked odd jobs at the family business before they all would eventually attend the University of Colorado. All four of the VanDerbur girls were beautiful, young, and successful women. Nancy's sister Marilyn would go on to win Miss America in 1958. Nancy is the consummate wife, mother and friend. She provides the strength that motivates Dick to be a strong father and community figure, and her work behind-the-scenes is worthy of multiple praises. Nancy is a warm and friendly person who is beloved by her many friends and family members, including each of her five children.

Mr. Speaker, it is a rare and beautiful thing when a couple's love and devotion for each other shines as brightly as does the love between Dick and Nancy Knowlton after fifty years of marriage. I rise before my colleagues today to recognize that beautiful accomplishment and to applaud the example that Dick and Nancy's loving marriage provides to countless Coloradoans. It is an honor to congratulate them on fifty years of dedication to each other, and I wish them all the best in the years ahead.

PERSONAL EXPLANATION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. UDALL of Colorado. Mr. Speaker, because I was part of a Congressional delegation that traveled to Iraq, I missed several votes last week.

Had I been present, I would have voted as follows:

On rollcall No. 469, on ordering the previous question on H. Res. 785, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, I would have voted "no."

On rollcall No. 470, on ordering the previous question on H. Res. 794, waiving points of order against the conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes, I would have voted "no."

On rollcall No. 471, on adoption of H. Res. 794, I would have voted "no."

On rollcall No. 480, adoption of the conference report on H.R. 1308, I would have voted "yes."

TRIBUTE TO SAN FRANCISCO AIDS FOUNDATION EXECUTIVE DIRECTOR PAT CHRISTEN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. PELOSI. Mr. Speaker, tonight in my district, community leaders will gather to pay tribute to the work of Pat Christen, Executive Director of the San Francisco AIDS Foundation for the past 15 years. I want to join in expressing my admiration and gratitude for Pat's outstanding leadership in the fight against HIV/AIDS in San Francisco, across America, and around the world.

Pat has effectively and enthusiastically led the San Francisco AIDS Foundation through some of the most difficult times of the epidemic. She is the longest serving Executive Director of an AIDS service organization in the nation and has established a remarkable legacy.

In 1988, after returning from Africa as a Peace Corps volunteer and volunteering with the Foundation's hotline, Pat was named the Foundation's first director of public policy. Within a year, she gathered colleagues from across the nation to address the growing crisis of caring for the thousands of people with AIDS who were critically ill and had no means of support.

Those initial discussions laid the foundation for the Ryan White CARE Act. I was an original co-sponsor of that legislation, and joined Congressman HENRY WAXMAN, Senator EDWARD KENNEDY and many of our colleagues who worked with Pat and community leaders from across the country to ensure swift passage. The CARE Act has proven to be one of the most significant public health achievements of the Congress in the past 15 years. Declines in AIDS deaths are a direct result of the therapies and services that have been made more widely available through the CARE Act to large numbers of uninsured and under-insured people with HIV and AIDS.

Pat's courage and competence later drew San Francisco to the forefront of the fight for effective needle exchange programs. When most leaders were intimidated by this innovative and controversial approach, Pat led the charge to city hall and Sacramento to put needle exchange in our HIV prevention strategy. Pat and others in San Francisco were also early to see that mobilization against this pandemic had to be international. She founded Pangaea, the global affiliate of the San Francisco AIDS Foundation, to apply San Francisco's experience as a leader in the domestic fight against HIV/AIDS to the global crisis. Through Pat's vision and leadership, Pangaea has brought hope and care to thousands of Africans facing HIV/ADS.

I have been proud to work with Pat and the San Francisco ADS Foundation over the years to ensure that HIV/ADS care, treatment, prevention, and research initiatives, domestically and internationally receive the funding they need, and to improve and strengthen those programs as the epidemic evolves.

Pat Christen's leadership at the Foundation may be coming to an end, but her legacy will live on as the fight to end AIDS continues. Her success reminds us what community leadership can do. It inspires us to not only work effectively at the local level, but also to take responsibility to make change at the national and global level. I know I join many in saying that the world is a better place because Pat Christen graced it with her leadership, vision, and integrity.

PAYING TRIBUTE TO PEDRO PICAZO-POTEET

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Pedro Picazo-Poteet, an extraordinary fifteen year old who has overcome seemingly impossible obstacles in order to compete in martial arts competitions. Pedro is a true fighter, and someone other citizens can look to for inspiration. I am honored to stand before this body of Congress and this Nation today to recognize his accomplishments.

In 2002, Pedro was riding his bike to school when he was hit by a car. His injuries were so extensive that the doctors were not certain whether he would live, and resulted in the loss of an arm. Pedro's grandmother Darla, who has raised Pedro since the age of eight, stayed by his side during his entire stay at the hospital. Although the family had to move to a different home to help pay for Pedro's medical costs, Darla refused to let Pedro quit pursuing his passion of martial arts. With the encouragement of his coach and family, Pedro has returned to martial arts and trains in the stick fighting competition. Pedro practices for hours, preparing himself for older, stronger, and more physical opponents.

Mr. Speaker, Pedro Picazo-Poteet is a strong, dedicated individual who has triumphed in the face of difficult obstacles. His persistent determination has taken him further than anyone imagined and I am honored to stand here before this body and recognize the efforts of such a zealous young man. Good luck with your martial arts training, Pedro, and I wish you all the best in your future endeavors.

OSHA'S FAILURE TO ESTABLISH AND ENFORCE SAFETY STANDARDS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. OWENS. Mr. Speaker, since 2001 the Occupational Safety and Health Administration, OSHA, has failed to carry out its core mission of protecting the health and safety of American workers. By withdrawing more rules aimed at workplace safety than it has promulgated over the past 4 years, OSHA has set an appalling track record indeed. As such, OSHA and the Bush administration have earned the dubious distinction of definitively turning back the clock on worker safety.

As documented by the Government Accountability Office, GAO, in a March 2004 report, OSHA has decreased the proportion of its budget dedicated to enforcement activities by 6 percent at the same time it has increased by 8 percent the proportion reserved for its Voluntary Protection Program, VPP. Under the VPP, OSHA offers regional partnerships with certain industry associations—such as construction—to reduce worker injuries and illness. In return for keeping injury rates 25 percent below the industry average and holding comprehensive training sessions for workers,

participating contractors receive a lower priority for scheduled OSHA inspections. Although certain contractors participating in the VPP have met with some success in reducing injury rates, this can never suffice as a substitute for adequate enforcement of U.S. safety standards.

In its budget request for fiscal year 2006, the Bush administration promises to undermine even further OSHA's ability to develop and enforce essential safety and health standards through funding cuts of $12 million. This is a clear subversion of congressional intent in passing the OSHA Act more than 3 decades ago. Let me remind my colleagues that OSHA's clear statutory mandate is to ''assure every working man and woman in the United States safe and healthful working conditions.''

Mr. Speaker, I ask unanimous consent that an article that appeared in today's Washington Post, outlining OSHA's woeful neglect of worker safety, be printed in the RECORD at this point.

[From the Washington Post, Oct. 5, 2004]

OSHA WITHDRAWS MORE RULES THAN IT MAKES, REVIEWS FIND

(By Cindy Skrzycki)

It's no secret that the Bush administration prefers voluntary, collaborative efforts on the part of companies to improve their safety records. Since the administration took over in 2001, the Labor Department's Occupational Safety and Health Administration has forged hundreds of agreements with companies and business associations to improve their safety records while rulemaking has been sharply curtailed.

According to OSHA Assistant Secretary John Henshaw, the approach has resulted in safer workplaces with fewer fatalities, injuries and illnesses—what he calls the triple bottom line. ''I've seen what works and doesn't work on the shop floor,'' said Henshaw, reflecting his own career as a safety and health professional at chemical companies, Monsanto Co. and Astaris LLC, before he came to the safety agency.

But labor unions and some watchdog groups would rather OSHA play its more traditional role, issuing regulations.

''We have a preference for an actual regulation that is enforceable and fair across the board,'' said J. Robert Shull, senior regulatory policy analyst at OMB Watch, a nonprofit group funded mostly by foundations that has three union officials among its 15 directors.

Adds Peg Seminario, director of occupational safety and health for the AFL–CIO: Setting and enforcing standards is part of their mission. ''So why aren't they?''

Since fall 2000, the agency has not been regulating in the traditional sense, OMB Watch found in a series of reviews. Twenty-four rules that were in some stage of development on OSHA's agenda were withdrawn by the administration. Nine rules were completed, but none were major and several were related to recordkeeping.

In examining the agency's December 2003 and June 2004 regulatory agendas, which track the progress of its rules, OMB Watch found that since last December, OSHA has revised a rule on commercial diving operations, reexamined one on mechanical power presses and changed how musculoskeletal disorders are reported. It completed one rule, to protect shipyard workers from fire hazards, and yesterday proposed new standards to protect workers from hexavalent chromium, a chemical used in chrome plating. That was under a court order.

''It's a meager output. It's the black hole of government,'' Shull said. ''OSHA cleared the decks of its agenda. Just swept it clean.'' His group maintains that gutting the agency's regulatory agenda is a sop to business, which won a big victory when the Bush administration cancelled a final rule to protect workers from ergonomic injuries.

Early in the Bush administration, Henshaw said he didn't put much stock in the regulatory agenda, calling it a wish list that contained proposals that had been incubating for years with no result. He said he preferred a ''to-do'' list—which OMB Watch now calls a ''do-nothing'' list.

That list has 24 items, including whether employers have to pay for protective equipment for their workers.

Said Henshaw, who inherited the protective equipment proposal from the Clinton administration: ''We're reviewing the comments now and we're committed to taking the next step. But I don't want to say exactly what the next step is.''

His emphasis, he said, has been on cooperative efforts with business and stepped-up enforcement of ''bad actors'' who are responsible for most safety problems.

The agency has formed 231 long-term alliances with trade associations and companies since 2002 that emphasize outreach, education, and sharing ''best practices.'' OSHA under Henshaw has forged 214 active strategic partnerships that set safety goals involving 4,762 employers, and there are 1,153 voluntary protection program sites, where companies with exemplary safety records forego routine inspections.

Critics of the agency are leery of these arrangements, where union participation is minimal. And they don't entirely trust the numbers OSHA uses to support its claim that injures and illnesses are decreasing. Unions don't consider the reports dependable, she said, because they are furnished by employers.

Seminario points out that there have been two major changes in the way employers collect injury and illness data since 2002, making comparisons to earlier years difficult. For example, the incidence of musculoskeletal injuries on the job—injuries from repetitive work and poorly designed workplaces—is no longer reported separately.

Data collected by the Bureau of Labor Statistics on days missed from work for illness show that over the past few years, the percentage of days taken off due to injuries and illnesses related to ergonomic issues has remained constant—about 34 percent—though the overall number of injuries and illnesses has decreased.

The business community said it wasn't that focused on the proposed rules OSHA axed but wanted to prevent new regulations. And groups like the U.S. Chamber of Commerce have been unhappy that the safety regulators issued citations for ergonomic violations under a broad enforcement authority. Since Congress killed the ergo rule two years ago, OSHA has opened cases against seven companies for ergonomic-related violations.

Randel Johnson, vice president of labor, immigration and employee benefits for the chamber, called the trend troubling. ''The agency has aggressively pursued ergonomics citations . . . demanding abatement measures that sound much like the repealed regulation and micromanaging targeted employers with a laundry list of requirements. Despite what the unions may allege, our life with OSHA has been no rose garden.''

SENSE OF CONGRESS REGARDING HUMANITARIAN ASSISTANCE TO COUNTRIES OF CARIBBEAN DEVASTATED BY HURRICANES CHARLEY, FRANCES, IVAN, AND JEANNE

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. JACKSON-LEE of Texas. Mr. Speaker, I join my colleagues today to support H. Con. Res. 496 commending the governments of the countries of the Caribbean for their efforts to respond and assist the people of the region after the devastation caused by Hurricanes Charley, Frances, Ivan, and Jeanne from August to September 2004. I also recognize American aid workers, development organizations, and the response teams who have provided humanitarian assistance to the people of Grenada, Jamaica, the Bahamas, the Dominican Republic, Haiti and the other affected island nations.

Coming from Houston, I know all too well that hurricanes are a fact of life for anybody living in the region. But this year's hurricane season is different. The National Oceanic and Atmospheric Administration predicted that 2004 would be an above average Atlantic hurricane season and three of these four hurricanes have been categorized by the National Weather Service as ''major'' hurricanes. The American people have also endured the impact of this year's hurricane season.

The challenges that the people in the Caribbean have faced since Charley's arrival in August have been particularly great. Hundreds have died and tens of thousands of people are displaced or are homeless as a result of these hurricanes. Some estimate that the cost of reconstruction in the region could exceed a quarter billion dollars.

Nevertheless the effects would have been greater were it not for the actions of the Caribbean governments and the international community. The U.S. assistance to the region is being coordinated by the U.S. Agency for International Development with the Caribbean Disaster Emergency Response Agency and donor organizations in the Eastern Caribbean Donor Group. International organizations such as the World Bank, the Inter-American Development Bank, the United Nations, and the Organization of American States have joined the U.S. in providing necessary assistance to the region.

I support this resolution and ask my colleagues to encourage the President and the Administrator of the U.S. Agency for International Development to provide the funding to private volunteer organizations, the United Nations, and regional institutions that will help to mitigate the effects from Hurricanes Charley, Frances, Ivan, and Jeanne and to provide technical assistance for the reconstruction that will help to minimize the impact of future hurricanes in the region.

PAYING TRIBUTE TO ADAM CAMPFIELD

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MCINNIS. Mr. Speaker, I rise today to pay tribute to Adam Campfield, an extraordinary fourteen year old from my district, who has overcome seemingly impossible obstacles in order to compete in martial arts competitions. Adam is a true fighter, and someone other citizens can look to for inspiration and I am honored to stand before this body of Congress and this Nation today to recognize his accomplishments.

Adam earned his black belt despite the fact that he lost his vision to cancer when he was six years old. Adam's coach Troy says that there was no doubt that Adam had the ability; his worries came from being able to teach him the material. Adam grew up in a supportive family that would not allow him to use the word can't and today not only is he a martial arts competitor, but he also plays tennis and participates in a ski program. Adam's blindness has only sharpened his other senses, so much so that Adam has said that if he were given the option of not going blind he might not choose to have his vision.

Mr. Speaker, Adam Campfield is a strong, dedicated and gifted athlete who refuses to let life's impediments obstruct his physical activity. His persistent determination has taken him farther than anyone imagined and I am honored to stand here before this body and recognize the efforts of such a courageous young man. Good luck with your martial arts training Adam, and I wish you all the best in your future endeavors.

SENSE OF CONGRESS REGARDING HUMANITARIAN ASSISTANCE TO COUNTRIES OF CARIBBEAN DEVASTATED BY HURRICANES CHARLEY, FRANCES, IVAN, AND JEANNE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. RANGEL. Mr. Speaker, by now we are all aware of the enormous toll exacted by Hurricanes Charley, Frances, Ivan, and Jeanne on the Caribbean. Indeed, the cumulative force of these disasters has claimed thousands of lives and displaced hundreds of thousands of residents. The tourism and agricultural sectors of the Caribbean, of which so many nations are dependent, have been battered.

While total monetary damage to the region has yet to be firmly established, it is easily in the billions of dollars. These staggering statistics not only sadden us, they clearly compel us to take significant action. The United States has already distributed some assistance, and the administration has requested an additional $50 million in emergency funds for the Caribbean in the supplemental appropriations bill we have before us this week.

While this assistance is appreciated, substantially more is needed if we are to make a meaningful impact. An October 4th editorial in the Washington Post noted that the requested assistance for the Caribbean is a minute fraction of the $12.2 billion requested for southern States affected by the recent hurricanes. I myself have joined other friends of the Caribbean in this House in asking that the administration at least double the size of its request for the Caribbean.

In light of these funding needs, I am extremely pleased to support the resolution introduced by the gentlewoman from California, H. Con. Res. 496. Congresswoman LEE's resolution represents a non-partisan appeal to provide adequate humanitarian assistance to our neighbors in this time of crisis. I am proud to be a co-sponsor of this legislation, and urge my fellow colleagues to lend their support to this critical measure.

We have all borne witness to the difficult road our neighbors have taken towards democracy. As such, we must always strive to ensure that their road is free from obstruction. This resolution is but one step in that ongoing effort. Again, I sincerely thank Congresswoman LEE, and offer my whole-hearted support for her resolution.

[From the Washington Post, Oct. 4, 2004]

CALAMITY IN THE CARIBBEAN

In Haiti the bodies are still turning up. Reports from the island republic mention Haitians shoveling corpses out from under branches and mud—the detritus of Tropical Storm Jeanne and the floods it triggered last month. Perhaps 2,000 are dead, and more may be missing. In tiny Grenada, whose landmass is scarcely twice that of the District, 90 percent of the buildings on the island were damaged by Hurricane Ivan. The hurricane also decimated Grenada's nutmeg trees, which take a decade to become productive, and devastated hotels, mainstays of the tourist industry that provides the island with 70 percent of its income.

The storms paused long enough in the Caribbean on their way to Florida to deliver knockout blows to the bantamweight islands. Americans fixated on Florida may have barely noticed, but the destruction and suffering in the islands was overwhelming. The Dominican Republic, Puerto Rico, Jamaica, the Bahamas, the Turks and Caicos Islands, and St. Lucia—all were damaged. Grenada's recovery will take years.

Haiti, no stranger to calamity, is suffering a catastrophe. An estimated 300,000 people have been made homeless by floods. In the northwest, where Jeanne unleashed much of its wrath, food and potable water are scarce. Highways are cut or impassable; Port-de-Paix, a town of 45,000 on the north coast, is reachable only by air. In the port of Gonaives, Haiti's third-largest city, marauding gangs desperate from thirst and hunger have attacked trucks hauling bottled water and depots holding humanitarian food stockpiles. Fears of famine are rising, since flood waters and mud covered some of the most fertile acres in the country. Poverty, deforestation and the virtual absence of effective government all conspire to deepen the misery.

President Bush has proposed $12.2 billion in aid for hurricane-damaged areas, mostly in Florida and other Southern states. The package includes $50 million for the islands, nearly half of it for Haiti. We hope Congress passes it quickly, but let's be blunt: The amount set aside for the Caribbean nations is a pittance—not to mention a fraction of what was spent on U.S. military interventions in Haiti and Grenada.

Americans who wish to help may send their own donations. One conduit for such private support is CARE, which has been active in Haiti for 50 years and is deeply involved in the current relief efforts. Information is available at www.careusa.org.

CONGRATULATING AMERICAN DENTAL ASSOCIATION FOR SPONSORING SECOND ANNUAL ''GIVE KIDS A SMILE'' PROGRAM

HON. RICK LARSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. LARSEN of Washington. Mr. Speaker, I rise today to express my support for H. Res. 567 which congratulates the American Dental Association for once again successfully administering the Give Kids a Smile program.

The Give Kids a Smile program has worked hard to emphasize the importance of kids' access to high quality dental care. This year's program, held on February 6, 2004, resulted in an estimated one million children receiving dental education, screening and care.

The Give Kids a Smile program highlights not only the importance of children's dental care but also the need to help those that may not have access. Access to dental care for children is a critical component of overall health care. Tooth decay is the most common chronic childhood disease and results in thousands of children experiencing poor eating and sleeping patterns and suffering decreased attention spans at school. Congress must join the American Dental Association in recognizing our role in providing assistance to children in need.

I want to thank the dentists, dental hygienists, dental assistants, and others who volunteered their time during this year's Give Kids a Smile program. In addition to the success of this program, America's dental community deserves our thanks for the services and help they provide year round.

PAYING TRIBUTE TO MICHAEL HESSE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MCINNIS. Mr. Speaker, I consider it a great privilege to recognize an outstanding individual who, for many years, has honorably served the interests of my district and the State of Colorado. Michael Hesse has served as my chief of staff, and during that time he has worked to improve the lives of many of his fellow Coloradans through his compassionate activism. Mike is a dedicated public servant and a dynamic leader whose devotion to Colorado is unparalleled. I am honored to recognize his service before this body of Congress and this Nation today.

Mike earned his bachelor's degree from the University of Denver School of Business in 1987. After graduation, President George H.W. Bush appointed Mike as the Assistant to the Health and Human Services Secretary, Louis Sullivan, from 1989 to 1992. In that capacity, Mike coordinated the President's National Initiative for Childhood Immunization and the Presidential Health Mission to Africa.

Mike has also played a vital role in furthering and representing the interests of his party. He served as the primary spokesperson and overall manager of the Bush-Quayle 1992 Colorado campaign, and was the 1992 executive director of the Colorado Republican Party. Mike's strong leadership and focused management led to effective candidate recruitment and significant improvement in fundraising goals by tripling the traditional party base support. Mike's political experience and dedication to the Mountain West made him a natural candidate for his position as the regional political director of Bob Dole for President. There, Mike was instrumental in building support for Western priorities while establishing close working relationships with officials on both the federal and local levels.

I learned firsthand of Mike's skills as an effective manager and team builder when he became my Chief of Staff in 1998. Through his direction, my office has been able to provide consistently high quality service to the people of Colorado's Third Congressional District. Mike has recruited a respected congressional staff who are committed to constituent casework and who work tirelessly to help me pass a number of sizable legislative initiatives, even in the face of seemingly insurmountable odds. Mike has implemented a strong organizational structure throughout the office that has enabled greater staff interaction and has stressed personal responsibility, by providing timely and substantive responses to inquiries from my constituents. Mike has also fostered valuable relationships with city, county, and State officials, and has a successful working relationship with many of my colleagues in Congress.

Mr. Speaker, Mike Hesse is a natural leader and a passionate public servant whose dedication to the State of Colorado and this Nation serves as an inspiration to us all. Indeed, the legislative and policy successes I have enjoyed over the last 6 years would not have been possible without Mike's leadership within my office. I consider it a great honor to recognize his service and accomplishments before this body of Congress today. I want to personally thank Mike for his many years of commitment to our home state. I have never worked with such a fine individual as Mike Hesse.

PERSONAL EXPLANATION

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes. If I had been present, I would have voted as follows:

September 30, 2004: Rollcall vote 485, on H. Con. Res. 501, honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival, I would have voted yes.

October 4, 2004: Rollcall vote 487, on S. Con. Res. 76, recognizing that November 2, 2003, shall be dedicated to ''A Tribute to Survivors'' at the United States Holocaust Memorial Museum, I would have voted yes. Rollcall vote 488, on S. 1814, to transfer federal lands between the Secretary of Agriculture and the Secretary of the Interior, I would have voted yes. Rollcall vote 489, on H. Res. 567, congratulating the American Dental Association for sponsoring the second annual ''Give Kids a Smile'' program which emphasizes the need to improve access to dental care for children, and thanking dentists for volunteering their time to help provide needed dental care, I would have voted yes.

October 5, 2004: Rollcall vote 490, on H. Res. 814, ordering the Previous Question, I would have voted yes. Rollcall vote 491, on H. Res. 814, adoption of the rule, I would have voted yes.

PAYING TRIBUTE TO SUE SMITH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MCINNIS. Mr. Speaker, I consider it a great privilege to recognize an outstanding individual who for many years has honorably served the people of my congressional district and the entire State of Colorado. Susan Smith has served as my District Director for the past several years, and in that time, I have come to rely on her strong sense of integrity and leadership abilities to provide an unparalleled quality of constituent services to the people of my district. Sue has amassed an impressive record of public service over her lifetime, and I am honored to bring attention to her accomplishments today before this body of Congress and this Nation.

Before Sue joined my staff, she worked at Colorado's Pueblo Community College in the Executive Vice President's office, where she was in charge of the school's operational policies and procedures. One of her main responsibilities was overseeing the funds provided to PCC under the Carl D. Perkins Federal Grant. Sue has always been a strong advocate for the importance of higher education and, over the years, has volunteered her time and energies to countless youth-oriented non-profit organizations. Before joining my staff full-time, Sue coordinated an educational program for my office known as SEEDS. This terrific program accepts and refurbishes donated government computers and places them in schools throughout the region whose students are in need of the educational opportunities these computers provide.

Sue's variety of non-profit experience made her a perfect candidate for the director of my district offices. Sue oversees four district offices in Pueblo, Glenwood Springs, Grand Junction, and Durango in one of the largest congressional districts in the country. She has cultivated strong working relationships with city, county and state officials that have led to increased, effective communication and cooperation between local and federal governments. Through her diligent guidance and direction, my district offices have been able to make a difference in the lives of the people of Colorado's Third Congressional District. In addition, Sue coordinates my US Service Academy nomination process, which has enabled many high school students to pursue rewarding careers in our armed forces. Sue has personally spent countless hours aiding various local organizations as they try to navigate the complicated federal grant process in order to benefit from the much-needed funding those grants provide.

Mr. Speaker, Sue Smith is a dynamic and extraordinary leader whose amazing dedication to public service has made her a compassionate advocate for the interests of the State of Colorado. I am truly honored to stand before my colleagues to recognize the service of such a devoted public servant, a loving mother, and valued friend. Thank you, Sue, for your many years of hard work and your service to the people of Colorado and this Nation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 7, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 8

9:30 a.m.

Joint Economic Committee

To hold hearings to examine the current employment situation for September.

SD–628

Daily Digest

HIGHLIGHTS

Senate passed S. 2845, National Intelligence Reform Act.

Senate and House agreed to the Conference Report to accompany H.R. 4850, District of Columbia Appropriations Act.

The House passed H.R. 5212, Further Supplemental Appropriations for Disaster Relief.

Senate

Chamber Action

Routine Proceedings, pages S10469–S10555

Measures Introduced: Eleven bills and four resolutions were introduced, as follows: S. 2899–2909, S. Res. 448–450, and S. Con. Res. 141. **(See next issue.)**

Measures Passed:

Trademarks: Committee on the Judiciary was discharged from further consideration of S. 2796, to clarify that service marks, collective marks, and certification marks are entitled to the same protections, rights, and privileges of trademarks, and the bill was then passed. **Page S10488**

Copyright Royalty and Distribution Reform Act: Senate passed H.R. 1417, to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S10488–S10504**

Collins (for Hatch/Leahy) Amendment No. 3975, in the nature of a substitute. **Page S10504**

Public Works and Economic Development Act Reauthorization: Senate passed S. 1134, to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S10504–12**

Collins (for Inhofe) Amendment No. 3976, in the nature of a substitute. **Page S10512**

National Intelligence Reform Act: By 96 yeas to 2 nays (Vote No. 199), Senate passed S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, after taking action on the following amendments proposed thereto:

Pages S10476–88, S10512–43

Adopted:

Stevens Modified Amendment No. 3840, to modify the discharge of the milestone decision authority with respect to the acquisition of major systems for intelligence programs of the Department of Defense. **Pages S10476–78**

Stevens Modified Amendment No. 3830, to modify certain provisions relating to the Central Intelligence Agency. **Pages S10476–78**

Stevens Modified Amendment No. 3882, to improve the provisions relating to the Inspector General of the National Intelligence Authority. **Pages S10476–78**

By a unanimous vote of 98 yeas (Vote No. 198), Roberts Modified Amendment No. 3742, to clarify the continuing applicability of section 504 of the National Security Act of 1947 to the obligation and expenditure of funds appropriated for the intelligence and intelligence-related activities of the United States. **Pages S10476, S10485–86**

Leahy/Grassley Amendment No. 3945, to require Congressional oversight of translators employed and contracted for by the Federal Bureau of Investigation. **Pages S10476, S10486–87**

Reid (for Harkin) Modified Amendment No. 3821, to modify the functions of the Privacy and Civil Liberties Oversight Board. **Pages S10476, S10487**

Collins/Lieberman Amendment No. 3962 (to Amendment No. 3809), to improve the amendment. **Pages S10487–88**

Levin Modified Amendment No. 3809, to exempt military personnel from certain personnel transfer authorities. **Pages S10476, S10487–88**

Warner Modified Amendment No. 3875, relating to the components of the National Intelligence Program. **Pages S10476, S10516–18**

Stevens/Inouye Modified Amendment No. 3827, to strike section 206, relating to information sharing. **Pages S10476, S10518–19**

Reid (for Leahy) Modified Amendment No. 3915, to establish criteria for placing individuals on the

consolidated screening watch list of the Terrorist Screening Center. **Pages S10476, S10520–21**

Reid (for Leahy) Modified Amendment No. 3916, to strengthen civil liberties protections. **Pages S10476, S10521**

Collins (for Frist) Further Modified Amendment No. 3895, to establish the National Counterproliferation Center within the National Intelligence Authority. **Pages S10476, S10537–40**

Collins (for Frist) Amendment No. 3896, to include certain additional Members of Congress among the congressional intelligence committees. **Pages S10476, S10540**

Collins/Lieberman Amendment No. 3977, to improve the bill. **Pages S10541–43**

Collins (for Ensign) Amendment No. 3978, to authorize the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators. **Pages S10541–43**

Collins (for Kyl) Amendment No. 3979, to amend the Immigration and Nationality Act to ensure that nonimmigrant visas are not issued to individuals with connections to terrorism or who intend to carry out terrorist activities in the United States. **Pages S10541–43**

Lieberman (for Schumer) Amendment No. 3980, to require the establishment of pilot projects relating to the coordination of information among emergency first responders. **Pages S10541–43**

Lieberman (for Conrad) Modified Amendment No. 3837, to require the Secretary of Homeland Security to carry out an advanced technology northern border security pilot program. **Pages S10541–43**

Collins (for Domenici) Modified Amendment No. 3861, to direct the Secretary of Homeland Security to develop and implement a plan for continuous surveillance of the Southwest border of the United States by remotely piloted aircraft. **Pages S10541–43**

Lieberman (for Sarbanes) Amendment No. 3760, to provide that the Privacy and Civil Liberties Oversight Board include in certain reports, any proposal that the Board advised against, but actions were taken to implement. **Pages S10541–43**

Collins (for Roberts/DeWine) Modified Amendment No. 3924, to require the Federal Bureau of Investigation to maintain and update an enterprise architecture. **Pages S10541–43**

Lieberman (for Wyden) Modified Amendment No. 3733, to provide a report on the use of data to Congress. **Pages S10541–43**

Collins (for Warner) Modified Amendment No. 3880, to provide that the personnel policies and programs established by the National Intelligence Director shall be consistent with the personnel policies and standards applicable to members of the uniformed services. **Pages S10541–43**

Withdrawn:

Kyl Amendment No. 3801, to modify the privacy and civil liberties oversight. **Pages S10476, S10481–85**

Levin Amendment No. 3810, to clarify the definition of National Intelligence Program. **Pages S10476, S10518**

Stevens Amendment No. 3839, to strike section 201, relating to public disclosure of intelligence funding. **Pages S10476, S10519**

Reid (for Leahy) Amendment No. 3913, to address enforcement of certain subpoenas. **Pages S10476, S10521**

Warner Amendment No. 3876, to preserve certain authorities and accountability in the implementation of intelligence reform. **Pages S10476, S10540**

A unanimous-consent agreement was reached providing that it be in order for the following previously agreed upon amendments to be consolidated into one title under the heading: "9/11 Commission Report Implementation Act": Amendment Numbers: 3942, 3807, 3702, 3774, 3705, 3766, and 3806. **Page S10522**

During consideration of this measure today, Senate also took the following action:

McCain/Lieberman Modified Amendment No. 3807, to develop a strategy for combining terrorist travel intelligence, operations, and law enforcement, previously agreed to on Friday, October 1, 2004, was modified by unanimous-consent. **Pages S10540–41**

Anabolic Steroid Control Act: Senate passed S. 2195, to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **(See next issue.)**

Frist (for Hatch/Biden) Amendment No. 3982, to make a technical amendment. **(See next issue.)**

Authorizing Legal Representation: Senate agreed to S. Res. 450, to authorize testimony and representation in United States v. Daniel Bayly, et al. **(See next issue.)**

Family Farmer Bankruptcy Relief Act: Committee on the Judiciary was discharged from further consideration of S. 2864, to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted, and the bill was then passed. **(See next issue.)**

National Earthquake Hazards Reduction Program: Senate passed H.R. 2608, to reauthorize the National Earthquake Hazards Reduction Program, after agreeing to the following amendment proposed thereto: **(See next issue.)**

McConnell (for McCain/Nelson) Amendment No. 3983, in the nature of a substitute. **(See next issue.)**

Belarus Democracy Act: Senate passed H.R. 854, to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus

and for the consolidation and strengthening of Belarus sovereignty and independence, clearing the measure for the President. **(See next issue.)**

Intelligence Committee Reorganization: Senate began consideration of S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence, taking action on the following amendment proposed thereto:

Pages S10543–51

Pending:

McConnell/Reid/Frist/Daschle Amendment No. 3981, in the nature of a substitute. **Pages S10543–51**

A motion was entered to close further debate on McConnell/Reid/Frist/Daschle Amendment No. 3981, in the nature of a substitute and, in accordance with provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Friday, October 8, 2004. **Page S10550**

A motion was entered to close further debate on S. Res. 445 and, in accordance with provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Friday, October 8, 2004. **Page S10551**

A unanimous-consent agreement was reached providing for further consideration of the resolution at approximately 10 a.m., on Thursday, October 7, 2004. **Page S10555**

District of Columbia Appropriations—Conference Report: Senate agreed to the conference report to accompany H.R. 4850, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2005, clearing the measure for the President. **(See next issue.)**

Appointments:

NATO Parliamentary Assembly: The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appointed the following Senators as members of the Senate Delegation to the NATO Parliamentary Assembly during the Second Session of the 108th Congress: Senators Grassley, DeWine, Enzi, and Voinovich. **(See next issue.)**

Nominations Confirmed: Committee on Foreign Relations was discharged from further consideration of the following nominations which were then confirmed:

Christopher J. LaFleur, of New York, to be Ambassador to Malaysia.

B. Lynn Pascoe, of Virginia, to be Ambassador to the Republic of Indonesia.

Ryan C. Crocker, of Washington, to be Ambassador to the Islamic Republic of Pakistan.

Marcie B. Ries, of the District of Columbia, to be Ambassador to the Republic of Albania.

A routine list in the Department of State. **Page S10555**

Nominations Received: Senate received the following nomination:

1 Air Force nomination in the rank of general. **Page S10555**

Nominations Withdrawn: Senate received notification of withdrawal of the following nomination:

1 Air Force nomination in the rank of general. **Page S10555**

Nominations Discharged: Committee on Foreign Relations was discharged from further consideration of the following nominations which were then placed on the Executive Calendar:

Lloyd O. Pierson, of Virginia, to be an Assistant Administrator of the United States Agency for International Development, which was sent to the Senate on July 21, 2004, from the Senate Committee on Foreign Relations.

Lloyd O. Pierson, an Assistant Administrator of the United States Agency for International Development, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2009, which was sent to the Senate on July 21, 2004, from the Senate Committee on Foreign Relations.

Hector E. Morales, of Texas, to be United States Executive Director of the Inter-American Development Bank for a term of three years, which was sent to the Senate on July 22, 2004, from the Senate Committee on Foreign Relations.

Douglas Menarchik, of Texas, to be an Assistant Administrator of the United States Agency for International Development, which was sent to the Senate on September 8, 2004, from the Senate Committee on Foreign Relations.

Catherine Todd Bailey, of Kentucky, to be Ambassador to the Republic of Latvia, which was sent to the Senate on September 8, 2004, from the Senate Committee on Foreign Relations. **Page S10555**

Messages From the House: **(See next issue.)**

Measures Referred: **(See next issue.)**

Executive Reports of Committees: **(See next issue.)**

Additional Cosponsors: **(See next issue.)**

Statements on Introduced Bills/Resolutions: **(See next issue.)**

Additional Statements: **(See next issue.)**

Amendments Submitted: **(See next issue.)**

Authority for Committees to Meet: **(See next issue.)**

Record Votes: Two record votes were taken today. (Total—199) **Pages S10486, S10543**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 8:01 p.m., until 9:30 a.m., on Thursday, October 7, 2004. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S10555.)

Committee Meetings

(Committees not listed did not meet)

NOMINATIONS

Committee on Armed Services: Committee concluded a hearing to examine the nominations of Francis J. Harvey, of California, to be Secretary of the Army, Richard Greco, Jr., of New York, to be an Assistant Secretary of the Navy for Financial Management, who was introduced by Senator Brownback, and General Gregory S. Martin, USAF, for reappointment to the grade of general and to be Commander, United States Pacific Command, after the nominees testified and answered questions in their own behalf.

WMD'S

Committee on Armed Services: Committee concluded a hearing to examine the report of the Special Advisor to the Director of Central Intelligence for Strategy Regarding Iraqi Weapons of Mass Destruction Programs, after receiving testimony from Charles A. Duelfer, Special Advisor to the Director of Central Intelligence for Strategy Regarding Iraqi Weapons of Mass Destruction Programs; and Brigadier General Joseph J. McMenamin, USMC, Commander of the Iraq Survey Group.

NATURAL GAS

Committee on Commerce, Science, and Transportation: Subcommittee on Competition, Foreign Commerce, and Infrastructure concluded a hearing to examine issues relating to natural gas, focusing on the domestic supply and cost for the approaching peak winter months, after receiving testimony from Guy F. Caruso, Administrator, Energy Information Administration, Department of Energy; Paul Wilkinson, American Gas Association, and Wenonah Hauter, Public Citizen Energy Program, both of Washington, DC; and Gary D. Huss, Hudapack Metal Treating, Inc., Elkhorn, Wisconsin, on behalf of the National Association of Manufacturers.

CURRENT VISA POLICY

Committee on Foreign Relations: Committee concluded a hearing to examine the impact of current visa policy on international students and researchers, after receiving testimony from Martin C. Jischke, Purdue University, West Lafayette, Indiana; Adam W. Herbert, Indiana University, Bloomington; C.D. Mote, Jr., University of Maryland, College Park; Catheryn Cotten, Duke University International Office, Durham, North Carolina; Allan E. Goodman, Institute of International Education, New York, New York; and Marlene M. Johnson, NAFSA: Association of International Educators, and Theodore H. Kattouf, AMIDEAST, both of Washington, DC.

EAST ASIA HEALTH PROGRAMS

Committee on Foreign Relations: Subcommittee on East Asian and Pacific Affairs concluded a hearing to examine neglected diseases in East Asia regarding public health programs, focusing on malaria, the Global Fund to Fight AIDS, Tuberculosis, and Malaria, and the World Health Organization, after receiving testimony from Anne Peterson, Assistant Administrator for Global Health, U.S. Agency for International Development; Donald R. Roberts, Professor, Division of Tropical Public Health, Department of Preventive Medicine and Biometrics, Uniformed Services University of the Health Sciences; and Robert Desowitz, University of North Carolina School of Public Health, Chapel Hill.

BUSINESS MEETING

Committee on Indian Affairs: Committee approved the issuance of additional subpoenas pursuant to the In re Tribal Lobbying Matters, et al. investigation.

BUSINESS MEETING

Committee on Veterans' Affairs: Committee ordered favorably reported the nominations of Robert Allen Pittman, of Florida, to be an Assistant Secretary of Veterans Affairs (Human Resources and Administration), and Robert N. Davis, of Florida, Mary J. Schoelen, of the District of Columbia, and William A. Moorman, of Virginia, each to be a Judge of the United States Court of Appeals for Veterans' Claims.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to call.

House of Representatives

Chamber Action

Measures Introduced: Measures introduced today will appear in the next issue of the Record.

Additional Cosponsors: **(See next issue.)**

Reports Filed: Reports were filed today as follows:

H.R. 4667, to authorize and facilitate hydroelectric power licensing of the Tapoco Project (H. Rept. 108–721, Pt. 2);

H.R. 4887, to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, amended (H. Rept. 108–738);

H.R. 4984, to provide that the royalty rate on the output from Federal lands of potassium and potassium compounds from the mineral sylvite in the 5-year period beginning on the date of the enactment of this Act shall be reduced to 1.0 percent (H. Rept. 108–739);

S. 434, to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes (H. Rept. 108–740);

H.R. 4285, to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport (H. Rept. 108–741);

H.R. 4282, to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity (H. Rept. 108–742);

H.R. 3258, to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, amended (H. Rept. 108–743);

H.R. 3207, to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System, amended (H. Rept. 108–744);

H. Res. 556, congratulating the United States Geological Survey on its 125th Anniversary (H. Rept. 108–745);

H.R. 5082, to authorize the Secretary of Transportation to award grants to public transportation agencies and over-the-road bus operators to improve security, amended (H. Rept. 108–746);

H.R. 775, to amend the Immigration and Nationality Act to eliminate the diversity immigrant program (H. Rept. 108–747);

H.R. 3755, to authorize the Secretary of Housing and Urban Development to insure zero-downpayment mortgages for one-unit residences, amended (H. Rept. 108–748);

H.R. 5163, to amend title 49, United States Code, to provide the Department of Transportation a more focused research organization with an emphasis on innovative technology (H. Rept. 108–749, Pt. 1); and

H.R. 3242, to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops, amended (H. Rept. 108–750, Pt. 1). **(See next issue.)**

Speaker: Read a letter from the Speaker wherein he appointed Representative Isakson to act as Speaker Pro Tempore for today. **Page H8171**

Chaplain: The prayer was offered today by the Rev. John J. Ryan, Pastor, St. Brendan Roman Catholic Church in Ormond Beach, Florida. **Page H8171**

Justice for All Act of 2004: The House passed H.R. 5107, to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, by a yea-and-nay vote of 393 yeas to 14 nays, Roll No. 497.

Pages H8179–H8204, H8208–09

Agreed to the Sensenbrenner amendment (printed in H. Rept. 108–737) that changes provisions to allow a victim a right to bring a motion to enforce the right to be heard in plea, sentence, and parole proceedings. **Pages H8195–H8204**

H. Res. 823, the rule providing for consideration of the rule was agreed to by voice vote.

Pages H8175–77

District of Columbia Appropriations Act, 2005—Conference Report: The House agreed to the conference report to accompany H.R. 4850, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, by a yea-and-nay vote of 377 yeas to 36 nays, Roll No. 498.

Pages H8204–08, H8209–10

H. Res. 822, the rule providing for consideration of the conference report was agreed to by voice vote.

Pages H8177–79

Suspensions: The House agreed to suspend the rules and pass the following measures:

Satellite Home Viewer Extension and Reauthorization Act of 2004: H.R. 4518, amended, to extend the statutory license for secondary transmissions under section 119 of title 17, United States Code; **Pages H8210–24**

Agreed to amend the title so as to read: to extend the statutory license for secondary transmissions by satellite carriers of transmissions by television broadcast stations under title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions. **Page H8224**

Water Supply, Reliability, and Environmental Improvement Act: Agree to the Senate amendment to H.R. 2828, to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources—clearing the measure for the President; **Pages H8224–35**

Amending the Immigration and Nationality Act with regard to employment eligibility: H.R. 4306, amended, to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment; **Pages H8235–37**

Access to Rural Physicians Improvement Act of 2004: H.R. 4453, amended, to improve access to physicians in medically underserved areas; **Pages H8237–39**

Mentally Ill Offender Treatment and Crime Reduction Act of 2003: S. 1194, amended, to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; **Pages H8239–45**

Extending certain authority of the Supreme Court Police: S. 2742, to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court—clearing the measure for the President; **Pages H8245–46**

Honoring the victims of the Sixteenth Street Baptist Church bombing on the occasion of its 40th anniversary: H. Res. 389, honoring the young victims of the Sixteenth Street Baptist Church bombing, recognizing the historical significance of the tragic event, and commending the efforts of law enforcement personnel to bring the perpetrators of this crime to justice on the occasion of its 40th anniversary; **Pages H8246–50**

Honoring the goals and ideals of National Nurse Practitioners Week: H. Con. Res. 500, honoring the goals and ideals of National Nurse Practitioners Week; **Pages H8252–53**

Amending the Public Health Service Act relating to children's hospitals: H.R. 5204, to amend section 340E of the Public Health Service Act (relating to children's hospitals) to modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs; **Pages H8253–55**

District of Columbia Civil Commitment Modernization Act of 2004: H.R. 4302, amended, to amend title 21, District of Columbia Official Code, to enact the provisions of the Mental Health Civil Commitment Act of 2002 which affect the Commission on Mental Health and require action by Congress in order to take effect; **Pages H8257–59**

Federal Workforce Flexibility Act of 2003: S. 129, amended, to provide for reform relating to Federal employment; **Pages H8259–64**

Congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee: H. Res. 815, congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee, conducted by the National Geographic Society; **Pages H8264–65**

Honoring the communities that received the 2004 All-America City Award: H. Con. Res. 464, honoring the 10 communities selected to receive the 2004 All-America City Award; **Pages H8265–68**

Leonard C. Burch Post Office Building Designation Act: H.R. 5051, to designate the facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, as the "Leonard C. Burch Post Office Building"; **Pages H8268–69**

Adam G. Kinser Post Office Building Designation Act: H.R. 4807, to designate the facility of the United States Postal Service located at 140 Sacramento Street in Rio Vista, California, as the "Adam G. Kinser Post Office Building"; **Pages H8269–70**

Robert J. Opinsky Post Office Building Designation Act: S. 2415, to designate the facility of the United States Postal Service located at 4141 Postmark Drive, Anchorage, Alaska, as the "Robert J. Opinsky Post Office Building";—clearing the measure for the President; **Page H8270**

Lieutenant General James V. Edmundson Post Office Building Designation Act: H.R. 4847, to designate the facility of the United States Postal Service located at 560 Bay Isles Road in Longboat Key, Florida, as the "Lieutenant General James V. Edmundson Post Office Building"; **(See next issue.)**

Bill Monroe Post Office Designation Act: H.R. 4968, to designate the facility of the United States Postal Service located at 25 McHenry Street in Rosine, Kentucky, as the "Bill Monroe Post Office"; **(See next issue.)**

Lieutenant John F. Finn Post Office Designation Act: H.R. 5053, to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the "Lieutenant John F. Finn Post Office"; **(See next issue.)**

Congressman Jack Fields Post Office Redesignation Act: H.R. 4232, to redesignate the facility of

the United States Postal Service located at 4025 Feather Lakes Way in Kingwood, Texas, as the ''Congressman Jack Fields Post Office'';

(See next issue.)

Irma Rangel Post Office Building Designation Act: H.R. 4829, to designate the facility of the United States Postal Service located at 103 East Kleberg in Kingsville, Texas, as the ''Irma Rangel Post Office Building''; **(See next issue.)**

Special Olympics Sport and Empowerment Act of 2004: H.R. 5131, to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program; **(See next issue.)**

Honoring former President Jimmy Carter on his 80th birthday: H. Res. 798, amended, honoring former President James Earl (Jimmy) Carter on the occasion of his 80th birthday; **(See next issue.)**

Temporarily extending the programs under the Higher Education Act of 1965: H.R. 5185, amended, to temporarily extend the programs under the Higher Education Act of 1965; **(See next issue.)**

Supporting efforts to assist youths in high-risk situations: H. Res. 805, supporting efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for youth in high-risk situations; **(See next issue.)**

Sense of Congress that student travel is a vital component of the educational process: H. Con. Res. 131, amended, expressing the sense of the Congress that student travel is a vital component of the educational process; **(See next issue.)**

Supporting the goals and ideals of ''Lights On Afterschool'' programs: H. Res. 809, amended, supporting the goals and ideals of ''Lights On Afterschool, a national celebration of after-school programs; **(See next issue.)**

Recognizing and supporting efforts to promote greater civic awareness in the U.S.: H. Res. 796, recognizing and supporting all efforts to promote greater civic awareness among the people of the United States; **(See next issue.)**

Amending the Federal Water Pollution Control Act with regard to the Lake Pontchartrain Basin Restoration Program: H.R. 4470, amended, to amend the Federal Water Pollution Control Act to extend the authorization of appropriations for the Lake Pontchartrain Basin Restoration Program from fiscal year 2005 to 2010; **(See next issue.)**

Amending the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000: H.R. 4794, amended, to amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 to extend the authorization of appropriations;

(See next issue.)

Norman Y. Mineta Research and Special Programs Reorganization Act: H.R. 5163, amended, to amend title 49, United States Code, to provide the Department of Transportation a more focused research organization with an emphasis on innovative technology; **(See next issue.)**

Amending the Lease Lot Conveyance Act of 2002: S. 1791, to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund—clearing the measure for the President; **(See next issue.)**

Chimayo Water Supply System and Espanola Filtration Facility Act of 2004: S. 2511, to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico—clearing the measure for the President; **(See next issue.)**

National Park System Laws Technical Amendments Act of 2004: S. 2178, to make technical corrections to laws relating to certain units of the National Park System and to National Park programs—clearing the measure for the President;

(See next issue.)

Northern Rio Grande National Heritage Area Act: S. 211, amended, to establish the Northern Rio Grande National Heritage Area in the State of New Mexico; **(See next issue.)**

American Indian Probate Reform Act of 2004: S. 1721, to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land; **(See next issue.)**

Congratulating Mojave Aerospace Ventures for Winning the Ansari X Prize: H. Res. 820, amended, to congratulate Mojave Aerospace Ventures for winning the privately funded $10,000,000 Ansari X Prize and commend the X Prize Foundation for spurring this achievement; **(See next issue.)**

Specialty Crops Competitiveness Act of 2003: H.R. 3242, amended, to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops; and **(See next issue.)**

Homeless Veterans Assistance Reauthorization Act of 2004: H.R. 4248, amended, to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to make grants to expand or modify existing comprehensive service programs for homeless veterans. **(See next issue.)**

Agreed to amend the title so as to read: to amend title 38, United States Code, to increase the authorization of appropriations for the Secretary of Veterans Affairs to make grants to existing comprehensive service programs for homeless veterans.

(See next issue.)

Continue Consideration of Suspensions: Agreed that the Speaker be authorized to entertain motions to suspend the rules for the remainder of this legislative day; **(See next issue.)**

Further Supplemental Appropriations for Disaster Relief: The House passed H.R. 5212, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to storm damage, by yea-and-nay vote of 412 yeas with none voting "nay", Roll No. 501. **(See next issue.)**

Agreed to the Neugebauer amendment (No. 2 printed in the Congressional Record of October 6) that changes section 101 of the bill relating to Agriculture Disaster Assistance. **(See next issue.)**

Rejected the Hensarling amendment (printed in H. Rept. 108–735) that sought to fully offset the cost of the supplemental with a proportional reduction of FY05 discretionary funds once enacted (by a recorded vote of 89 ayes to 321 noes, Roll No. 500). **(See next issue.)**

H. Res. 819, the rule providing for consideration of the bill was agreed to by voice vote. **(See next issue.)**

Agreed to the Putnam amendment in the nature of a substitute to the rule by voice vote, after agreeing to order the previous question by a yea-and-nay vote of 216 yeas to 186 nays, Roll No. 499. **(See next issue.)**

Additional Co-Sponsors: Agreed that the Union Calendar print of H.R. 10, to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, reflect additional co-sponsors submitted by the Speaker. **Page H8268**

Early Organization of 109th Congress: The House agreed to H. Res. 824, relating to early organization of the House of Representatives for the One Hundred Ninth Congress. **(See next issue.)**

Amending the Congressional Accountability Act of 1995: The House agreed to the Senate amendment to H.R. 5122, to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms—clearing the measure for the President. **(See next issue.)**

Discharge Petition: Representative Miller of North Carolina moved to discharge the Committee on Rules from the consideration of H. Res. 800, providing for the consideration of H.R. 2802, to reauthorize the Small Business Act and the Small Business Investment Act of 1958 (Discharge Petition No. 16). **(See next issue.)**

Senate Message: Messages received from the Senate today appear on pages H8171 and H8252.

Senate Referrals: S. 2484, S. 2896, S. 1134, S. 2195, and S. 2895 were held at the desk; S. 2796 and S. 2864 were referred to the Committee on the Judiciary. **(See next issue.)**

Quorum Calls—Votes: Four yea-and-nay votes and one recorded vote developed during the proceedings of today. There were no quorum calls.

Pages H8208–09, H8209–10, (continued next issue.)

Amendments: Amendments ordered printed pursuant to the rule will appear in the next issue.

Adjournment: The House met at 10 a.m. and at 3:03 a.m. stands in recess subject to the call of the Chair.

Committee Meetings

FEDERAL REVENUE OPTIONS

Committee on the Budget: Held a hearing on Federal Revenue Options. Testimony was heard from Representatives Linder, Burgess, English, Price (NC) and Sandlin; and the following former Representatives from Texas: Richard K. Armey; and Bill Archer; and public witnesses.

CHILD PRODUCT SAFETY

Committee on Energy and Commerce: Subcommittee on Commerce, Trade and Consumer Protection held a hearing entitled "Child Product Safety: Do Current Standards Provide Enough Protection?" Testimony was heard from Hal Stratton, Chairman, Consumer Product Safety Commission; and public witnesses.

OFHEO REPORT—FANNIE MAE—ALLEGATIONS OF ACCOUNTING AND MANAGEMENT FAILURE

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing entitled "The OFHEO Report: Allegations of Accounting and Management Failure at Fannie Mae." Testimony was heard from Armando Falcon, Director, Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development; the following officials of Fannie Mae: Franklin D. Raines, Chairman and Chief Executive Officer; Timothy Howard, Vice Chairman and Chief Financial Officer; and Ann McLaughlin Korologos, Presiding Director, Board of Directors.

COMBATING WEST NILE VIRUS—CURRENT CHALLENGES

Committee on Government Reform: Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs held a hearing entitled "Current Challenges in Combating the West Nile Virus." Testimony was heard from the following officials of the Department of Health and Human Services: Anthony S. Fauci, M.D., Director, National Institute of Allergy and Infectious Diseases, NIH; and Stephen M. Ostroff, M.D., Deputy Director, National Center for Infectious Diseases, Centers for Disease Control and Prevention; Benjamin J. Grumbles, Acting Assistant Administrator, Office of Water, EPA; John Pape, Chief Epidemiologist, Department of Public Health and Environment, State of Colorado; and public witnesses.

INTERNATIONAL RELIGIOUS FREEDOM 2004 ANNUAL REPORT

Committee on International Relations: Held a hearing on the Annual Report on International Religious Freedom 2004 and Designations of Countries of Particular Concern. Testimony was heard from Ambassador-at-Large John V. Hanford III, International Religious Freedom, Department of State; Preeta Bansal, Chair, U.S. Commission on International Religious Freedom; and public witnesses.

U.S. TRADE DISPUTES—PERU AND ECUADOR

Committee on International Relations: Subcommittee on Western Hemisphere held a hearing on U.S. Trade Disputes in Peru and Ecuador, Testimony was heard from Earl Anthony Wayne, Assistant Secretary, Bureau of Economic and Business Affairs, Department of State; Regina K. Vargo, Assistant U.S. Trade Representative for the Americas; and public witnesses.

OVERSIGHT—PRESIDENTIAL SUCCESSION ACT

Committee on the Judiciary: Subcommittee on the Constitution held an oversight hearing on the Presidential Succession Act. Testimony was heard from Representative Sherman; Thomas H. Neale, Government and Finance Division, CRS, Library of Congress; and public witnesses.

OVERSIGHT—MARITIME DOMAIN AWARENESS

Committee on Transportation and Infrastructure: Subcommittee on Coast Guard and Maritime Transportation held an oversight hearing on Maritime Domain Awareness. Testimony was heard from the following officials of the Department of Homeland Security: Jeffrey P. High, Director, Maritime Domain Awareness, U.S. Coast Guard; and Robert A. Kacksta, Executive Director, Border Security and Facilitation, U.S. Customs and Border Protection; RADM Samuel P. DeBow, Director, Marine and Aviation Operations, NOAA, Department of Commerce.

VA SMART CARD INITIATIVE(S)

Committee on Veterans' Affairs: Subcommittee on Oversight and Investigations held a hearing on the status of the Department of Veterans Affairs smart card initiative(s). Testimony was heard from Benjamin H. Wu, Deputy Under Secretary, Technology, Technology Administration, Department of Commerce; Linda Koontz, Director, Information Management Issues, GAO; Robert N. McFarland, Assistant Secretary, Information and Technology, Department of Veterans Affairs; Robert J. Brandewie, Director, Defense Manpower Data Center, Office of the Secretary, Personnel and Readiness, Department of Defense; and a public witness.

BRIEFING—THREAT UPDATE

Permanent Select Committee on Intelligence: Met in executive session to receive a Briefing on Threat Update. The Committee was briefed by departmental witnesses.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1012)*

H.R. 1308, to amend the Internal Revenue Code of 1986 to provide tax relief for working families. Signed on October 4, 2004. (Public Law 108–311)

H.R. 265, to provide for an adjustment of the boundaries of Mount Rainier National Park. Signed on October 5, 2004. (Public Law 108–312)

H.R. 1521, to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania. Signed on October 5, 2004. (Public Law 108–313)

H.R. 1616, to authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the City of Atlanta, Georgia. Signed on October 5, 2004. (Public Law 108–314)

H.R. 1648, to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District. Signed on October 5, 2004. (Public Law 108–315)

H.R. 1658, to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway. Signed on October 5, 2004. (Public Law 108–316)

H.R. 1732, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project. Signed on October 5, 2004. (Public Law 108–317)

H.R. 2696, to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West. Signed on October 5, 2004. (Public Law 108–318)

H.R. 3209, to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project. Signed on October 5, 2004. (Public Law 108–319)

H.R. 3249, to extend the term of the Forest Counties Payments Committee. Signed on October 5, 2004. (Public Law 108–320)

H.R. 3389, to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations. Signed on October 5, 2004. (Public Law 108–321)

H.R. 3768, to expand the Timucuan Ecological and Historic Preserve, Florida. Signed on

October 5, 2004. (Public Law 108–322)

S.J. Res. 41, commemorating the opening of the National Museum of the American Indian. Signed on October 5, 2004. (Public Law 108–323)

COMMITTEE MEETINGS FOR THURSDAY, OCTOBER 7, 2004

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Banking, Housing, and Urban Affairs: business meeting to consider S. 1379, to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States, and the nomination of Pamela Hughes Patenaude, of New Hampshire, to be an Assistant Secretary of Housing and Urban Development for Community Planning and Development, Time to be announced, S–216, Capitol.

Committee on Commerce, Science, and Transportation: to hold hearings to examine the effect of Federal bankruptcy and pension policy on the financial situation of the airlines, 9:30 a.m., SR–253.

Committee on the Judiciary: business meeting to consider pending calendar business, 9:30 a.m., SD–226.

House

Committee on Energy and Commerce, Subcommittee on Energy and Air Quality, to mark up H.R. 3403, To amend the Clean Air Act to modify certain provisions regarding methyl bromide, 1 p.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee Housing and Community Opportunity, hearing entitled ''Mortgage Fraud and its Impact on Mortgage Lenders,'' 10 a.m., 2128 Rayburn.

Committee on International Relations, to mark up the following measures: H. Res. 28, Expressing the sense of the House of Representatives that the United States should declare its support for the Independence of Kosova; and H.R. 2760, Resolution of the Ethiopia-Eritrea Border Dispute Act of 2003, 10 a.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security, oversight hearing on Federal Offender Reentry and Protecting Children from Criminal Recidivists, 9 a.m., 2141 Rayburn.

Permanent Select Committee on Intelligence, executive, Briefing on Iraq Survey Group Report, 2 p.m., H–405 Capitol.

Joint Meetings

Joint Economic Committee: to hold hearings to examine the long-run economics of natural gas, 10 a.m., SD–628.

Next Meeting of the SENATE

9:30 a.m., Thursday, October 7

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, October 7

Senate Chamber

Program for Thursday: After the transaction of any morning business (not to extend beyond 30 minutes), Senate will continue consideration of S. Res. 445, Intelligence Committee Reorganization Resolution. Also, Senate may begin consideration of the conference report to accompany H.R. 4520, American Jobs Creation Act.

House Chamber

Program for Thursday: Consideration of H.R. 10, 9/11 Recommendations Implementation Act (subject to a rule).

Rolled votes on Suspensions:

(1) Internet Spyware (I–SPY) Prevention Act of 2004;

(2) Research Review Act of 2004.

Extensions of Remarks, as inserted in this issue

HOUSE

Akin, W. Todd, Mo., E1804
Bass, Charles F., N.H., E1806
Boehner, John A., Ohio, E1808
Brown-Waite, Ginny, Fla., E1801, E1803
Burgess, Michael C., Tex., E1804
Calvert, Ken, Calif., E1811
Castle, Michael N., Del., E1807
Davis, Danny K., Ill., E1810
Davis, Tom, Va., E1804
DeLay, Tom, Tex., E1803
Frank, Barney, Mass., E1805
Gallegly, Elton, Calif., E1804
Gerlach, Jim, Pa., E1809, E1810
Green, Gene, Tex., E1808
Green, Mark, Wisc., E1811
Hill, Baron P., Ind., E1803
Hinchey, Maurice D., N.Y., E1808
Hooley, Darlene, Ore., E1811
Jackson-Lee, Sheila, Tex., E1814
Jones, Stephanie Tubbs, Ohio, E1808
Kleczka, Gerald D., Wisc., E1800, E1802
Larsen, Rick, Wash., E1815
Lipinski, William O., Ill., E1810
McCollum, Betty, Minn., E1806
McInnis, Scott, Colo., E1809, E1809, E1810, E1811, E1811, E1812, E1813, E1815, E1815, E1816
McKeon, Howard P. ''Buck'', Calif., E1799, E1800, E1801, E1802
Maloney, Carolyn B., N.Y., E1799, E1802
Matsui, Robert T., Calif., E1812
Meehan, Martin T., Mass., E1812
Meek, Kendrick B., Fla., E1806
Menendez, Robert, N.J., E1805
Myrick, Sue Wilkins, N.C., E1816
Nadler, Jerrold, N.Y., E1805
Nunes, Devin, Calif., E1808
Owens, Major R., N.Y., E1807, E1813
Pelosi, Nancy, Calif., E1813
Porter, Jon C., Nev., E1806
Portman, Rob, Ohio, E1804
Rangel, Charles B., N.Y., E1815
Rogers, Mike, Ala., E1803
Rush, Bobby L., Ill., E1809
Schiff, Adam B., Calif., E1806
Shays, Christopher, Conn., E1804
Skelton, Ike, Mo., E1799, E1801
Solis, Hilda L., Calif., E1804
Towns, Edolphus, N.Y., E1805
Udall, Mark, Colo., E1813
Upton, Fred, Mich., E1803
Wolf, Frank R., Va., E1799, E1801

(Senate and House proceedings for today will be continued in the next issue of the Record.)

Congressional Record

The *Congressional Record* (USPS 087–390). The Periodicals postage is paid at Washington, D.C. The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed one time. ¶Public access to the *Congressional Record* is available online through *GPO Access*, a service of the Government Printing Office, free of charge to the user. The online database is updated each day the *Congressional Record* is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available through *GPO Access* at www.gpo.gov/gpoaccess. Customers can also access this information with WAIS client software, via telnet at swais.access.gpo.gov, or dial-in using communications software and a modem at 202–512–1661. Questions or comments regarding this database or *GPO Access* can be directed to the *GPO Access* User Support Team at: E-Mail: gpoaccess@gpo.gov; Phone 1–888–293–6498 (toll-free), 202–512–1530 (D.C. area); Fax: 202–512–1262. The Team's hours of availability are Monday through Friday, 7:00 a.m. to 5:30 p.m., Eastern Standard Time, except Federal holidays. ¶The *Congressional Record* paper and 24x microfiche edition will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $252.00 for six months, $503.00 per year, or purchased as follows: less than 200 pages, $10.50; between 200 and 400 pages, $21.00; greater than 400 pages, $31.50, payable in advance; microfiche edition, $146.00 per year, or purchased for $3.00 per issue payable in advance. The semimonthly *Congressional Record Index* may be purchased for the same per issue prices. To place an order for any of these products, visit the U.S. Government Online Bookstore at: bookstore.gpo.gov. Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, or phone orders to 866–512–1800 (toll free), 202–512–1800 (D.C. area), or fax to 202–512–2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, American Express, or GPO Deposit Account. ¶Following each session of Congress, the daily *Congressional Record* is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the *Congressional Record*.

POSTMASTER: Send address changes to the Superintendent of Documents, *Congressional Record*, U.S. Government Printing Office, Washington, D.C. 20402, along with the entire mailing label from the last issue received.