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House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
May 9, 2007.

I hereby appoint the Honorable MICHAEL R. MCNULTY to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

PRAYER

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

Lord God, by Your Spirit You move and act within Your people and make them one to praise You and give You glory.

Bless each Member of this 110th Congress today, their constituents in their individual districts and those who work in their district offices, for this House is a place of human diversity, Lord. Representing the people who elected them, Members give voice to local needs and sometimes find common concern echoed across this vast country.

Gathered here in public service, these women and men are easily drawn into broader problems facing the Nation and grow in awareness of international issues as well. In the midst of it all, Lord, never let them forget where they come from. Keep them humble before You, and by consistent listening to those they represent. May the prayers of their family and neighbors in their districts join with us today as we pray for them, calling upon Your holy name.

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 New Jersey (Mr. SIRES) come forward and lead the House in the Pledge of Allegiance.

Mr. SIRES led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 124. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

The message also announced that pursuant to Public Law 106–554, the Chair, on behalf of the President pro tempore and upon the recommendation of the Republican Leader, appoints the Senator from Louisiana (Mr. VITTER) to the Board of Directors of the Vietnam Education Foundation.

CONGRESS HAS THE POWER TO END THIS WAR

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

Mr. KUCINICH. Mr. Speaker, Congress has the power to end the war in Iraq simply by refusing to pass any legislation to continue to fund it. The money is in the pipeline there right now to bring the troops home.

H.R. 1234 provides a plan for bringing the troops home, ending the occupation and stabilizing Iraq. This war will never end if Congress advances administration plans to privatize Iraq's oil through insisting on the passage of a so-called hydrocarbon act by the Iraqi legislature.

Today I will be distributing to Members of Congress a detailed report that explains how the legislation that we are advancing moves to privatize Iraq's oil.

INTELLIGENCE FUNDING CUTS

(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, in an environment of unlimited demands and limited resources, our constituents expect us to make tough choices and set national priorities with their hard-earned tax dollars. The Democrats' Intelligence Authorization bill that we will vote on this week fails to do this.

Consider the priorities it sets. This bill makes deep cuts in the resources requested by the administration for important intelligence-gathering operations. Meanwhile, it also calls for the Director of National Intelligence to submit a National Intelligence Estimate to Congress on global warming.

In a post-9/11 environment, should we really be steering our intelligence community away from intelligence gathering so that they can start studying global warming?

Experts from the right and the left say that our ability to prevent another attack on America relies heavily on our intelligence capabilities.

Mr. Speaker, let's fully fund our intelligence community and not distract

it from fulfilling its core mission, to protect Americans from attack.

FOXES GUARDING THE HENHOUSE

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

Mr. EMANUEL. Mr. Speaker, Johnnie Burton and Terri Shaw, two of President Bush's administration's foxes that have been guarding the henhouse, are stepping down. And now they are gone and the American people are better off.

At the Interior Department, Johnnie Burton let Big Oil drill at taxpayers' expense and got away with it until Congress stepped in, costing the taxpayers billions of dollars.

At the Education Department, Terri Shaw is stepping down after several scandals were uncovered in the student loan industry. On her watch, lenders and Education Department officials undermined the student loan program, which millions of students and middle-class families count on to go to college with and achieve their American Dream.

Every day we see another headline and another story. Congress does its oversight job, and another Bush administration official at the center of the storm is eventually forced to step down.

The White House has had an approach of letting the industry govern itself. They cut out the middleman. They are the government industry lobbyists. From our energy and production to our college loans, nothing is out of bounds. And Americans sent a clear message last November. They are tired of corruption. They want a change and an end to business as usual here in Washington. Democrats got the message, and we're restoring accountability to the American people's government.

FLOOR CONSIDERATION OF H.R. 1684

(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, in March, the Homeland Security Committee unanimously approved a bill to authorize funding for the Department of Homeland Security for the coming year. It wasn't a perfect bill, but it was one the committee accepted.

Now the liberal leadership plans to strip the most critical provisions in the legislation. These are not controversial points that should make my colleagues on the other side of the aisle uncomfortable. Unless, of course, the Democrats do not agree with an increased emphasis on immigration enforcement at the ports or secure biometric identification for aliens captured at sea or critical funding to protect America's food supply. But, as we've all seen since the Democrats took over in January, we know that is the case.

But it actually gets worse. The liberal leadership voted against allowing noncontroversial amendments to increase information sharing between DHS and cops on the beat, allowing DHS to investigate Social Security fraud at the workplace, and increased fines of employers who knowingly hire illegal aliens.

Mr. Speaker, this bill makes a mockery of the democratic process, does nothing extra to secure our borders and will, unfortunately, probably make our Nation less safer.

Welcome to Homeland Security, Democrat style.

DEMOCRATS TRIED TO CHANGE COURSE IN IRAQ BUT PRESIDENT BUSH REJECTED THAT CHANGE OF COURSE

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

Mr. BUTTERFIELD. Mr. Speaker, last week, President Bush had a chance to change the direction of the war in Iraq, but he rejected it. He rejected a plan that would finally hold the Iraqi Government accountable for meeting the benchmarks that he laid out earlier this year.

According to the nonpartisan Brookings Institute, the Iraqi Government is failing to meet the political benchmarks they were supposed to make. By vetoing the bill, the President was condoning such inaction.

The President claims the situation is getting better in Iraq. Wrong. April was the deadliest month of the year and one of the deadliest of the entire war.

Retired General William Odom said last week, and I'm quoting, ''No effective strategy can be devised for the United States until it begins withdrawing its forces from Iraq. Only that step will break the paralysis that now confronts us.''

General Odom is correct. Today our troops are serving as referees in a deadly civil war that shows no end in sight. This Congress offered the President a dramatic change, and he rejected it. We're not going to give up, because ending this war is simply too important.

FUNDING FOR INTELLIGENCE OPERATIONS

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

Ms. FALLIN. Mr. Speaker, one of the most effective tools we have against fighting our enemies like al Qaeda is intelligence, information that allows us to disrupt their terror cells and prevent attacks before they happen. And yet, the Democrats see fit to cut the funding of these operations.

Worst of all, they are shifting resources away from vital, war-related intelligence operations towards their politically correct crusade on global warming.

Does the Democrat leadership really think that carbon emissions represent a greater threat to the United States than the 9/11 radical jihadists?

Yesterday, law enforcement foiled a plot by terrorists to attack and kill U.S. soldiers in New Jersey. Protecting our Nation should be our number one priority. Does the leadership really think that our surveillance satellites should be aimed at polar ice caps and not terror cells and that spies should be investigating global warming?

Congress must adequately fund our intelligence operations. If we don't, we may need to be more concerned about global warming in the United States caused by a global attack, caused by a nuclear attack in our own backyards.

THE STATUS QUO IS NO LONGER ACCEPTABLE

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

Mr. SIRES. Mr. Speaker, with President Bush's veto last week, it is clear that if this Congress is going to take this war in a new direction, we need some of our Republican colleagues to join with us. Unfortunately, it seems that the House Republicans are still willing to blindly follow the President, no matter the facts in Iraq.

Consider this statement from Minority Leader Boehner over the weekend. He said, and I quote, ''We want a clean bill. We don't want artificial deadlines. We don't want artificial measures in there to try to ensure failure.''

Let's not forget that the artificial measures that the minority leader is referring to were actually measures designed by President Bush himself to hold the Iraqi Government accountable. These are critical measures that will put the pressure on the Iraqi Government to make political, diplomatic and economic reforms. So far, none of these benchmarks have been met.

It is time that the House Republicans realize that the status quo is no longer acceptable to the American people. We have to keep pressure on the Iraqis to initiate these reforms and bring our troops home.

LIBERIAN REFUGEE IMMIGRATION PROTECTION ACT OF 2007

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

Mr. WALBERG. Mr. Speaker, several years ago, my wife and I had the privilege of having a Liberian refugee stay in our home for almost a year.

This gentleman came from dire circumstances in his homeland, as his wife was brutally assaulted, and he was beaten and forced to leave his country. He still has scars from being beaten with the blunt end of a rifle.

Like thousands of other Liberians forced to leave their homeland, our

friend came to the United States under temporary protective status. One of the unintended consequences of the temporary protective status is it didn't foresee that civil war would continue in Liberia for several years, leaving refugees in America stuck in a state of flux.

Currently all Liberian refugees living in the United States under temporary protective status have until October of this year, and then they will be forced to return to Liberia.

The Liberian Refugee Immigration Protection Act of 2007, a bipartisan bill introduced by Representatives KENNEDY, ELLISON and myself, would allow Liberians in the United States on temporary protected status the opportunity to apply for permanent residency status.

This bill addresses an urgent situation faced by Liberian refugees who have legally come to America.

I urge co-sponsorship and passage of H.R. 1941, the Liberian Refugee Immigration Protection Act of 2007.

HONORING NAVAJO CODE TALKERS STEWART CLAH AND CHARLES GUY

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

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in honor of two Navajo Indians and celebrate the American heroes who passed away last week. Stewart Clah and Charles Guy were members of the elite Navajo Code Talkers. They did not simply rely on their ancestral language to relay critical United States military communications. Rather, the innovative Navajo Code Talkers used their native language to build a succinct and unbreakable code for military communications during World War II.

We will never know exactly how many American lives were saved or how many American military operations were successful because of their ingenuity and sacrifice. But we do know Stewart Clah and Charles Guy and the rest of the Navajo Code Talkers will forever be remembered as critical to the Allied victory during one of the world's darkest hours.

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ARE REPUBLICANS STARTING TO REALIZE THAT INDEFINITELY STAYING THE COURSE IS NOT A STRATEGY?

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

Mr. HODES. Mr. Speaker, it appears that congressional Republicans are finally coming around to the possibility that the war in Iraq cannot go on indefinitely.

This weekend House Republican leader JOHN BOEHNER said if this troop escalation plan is not working by September or October, a plan B would need to be explored. This timid response is a sign that the Republicans see the writing on the wall and are desperate to hedge their bets on a failed policy.

The minority leader's timetable of this fall comes just days after Mr. BOEHNER joined President Bush in abandoning the benchmarks for Iraqi success the President himself established in January. Last week the minority leader and almost every Republican joined the President's call for an open-ended commitment of American troops and tax dollars in Iraq. Now feeling the pressure from the Americans who wisely support benchmarks and timelines, it appears that the Republican leader is backtracking.

The American people and the majority of this Congress will stand firm in supporting our troops and showing leadership for a new course in Iraq. Let's hope the minority leader lifts his head out of the sand, and he and his party and the President join us in moving Iraq in a new direction.

NEW DEMOCRATIC CONGRESS PRODUCING POSITIVE RESULTS FOR ALL AMERICANS

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

Mr. KLEIN of Florida. Mr. Speaker, when the American people entrusted this House to a new Democratic majority, they wanted Congress to deliver tangible results. We are living up to that promise. In the first 100 hours, we passed rules to clean up the way that Congress operates. We implemented the recommendations of the 9/11 Commission. We raised the minimum wage to expand economic prosperity to millions who have been left behind for too long, and we cut interest rates in half so college is more affordable to middle-class families in our country.

We also repealed billions of dollars in tax breaks to big oil companies and instead are investing that in alternative fuels and energy-efficient technology. We hope this legislation will begin to wean our Nation off foreign oil because today customers are once again paying record prices at the pump, and that is simply wrong. This legislation is a first step in changing our Nation's energy policy.

We also passed a budget that is actually balanced within the next 5 years, and we did it without raising taxes.

Mr. Speaker, we are living up to our promise to move our Nation in a new and better direction.

URGING SUPPORT OF H.R. 1252, ENERGY PRICE GOUGING PREVENTION ACT

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

Mr. KAGEN. Mr. Speaker, in northeast Wisconsin last Tuesday, prices for regular gasoline hit $3.13 per gallon, 37 cents higher than a month ago, and they have doubled since President Bush took office. And what is worse, the price of gasoline rose even as the price of crude oil fell.

Yet the Federal Trade Commission has yet to investigate or punish anyone for price gouging. This is unacceptable. The FTC has a duty to investigate unfair trade practices.

H.R. 1252, the Emergency Price Gouging Prevention Act, gives the FTC explicit authority to investigate and punish energy price manipulation at each and every stage along the way. It brings greater transparency to oil and gas markets and forces offenders to pay penalties to the Low Income Home Energy Assistance Program.

I urge my colleagues to support H.R. 1252. It will protect consumers from unreasonable escalations in gasoline prices. There is a better way to do things in America. Let's get started today.

HOUSE DEMOCRATS HAVE TAKEN THE WAR IN A NEW DIRECTION; REPUBLICANS MUST NOW JOIN US

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

Mr. PAYNE. Mr. Speaker, congressional Democrats are trying to move the Iraq war in a new direction, but we are not getting much help from the White House or the congressional Republicans. House Democrats have now voted four separate times over the last 3 months to change the course of the war, but every single time House Republicans refused to join us.

For weeks congressional Republicans were saying that the withdrawal timeline proposed would lead to America's defeat in Iraq. But now a week after the President vetoed that bill, Republican leaders are saying that our generals must make the troop surge work by this fall. Republican leaders have now indicated that there should be a timeline for progress in Iraq, stating that, ''By the time we get to September or October, Members are going to know how well this is working, and if it isn't, what is plan B?''

Mr. Speaker, it appears that Republicans are slowly but surely coming around to timetables in Iraq. This doesn't mean that they are defeatists, as their own talking points have suggested in the past. It means that they may be turning into realists.

THE IRAQI GOVERNMENT

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

Mr. GEORGE MILLER of California. Mr. Speaker and Members of the House, last January when the President was suggesting the need for the escalation of the numbers of troops in Iraq, he also told us that while we would provide the troops under his policy, the Iraqis would provide a series of

benchmarks which they would meet to end the insurgency and to bring their country together politically so that the insurgency can be dampened down or ended.

Now we are told by Secretary of State Condoleezza Rice that it would be wrong to hold the Iraqi Government, the Malaki government, to those benchmarks because it would take away their flexibility, while President Bush said that if they did not meet these benchmarks in January, they would lose the confidence of the American people.

President Bush had it right. They haven't met the benchmarks. They are not holding up their end of the bargain. The Parliament is not meeting. A third of them are living in London, not in Iraq, and they have lost the confidence of the American people.

How is it that the Secretary of State and the President of the United States can continue to believe that we should continue to send American soldiers to die in Iraq when the Iraqi Government won't meet the benchmarks which were supposed to be the bedrock of this new policy, this new direction, that has turned out to be the same old stay-the-course policy where American soldiers die and the Iraqi Government dithers away day in and day out and not meeting the new policies to bring a unified Iraq together?

It is unacceptable to the American people. It is unacceptable to our soldiers. It is unacceptable to their families. And we ought to end this policy now.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken later today.

STUDENT LOAN SUNSHINE ACT

Mr. GEORGE MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 890) to establish requirements for lenders and institutions of higher education in order to protect students and other borrowers receiving educational loans, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 890

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 ''Student Loan Sunshine Act''.

SEC. 2. INSTITUTION AND LENDER REPORTING AND DISCLOSURE REQUIREMENTS.

Title I of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end the following:

''PART E—LENDER AND INSTITUTION REQUIREMENTS RELATING TO EDUCATIONAL LOANS

''SEC. 151. DEFINITIONS.

''In this part:

''(1) COVERED INSTITUTION.—The term 'covered institution'—

''(A) means any educational institution that offers a postsecondary educational degree, certificate, or program of study (including any institution of higher education, as such term is defined in section 102) and receives any Federal funding or assistance; and

''(B) includes an agent of the educational institution (including an alumni association, booster club, or other organization directly or indirectly associated with such institution) or employee of such institution.

''(2) EDUCATIONAL LOAN.—The term 'educational loan' (except when used as part of the term 'private educational loan') means—

''(A) any loan made, insured, or guaranteed under title IV; or

''(B) a private educational loan (as defined in paragraph (6)).

''(3) PREFERRED LENDER ARRANGEMENT.—The term 'preferred lender arrangement' means an arrangement or agreement between a lender and a covered institution—

''(A) under which arrangement or agreement a lender provides or otherwise issues educational loans to the students attending the covered institution or the parents of such students; and

''(B) which arrangement or agreement relates to the covered institution recommending, promoting, endorsing, or using the educational loan product of the lender.

''(4) LENDER.—

''(A) IN GENERAL.—The term 'lender'—

''(i) means a creditor, except that such term shall not include an issuer of credit secured by a dwelling or under an open end credit plan; and

''(ii) includes an agent of a lender.

''(B) INCORPORATION OF TILA DEFINITIONS.—The terms 'creditor', 'dwelling' and 'open end credit plan' have the meanings given such terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

''(5) OFFICER.—The term 'officer' includes a director or trustee of an institution.

''(6) PRIVATE EDUCATIONAL LOAN.—The term 'private educational loan' means a private loan provided by a lender that—

''(A) is not made, insured, or guaranteed under title IV; and

''(B) is issued by a lender expressly for postsecondary educational expenses to a student, or the parent of the student, regardless of whether the loan involves enrollment certification by the educational institution that the student attends.

''(7) POSTSECONDARY EDUCATIONAL EXPENSES.—The term 'postsecondary educational expenses' means any of the expenses that are included as part of a student's cost of attendance, as defined under section 472.

''SEC. 152. REQUIREMENTS FOR LENDERS AND INSTITUTIONS PARTICIPATING IN PREFERRED LENDER ARRANGEMENTS.

''(a) CERTIFICATION BY LENDERS.—In addition to any other disclosure required under Federal law, each lender that participates in one or more preferred lender arrangements shall annually certify to the Secretary that all of the preferred lender arrangements in which it participates is in compliance with the requirements of this Act. Such compliance of such preferred lender arrangement shall be reported on and attested to annually by the auditor of such lender in the audit conducted pursuant to section 428(b)(1)(U)(iii).

''(b) PROVISION OF LOAN INFORMATION.—A lender may not provide a private educational loan to a student attending a covered institution with which the lender has a preferred lender arrangement, or the parent of such student, until the covered institution has informed the student or parent of their remaining options for borrowing under title IV, including information on any terms and conditions of available loans under such title that are more favorable to the borrower.

''(c) USE OF INSTITUTION NAME.—

''(1) IN GENERAL.—A covered institution that has entered into a preferred lender arrangement with a lender regarding private educational loans shall not allow the lender to use the name, emblem, mascot, or logo of the institution, or other words, pictures, or symbols readily identified with the institution, in the marketing of private educational loans to the students attending the institution in any way that implies that the institution endorses the private educational loans offered by the lender.

''(2) APPLICABILITY.—Paragraph (1) shall apply to any preferred lender arrangement, or extension of such arrangement, entered into or renewed after the date of enactment of the Student Loan Sunshine Act.

''SEC. 153. INTEREST RATE REPORT FOR INSTITUTIONS AND LENDERS PARTICIPATING IN PREFERRED LENDER ARRANGEMENTS.

''(a) DUTIES OF THE SECRETARY.—

''(1) REPORT AND MODEL FORMAT.—Not later than 180 days after the date of enactment of the Student Loan Sunshine Act, the Secretary shall—

''(A) prepare a report on the adequacy of the information provided to students and the parents of such students about educational loans, after consulting with students, representatives of covered institutions (including financial aid administrators, registrars, and business officers), lenders, loan servicers, and guaranty agencies;

''(B) develop and prescribe by regulation a model disclosure form to be used by lenders and covered institutions in carrying out subsections (b) and (c) that—

''(i) will be easy for students and parents to read and understand;

''(ii) will be easily usable by lenders, institutions, guaranty agencies, and loan servicers;

''(iii) will provide students and parents with the relevant information about the terms and conditions for both Federal and private educational loans;

''(iv) is based on the report's findings and developed in consultation with—

''(I) students;

''(II) representatives from institutions of higher education, including financial aid administrators, registrars, business officers, and student affairs officials;

''(III) lenders;

''(IV) loan servicers;

''(V) guaranty agencies; and

''(VI) with respect to the requirements of clause (vi) concerning private educational loans, the Board of Governors of the Federal Reserve System;

''(v) provides information on the applicable interest rates and other terms and conditions of the educational loans provided by a lender to students attending the institution, or the parents of such students, disaggregated by each type of educational loans provided to such students or parents by the lender, including—

''(I) the interest rate of the loan;

''(II) any fees associated with the loan;

''(III) the repayment terms available on the loan;

''(IV) the opportunity for deferment or forbearance in repayment of the loan, including whether the loan payments can be deferred if the student is in school;

''(V) any additional terms and conditions applied to the loan, including any benefits

that are contingent on the repayment behavior of the borrower;

''(VI) the annual percentage rate for such loans, computed determined in the manner required under section 107 of the Truth in Lending Act (15 U.S.C. 1606) on the basis of the actual net disbursed amount of the loan;

''(VII) the average amount borrowed from the lender by students enrolled in the institution who obtain loans of such type from the lender for the preceding academic year;

''(VIII) the average interest rate on such loans provided to such students for the preceding academic year;

''(IX) contact information for the lender; and

''(X) any philanthropic contributions made by the lender to the covered institution; and

''(vi) provides, in addition, with respect to private educational loans, the following information with respect to loans made by each lender recommended by the covered institution:

''(I) the method of determining the interest rate of the loan;

''(II) whether, and under what conditions, early repayment may be available without penalty;

''(III) late payment penalties; and

''(IV) such other information as the Secretary may require; and

''(C)(i) submit the report and model disclosure form to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives; and

''(ii) make the report and model disclosure form available to covered institutions, lenders, and the public.

''(2) MODEL FORM UPDATE.—Not later than 1 year after the submission of the report and model disclosure form described in paragraph (1)(B), the Secretary shall—

''(A) assess the adequacy of the model disclosure form;

''(B) after consulting with students, representatives of covered institutions (including financial aid administrators, registrars, and business officers), lenders, loan servicers, and guaranty agencies—

''(i) prepare a list of any improvements to the model disclosure form that have been identified as beneficial to borrowers; and

''(ii) update the model disclosure form after taking such improvements into consideration; and

''(C)(i) submit the list of improvements and updated model disclosure form to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives; and

''(ii) make updated model disclosure form available to covered institutions, lenders, and the public.

''(3) USE OF FORM.—The Secretary shall take such steps as necessary to make the model disclosure form, and any updated model disclosure form, available to covered institutions and to encourage—

''(A) lenders subject to subsection (b) to use the model disclosure form or updated model disclosure form (if available) in providing the information required under subsection (b); and

''(B) covered institutions to use such format in preparing the information reported under subsection (c).

''(4) PROCEDURES.—Sections 482(c) and 492 of this Act shall not apply to the model disclosure form in the regulations prescribed under paragraph (1)(B), but shall apply to the updating of such form under paragraph (2).

''(b) LENDER DUTIES.—Each lender that has a preferred lender arrangement with a covered institution shall annually, by a date determined by the Secretary, provide to the covered institution and to the Secretary the information included on the model disclosure form or an updated model disclosure form (if available) for each type of educational loan provided by the lender to students attending the covered institution, or the parents of such students, for the preceding academic year.

''(c) COVERED INSTITUTION REPORTS.—Each covered institution shall—

''(1) prepare and submit to the Secretary an annual report, by a date determined by the Secretary, that includes, for each lender that has a preferred lender arrangement with the covered institution and that has submitted to the institution the information required under subsection (b)—

''(A) the information included on the model disclosure form or updated model disclosure form (if available) for each type of educational loan provided by the lender to students attending the covered institution, or the parents of such students; and

''(B) a detailed explanation of why the covered institution believes the terms and conditions of each type of educational loan provided pursuant to the agreement are beneficial for students attending the covered institution, or the parents of such students; and

''(2) ensure that the report required under paragraph (1) is made available to the public and provided to students attending or planning to attend the covered institution, and the parents of such students, in time for the student or parent to take such information into account before applying for or selecting an educational loan.

''(d) DISCLOSURES BY COVERED INSTITUTIONS.—A covered institution shall disclose, on its website and in the informational materials described in subsection (e)—

''(1) a statement that—

''(A) indicates that students are not limited to or required to use the lenders the institutions recommends; and

''(B) the institution is required to process the documents required to obtain a loan from any eligible lender the student selects;

''(2) at a minimum, all of the information provided by the model disclosure form prescribed under subsection (a)(1)(B) with respect to any lender recommended by the institution for Federal student loans and, as applicable, private educational loans;

''(3) the maximum amount of Federal grant and loan aid available to students in an easy-to-understand format; and

''(4) the institution's cost of attendance (as determined under section 472).

''(e) INFORMATIONAL MATERIALS.—The informational materials described in this subsection are any publications, mailings, or electronic messages or media distributed to prospective or current students and parents of students that describe, discuss, or relate to the financial aid opportunities available to students at an institution of higher education.

''SEC. 154. PRIVATE EDUCATIONAL LOAN DISCLOSURE REQUIREMENTS FOR COVERED INSTITUTIONS.

''A covered institution that provides information to any student, or the parent of such student, regarding a private educational loan from a lender shall, prior to or concurrent with such information—

''(1) inform the student or parent of—

''(A) the student or parent's eligibility for assistance and loans under title IV; and

''(B) the terms and conditions of such private educational loan that are less favorable than the terms and conditions of educational loans for which the student or parent is eligible, including interest rates, repayment options, and loan forgiveness; and

''(2) ensure that information regarding such private educational loan is presented in such a manner as to be distinct from information regarding loans that are made, insured, or guaranteed under title IV.

''SEC. 155. INTEGRITY PROVISIONS.

''(a) INSTITUTION CODE OF CONDUCT REQUIRED.—

''(1) CODE OF CONDUCT.—Each institution of higher education that participates in the Federal student loan programs under title IV or has students that obtain private educational loans shall—

''(A) develop a code of conduct in accordance with paragraph (2) with which its officers, employees, and agents shall comply with respect to educational loans;

''(B) publish the code of conduct prominently on its website; and

''(C) administer and enforce such code in accordance with the requirements of this subsection.

''(2) CONTENTS OF CODE.—The code required by this section shall—

''(A) prohibit a conflict of interest or the appearance of a conflict of interest with the responsibilities of such officer, employee, or agent with respect to student loans or other financial aid; and

''(B) at a minimum, include provisions in compliance with the provisions of the following subsections of this section.

''(3) TRAINING AND COMPLIANCE.—An institution of higher education shall administer and enforce a code of conduct required by this section by, at a minimum, requiring all of its officers, employees, and agents with responsibilities with respect to student loans or other financial aid to obtain training annually in compliance with the code.

''(b) GIFT BAN.—

''(1) PROHIBITION.—A lender, guarantor, or servicer of educational loans shall not offer any gift to an officer, employee, or agent of a covered institution.

''(2) INSPECTOR GENERAL REPORT.—The Inspector General of the Department of Education shall investigate any reported violation of this subsection and shall annually submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives identifying all reported violations of the gift ban under paragraph (1), including the lenders involved in each such violation, for the preceding year.

''(3) DEFINITION OF GIFT.—

''(A) IN GENERAL.—In this subsection, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a de minimus amount. The term includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

''(B) EXCEPTIONS.—The term 'gift' shall not include any of the following:

''(i) Standard informational material related to a loan or financial literacy, such as a brochure.

''(ii) Food, refreshments, training, or informational material furnished to an officer, employee, or agent of an institution as an integral part of a training session that is designed to improve the lender's service to the covered institution, if such training contributes to the professional development of the officer, employee, or agent of the institution.

''(iii) Favorable terms, conditions, and borrower benefits on an educational loan provided to a student employed by the covered institution if such terms, conditions, or benefits are comparable to those provided to all students of the institution.

''(iv) Exit counseling services provided to borrowers to meet a covered institution's responsibilities for exit counseling as required by section 485(b) provided that—

''(I) a covered institution's staff are in control of the counseling (whether in person or via electronic capabilities); and

''(II) such counseling does not promote the products or services of any lender.

''(C) RULE FOR GIFTS TO FAMILY MEMBERS.—For purposes of this section, a gift to a family member of an officer, employee, or agent of a covered institution, or a gift to any other individual based on that individual's relationship with the officer, employee, or agent, shall be considered a gift to the officer, employee, or agent if—

''(i) the gift is given with the knowledge and acquiescence of the officer, employee, or agent; and

''(ii) the officer, employee, or agent has reason to believe the gift was given because of the official position of the officer, employee, or agent.

''(c) FEES FROM LENDERS FOR SERVICE PROHIBITED.—An officer, employee, or agent who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to educational loans or other financial aid, shall not accept from any lender or affiliate of any lender (as the term affiliate is defined in section 487(a)) any fee, payment, or other financial benefit (including the opportunity to purchase stock) as compensation for consulting services, serving on an advisory council, or otherwise advising such lender or affiliate.

''(d) BAN ON EDUCATIONAL LOAN ARRANGEMENTS.—

''(1) PROHIBITION.—An institution of higher education shall not enter into any educational loan arrangement with any lender.

''(2) DEFINITION.—For purposes of this subsection, an educational loan arrangement is an arrangement between an institution of higher education (or an agent of the institution) and a lender under which—

''(A) a lender provides or issues educational loans to students attending the institution or to parents of such students;

''(B) the institution recommends the lender or the loan products of the lender; and

''(C) the lender pays a fee or provides other material benefits, including profit or revenue sharing, to the institution or officers, employees, or agents of the institution.

''(e) BAN ON STAFFING ASSISTANCE.—

''(1) PROHIBITION.—An institution of higher education shall not request or accept from any lender any assistance with call center staffing or financial aid office staffing.

''(2) CERTAIN ASSISTANCE PERMITTED.—Nothing in paragraph (1) shall be construed to prohibit an institution from requesting or accepting assistance from a lender related to—

''(A) professional development training for financial aid administrators; or

''(B) providing educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that such materials disclose to borrowers the identification of any lender that assisted in preparing or providing such materials.

''(f) BAN ON OPPORTUNITY POOLS.—An institution of higher education shall not request, accept, or consider from any lender any offer of funds to be used for private educational loans to students in exchange for the covered institution providing concessions or promises to the lender, and a lender shall not make any such offer.

''(g) BAN ON PARTICIPATION ON ADVISORY COUNCILS.—An officer, employee, or agent who is employed in the financial aid office of a covered institution, or who otherwise has responsibilities with respect to educational loans or other financial aid, shall not serve on or otherwise participate with advisory councils of lenders or affiliates of lenders. Nothing in this subsection shall prohibit lenders from seeking advice from covered institutions or groups of covered institutions (including through telephonic or electronic means, or a meeting) in order to improve products and services for borrowers, provided there are no gifts or compensation (including for transportation, lodging, or related expenses) provided by lenders in connection with seeking this advice from such institutions.

''SEC. 156. COMPLIANCE AND ENFORCEMENT.

''(a) CONDITION OF ANY FEDERAL ASSISTANCE.—Notwithstanding any other provision of law, a covered institution or lender shall comply with this part as a condition of receiving Federal funds or assistance provided after the date of enactment of the Student Loan Sunshine Act.

''(b) PENALTIES.—Notwithstanding any other provision of law, if the Secretary determines, after providing notice and an opportunity for a hearing for a covered institution or lender, that the covered institution or lender has violated subsection (a)—

''(1) in the case of a covered institution, or a lender that does not participate in a loan program under title IV, the Secretary may impose a civil penalty in an amount of not more than $25,000; and

''(2) in the case of a lender that does participate in a program under title IV, the Secretary may limit, terminate, or suspend the lender's participation in such program.

''(c) CONSIDERATIONS.—In taking any action against a covered institution or lender under subsection (b), the Secretary shall take into consideration the nature and severity of the violation of subsection (a).''.

SEC. 3. PROGRAM PARTICIPATION AGREEMENTS.

Section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by adding at the end the following:

''(24)(A) In the case of an institution (including an officer (including a director or trustee), employee, or agent of an institution) that maintains a preferred lender list, in print or any other medium, through which the institution recommends 1 or more specific lenders for educational loans (as such term is defined in section 151 of this Act, but excluding loans under part D of this title) to the students attending the institution (or the parents of such students), the institution will—

''(i) clearly and fully disclose on the preferred lender list—

''(I) why the institution has included each lender as a preferred lender, especially with respect to terms and conditions favorable to the borrower; and

''(II) that the students attending the institution (or the parents of such students) do not have to borrow from a lender on the preferred lender list;

''(ii) ensure, through the use of the list provided by the Secretary under subparagraph (C), that—

''(I) there are not less than 3 lenders named on the each preferred lending list offered by the institution that are not affiliates of each other; and

''(II) the preferred lender list—

''(aa) specifically indicates, for each lender on the list, whether the lender is or is not an affiliate of each other lender on the list; and

''(bb) if the lender is an affiliate of another lender on the list, describes the specifics of such affiliation;

''(iii) establish and prominently disclose a process to ensure that lenders are placed upon the preferred lender list on the basis of the benefits provided to borrowers, including—

''(I) highly competitive interest rates, terms, or conditions for loans made under part B;

''(II) high-quality servicing for such loans; or

''(III) additional benefits beyond the standard terms and conditions for such loans;

''(iv) exercise a duty of care and a duty of loyalty to compile the preferred lender list without prejudice and for the sole benefit of the student;

''(v) not deny or otherwise impede the borrower's choice of a lender or cause unnecessary delays in loan certification under this title for those borrowers who choose a lender than has not been recommended or suggested by the institution.

''(B) For the purposes of subparagraph (A)(ii)—

''(i) the term 'affiliate' means a person that controls, is controlled by, or is under common control with another person; and

''(ii) a person controls, is controlled by, or is under common control with another person if—

''(I) the person directly or indirectly, or acting through 1 or more others, owns, controls, or has the power to vote 5 percent or more of any class of voting securities of such other person;

''(II) the person controls, in any manner, the election of a majority of the directors or trustees of such other person; or

''(III) the Secretary determines (after notice and opportunity for a hearing) that the person directly or indirectly exercises a controlling interest over the management or policies of such other person.

''(C) The Secretary shall maintain and update a list of lender affiliates of all eligible lenders, and shall provide such list to the eligible institutions for use in carrying out subparagraph (A).''.

SEC. 4. NOTICE OF AVAILABILITY OF FUNDS FROM FEDERAL SOURCES.

Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended by adding at the end the following:

''(e) DISCLOSURES RELATING TO PRIVATE EDUCATIONAL LOANS.—

''(1) IN GENERAL.—In the case of an extension of credit that is a private educational loan, other than a loan secured by a dwelling or an open end credit plan, the creditor shall provide in every application for such extensions of credit and together with any solicitation, marketing, or advertisement of such extensions of credit, written, electronic, or otherwise, the disclosures described in paragraph (2).

''(2) DISCLOSURES.—Disclosures required by this subsection shall include a clear and prominent statement—

''(A) that the borrower may qualify for Federal financial assistance through a program under title IV of the Higher Education Act of 1965, in lieu of or in addition to a loan from a non-Federal source;

''(B) that in many cases, a Federal student loan may provide the consumer with more beneficial terms and conditions, including a lower annual percentage rate and fewer and lower fees, than private educational loans;

''(C) that the consumer may obtain additional information concerning such Federal financial assistance from their institution of higher education or at the website of the Department of Education; and

''(D) such other information as the Board may require.

''(3) CLEAR AND CONSPICUOUS DISCLOSURE.—The disclosure required under paragraph (2) shall be placed in a conspicuous and prominent location on or with any written application, solicitation, or other document or paper relating to any extension of credit consisting of or involving a private educational loan for which such disclosure is required under this subsection.

''(4) WRITTEN ACKNOWLEDGMENT OF RECEIPT.—In each case in which a disclosure is provided pursuant to paragraph (2) and an application initiated, a creditor shall obtain

a written acknowledgment from the consumer that the consumer has read and understood the disclosure.

''(5) ADDITIONAL DISCLOSURES.—In the case of an extension of credit that is a private educational loan, other than a loan secured by a dwelling or an open end credit plan, the creditor shall make available, in a clear and accessible manner (including through the website of the creditor), the information required by sections 153(a)(1)(B)(iv) and (v) of the Higher Education Act of 1965.

''(6) PROVISION OF INFORMATION.—Before a creditor may issue any funds with respect to an extension of credit described in paragraph (1) for an amount equal to more than $1,000, the creditor shall notify the relevant postsecondary educational institution, in writing, of the proposed extension of credit and the amount thereof.

''(7) REGULATORY AUTHORITY.—The Board—

''(A) shall issue such rules and regulations as may be necessary to implement this subsection; and

''(B) may, by rule, establish appropriate exceptions to the requirements of this subsection.

''(8) DEFINITIONS.—As used in this subsection, the terms 'private educational loan' and 'covered institution' have the same meanings as in section 151 of the Higher Education Act of 1965.''.

SEC. 5. IMPROVED INFORMATION CONCERNING THE FEDERAL STUDENT FINANCIAL AID WEBSITE.

Section 131 of the Higher Education Act of 1965 (20 U.S.C. 1015) is amended by adding at the end the following new subsection:

''(e) PROMOTION OF THE DEPARTMENT OF EDUCATION FEDERAL STUDENT FINANCIAL AID WEBSITE.—The Secretary—

''(1) shall display a link to the Federal student financial aid website of the Department of Education in a prominent place on the homepage of the Department of Education website; and

''(2) may use administrative funds available for the Department's operations and expenses for the purpose of advertising and promoting the availability of the Federal student financial aid website.

''(f) PROMOTION OF AVAILABILITY OF INFORMATION CONCERNING STUDENT FINANCIAL AID PROGRAMS OF OTHER DEPARTMENTS AND AGENCIES.—

''(1) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that the eligibility requirements, application procedures, financial terms and conditions, and other relevant information for each non-departmental student financial assistance program are easily accessible through the Federal student financial aid website and are incorporated into the search matrix on such website in a manner that permits students and parents to readily identify the programs that are appropriate to their needs and eligibility.

''(2) AGENCY RESPONSE.—Each Federal department and agency shall promptly respond to surveys or other requests for the information required by paragraph (1), and shall identify for the Secretary any non-departmental student financial assistance program operated, sponsored, or supported by such Federal department or agency.

''(3) DEFINITION.—For purposes of this subsection, the term 'non-departmental student financial assistance program' means any grant, loan, scholarship, fellowship, or other form of financial aid for students pursuing a postsecondary education that is—

''(A) distributed directly to the student or to the student's account at the institution of higher education; and

''(B) operated, sponsored, or supported by a Federal department or agency other than the Department of Education.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. MCKEON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

GENERAL LEAVE

Mr. GEORGE MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to insert materials relevant to H.R. 890 into the RECORD.

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

There was no objection.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation, H.R. 890, the Student Loan Sunshine Act of 2007. I offer this legislation along with Mr. MCKEON, the senior Republican on the Education and Labor Committee; and Mr. HINOJOSA, the subcommittee Chair of the Higher Education Subcommittee on the Education and Labor Committee.

This legislation would protect students and families from the corrupt practices and abuses that for too long have been allowed to run rampant within the student loan industry.

Ensuring that our Nation's student loan programs are working as effectively as possible to help students and parents pay for the cost of a college education, it is paramount to the goals of this Nation recognizing the importance of students' achieving a college education so they can fully participate in American society and the American economy. And working to make that more accessible and affordable has been the long-term goal of both parties of this government.

But now what we see is that this program has been badly corrupted. This program has started to be hollowed out by the activities of lenders, of universities, of individuals within the government, individuals within the university system, individuals within the lending community. For 6 years this administration has been put on notice of these activities taking place in the student lending program with ever-mounting evidence and public statements and concerns echoed by members within the administration from the previous administration calling to the problems that were occurring within the student loan programs. It is becoming increasingly clear that the student loan program has been hijacked by third parties who saw that they could run this program to their financial benefit. Unfortunately, that meant that it was being run to the detriment of the students and the families who are borrowing the money who are struggling to pay this money back so that they could achieve a college education.

We introduced this legislation first in February when it was disclosed by New York Attorney General Andrew Cuomo that he was expanding an investigation into the relationships between lenders and colleges and universities across the country.

Throughout the previous years, stories have surfaced about inducements and kickbacks and conflicts of interests, bribes and payoffs ranging from sending college employees on exotic vacations to staffing school financial aid offices during the busiest time of the student aid calendar. These inducements are offered by lenders to secure a spot on the preferred lender list, a list that supposedly presents to the students and to their families that this is a list of trust, that these are the best loans available for a number of reasons to those students. But we now learn that securing a position on a preferred lender list was really, in many instances with many universities and with many lenders, an act of corruption, not an act of transparency, not an act of honesty, not an act in the best interest of the students and/or their parents, and not in the best interest of achieving the lowest possible cost for those students' education.

But entry into the preferred lender meant more than just having this coveted spot. It meant a near guarantee of business. It meant an opportunity for lenders to prey on families and offer them private loans. It also meant that students weren't given the best information, the most accurate information. It also meant increased cost to the students and to their families.

Since we first introduced this bill, ongoing investigations at the Federal and State levels and by news organizations have shed new light on the scope of the corruption and the conflicts of interest surrounding these lists that are undermining the Federal student loan aid program that millions of borrowers have come to depend upon. We have learned more about the astonishing degree to which lenders buy their way into colleges and universities through excessive inducements, which is the polite word, or what might be termed ''bribery,'' which might be a better word, in order to boost their marginal profits.

All of this, all of this was known to the Department of Education. Suggested changes were left behind by the Clinton administration to this program. Department employees raised these concerns and others with the Department of Education, and no action was, in fact, taken. And what we see, of course, is that less protection was provided to students and to their families.

We have learned that these inducements include college officials being paid to serve on lender advisory boards and receiving stock in the companies. We have learned that these conflicts of interest do not end with college financial aid officers. It has been revealed that at least one public official in the Office of Federal Student Aid, the arm of the Department of Education that runs the student aid program, held hundreds of thousands of dollars of stock in a major student loan company.

But this is just the tip of the iceberg. Lenders and schools must be held accountable for any practice that compromises the trust that students and parents deserve to have in our Federal student aid program. Today, by passing the Student Aid Sunshine Act, we are taking clear and important actions to put an end to the corrupt practices and conflicts of interest that for too long have been allowed to dominate this industry.

□ 1030

We call on lenders, institutions and the Department of Education to also take appropriate action to end these practices, and we insist that they recognize their fiduciary responsibility to the students and their parents who are the borrowers of this money, the borrowing of money that they struggle to pay back for many years afterwards.

I am proud to be joined by my colleagues on the Education and Labor Committee, BUCK MCKEON, the senior Republican, and, again, RUBÉN HINOJOSA of the Subcommittee on Higher Education to bring to the floor a stronger, more comprehensive, bipartisan Student Loan Sunshine Act. This bill will prevent these egregious practices from occurring in the future by reinstating trust in our schools through strict codes of conduct, guaranteeing loan options and ensuring the best loan possible, ensuring equal and timely processing of loans, giving students full and fair information when taking out and repaying loans, protecting students from aggressive marketing practices and inserting the fiduciary responsibility for all parties to these agreements.

Further, this bill bans all gifts, participation on advisory boards and risk-sharing agreements between lenders and schools and ensures greater transparency and accountability when schools recommend lenders for the students.

I urge all of my colleagues to join us in voting for this legislation. Today, I think we can take this critical step toward returning these programs to the very people they were intended to serve, students and parents who are borrowing this money. It's time to protect these students and parents and end the exploitation and the abuses of the student loan program.

Again, I want to thank my colleagues on the committee for all their assistance in drafting this legislation.

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

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

Mr. Speaker, I rise in support of this legislation and thank Chairman MILLER and Chairman HINOJOSA, Ranking Member KELLER, and their staffs and my staff for striking a bipartisan accord to advance this bill.

I have often said that in order to begin reaffirming trust in our student aid system all stakeholders must step up. That means lenders, colleges, the Education Department, States and Congress all have a role to play.

Within the past few weeks, Secretary of Education Spellings established an internal task force to review her Department's oversight of Federal student loan programs; and, today, the U.S. House is stepping up as well. It is an important step, to be sure. We are stepping up today for a single, fundamental reason, to ensure our Nation's financial aid system continues to serve the need of the students who depend on it for the opportunity to get an education.

This isn't about us versus the lenders or us versus the financial aid officers, and this isn't about direct loans versus the market-based FFEL program. And, for the record, I continue to strongly support FFEL and a healthy competition between the two Federal programs. This is about protecting the interests of millions of young men and women who expect our student aid system to be there for them when they need it.

Several weeks ago, my Education and Labor Committee colleague, Mr. KELLER, and I introduced comprehensive legislation to begin the process of reaffirming our trust in the financial aid system. I am proud that our bill served as an impetus for bringing the measure before us to the House floor.

Our legislation built on many of the financial aid reform recommendations Chairman MILLER made earlier this year, and I am pleased that what we are poised to advance today reflects a broad agreement to set these important reforms into motion.

Like my bill and Chairman MILLER's bill, the bipartisan agreement we will vote on today does not explicitly outlaw the practice of preferred lender lists. Rather, it reforms this practice to ensure that it continues to serve the interests of our students. Like my bill and Chairman MILLER's bill, the bipartisan agreement we will vote on today aims to protect against conflicts of interest between lenders and financial aid officers. And like my bill and Chairman MILLER's bill, the bipartisan agreement we will vote on today allows lenders to seek advice from institutions in order to improve products and services for students.

However, the measure Mr. KELLER and I introduced went even further than past recommendations, and I am pleased the agreement we will vote on today incorporates our important modifications. For example, just as in the bill I authored with Mr. KELLER, the measure before us asks colleges to develop their own unique codes of conduct that must include restrictions on anything else that may give the appearance of a conflict of interest between financial aid officers and lenders. And just as in the bill I authored with Mr. KELLER, the measure before us bans revenue sharing between lenders of private loans and colleges or universities.

Mr. Speaker, the FFEL and other financial aid programs successfully serve millions of students and their families every year, and this bill makes our system even better. As we move forward from here, we must not lose sight of the fact that the Federal financial aid system must work for students and colleges alike. We must be careful not to overreach, as Congress does all too often, but we do need to reaffirm our trust in the system. I believe this bill does just that.

I urge my colleagues to join me in supporting it.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I failed to acknowledge and I want to acknowledge Mr. KELLER's help in the drafting of this legislation. He is the senior Democrat on the Higher Education Subcommittee.

I would like to yield 3½ minutes to the Chair of that subcommittee, Mr. HINOJOSA.

Mr. HINOJOSA. Mr. Speaker, I rise in strong support of H.R. 890, the Student Loan Sunshine Act. This is the legislation that cannot wait. Given the daily revelations of scandals, conflicts of interest and cozy relationships that undermine public confidence in our student loan programs, it is imperative that we act now to restore integrity.

I would like to thank Chairman MILLER and Ranking Member MCKEON, as well as the ranking member of the subcommittee from Florida, RIC KELLER, in approaching this legislation with urgency and bipartisanship. It is time to take a stand and put the interests of students and families first. This legislation is an important signal that we in Congress are committed to doing just that.

Mr. Speaker, this legislation will ban the most egregious practices that have been uncovered by Attorney General Cuomo in New York. Just read the New York Times this morning and you will see all that has been uncovered. It will require lenders and institutions alike to adhere to a strict code of conduct. It will ensure that preferred lender lists are based on the best deal for students. It will ensure that students and families have accurate, unbiased information about their loan options. It will ensure that borrowers are able to exhaust their Federal loan eligibility before being steered to pricier private loan packages.

The crisis of confidence in our student loan programs shines a light on a larger problem. We have a crisis in college affordability for our low- and middle-income families. College costs are rising rapidly, and Federal student aid has not kept pace. According to the Advisory Committee on Student Financial Assistance, paying for a 4-year public university costs our lowest-income families 87 percent of their income. We are expecting these families to come up with over $10,000 per year through work or loans to pay for college.

Quite simply, we have left low- and middle-income families to fend for

themselves when it comes to financing a college education. After 4 years of stagnation, the maximum Pell Grant stands at only $4,310. We have left families rudderless when it comes to navigating the explosive growth in the student loan programs. We have not looked after their interests.

After listening to many representatives of Federal and private college loan programs, I am convinced that we here in Congress must take this bipartisan action to restore integrity to this important program. The Student Loan Sunshine Act is a first step in restoring faith in our student aid programs and fulfilling the promise of the Higher Education Act.

Mr. Speaker, we have more work to do, but let's get this job done today. I strongly urge my colleagues to support H.R. 890, the Student Loan Sunshine Act.

Mr. MCKEON. Mr. Speaker, I yield now 4 minutes to the ranking member Republican on the Higher Education Subcommittee, the gentleman from Florida (Mr. KELLER).

Mr. KELLER of Florida. I thank the gentleman for yielding. And I appreciate the Freudian slip by Congressman Chairman MILLER. I still am Republican. I am reminded every day when my parking space is now out in Maryland that I'm a Member of the minority party here.

I rise today in support of the Student Loan Sunshine Act, H.R. 890, for three specific reasons.

First, this legislation fully includes legislation that I authored called the One-Stop Financial Aid Information Act, H.R. 1522, which creates an easy-to-use one-stop Web site for students and their families about financial aid information for college, including information about Pell Grants, student loans and scholarships offered by various Federal agencies. Far too many young people give up on their chance to go to college because they lack information about the various grants and scholarships available to them. Now they will have all this information right there at their fingertips as a result of an easy-to-access link right there on the home page of ed.gov.

I want to especially thank Congressman HENRY CUELLAR of Texas. It was Congressman CUELLAR who actually conceived of this idea and shared it with me on a codel that he and I had to Iraq based on his positive experience with a similar Web site in Texas, and he is a coauthor of this provision.

The second reason I support this legislation is because it specifically includes a financial aid code of conduct that must be adopted by colleges; and that language is taken out of the bill authored by Congressman BUCK MCKEON called the Financial Aid Accountability and Transparency Act, H.R. 1994. In a nutshell, it provides that there shall be no conflicts of interests, gifts or revenue sharing between lenders and colleges or their employees.

The third reason I support this legislation is because it does not ban preferred lender lists under the market-based FFEL program. Now after the recent student loan scandal, some of which was highlighted by Attorney General Andrew Cuomo of New York, there was a temptation on a handful of people's part to overreact. Some wanted to abolish or place a moratorium on preferred lender lists. Some even suggested that we switch from the market-based FFEL program to direct lending. This appropriate legislation doesn't contain that overreaction, and I'm proud that it doesn't, and the reason is preferred lender lists play a very positive role when done right.

There are literally over a thousand student lenders. Some of those lenders have lower interest rates, low origination fees, more flexible terms for deferring repayments and better customer service. On the other hand, there are lenders that have higher rates and fees, bad customer service and can be characterized as fly-by-night operations. It's pretty hard to tell if you're an 18-year-old kid which lender is which, but if you're a financial aid administrator who has been in the business for two or three decades, you can give some guidance into that issue.

This bill specifically allows these preferred lenders to still have a preferred lender list, provided that each college gives a choice of at least three lenders, the college disclose why they were selected as a lender, and the college disclose what terms they remain a lender. That is a pretty fair and appropriate response to the scandals that we have had and a pretty good contrast to what we have with the Federal direct lending program where a college says you only have one lender, it's the Federal Government, and there is no competition for lower fees or rates.

In closing, Mr. Speaker, this legislation helps to rein in some of the bad apples in the student loan industry, while preserving the healthy and appropriate competition between the direct lending and FFEL program. For these reasons, I urge my colleagues to vote ''yes'' on this legislation.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

□ 1045

Ms. WOOLSEY. Mr. Speaker, I want to thank Chairman MILLER and Ranking Member MCKEON for putting forth a good and necessary bill to protect our college students from the loan industry practices that actually work against, not for, those students who need the help. Every student in America who wants to go to college deserves the opportunity to do so, and we need to make it easier for them to go to school, not harder. Our students deserve all the help we can give them to ensure that they not only get a good education, but that they also don't come out of college saddled with loans or interest rates that will haunt them for years and years to come.

This bill will ensure that the student loan companies and some financial aid officers can no longer benefit from directing students to any particular loan company. What a concept. Loans should be for our children and for our students, not for those who are involved in the industry.

The Student Loan Sunshine Act ensures that students get the best possible options when deciding on a loan. A vote for this bill is a vote for our college students and for giving every child the opportunity to succeed in life, and indeed it is a vote for the future of the United States of America, because these young people are our future.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I rise in support of the Student Loan Sunshine Act, and I congratulate Chairman MILLER for bringing the principles of honest leadership to higher education financing.

The cost of higher education has increased dramatically over the past few years, making college less affordable for many families. Financial aid is an important tool in helping make the cost of college more affordable. The people and institutions that administer these loans must be held to the highest ethical standards. For most students, their college loan will be their first form of major debt after their graduation.

As we encourage financial literacy and responsibility among this generation of young people, we must ensure that students are protected. They need to understand and know that their lenders and their financial aid administrators are in their corner and that they don't have individuals that are trying to undermine them or make money on the backs of these students.

Financing a college education is dependent on industry and institutional accountability. Strict codes of conduct will ensure this accountability.

Additionally, I am also supportive of the Department of Education's efforts to install new safeguards to protect students' privacy. We need to make sure that our students can have the utmost confidence in the system that is designed to provide them the opportunity to pay off their loans after their education and go on to become productive members of our society.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I would like to thank the chairman and the ranking member for their leadership on this issue.

Mr. Speaker, not one of us would be here if it wasn't for the ability to afford a college education, and although we are talking about cleaning up a mess, it is quite clear we should also remember what is happening here. For a long time, there was no oversight or

any accountability in administration, and people from industry were actually in the responsibility, and their response was to govern and oversee industry they came from. So what did they do? They cut out the middleman. There is no need for a lobbyist, because the industry is the government in this case.

What is most ironic in this situation on the student loan situation is industry was getting taxpayer subsidies to run a business in which the very students that were also dependent on their parents were also paying the bill. They were paying on the front end and on the back end. And it was a total rip-off of the American taxpayers. And it is on a subject, college education, that is so essential, because we know, today, in the new economy, you earn what you learn.

What we are taking is people's ability to achieve the American Dream, which is so essential, a college education, that ticket to the American Dream. And rather than see what was an honorable profession, something important that could be done with good business practices, it has turned into a scandal that has affected both the schools and the administrators of those schools, public officials responsible for it, and the lenders in that industry. It was affecting everybody.

Now, I hope, and from conversations with the chairman, we can rest assured this is just the first step in changing the rules of the game so industry and those in the lending industry understand and those in the regulatory side of it that there is a new way we are going to do business. And there is a new code of conduct for both the public officials and those in the lending industry, because we must fundamentally remember, a college education is a ticket to the American Dream, in a society and economy where you earn what you learn.

I do want to recognize the Attorney General of New York for leading this effort, for Congress in a bipartisan fashion stepping up to the plate and taking the first step with this sunshine act.

But we are not done in cleaning up the mess as it relates to the college loan industry. This is only the first step to doing that, to cleaning up this mess, because it relates to other areas. We saw it today when the individual responsible for the oil and gas leasing and royalty payment industry because of congressional oversight is now stepping down because it is clear taxpayers were not given their fair shake.

We are doing the right job, and I commend both parties in the committee for holding these oversight hearings and producing this legislation and hope that we continue, as we did in the Six in '06, we voted, first of all, to cut the interest rates on student loans; we take this sunshine act, we come back with the higher education bill. We come with the FASA reform. We constantly make sure that we are reforming higher education and the access to higher education, so we serve the people who are doing right, working hard, paying taxes and raising their kids with the right sense of values to do right. This is an industry that needs a whole top-to-bottom cleaning and washing.

Thank you for your leadership, Mr. Chairman.

Mr. Speaker, for the past 6 years, the public has had to watch as scandal after scandal fell on deaf Republican ears.

How times have changed.

Today, Democrats are demanding accountability and ending business as usual.

We've put the spotlight on the rampant corruption in the Bush administration and the scandals that used to be shoved under the rug are now being exposed.

And the new Democratic Congress is getting results for the American people.

The latest corruption scandal involves lenders, schools and public officials and has undermined a vital student loan program that millions of students depend on.

On Monday the New York Times reported that over 4 years ago a researcher at the Education Department tried to warn his supervisors that student lending companies were improperly collecting hundreds of millions in overpayments.

Big companies were getting millions from the very taxpayers who were getting the bill on the other side. So what did the Bush administration do?

Nothing.

Top officials at the Department of Education's Student Aid Office made millions when they sold stock they held in lending companies.

What did the Department do when confronted with this obvious conflict of interest?

Nothing.

It wasn't until the media and this Congress began in oversight demanding accountability that these officials were put on leave. And yesterday, the head of Federal Student Aid abruptly announced her resignation.

Additionally, the Attorney General of New York uncovered a number of improper relationships between lenders and schools, where colleges received payments in exchange for steering loan volume to particular lenders.

It is time to clean up this mess and bring transparency to the system.

The legislation before us will do just that and help ensure this sort of scandal never occurs again.

Madam Speaker, students and families have been the victims of corporate greed, bribery and corruption in the Bush administration.

Now, it's time to put an end to these scandals and pass real reform.

I urge all of my colleagues to support this legislation.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume to close the debate.

Mr. Speaker, what our job is here in Washington as legislators is to represent the people from our districts, the people from around the country. Specifically on the Committee on Education, we have the responsibility to protect and encourage those young people who are trying to receive an education, both K–12 level and those who want to continue their education throughout their lifetime at the higher education level.

We have passed many laws that try to make it easier for people to achieve the American Dream through education. Sometimes we have people that skirt those laws or take them up to the edge. When we find problems, it is our responsibility to address those problems.

We have about 6,000 schools across the country that participate in the Federal financial aid programs. They have financial aid officers that work with the students that come into the schools to help them get a Pell Grant or get other financial aid that is available, or they help them find a loan company that will help them get a loan that is needed to achieve their education.

We have about 3,500 lenders that participate in these loans. Again, some of the lenders have crossed the line or gotten too close to the line, as with some of the financial aid officers, but we definitely don't want to paint all lenders, all schools, all financial aid officers, with a broad brush, saying they are all corrupt. Most of them, the vast percentage of them, are doing a great job of trying to carry out their mission and helping students achieve their goals.

This piece of legislation will help make that law stronger, to verify that those students will get the most help in getting the loans and getting the financial aid they need to achieve the American Dream, and I am happy to be a part of this, to make it come to pass. I am hopeful that the other body will pick up this legislation and move forward with it. I encourage all of my colleagues to support this law.

Mr. Speaker, I thank, again, Chairman MILLER for being expeditious on this and getting this bill to the floor quickly.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, in closing, I want to say that this work that has been done by Chairman MILLER and Ranking Member BUCK MCKEON has been something that I have really appreciated.

This is an $85 billion industry, and when you take the for-profit groups that are lending money, it exceeds $100 billion. I foresee that, with this legislation, we are going to see an increase as a result of that. We should be looking at $110 billion being lent, because it will be easier and much more acceptable to be able to borrow money at a lesser cost to the families.

Finally, in the area that I come from, were it not for these student loans, the Pell Grants and the Perkins Act loans that are available, many minority families' children, boys and girls, would not be able to go to college.

So we are pleased with the leadership of these two gentlemen, and I look forward to seeing its passage.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman from Texas for his remarks and for his leadership on this. I thank Mr. MCKEON and Mr. KELLER for all of their cooperation, for their suggestions and for the introduction of the bill soon after this came to light by Mr. MCKEON. I think it was very helpful in our discussions with Attorney General Andrew Cuomo. I certainly want to thank him for his diligence and the speed with which he responded to this information.

Tragically, much of this information has been available for a considerable period of time. Tragically, what we now are making against the law, the conduct we are now changing almost became the preferred way of doing business among many of the colleges and universities and the lenders which they utilized on behalf of their students.

It is just inconceivable that when people understand, and it is brought to our attention every day, the decisions that students and their families have to make about whether to pursue a college degree, the costs that are incurred, the sacrifices that are made by working families, by all families, by the students, many of whom then work part time and full time to augment the cost of that college, when that sacrifice and those determinations and decisions are made by those families, to have that process corrupted by some of the largest corporations in America, some of the wealthiest corporations in America, that they would see somehow a way to skim off, to skim off the profits and the costs at the expense of these students and of the taxpayers that put up the money.

The reason we guarantee these loans is to try to drive this money to the students and their families at the lowest possible cost so that they can afford to go to college; they can afford to take a job and pay back the cost of their college. That is the public purpose. Now that public purpose has absolutely been prostituted by the Department of Education, by many of the lending institutions and by many of the colleges and much of the personnel that works for them.

This legislation is a first step, a bipartisan step to stop those practices in their tracks, to get this program right side up for the benefit of the families and the students who are borrowing the money. To serve notice on the institutions, the lenders, the institutions of higher education and the people who work in these programs that this will no longer be tolerated.

Once again, this program has to come to the point where it is again serving the families and the students who are making this sacrifice to achieve a college education at the lowest possible cost. That is the public interest, that is the public purpose, and we will not have that corrupted. We will not have that corrupted, either by the public agencies or the private agencies that are engaged in this program.

The next step is to bar those agencies if they continue in this practice. That would be a horrible thing to do for those institutions, but we will not allow this to continue. And as we consider the Higher Education Act, we are going to continue to pursue ways in which we can reform this program and make it work for those for whom it was designed, the families and the students.

I want to thank the staff on both sides of the committee that were so helpful in understanding the programs and the changes that needed to be made, that went through the evidence and responded in this legislation, so that the House of Representatives could go on record that we will not allow this to happen on our watch.

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Mr. MCKEON. Mr. Speaker, I ask unanimous consent that both sides be allocated an additional 1½ minutes in order to allow Mr. CASTLE, the ranking member, who has just arrived, to speak on the bill.

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

There was no objection.

Mr. MCKEON. Mr. Speaker, I yield 1½ minutes to the gentleman from Delaware (Mr. CASTLE).

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

Mr. CASTLE. Mr. Speaker, let me thank both Mr. GEORGE MILLER and Mr. MCKEON. I am in total agreement with them on this legislation. I also would like to thank the staff for their working on this.

I think it is a shame that we have gone through the last few months and all the revelations of the problems in the student loan industry on a whole variety of levels. I am not here to attribute blame to anybody at this point but to suggest we do have a role in getting involved in this and to make a difference. I will submit my prepared statement, but I would like to go just a little beyond that.

I think everyone in America, in terms of being competitive, has to do everything we can to educate our young children. Clearly, student loans by the individual students and the families need to be taken into consideration, but so does the cost of college.

As we look at the Higher Education Act which Chairman MILLER referenced, it is vitally important that we make sure that our colleges are being closely analyzed in terms of keeping those costs down. The Federal Government cannot do it all with respect to grants and loans or whatever it may be. Indeed, we need to close the gap between the cost of college and what people can afford. Hopefully, we can continue to work on this.

This is a wonderful first step. I hope everyone is supportive of H.R. 890. I certainly am supportive of it and concur with statements that have been made today.

I rise in support of H.R. 890, the Student Loan Sunshine Act, which will return the focus of the financial aid process to serving the needs and interests of students. H.R. 890 is the first step in ensuring that the federal student aid program is kept on a firm foundation for generations to come.

As Congress moves towards reauthorizing the Higher Education Act, the reforms in H.R. 890 are steps in the right direction to ensure the financial aid system works for students and colleges alike.

In addition to this bill, the Committee has also held one investigative hearing on findings by New York Attorney General Andrew Cuomo on the relationship between student loan lenders and the financial aid offices in institutions of higher education. Tomorrow the Committee will hold a second in investigative hearing, asking U.S. Secretary of Education, Margaret Spellings about alleged lapses in the Department's oversight of the federal student loan programs. Additionally, Mr. PETRI and I have sent a letter to the Congressional Research Service (CRS) requesting information from them about the private loan industry. By answering some of these questions and by passing this legislation today, I am hopeful Congress can work to restore confidence in the federal student loan system.

I urge my colleagues to support H.R. 890, the Student Loan Sunshine Act, to help serve the needs and interests of our students and to restore confidence in our federal loan system.

Mr. PETRI. Mr. Speaker, I rise today in support of H.R. 890, the bipartisan Student Loan Sunshine Act, as a first step towards comprehensive student loan reform. The series of scandals that have surfaced over the last month have underscored the need for clear and explicit guidance on student lending ethics. These revelations of kickbacks, financial aid officer compensation, lavish travel, and aid office staffing are just a few of the egregious practices lenders have employed to buy access on preferred lender lists and manipulate the trust of both students and taxpayers.

In supporting H.R. 890, however, we must remember that these abuses are merely symptoms of a very broken system: the Federal Family Education Loan (FFEL) program. The excessive subsidies made to student lenders through this archaic loan-delivery system cost taxpayers approximately $5 billion more each year than the comparable Direct Loan program. Indeed, the Office of Management and Budget, Congressional Budget Office, Treasury Department, Government Accountability Office, and other economists are all in agreement that the FFEL structure is hemorrhaging taxpayer subsidies. While this wasteful spending is inexcusable, it is even more appalling that none of these excess subsidies filter back down to students in the form of borrower benefits, but rather have been used to underwrite these unethical practices.

Let me be very clear, while the Sunshine Act is a positive first step towards reform, we must only consider it a stop-gap measure to limit further abuse of the FFEL program while we develop a comprehensive, structural loan reform. In the coming months, Congress will have another opportunity to consider changes to this nation's higher education laws. The real test of our resolve will be whether we settle for

yet another Band-Aid on a broken system or if we work to redesign this system to ensure that critical tax dollars in federal student loans provide the best return on our taxpaying constituents' investment.

Mr. Speaker, I invite my colleagues to join me not only in supporting this bill, but also working towards comprehensive student loan reform. Students and taxpayers deserve better, and Congress has the responsibility to deliver these critical reforms this year.

Mr. ANDREWS. Mr. Speaker, I rise in strong support of the Student Loan Sunshine Act. This bill helps to ensure that parents and students have access to all student loan options available to them in order to make the best informed decision.

Some key improvements include providing students information on all federal student aid opportunities through a new ''one-stop'' link on the Department of Education website. This will allow students to have access to all lenders of their choice, and not feel limited with preferred lender list. The bill also requires institutions disclose all relationships with lenders and protects students from aggressive marketing practices.

The student loan industry has been under intense scrutiny recently and it is our obligation as Members of Congress to promote open and honest leadership. I applaud Chairman MILLER for developing a strong piece of legislation that will help restore trust in the student loan industry.

Access to affordable and quality education is a key element to this country's future. As a cosponsor of the Student Loan Sunshine Act, I encourage my fellow colleagues to support this bipartisan legislation.

Mr. CONYERS. Mr. Speaker, I rise today in support of H.R. 890, The Student Loan Sunshine Act of 2007. Over the last few decades the costs of a postsecondary education in our country has increased exponentially. Now, more than ever our nation's students and families are relying on student loans to help pay for a college degree and yet, thanks in large part to the investigative reporting New York Times, we now know that egregious conflicts of interest and corrupt practices among lenders, schools, and public officials are undermining the student loan programs on which millions of borrowers depend. This is unacceptable, and I am pleased that the Education and Labor Chairman GEORGE MILLER has decided to address this situation so promptly.

The Student Loan Sunshine Act cleans up the student loan industry and ensures that students and families will encounter a more trustworthy student aid system in the future by requiring institutions and lenders to adopt strict codes of conduct that adhere to specific guidelines, banning all gifts, participation on advisory boards, and revenue-sharing agreements between lenders and schools, mandating institutions disclose all relationships with lenders, only allowing ''preferred lender lists'' on campuses with strict assurances that the list was created with the students' best interest in mind, ensuring that students have access to all lenders of their choice (including those not on the preferred lender lists), prohibiting staffing of school financial aid offices.

We need to pass this legislation here and now to send a message to all stock holders that Congress and the American public will not abide abusive lending practices and that we are entitled to transparency in student loan programs.

Mr. VAN HOLLEN. Mr. Speaker, in a time when most students graduate with at least $20,000 in debt, it is more important than ever that students can find loans with low interest rates that are easy to pay back. In the best case, students can get federal financial aid. However, more and more students have maxed out that aid and are turning to the private market. Many schools recommend lenders to help students and their families find loans.

Now, most schools do work in the best interest of their students, and choose preferred lenders based on the benefits they can give students. But, as we have seen, some unscrupulous lenders have schemed with certain unscrupulous staff of college loan offices to serve their own special interests rather than the interests of students and their families.

What is worse, the Department of Education knew about these cozy relationships between student loan officials and lenders and did nothing about it. This is indicative of the lack of oversight that has persisted at the Department of Education for the last six years. Some of us in Congress, a few years ago, worked to close a loophole in the federal student loan program that was costing taxpayers millions of dollars. We had to pass a law to force the Department of Education to act—they had refused to issue emergency regulations to stop the subsidy and save money for taxpayers and students.

And now, again, the Department of Education, when faced with a clear conflict of interest between lenders and schools, has failed to respond adequately. Congress must step in to make the rules clear.

This bill does just that. It clarifies appropriate conduct for schools. It encourages private loans to be competitive with federal loans. It makes students more aware of their options by making the student loan market less confusing and more transparent.

Perhaps most importantly, this bill will restore trust between students and their colleges. Students need to be able to trust that their school officials are giving them the best advice in the confusing world of student loans. The provisions of this bill, by requiring schools to disclose exactly how their preferred lenders are chosen, will reassure students and parents that schools are looking out for their best interests.

This bill will help students and parents get the best deal for their money. I encourage my colleagues to vote yes on the Student Loan Sunshine Act, and put in place a system that looks after students' interests, and is not plagued by special interests.

Mr. HOLT. Mr. Speaker, I rise in support of H.R. 890, the Student Loan Sunshine Act and I thank Chairman GEORGE MILLER for bringing this bill to the floor.

With the rising cost of college, students and families are more reliant then ever on student loans to pay for college. At the same time, it is becoming more and more important for these students to earn a college degree to compete for good jobs. U.S. Census data show that, on average, every year of post-secondary education raises a worker's annual earnings, helping the worker to provide for his family as well as to give back to his community. Post-secondary education is becoming more and more important—according to the Bureau of Labor Statistics, the percentage of jobs requiring post-secondary education will rise from 29% in 2000 to 42% by the end of the decade.

Ongoing investigations into the student loan industry have revealed that egregious conflicts of interest and corrupt practices among lenders, schools, and public officials are undermining the student loan programs that millions of borrowers have come to depend on. Just yesterday Theresa Shaw, chief operating officer of the office of federal student aid, resigned from the Department of Education. My own State of New Jersey now has the State Attorney General looking into evidence of agreements between the New Jersey Higher Education Student Assistance Authority and lenders that show lenders paid the agency to market their products to schools.

I am pleased that this bill bans all gifts, participation on advisory boards, and risk-sharing agreements between lenders and schools and requires institutions to disclose all relationships with lenders. The bill ensures that students have access to all lenders of their choice, including those not on the ''Preferred Lender Lists.'' The bill bans staffing of school financial aid offices by lenders, and ensures that schools process all loans, from any lender, and do not steer students away from their first choice. I am also pleased that the bill requires lenders offering private loans to first inform students of their federal borrowing options, so that the student can get the better federal interest rates.

Too often, when students leave college they are not informed of all their repayment options. The bill requires that all exit counseling is provided with the school's involvement and that they inform students of all of their repayment options.

Students deserve clear, straight-forward information and the bill instills enforceable marketing protections, including disclosures and notifications to students and institutions by lenders offering private loans. This bill gives a student the full picture by requiring lenders and institutions to disclose fully and prominently the terms, conditions, and incentives for all loans.

Again, I look forward to the results of the investigation of the State of New Jersey Attorney General and I thank Chairman MILLER for taking these steps to disclose all information about the student loan industry, colleges, and public officials. I ask my colleagues to support this important bill.

Mr. GEORGE MILLER of California. Mr. Speaker, I urge the House to pass H.R. 890, as amended, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER) that the House suspend the rules and pass the bill, H.R. 890, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. GEORGE MILLER of California. 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 question will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 1873, SMALL BUSINESS FAIRNESS IN CONTRACTING ACT

Mr. CARDOZA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 383 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 383

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1873) to reauthorize the programs and activities of the Small Business Administration relating to procurement, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Oversight and Government Reform now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 9 or 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. During consideration in the House of H.R. 1873 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore. The gentleman from California (Mr. CARDOZA) is recognized for 1 hour.

Mr. CARDOZA. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. CARDOZA. Mr. Speaker, I ask unanimous consent that Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 383.

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

There was no objection.

Mr. CARDOZA. Mr. Speaker, I yield myself such times as I may consume.

Mr. Speaker, House Resolution 383 provides for consideration of H.R. 1873, the Small Business Fairness in Contracting Act, under a structured rule. The rule provides 1 hour of general debate equally divided and controlled by the chairman and ranking member of the Committee on Small Business. The rule makes in order the substitute reported by the Committee on Oversight and Government Reform as original text for the purpose of amendment. The substitute shall be considered as read.

The rule waives all points of order against consideration of the bill except for clauses 9 and 10 of rule XXI. The rule makes in order eight amendments that were submitted for consideration that are printed in the Rules Committee report on this accompanying resolution.

Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, the Small Business Fairness in Contracting Act, H.R. 1873, amends key sections of the Small Business Act to assist small businesses in participation in Federal procurement.

The predecessors to the Small Business Administration can be traced back to World War II and efforts by President Roosevelt and President Truman. In fact, during World War II, it was found to be in our national interest to ensure a strong and diverse industrial base.

Through a series of laws and procurement requirements, Congress established a benchmark to give small business every opportunity to compete fairly for the awarding of Federal contracts. Despite this clear mandate in existence for more than 50 years, small businesses, however, have not received their fair share of Federal Government contracts.

For example, in 2006, the Federal Government spent over $417 billion on goods and services in 8.3 million separate contract actions. Small businesses won approximately $80 billion in contracts, approximately 21.5 percent of these contracts. This was the sixth straight year that the government has failed to meet its 23 percent small business contracting goal. This cost entrepreneurs an estimated $4.5 billion in lost contracting opportunities last year alone.

Small businesses suffered this massive loss, despite their importance to our national economy. Small businesses are the engine of our economy. In fact, they are responsible for creating three out of every four jobs in the United States. We cannot afford our budding entrepreneurs to be shut out of what would be an open market and be denied the opportunity to succeed. Not when their existence is so vital to our national economy.

We should not be shutting them out. Instead, we should be opening doors and shepherding their growth to ensure continued prosperity.

There are many reasons for the failure to break the stranglehold on Federal contracting process. In response, H.R. 1873 takes several necessary steps to address some key causes. H.R. 1873 seeks to break down the barriers for countless entrepreneurs and small businesses that are on the road to opportunity.

First, the bill bans contract bundling. Past practice has been to combine two or more smaller contracts into a single, larger package. While this bundling may be administratively convenient, it reduces competition and opportunity for small businesses.

Bundling squeezes small businesses out of the contract competition, benefiting larger, full-scale businesses in the process; and when there is less competition, there is also higher cost on the taxpayer.

To add insult to injury, Federal agencies are skewing the data with respect to small businesses. To give the impression that 23 percent of small business contracting goals are being met, agencies are using contracts awarded to larger companies and including them towards their small business contracting goals. H.R. 1873 seeks to reverse these trends and make it easier for small businesses to compete in the Federal marketplace.

Second, the bill makes an appeals process more accessible. Under current law, small businesses are only allowed to protest the award of a contract if they are directly harmed by it, but they are unlikely to do so given the costs involved in the process. Under the bill, small businesses and trade associations acting on their behalf that are adversely affected, directly or indirectly, by a proposed procurement can now request that the SBA appeal the procurement on their behalf.

H.R. 1873 increases the procurement goals for small businesses. It increases the government-wide goal for the number of contracts awarded to small businesses from 23 to 25 percent, a goal which has not been raised in over 10 years. It also increases from 5 percent to 8 percent the government-wide contracting goals for both disadvantaged and women-owned small businesses.

The bill raises the threshold for small business contract set-asides to the simplified acquisition threshold. It also requires that an independent audit of the Central Contracting Registry be conducted on a biannual basis to ensure that large firms are not misrepresenting themselves as small businesses.

Mr. Speaker, the opportunity for open competition for Federal contracts is immensely important to small businesses. This bill has strong bipartisan support. It passed the Small Business Committee by a voice vote, and it was sequentially referred to the Committee on Oversight and Government Reform where it also passed by a voice vote.

I would like to thank both committees for their hard and thoughtful work in bringing this legislation to the floor today. In particular, I extend my thanks to Chairwoman VELÁZQUEZ, the subcommittee chairman, Mr. BRALEY, and Chairman WAXMAN.

Mr. Speaker, we all recognize the importance of small businesses to our economy, and we must act on this bill without further delay.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I would like to thank my friend from California (Mr. CARDOZA) for the time, and I yield myself such time as I may consume.

Small business is the engine that drives our economic strength. The almost 26 million small businesses in the United States employ over half of all private sector workers and pay approximately 45 percent of total U.S. private payroll. Over the last decade, small businesses have generated 60 to 80 percent of new jobs each year.

Congress, for many decades, has acknowledged the important role small businesses play in the Federal procurement process. That is evidenced in the Small Business Act of 1953 which states: ''It is the declared policy of the Congress that the government should aid, counsel, assist and protect the interests of small business concerns in order to preserve free competitive enterprise and to ensure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the government be placed with small business enterprises.''

In 2006, the Federal Government spent over $417 billion on goods and services in 8.3 million separate contracts. Small businesses won a little over 21 percent of those contracts.

H.R. 1873, the Small Business Fairness in Contracting Act, seeks to assist small businesses' participation in the Federal procurement process.

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Among its provisions, it expands and clarifies the definition of contract bundling to try to ensure that small businesses can fairly compete for Federal contracts. Contract bundling combines two or more contracts into a single larger package. Bundling can put small businesses at a disadvantage in the procurement process because the bid price usually goes beyond what small businesses can afford.

This legislation, the underlying legislation, sets a target of 25 percent for the overall number of Federal contracts awarded to small businesses and a target of 8 percent for contracts awarded to minority- and women-owned businesses. The bill also provides a mechanism for the SBA to work with Congress when it believes that the Federal contract was improperly bundled.

Mr. Speaker, yesterday the majority on the Rules Committee reported out yet another restrictive rule, going back once again on the promise for a more open and fair legislative process. What makes this rule most unfortunate is that it does not include even one Republican amendment. So I think the question is begged, how can the majority claim to be fostering an open legislative process when it totally shuts out the minority?

During testimony at the Rules Committee, Small Business Ranking Member CHABOT explained that the Government Oversight Committee subsequently made several major changes to the bill that would harm small businesses. He proposed several amendments to strike the harmful provisions and restore those in the original bill that came out of the Small Business Committee. Now these amendments were even supported by the Small Business Committee chairwoman, Ms. VELÁZQUEZ, but the majority in the Rules Committee ignored both Committee Chairwoman VELÁZQUEZ and Ranking Member CHABOT and did not make the amendments in order. That was totally uncalled for, and Mr. Speaker, this rule should be defeated.

Mr. Speaker, I reserve.

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

I would just like to respond to the gentleman and my good friend from Florida who serves with me on the Rules Committee. I would like to remind him that while it is true that no Republican amendments by themselves were in order, there certainly was made in order Ranking Member Mr. CHABOT's suggested return of amendments the way it was in the Small Business Committee. He paired with Congresswoman BEAN of Illinois, with Congressman SHULER of North Carolina and with Mr. SESTAK of Pennsylvania in coauthoring three amendments that were, in fact, made in order.

So to say that no Republican suggestions were made in order was simply not totally accurate. In fact, Mr. Speaker, three Democratic amendments and four Republican amendments were not made in order, but a significant number of them are going to be considered today.

We believe that this is, in fact, a very good use of the time of the Members of this House. The Committee on Government Reform is the watchdog committee for this House. They had some issues that they wanted to clarify in the legislation, and I think that the Rules Committee felt that their suggestions had merit in at least two cases.

I also want to make the point, Mr. Speaker, that this legislation is supported by the NFIB, the National Federation of Independent Business; the Women's Chamber of Commerce; the Hispanic Chamber of Commerce; the Women Impacting Public Policy; the National Small Business Association; and the Associated General Contractors of America.

Mr. Speaker, I have one additional speaker who requests some time who is not yet here, and so I reserve my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is quite interesting to see that now it is important for the minority to pair with members from the majority party in order to be considered, that pairing with someone from the other side makes the denial of amendments to all Republican amendments apparently fair.

Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Mr. Speaker, I thank the gentleman for yielding, and I appreciate him for providing leadership on this issue.

I would suggest, Mr. Speaker, that small business is indeed important and vital, but what is before us is not H.R. 1873, the Small Business Fairness in Contracting Act. What is before us is how this House will deal with that bill when it comes to the floor. What is before us is the rule that will allow or not allow open and active debate on this bill.

Now, the new majority has promised us an open and fair process. They promised the American people an open and fair process. But once again, this new majority has put forward a closed and restrictive rule which will not allow an up-or-down vote on many amendments, including one that I offered that would have applied pay-as-you-go spending principles to this legislation.

As my good friend from Florida mentioned, there are eight amendments that have been allowed, all of them, Mr. Speaker, with primary authors being from the majority party. Is that open? Is that fair?

Last term, Speaker PELOSI said, ''Because the debate has been limited and Americans' voices silenced by this restrictive rule, I urge my colleagues to vote against the rule.'' Well, I agree, Mr. Speaker. What changed?

Last term, Mr. Speaker, Majority Leader STENY HOYER said, ''Mr. Speaker, once again this House majority is resorting to heavy-handed tactics that are designed to do one thing only, to achieve a preordained result by shutting down a full and fair debate in this House.'' I agree, Mr. Speaker. What changed?

Last term, Mr. Speaker, the current Chair of the Rules Committee, Ms. SLAUGHTER, said, ''If we want to foster democracy in this body, we should take the time and thoughtfulness to debate all major legislation under open rule, not just appropriations bills . . . An open process should be the norm and not the exception.'' Well, I agree, Mr. Speaker. What changed?

In fact, what has changed is that less than 3 percent of the bills that have been brought to this floor under this majority under a rule have been under an open rule, less than 3 percent. What changed, Mr. Speaker?

Last term, a member of the Rules Committee, Mr. MCGOVERN, said, ''I would say to my colleagues on the other side of the aisle, if you want to show some bipartisanship, if you want to promote a process that has some integrity, this should be an open rule. All Members should have an opportunity to come here and offer amendments to this bill to improve the quality of deliberations on this House floor. They should be able to come and offer amendments to clean this place up.'' And I agree, Mr. Speaker. So what changed? What changed?

Mr. Speaker, last term, current Democrat Caucus Chair, Mr. EMANUEL said, ''Let us have and up-or-down vote. Do not be scared. Do not hide behind some little rule. Come on out here. Put it out on the table, and let us have a vote. So do not hide behind the rule. If this is what you want to do, let us have an up-or-down vote.'' I agree, Mr. Speaker. What changed?

H.R. 1873, the bill today that we will talk about, seeks to increase the opportunity for small businesses to earn Federal contracts by addressing current barriers that face small businesses, and this is important. That is extremely important, but we should do so in a fiscally responsible way.

My amendment would have allowed or would have applied the principles of pay-as-you-go to any new spending authorized by this legislation by requiring that any new spending have a specific offset, be paid for, common sense. It is what we all have to do at home. It is what all of our constituents have to do at home.

Mr. Speaker, this majority, when it was running to take the majority last year, said, ''Our new direction is committed to pay-as-you-go budgeting, no more deficit spending. We are committed to auditing the books and subjecting every facet of Federal spending to tough budget discipline and accountability, forcing the Congress to choose a new direction and the right priorities for all Americans.'' Mr. Speaker, what happened? What happened?

Last month, Majority Leader STENY HOYER was quoted and said, ''We want to get the budget deficit under control. We have said fiscal responsibility was necessary, but we are not going to be hoisted on the torrent of fiscal responsibility.'' Mr. Speaker, heaven forbid that we should be hoisted on the torrent of fiscal responsibility.

Well, Mr. Speaker, rules are not rules if you only follow them when you want to, and the Democrats, the majority party, promised to use PAYGO rules for everything. Instead, they are picking and choosing when to do so. At home, we call that breaking a rule and breaking a promise.

So I urge the new majority to rededicate itself to its campaign promises, its promises of pay-as-you-go spending and of an open and fair process. Fiscal responsibility and an open process should not be something that you just talk about solely before elections. We should be good stewards of the hard-earned money that Americans send to Washington in the form of their taxes all the time, not just during political campaigns.

So I urge my colleagues to oppose this closed and restrictive rule.

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

Mr. Speaker, in the last Congress, in both sessions, the Rules Committee reported a grand total of three open rules that were not appropriation rules. Two of them were open rules with a preprinting requirement. In this session, the new majority, we have already done seven open rules, six with preprinting requirements. And that is just in over 4 months.

Say what you want, we have already had a fairer and far more open process than happened in just the last 2 years of the prior majority's rule, when their party ran this place.

Mr. Speaker, Mr. PRICE from Georgia indicated that he has proposed a rule to get our fiscal house in order, an amendment that would do that. Yet, he has offered that same amendment several times in other pieces of legislation. Every time when it was allowed and came to the floor, his amendment failed.

Further, I would like to just mention the fact that the current majority has, in fact, instigated PAYGO rules in the House of Representatives, and so we have made that the law of the House. We, in fact, are bringing fiscal responsibility to this House on a daily basis, something that the prior party in charge was not able to do over 14 years while they were in charge. In fact, the deficit went up at an astounding rate while they were in control of this institution, and it has been the Democrats who have come back to power and are instigating PAYGO rules and fiscal responsibility in the House of Congress.

Mr. PRICE of Georgia. Mr. Speaker, will the gentleman yield?

Mr. CARDOZA. I yield to the gentleman from Georgia for a question.

Mr. PRICE of Georgia. Mr. Speaker, I appreciate the gentleman yielding, and I appreciate you also stating that time and time again this majority party has defeated PAYGO, an amendment that would have provided responsible fiscal spending on the part of the Federal Government, that I have offered.

What it does, does it not, bring clarity to the issue——

Mr. CARDOZA. Mr. Speaker, I reclaim my time. The point of my claim was the gentleman's amendment had failed because we have already instituted the PAYGO rules in our rules of the House of Representatives, and we do that on a daily basis.

When the gentleman's party was in power for a number of years, we saw the largest deficit increases in the history of our country, more foreign debt that they piled on to our Nation, and in fact, we are reversing the course that they set out in their prior control of Congress.

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

□ 1130

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

I thank my friend, my colleague from California, for having admitted on the record that the new majority has seen fit during this Congress to pass one open rule, and that was on the Advanced Fuels Infrastructure Research and Development Act, and I think that's important to be noted.

Now, rules where there are requirements with having to print amendments before the debate begins are not open rules, even though our friends on the majority side have tried to redefine definitions, redraft definitions. But the reality of the matter is that there has been an admission on the floor that there has been one open rule with regard to a noncontroversial bill, and that's the fact.

Now, why is that important? Because they were the party that campaigned on opening the process. So that's why it's a relevant fact that there has been one open rule.

Mr. Speaker, I yield 4 minutes to my distinguished friend, a great leader from Texas (Mr. SESSIONS).

Mr. SESSIONS. I want to thank the gentleman from Florida, a member of the Rules Committee, who I look up to and is a great mentor. I thank the gentleman for yielding the time.

Mr. Speaker, I, too, rise in strong opposition to this rule, which completely shuts out the minority from offering any amendments to improve this legislation.

Last night, the Rules Committee met to consider the 14 amendments offered by Members to improve this legislation; and the Democratic majority voted along party lines to prevent any amendments offered by a Republican from being considered.

I wish I could say that I was surprised by this outcome, but this is nothing new. This new Democratic majority decided to break its campaign trail promises to open up legislative process for all Members. Instead, they have chosen, once again, to play party politics and to help the Rules Committee to solidify its position and reputation as the graveyard of good ideas in the House of Representatives.

I offered one of the Republican amendments that will not be considered by the House today because of the partisanship in the Rules Committee. My amendment would have struck section 303, which mandates the automatic annual recertification of successful small businesses, whether this recertification is necessary or not.

Section 303 will create an administrative nightmare for small businesses

who wish to contract with the Federal Government. Mandating this annual recertification creates a disincentive for businesses to contract with the government, because filing this unnecessary paperwork takes time, takes money and takes manpower, proving that the actions we take here in Congress actually do have real-world consequences.

The Small Business Administration already has the discretion to determine how frequently small businesses must recertify, and the SBA studied and rejected this annual recertification because it would create, as they call it, an unnecessary burden for small business.

The SBA has already passed a recertification rule that goes into effect in June of this year. This rule will protect small business contracts without the added costs and headaches associated with the Democratic majority's heavy-handed proposal. Congress should have allowed the SBA rule to take effect before mandating this new, unnecessary statutory paperwork.

The failure of the Democratic majority to include my amendment proves that this bill is more about politics than it is about policy. Yesterday, person after person from both parties talked about how great it would be for us to help the great engine of this economy, small business. Yet we find out, when it really comes down to it, they want to put rules and regulations on small businesses, whether they are needed or not.

Mr. Speaker, I ask to insert in the RECORD the Statement of Administrative Policy for the bill which specifically states that the bill would impose additional detailed reporting requirements on agencies and prime contractors that would increase costs without clear benefits.

STATEMENT OF ADMINISTRATION POLICY, H.R. 1873—SMALL BUSINESS FAIRNESS IN CONTRACTING ACT

(REPRESENTATIVE BRALEY (D), IA AND 29 COSPONSORS)

The Administration supports efforts to increase opportunities for small businesses to compete for Federal government acquisitions. The Administration, however, opposes H.R. 1873, because it would impose broad, burdensome statutory restrictions on Federal agencies' ability to conduct acquisitions and establish unrealistic small business procurement goals. Although the Administration appreciates the efforts of the House Oversight and Government Reform Committee to address some of the Administration's concerns, its reported bill contains many of the same objectionable provisions as the introduced bill and the bill as reported by the House Small Business Committee.

Among its objectionable provisions, H.R. 1873 would impose costly and time-consuming requirements on thousands of agency acquisitions through an overly-expansive definition of ''contract bundling'' that would include construction contracts, new procurements not previously performed by or considered suitable for small businesses, and task and delivery orders under existing contracts even when bundling justifications were already performed under such contract. These requirements would be in addition to existing rules that already require review of all agency procurements for small business opportunities.

Additionally, the bill would establish unrealistic government-wide and individual agency small business procurement goals that could undermine the small business procurement goal process. Moreover, both the increase in goals and the restrictions on allowing a small business to be counted for only one preferred small business contracting category raise constitutional questions by establishing new race- and gender-based Government preferences without presenting a strong basis in evidence that these preferences meet constitutional standards.

The bill also would overturn a recently issued small business regulation that guards against the abuse of small business preferences while allowing an affected small business a reasonable period of time to take advantage of such preferences during performance of a Federal procurement contract. Finally, the bill would impose additional detailed reporting requirements on agencies and prime contractors that would increase costs without clear benefits.

The Administration would strongly oppose amendments to require the Office of Management and Budget intervention in individual agency acquisition decisions, thereby removing the discretion and flexibility that agencies must have to accomplish their missions by contracting for needed supplies and services. The Administration also would strongly oppose any amendments that require individual agency goals to be no lower than government-wide statutory small business goals, or that apply small business goals to overseas acquisitions.

The Administration looks forward to working with Congress to increase opportunities for small businesses without unnecessarily disrupting agency operations and imposing burdensome requirements on agencies and contractors.

I ask for all my colleagues to oppose this partisan rule, this restrictive rule that will do very little to help small businesses.

Mr. CARDOZA. Mr. Speaker, I would just like to respond to my good friend from Texas and state the committee considered his amendment, proposed amendment, and rejected it for a large reason, because we feel that it is important to make companies certify that they are, in fact, small businesses, that there have been mistakes made in the past, that companies have gotten beyond the threshold and have won contracts that they may not be authorized to do.

Just because the Small Business Administration periodically will go and check that, we don't believe that that is enough of a cause to require that other small businesses be shut out of the process because companies that grow beyond the requirements are allowed special treatment.

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

Mr. LINCOLN DIAZ-BALART of Florida. I would like to thank Mr. CARDOZA, my good friend, and all those who have spoken during this debate.

Mr. Speaker, I would like to reiterate my call for the defeat of this restrictive rule. It is an unfair rule, it is unnecessarily restrictive, and it closes down debate. For that reason, I urge the defeat of this rule.

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

Mr. CARDOZA. Mr. Speaker, in my close, I just want to assure the Members of Congress that we are, in fact, running the most open process in this Congress, that, in fact, we have provided seven open rules.

Now those rules may have a pre-printing requirement, as Mr. DIAZ-BALART mentioned, the gentleman from Florida. In fact, though, requiring a pre-printing requirement allows every Member who desires to put forward an idea to come and have their ideas presented to the House. That is much more than what happened in the prior Congress, when they were in charge. We are keeping our commitment to running an open process.

As I mentioned, this legislation is very worthy of this rule and of passage. As I mentioned, small businesses have not received their fair share of Federal Government contracts, despite their importance to our economy. The bill before us today, H.R. 1873, addresses some of the key causes.

By making a few targeted reforms to the procurement process, we can help thousands of small businesses and give a much-needed jolt to our national economy. We must continue to shepherd our small businesses to give them every opportunity to succeed for today and for tomorrows yet to come. This bill will move us in that direction, and a small business will be that much closer to making their dreams of prosperity a reality.

I urge a ''yes'' vote on the rule and on the previous question.

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

The previous question was ordered.

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

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

PROVIDING FOR CONSIDERATION OF H.R. 1684, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2008

Ms. MATSUI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 382 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 382

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for

consideration of the bill (H.R. 1684) to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Homeland Security. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Homeland Security now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 9 or 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. During consideration in the House of H.R. 1684 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore. The gentlewoman from California (Ms. MATSUI) is recognized for 1 hour.

Ms. MATSUI. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Ms. MATSUI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and insert extraneous materials into the RECORD.

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

There was no objection.

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

Mr. Speaker, House Resolution 382 provides for consideration of H.R. 1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008, under a structured rule.

The rule provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Homeland Security.

The rule waives all points of order against the bill's consideration, except those arising under clauses 9 or 10 of rule XXI. The rule makes in order and provides appropriate waivers for 21 amendments.

I am pleased to stand before you today with a rule to permit the Homeland Security authorization bill to come to the House floor.

First and foremost, I want to thank Chairman THOMPSON for his continued leadership on an issue of utmost importance for the safety and prosperity of this country and for working so closely with Ranking Member KING on this bill.

This bipartisan bill authorizes $39.8 billion to the Homeland Security to carry out its many functions, from securing our borders to providing our local law enforcement with resources to prepare for and prevent terrorist attacks.

The Department of Homeland Security has a wide range of responsibilities. In recognition of this critical mission, I am pleased that the Homeland Security Committee has authorized $2.1 billion more than the President requested in his budget. This authorization bill does far more than simply authorize appropriations for the Department of Homeland Security.

□ 1145

This bill gets at the heart of the management problems within the Department. As we all know, the Department was created by combining the work of 22 separate agencies. This process of integration has had many, many challenges, poor communication between agencies, a lack of qualified management, unusually high turnover of senior personnel.

Congress has not made these challenges any easier, however. We could have addressed some of these problems through the legislative process by passing an authorization bill last year, but the prior majority failed to do so, and so the Department's management problems went uncorrected.

Without addressing the underlying management and operational issues, the Department cannot perform its important functions. In such an environment, how can the American people feel safe?

Thankfully, H.R. 1684 addresses these challenges. It mandates a comprehensive review of the Department at the beginning of each new administration in order to ensure that DHS is structured to meet the security needs of the American people. It sets qualifications for senior managers, increases coordination between agencies, and boosts funds for the Inspector General. And, agency by agency, it puts in place thoughtful personnel policies to attract, train and keep only the most qualified personnel.

These reforms are important, and I'm glad that the committee and the Democratic leadership have moved forward with a well-focused bill to improve the Department's management.

This bill continues the majority's strong record on homeland security. In a few short months, this Congress has passed bills to implement the 9/11 recommendations and to strengthen rail and public transportation security, each with strong bipartisan majorities. Each is a component of a comprehensive approach to protecting our constituents from potential threats.

I applaud the committee and the leadership for their consistent focus on homeland security. I understand that some Members have concerns that this bill does not address every issue, but part of the legislative process is working through these issues through the committees of jurisdiction.

It is important to keep in mind that Chairman THOMPSON and Ranking Member KING put forth a bipartisan bill during markup, and Chairman THOMPSON continues to work with other committees of jurisdiction in order to make sure that every aspect of our Nation's security is supported by Congress.

In particular, I applaud the chairman's record of shepherding 2 major homeland security bills through the House already. I think we should all agree that today's effort, the third homeland security bill in 4 months, makes substantial improvements to long-standing management issues within DHS. The rule and underlying bill shows a commitment of this Congress to working for a safe and secure America.

So I urge all Members to support both the rule and the underlying bill.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I'd like to thank my good friend, the gentlewoman from California (Ms. MATSUI), for the time; and I yield myself such time as I may consume.

The security of the American people, Mr. Speaker, is the primary function of the government of the United States. Since September 11, 2001, we have been working to rebuild our Nation, not only our buildings but also our sense of security. The creation of the Department of Homeland Security to coordinate all domestic security activities on behalf of the American people was an important first step and has served as the foundation of our continuing efforts to protect our citizens.

Today, we consider the third authorization for the Department of Homeland Security. During consideration of this underlying legislation, Members from both sides of the aisle worked together to craft a bipartisan bill. The

bill sought to build a core capacity at the Department and bring about targeted personnel, contracting and policy changes. That bill passed the Homeland Security Committee unanimously.

But even though the bill passed out of the committee with unanimous support, the majority party is attempting to undo the bipartisan bill by coming forth with a manager's amendment that significantly alters the makeup of that bill. The manager's amendment strikes key provisions which address high-priority homeland security issues. Out of a total of 86 substantive bill provisions, 26, or almost a third, are amended by the manager's amendment and 16, 20 percent almost, are entirely struck.

Most of the provisions stricken by the manager's amendment had become part of the bill through Republican amendments in the committee process. For example, the manager's amendment strikes provisions on the Student and Exchange Visitor Program and eligible uses of interoperability grants, among others.

There are two provisions that the manager's amendment deletes that I think should be highlighted, Mr. Speaker. The first would strike post-employment lobbying restrictions. This provision being eliminated from the bill by the manager's amendment would codify the existing ban on senior Department of Homeland Security employees from one part of the Department lobbying other parts of the Department within 1 year of leaving the Department. That reform is stricken from the bill by the manager's amendment.

The second part of the bill being stricken is a sense of the Congress calling for implementation of the 9/11 Commission recommendation to establish a single point of oversight of homeland security in the House of Representatives and in the Senate.

Now, that is one of the key recommendations of the 9/11 Commission, and precisely it is one that our colleagues on the other side of the aisle ran on in the elections, the promise to enact the 9/11 Commission recommendations.

Yet here they have an opportunity to follow through on their campaign promise, but, instead, they strike the provision from the bill through the manager's amendment. And they don't even allow for the provision to be debated in the form of an amendment on the floor.

Mr. Speaker, I was pleased that the Castor amendment, which helps address concerns with the dual implementation of the Florida Uniform Port Access Credential and the Transportation Workers Identification Card, was made in order. But there was another glaring missed opportunity here by the majority on the Rules Committee.

The Rules Committee had the opportunity to allow an open rule on this bill, but the suggestion that we do so, that we come forth with an open rule, was voted down by the majority on the Rules Committee. Instead, they decided to report out a restrictive rule, thereby shutting out Members who had worked diligently to prepare their amendments. They also blocked out any Member who may be watching the debate now or in the process of the developing, unfolding debate and has an idea to improve the bill. No, no, they're blocked out as well. They're shut out.

It's unfortunate that the Rules Committee missed another opportunity to open the debate on this important legislation, as they promised during the campaign that they would; and because of that and the reasons that I have brought out, Mr. Speaker, this rule should be defeated.

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

Ms. MATSUI. Mr. Speaker, it is my pleasure to yield 5 minutes to the gentleman from Mississippi, chairman of the Committee on Homeland Security, Mr. THOMPSON.

Mr. THOMPSON of Mississippi. Mr. Speaker, I thank the gentlelady for her gracious 5 minutes to talk on this rule.

Mr. Speaker, I rise in support of this rule. The Committee on Homeland Security is the only committee explicitly charged with overseeing the Department's organization and administration.

We don't take this responsibility lightly. This Congress, we have held dozens of oversight hearings. The topics of each hearing may have been different, but the basic message from the Department was pretty much the same:

Don't blame us for not having our House in order. We have high turnover. We don't have a headquarters. We don't have the authorities we need to be a leader on issues such as bio-preparedness and cybersecurity. We don't have the authorities we need to integrate 22 agencies into one competent unit.

H.R. 1684 takes away all the excuses. Under this bill, the Department is provided the resources, accountability and authority needed to finally become the Federal agency that Congress envisioned and the American people deserve.

Every day, we get another reminder of the urgent nature of the homeland security mission. Just yesterday, we learned that six individuals are in custody on charges of plotting to attack the U.S. Army base at Fort Dix. We don't need to have the luxury of giving DHS time to step up to the challenges of becoming a functional organization.

I introduced, Mr. Speaker, this bipartisan bill with Ranking Member KING. The full committee, by recorded vote of 26–0, voted to order it favorably to the House.

I am pleased that the Rules Committee is allowing so many amendments to be considered today. I look forward to an active debate and the opportunity to present my manager's amendment. The manager's amendment is a product of discussion with other Members of the House and other House committees who have jurisdictional interest in aspects of this legislation.

I'm very pleased to bring this bill to the floor for consideration by the full House. Today, Members of the House of Representatives will have an opportunity to do something they have not been able to do in 2 years. They will get to cast a vote in favor of authorizing the Department of Homeland Security.

What's more, Mr. Speaker, they will get to vote to restore funding to critical first-responder programs that the President's budget would eliminate or severely cut.

Mr. Speaker, I urge a ''yes'' vote on the rule and on the underlying bill.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, at this time, I yield 4 minutes to the distinguished ranking member of the Committee on Homeland Security, Mr. KING.

Mr. KING of New York. Mr. Speaker, I thank the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) for yielding. I thank the gentlelady from California (Ms. MATSUI) for her kind remarks. And particularly I want to thank Ranking Member THOMPSON, excuse me, former Ranking Member, current Chairman THOMPSON for the outstanding job I believe he is doing as chairman of the Homeland Security Committee and certainly for the level of bipartisanship which he has demonstrated.

Having said that, I have to reluctantly but strongly urge defeat of the rule today. The reason I say that, Mr. Speaker, is that the bill which did pass through the Homeland Security Committee under Chairman THOMPSON's leadership, passed by a vote of 26–0, was a truly bipartisan effort. There was cooperation from all sides, and we came together to fashion what I believe was a very constructive and significant piece of legislation in an area which obviously is of vital importance to our Nation.

The Department of Homeland Security has been in existence now only several years. It is in its fourth year. We are talking about 22 different Departments and agencies, 180,000 employees. And it is making progress, but much more has to be done. And to address it, we have to do it in a bipartisan way.

Unfortunately, the bill that comes to the floor today has been either stripped or dramatically modified up to 50 percent of the original provisions. And some of these are very significant provisions, probably none more significant than just the sense of Congress, which was so strongly recommended by the 9/11 Commission, saying that the Committee on Homeland Security should be the focal point of legislative activity regarding the Department of Homeland Security, rather than having offices and officials of the Department having to testify before 84 or 86 or 88 various committees and subcommittees of the House.

Also, a number of significant provisions in addition to that that were taken out, for instance, an increase in funding for the Secret Service; prohibiting grants to universities that bar Coast Guard recruiters; and, as Mr. DIAZ-BALART pointed out, a very significant legislation which, by the way, came from Congressman DEFAZIO, which would codify the existing lobbying ban on Department of Homeland Security officials to ensure accountability. And we can go down the list of so many, I believe, significant provisions that were taken out.

Now, the reason for this, I understand where Chairman THOMPSON is coming from. There was resistance from other committees. But I believe we should have withstood that resistance.

For instance, in the prior Congress when we did pass port security legislation, when we did pass legislation restructuring FEMA, when we did pass legislation involving chemical plant security, we met that same resistance from other committees.

□ 1200

But we stood up to it, and we were largely successful. And we did it by working through the leadership to not just back away from these confrontations, but I believe that when we do it so quickly and we do back away, we really weaken the status of the committee. Not that we are looking to build turf, not that it is a power grab, but, again, following the recommendations of the 9/11 Commission, if there is one committee which should have primary jurisdiction on homeland security matters, it is the Committee on Homeland Security.

Also, there were amendments proposed that were rejected by the Rules Committee: Congressman DENT's amendment on the Automated Targeting System, which was strongly supported by the 9/11 Commission; Congressman SHAYS' proposed amendment involving cooperation with Interpol, very important, that was also disallowed; Congressman DAVE DAVIS, his amendment to expand the 287(g) program, which would provide funding for local law enforcement in enforcing immigration laws; and Congressman POE's amendment regarding appropriate procedures for Customs and Border Protection agents.

So these are a number of very solid amendments that were disallowed. We come here today with a bill which is really barely half of what it was when it left the committee. So I am strongly urging a ''no'' vote on the rule.

In no way is this a reflection on my good friend Chairman THOMPSON. And after we go through today and maybe even tomorrow, I pledge to him we will continue to work in a bipartisan way. But I really hope that the leadership of the other side would realize the significance of the Committee on Homeland Security and not just give in to various barons throughout the House who are trying to just hold on to their own turf and their own power.

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

Ms. WOOLSEY. Mr. Speaker, I commend the committee. I commend this committee for the hard work in crafting bipartisan legislation because as we continue to face the challenge of identifying new threats and providing new strategies for securing our Nation, it is absolutely essential that the Homeland Security Department operate to its full potential.

The Homeland Security authorization will ensure that taxpayers' dollars are not wasted by mismanagement and will encourage the best and the brightest minds of our time to contribute to our national homeland security strategy.

Harnessing these resources is absolutely key to protecting our Nation's vital infrastructure, infrastructure like the Golden Gate Bridge in my district. And it is vital to quickly respond in providing aid and support in the event of a disaster, unlike the way in which the Department responded to Hurricane Katrina. These new authorizations will make a huge difference. These reforms must be made to keep the people safe. So by restoring accountability to the Department and strengthening the protections for its employees, we can and we will improve our ability to effectively safeguard our Nation.

I encourage all Members to vote for the Homeland Security authorization.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, at this time, it is my privilege to yield 2 minutes to the distinguished gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, I rise today in strong opposition to the rule for H.R. 1684. This bill in its current form would eliminate the critical Federal 287(g) program, which serves as a force multiplier for immigration enforcement across our Nation.

The 287(g) program is a highly effective, voluntary partnership that provides the legal authority and training for States and local enforcement to investigate, detain and arrest illegal aliens on civil and criminal charges and grounds in the course of their regular duties.

Unfortunately, an amendment offered in the Rules Committee to reauthorize this important program was not made in order, jeopardizing the future of this popular program with local and State law enforcement agencies across our Nation and in my district.

Illegal immigration is a serious problem in eastern Oklahoma, and securing a 287(g) designation is a top priority of mine. I am working diligently to see that the Immigration and Customs Enforcement Officials and the Tulsa County Sheriff's Office partner in this program; 287(g) would provide them with the resources they need to deal with the ever-growing criminal alien population in Tulsa. I am pleased with the progress we have made and recently learned from ICE officials that we are in the final stages of making 287(g) a reality in northeastern Oklahoma.

The 287(g) program is working to stop the catch-and-release practice that allows dangerous criminal illegal aliens to remain free in communities across our Nation. It would be foolish for the House not to reauthorize this critical program.

I urge my colleagues to reject this ill-considered rule.

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

Let me emphasize to all Members that this bill is working its way through the legislative process. It is true that as a fair and responsible chairman, Mr. THOMPSON worked with several other committees of jurisdiction on this measure. As the manager's amendment clarifies, in some cases, the Homeland Security Committee proceeded with its language, and in others, it permitted other committees to lend their expertise to the issue in the coming months. This is the process of governing.

It is also true that the prior majority chose not to engage in this most basic of functions last year. They didn't bring an authorization bill to the floor, and by not engaging in this hard work, the prior majority let known problems go unresolved.

This bill brings overdue reform and accountability to the Department in its earliest Homeland Security authorization bill ever. That is responsible. That is governing.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 2 minutes to the distinguished leader from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Speaker, I oppose the rule.

In the manager's amendment adopted by the rule, the majority stripped out a number of commonsense amendments, mostly offered by Republicans, which would enhance homeland security. I think it is a regrettable turn of events which could cost the majority the support of many minority Members.

I guess the good news here is that we know this bill may pass the House, but it is not going anywhere in the Senate, and in this form, it is unsignable by the President.

But the rule also disallowed a critical amendment to help ensure that the Washington area would receive the necessary senior-level attention from the Department of Homeland Security so that Federal, State, and local governments are properly coordinating their homeland security activities.

In 2002, when we established the Department of Homeland Security in a bipartisan manner, it created an Office of National Capital Region Coordination. To demonstrate the importance of this, we put it in the Office of the Secretary.

Unfortunately, the administration decided in their reorganization to put this deep inside of FEMA. My amendment, which was not allowed, was pretty straightforward. It was to restore the office to its original and rightful place in the Office of the Secretary. This amendment would have passed with a large bipartisan majority, but it was not allowed by the other side.

Now, why is this important? The events of 9/11 made it all too important that better coordination of first responders is needed in the D.C. region, with two States and the District of Columbia, 12 local jurisdictions, three branches of the Federal Government, 2,100 nonprofit organizations, thousands of businesses and nonprofit organizations, 4 million Americans. They want to put that responsibility into FEMA. It belongs in the Office of the Secretary. We have been through ''tractor man.'' We have been through disruptions at the Woodrow Wilson Bridge. We have been through the snipers. This needs the highest Federal attention for coordination among all these different organizations in the region. And they wouldn't allow this amendment.

We are going to introduce this as a commonsense stand-alone bill. I hope it will receive the attention of this House. But in disallowing this amendment, now the other side takes ownership of this provision by putting their confidence in FEMA instead of the Office of the Secretary.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, at this time I yield 3 minutes to the distinguished gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I come to this floor reluctantly to oppose this rule. Why? Because it does everything that we ought not to do with respect to the committee process here.

Now, if some people outside this Chamber wonder why the committee process is important or if it is important at all, well, if you look at the 9/11 Commission recommendations, one of the important recommendations they made was to have a single point of responsibility, a single point of oversight in this House for the Homeland Security Department. The very reason we created the Homeland Security Department from about 22 other agencies and Departments was for the purpose of consolidating and giving direction to our response to a new threat to this country. In like manner, here in the House of Representatives, the recommendation by the 9/11 Commission was that we have a primary committee to do that. And that is the Committee on Homeland Security.

We have endeavored to work on a bipartisan basis. When we were in control 2 years ago, we did that. And now when the Democrats are in control, they are doing that. We had vigorous and open debate. We had a number of amendments adopted on the Republican side so that we pass this bill out of committee unanimously, not a dissenting vote. And we recognized that we were putting aside partisan differences to work for the best interest of this country.

So now we come to the floor, and 50 percent of that bill has been ripped out by the manager's amendment. It just happens to be that 50 percent is virtually all the product of Republican amendments that were adopted in committee on a bipartisan basis. And then they make in order about 22 amendments but not amendments that go to putting back into the bill what we put in there on a bipartisan basis. And virtually, not all, but most of the amendments in order are from Members who are not members of this committee.

So you say, why is this being done? And we understand we are genuflecting to the jurisdictional disputes argued by already existing committees. So what we have done is, rather than following what the 9/11 Commission has said, we have made a worse situation. We not only have the already existing committees that the Homeland Security Department has to report to. They now report to us as well.

Now, is this the efficient way? Is this the way you act when you are dealing with a serious problem? This ought to rise above all partisanship and all kinds of nonsense about jurisdiction of committees. I don't know how we can go home to our constituents and say, oh, yes, we got rid of that stuff that was really good that gave us an advantage in this war on terror because we were concerned about another committee that used to have jurisdiction.

Last year one of the things we heard was just do the right thing and adopt all the 9/11 Commission recommendations. Adopting this rule flies in the face of that. We ought to understand that.

We ought to vote down this rule, bring back the bill as it came out of the committee on a bipartisan basis, and then go forward on a bipartisan basis for the best for the American people.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I that consume.

Let me emphasize to Members the history on this issue. Unlike the prior majority, this majority is committed to passing a Homeland Security authorization into law.

In 2005, 2 years ago, the House passed an authorization after the appropriations bill passed. Last year, 2006, the House did not bother to bring a bill to the floor. That is irresponsible in light of the Department's many problems.

Democrats are committed to governing responsibly, and this is one step along that path.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington (Mr. REICHERT).

Mr. REICHERT. Mr. Speaker, I rise today in strong opposition to the rule and the manager's amendment that was made in order under this rule. This manager's amendment will significantly weaken legislation that gained bipartisan support in Committee on Homeland Security and passed 26–0.

As the chairman of the Emergency Preparedness Subcommittee last Congress, we were able to pass into law comprehensive interoperability legislation. This legislation, titled the 21st Century Communications Act, created the Office of Cybersecurity and Communications and elevated the importance of emergency communications within the Department of Homeland Security. In addition, this legislation accelerated the development of national standards for emergency communication equipment.

Unfortunately, the Rules Committee has approved an amendment that would remove many key provisions and severely weaken this legislation. This amendment removes language that allows interoperability funds to be used by State and local agencies to develop standard operating procedures, training, and exercises.

□ 1215

It is important for our first responders to have this equipment, but it is also equally important that they have the training to know how to use the equipment. Allowing this amendment on the floor that removes this provision will reduce the first responders' effectiveness due to a lack of training and planning.

We saw what happened during Hurricane Katrina when there was a lack of training, a lack of planning and a lack of communication. It was disastrous. It cost lives.

Next week is National Police Week. At a time when we are supposed to be honoring and supporting our first responders, and especially our law enforcement officers, across this Nation, we are limiting their abilities to protect themselves and to protect this Nation. I know this from firsthand experience. This is a problem that has been in existence for over 35 years, the lack of first responders to communicate. I responded to a call in 1974, not able to get on my radio, having to run across a yard and tackle a kid that had a rifle aimed at three other police officers, because I couldn't get through and talk to the communications center.

Today, eliminating this provision will create that same situation across this Nation. It's unthinkable. It's unconscionable. It should not be happening. This should be a bipartisan bill. I urge my colleagues to vote ''no.''

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

Mr. Speaker, I just want to clarify, this bill eliminates the cuts in vital first responders programs, like the 55 percent cuts that the administration asked for in firefighter assistance grants. It preserves the Local Law Enforcement Terrorism Prevention Program that the administration wanted

to close. And on contracting oversight management and personnel policies, it brings overdue reform to a Department in need. This is a good bill, and all Members should support it.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. I thank the gentleman for yielding.

I am proud to be part of the Homeland Security Committee. It has been a committee that under Chairman KING has functioned in a nonpartisan way and I think under Chairman THOMPSON as well. And so I have deep regret that so many parts of this bill were taken out that were parts that were put in by Republicans. I understand jurisdictional issues, but it seems to me some of these could have been left in.

I am particularly amazed to think that an amendment that I was offering, supported by Interpol, and I would like to submit this letter from Ron Noble, the Secretary General, addressed to me from Interpol. It is one page.

In this letter, he says, ''Your initiative would allow DHS and Interpol to work together to identify and apprehend terrorists that use lost, stolen or fraudulent passports to travel internationally in all of Interpol's 186 countries.

''In addition, by facilitating the secondment of DHS officers to Interpol, you are enabling the United States to play a leadership role in shaping Interpol's current and future efforts to enhance travel document security and to deploy its connection technology that allows border officers to make instant passport searches against Interpol's Stolen and Lost Travel Documents database.''

There was no reason not to allow this amendment to be offered except for partisan purposes. I happen to be a Republican, and I happen to be targeted by the Democrats, but, other than that, there was no reason not to allow this amendment.

I am strongly against this rule. Unlike my colleagues, I didn't think long about it. I couldn't wait to get here to oppose what is now becoming a very partisan bill. I just can't express strongly enough we are going to endanger Americans by not allowing this debate. There are 14 million documents Interpol has. The United States doesn't have access to hardly any of them because we are not participating. We need to participate.

I would end by just pointing out that Ramzi Yousef had used a stolen passport to enter the U.S. He is a terrorist.

INTERPOL,
Lyon, France, May 7, 2007.

Congressman CHRISTOPHER SHAYS,
Longworth Building,
Washington, DC.

DEAR CONGRESSMAN SHAYS: I would like to take this opportunity to thank you for your strong support to Interpol and our missions and goals. Your amendment to H.R. 1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008, shows both your commitment and profound understanding of the international dimension of modern-day policing.

It is my sincere belief that this amendment, aimed at fostering closer cooperation between Interpol and the Department of Homeland Security (DHS), will significantly contribute to international border security. The cooperative agreement the amendment calls for clearly puts both the Department of Homeland Security and Interpol in the best possible position to further enhance their joint efforts against global terrorism.

Your initiative will allow DHS and Interpol to work together to identify and apprehend terrorists that use lost, stolen or fraudulent passports to travel internationally in all of Interpol's 186 member countries.

In addition, by facilitating the secondment of DHS officers to Interpol, you are enabling the United States to play a leadership role in shaping Interpol's current and future efforts to enhance travel document security and to deploy its connection technology that allows border officers to make instant passport searches against Interpol's Stolen and Lost Travel Documents database. Interpol is currently establishing a new office of Border, Port and Maritime Security and, from Interpol's point of view, benefiting from DHS' significant border control and investigative expertise will be a critical factor for its success. Rest assured that I will keep you abreast of our work in this area.

It would be a pleasure for me to receive you at Interpol's General Secretariat in Lyon, France to provide you with an opportunity to receive briefings from our experts and see our operational police tools first hand.

Yours sincerely,

RONALD K. NOBLE,
Secretary General.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, at this time, it is my pleasure to yield 4½ minutes to a distinguished colleague from North Carolina (Mr. HAYES).

Mr. HAYES. I thank my friend, Congressman DIAZ-BALART, for yielding the time.

Mr. Speaker, I rise in strong opposition to this rule.

We've all heard the saying that actions speak louder than words; and, once again, the rhetoric from the other side has turned out to be just that, rhetoric. You've heard all the talk about wanting to do everything we can to protect American jobs and keeping our manufacturing base. The majority actually had a chance to put their money where their mouth is by strengthening our national security and our domestic textile manufacturing base.

My amendment was not allowed to come to the floor for debate today. Yes, actions speak louder than words, and the actions from yesterday prove that their talk is cheap because it's not backed up by meaningful action.

Current language in the Department of Homeland Security authorization bill regarding domestic production would require a new domestic requirement for uniforms, protective gear, badges and identification cards. While this provision is a good first step, this approach does not reflect a stronger proposal contained in the bill that I put together with the textile industry which is called the Berry Amendment Extension Act.

The legislation we put together and the amendment I offered yesterday would ensure that the sensitive uniforms worn by our agents are made in America with American-made components rather than outsourcing to China or Mexico. The problem with the bill in front of us today: The vast majority of the content of these uniforms can be imported from any country in the world, China, Pakistan, Mexico, you name it.

Mr. Speaker, that's not what the Members of this House want. On December 15, 2005, we overwhelmingly supported a measure stating that Border Patrol uniforms should be made in the United States. Has anyone changed their mind? I sure haven't.

These provisions are an extension of the Berry Amendment, which is a well-established domestic Department of Defense purchasing requirement that has been in practice for 70 years. And the amendment would ensure that we are complying with WTO. Make no mistake about it, I don't put legislation together trying to appease the WTO, but if your legislation is blatantly not compliant, which the existing DH bill appears to be, the end result will be lawsuits and countervailing duties. Put that all together, nothing gets done; and American jobs are lost.

You all know I've been a strong advocate for strengthening the Berry Amendment. The Berry Amendment seeks to guarantee the United States has a ready mobilization base of U.S. manufacturers, a critical national security requirement. While the Berry Amendment is 70 years old, Department of Homeland Security is only 5, and this new Department is now home to many functions that are critical to our national security.

I am extremely disappointed that my Democrat counterparts failed and missed a great opportunity to expand the successful requirement to include the Department of Homeland Security. It not only protects American jobs but provides the assurance that Department of Homeland Security officials who work on the front lines of national security are the only people wearing these sensitive uniforms. It is outrageous to think that our Border Patrol or airport security uniforms can be made in factories in China or Mexico where any worker could use these uniforms to impersonate U.S. agents.

Mr. Speaker, my amendment has strong support from the National Council of Textile Organizations, American Manufacturing Trade Action Coalition and the American Apparel and Footwear Association. Again, while the base bill has taken a step to add a new requirement for domestic production, I think we could have done and should have done much better.

Let me briefly quote the American Apparel and Footwear Association: The

Hayes amendment ''would provide more complete coverage for domestic sources than what is currently intended by H.R. 1684. By requiring that both inputs and manufacture of uniforms originate in the U.S., the Berry Amendment works to support the U.S. supply chain that provides materials for the production of clothing and individual equipment to the military.''

There are many Members, both Democrats and Republicans, who have been very supportive of the Berry Amendment in the past. In fact, I was particularly surprised when a member of the Rules Committee, who has been a co-sponsor of the bill, voted against allowing the amendment to come to the floor today.

Folks, the U.S. textile and apparel industry is vital to the economic security and national security of our Nation. If the majority truly cared about preserving this crucial manufacturing sector, an industry that provides good-paying jobs to American citizens, then they would have supported this amendment in the Rules Committee and allowed it to come to the floor for a vote.

Mr. Speaker, I ask Members to vote ''no'' on the previous question so we can allow this amendment to come to the floor for a vote. In my opinion, a vote for this rule as it stands is a vote against the U.S. textile industry, its workforce, and a vote against making our country more secure.

Mr. Speaker, I urge my colleagues to reject this rule.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Georgia (Mr. PRICE).

(Mr. PRICE of Georgia asked and was given permission to revise and extend his remarks.)

Mr. PRICE of Georgia. I thank the gentleman for yielding.

This new majority has once again promised us an open and fair process, but again they have failed to live up to the promises now that they're out from under the spotlight of their election year. This is extremely disappointing considering the remarkable importance of the legislation before us today, the Homeland Security Authorization Act.

Among some of the provisions that were stripped out of the bill completely, a pilot program for mobile biometric identification of illegal aliens apprehended at sea, denying alien smugglers use of maritime routes and enhanced penalties for alien smuggling, and requiring immigration checks for employees at high-risk critical infrastructures.

What's so scary about those being in the bill, I would ask? What idea or what one amendment was so scary that inspired this restrictive rule? I urge my colleagues not to be scared, not to hide behind this rule. Vote ''no'' on this rule so that we can have a complete and fair debate. The American people deserve no less, and they're watching.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I will be asking for a ''no'' vote on the previous question so that I can amend this restrictive rule to make in order the amendment offered by Representative HAYES of North Carolina which would strike section 407 of the bill, the section requiring DHS to buy American textiles and apparel, protective gear, badges and ID cards. The amendment would instead require that DHS buy items specified in the amendment only when those items are connected to national security functions within the Department. This amendment also includes language to ensure that these provisions comply with the World Trade Organization rules.

Mr. Speaker, this thoughtful amendment submitted by Mr. HAYES was unfortunately denied yesterday at the Rules Committee. If the previous question is defeated, the Hayes amendment would be made in order and the House would be able to have a full discussion on its merits.

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

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

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. At this time, Mr. Speaker, I yield back the balance of my time.

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

Mr. Speaker, I want to once again thank Chairman THOMPSON for his leadership in drafting a well-focused Homeland Security authorization and for working so closely with Ranking Member KING on this bill.

I would note for all Members that Chairman THOMPSON worked with other chairmen and ranking members. The jurisdiction issues were raised by both sides, Republican and Democrat. I would also note that the manager's amendment which deals with these changes will receive separate debate and a vote. This is an open process.

Unlike the prior majority, we work through these issues. Again, last year when these problems were raised, the prior majority chose not to act. In contrast, we are acting despite these difficulties. We are being responsible.

H.R. 1684 will help improve the policy-making at the Department of Homeland Security, will promote long-term planning and will strengthen management. In particular, it sets qualifications for senior managers, increases coordination between agencies, and boosts funds for the Inspector General. These changes will ensure that the Department of Homeland Security can perform its important function of protecting the American people.

I am pleased that the Democratic leadership has moved swiftly and brought a Homeland Security authorization bill to the floor. This is the first time in 2 years such a bill has come to the floor.

It is also the earliest that a Department of Homeland Security authorization bill has come to the floor and the first time it has occurred before appropriators have marked up the Homeland Security appropriations bill. This is truly significant, and I thank the leadership for their commitment to protecting America.

I urge a ''yes'' vote on the previous question and on the rule.

Mr. GARRETT of New Jersey. Mr. Speaker, I am deeply disappointed in today's rule that barred the House from considering a commonsense amendment that I brought to the committee.

The text of my amendment was substantially from H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005, which passed the House by an overwhelming, bipartisan majority in the 109th Congress.

One of the 9/11 Commission's primary recommendations was to ensure that all federal government grants for homeland security be allotted by risk and need. To this day, however, nearly 40 percent of all grants are handed out merely by virtue of their location. The House has time and time again passed legislation to streamline the grant process and reduce the mandatory minimum percentage given to each state.

While the House did pass such language in H.R. 1, the Senate had yet to take up this legislation. Until the President signs into law legislation correcting this oversight, we should not pass up an opportunity to make our nation more secure. But that is what the Democrats are doing today. We must reiterate this critical policy change at each and every opportunity.

The constituents of the fifth district of New Jersey know too well the repercussions of failing to provide for strong homeland security. Many of them lost loved ones on 9/11 and they expect our country to prepare for any such future disaster. As long as grants continue to go to low-priority wasteful projects, our most at-risk citizens will be vulnerable.

Mr. SULLIVAN. Mr. Speaker, I rise today in strong opposition to the rule for H.R. 1684. This bill, in its current form would prohibit state and local governments from receiving reimbursement for training expenses associated with participating in the 287(g) program. 287(g) serves as a force multiplier for immigration enforcement across our Nation.

The 287(g) program is a highly effective, voluntary partnership that provides the legal authority and training for state and local law enforcement officers to investigate, detain, and arrest illegal aliens on civil and criminal grounds in the course of their regular duties.

Unfortunately, an amendment offered in the Rules Committee to enhance this important program was not made in order, jeopardizing the ability of state and local law enforcement agencies to join the program.

Illegal immigration is a serious problem in Eastern Oklahoma and securing a 287(g) designation is a top priority of mine. I am working diligently to see ICE officials and the Tulsa County Sherriff's office partnered in this program. 287(g) would provide them with the resources they need to deal with the ever growing criminal alien population in Tulsa. I am pleased with the progress we have made, and recently learned from ICE officials that we are in the final stages of making 287(g) a reality for Eastern Oklahoma.

The 287(g) program is working to stop the catch and release practice that allows dangerous criminal illegal aliens to remain free in

communities across our Nation. It would be foolish for the House not to allow for reimbursement of 287(g) training related expenses.

I urge my colleagues to reject this ill-considered rule.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

At the end of the resolution, add the following:

SEC. 3. Notwithstanding any other provision of this resolution, the amendment printed in section 4 shall be in order as though printed as the last amendment in the report of the Committee on Rules if offered by Representative Hayes of North Carolina or a designee. That amendment shall be debatable for 30 minutes equally divided and controlled by the proponent and an opponent.

SEC. 4. The amendment referred to in section 3 is as follows:

Strike section 407 and insert the following:

SEC. 407. BUY-AMERICAN REQUIREMENT IMPOSED ON DEPARTMENT OF HOMELAND SECURITY; EXCEPTIONS.

(a) IN GENERAL.—Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is amended by adding at the end the following new section:

''SEC. 839. REQUIREMENT THAT CERTAIN ARTICLES PROCURED BY THE DEPARTMENT BE GROWN, REPROCESSED, REUSED OR PRODUCED IN THE UNITED STATES.

''(a) REQUIREMENT.—Except as provided in subsections (c) and (e), funds appropriated or otherwise available to the Department may not be used for the procurement of an article described in subsection (b) if the item is not grown, reprocessed, reused, produced or manufactured in the United States.

''(b) COVERED ARTICLES.—An article referred to in subsection (a) is any of the following, if the article is directly related to the national security interests of the United States:

''(1)(A) Clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof).

''(B) Tents, tarpaulins, or covers.

''(C) Cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles).

''(D) Any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials..

''(2) Protective gear.

''(3) Badges or other insignia indicating the rank, office, or position of personnel.

''(4) Identification cards.

''(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b) grown, reprocessed, reused, produced or manufactured in the United States cannot be procured as and when needed at United States market prices. If such a determination is made with respect to an article, the Secretary shall—

''(1) notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate within 7 days after making the determination; and

''(2) include in that notification a certification that procuring and manufacturing the article outside the United States does not pose a risk to the national security of the United States, as well as a detailed explanation of the steps any facility outside the United States that is manufacturing the article will be required to take to ensure that the materials, patterns, logos, designs, or any other element used in or for the article are not misappropriated.

''(d) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to the following:

''(1) Procurements by vessels in foreign waters.

''(2) Emergency procurements.

''(e) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold referred to in section 2304(g) of title 10, United States Code.

''(f) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

''(g) GEOGRAPHIC COVERAGE.—In this section, the term 'United States' includes the possessions of the United States.

''(h) NOTIFICATION REQUIRED WITHIN 7 DAYS AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS APPLIED.—In the case of any contract for the procurement of an article described in subsection (b), if the Secretary of Homeland Security applies an exception set forth in subsection (c) with respect to that contract, the Secretary shall, not later than 7 days after the award of the contract, post a notification that the exception has been applied on the Internet site maintained by the General Services Administration know as FedBizOps.gov (or any successor site).

''(i) TRAINING DURING FISCAL YEAR 2008.—

''(1) IN GENERAL.—The Secretary shall ensure that each member of the acquisition workforce in the Department who participates personally and substantially in the acquisition of textiles on a regular basis receives training during fiscal year 2008 on the requirements of this section and the regulations implementing this section.

''(2) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program for the acquisition workforce developed or implemented after the date of the enactment of this Act includes comprehensive information on the requirements described in paragraph (1).

''(j) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—

''(1) IN GENERAL.—No provision of this Act shall apply to the extent the Secretary, in consultation with the United States Trade Representative, determines that it is in inconsistent with United States obligations under an international agreement.

''(2) REPORT.—The Secretary shall submit a report each year to Congress containing, with respect to the year covered by the report—

''(A) a list of each provision of this section that did not apply during that year pursuant to a determination by the Secretary under paragraph (1); and

''(B) a list of each contract awarded by the Department during that year without regard to a provision in this section because that provision was made inapplicable pursuant to such a determination.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by adding after the item relating to section 838 the following new item:

''Sec. 839. Requirement that certain articles procured by the Department be grown, reprocessed, reused or produced in the United States.''.

(c) APPLICABILITY.—The amendments made by this section take effect 120 days after the date of the enactment of this Act and apply to any contract entered into on or after that date for the procurement of items to which such amendments apply.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R–Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

Because the vote today may look bad for the Democratic majority they will say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution. . . . . [and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information form Congressional Quarterly's ''American Congressional Dictionary'': ''If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.''

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

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

□ 1230

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

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

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

The yeas and nays were ordered.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question on House Resolution 382 will be followed by 5-minute votes on adopting House Resolution 382, if ordered; on adopting House Resolution 383; and suspending the rules and passing H.R. 890.

The vote was taken by electronic device, and there were—yeas 217, nays 199, not voting 16, as follows:

[Roll No. 310]

YEAS—217

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyda (KS)
Braley (IA)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Eshoo
Etheridge
Farr
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NAYS—199

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—16

Boyd (FL)
Brady (PA)
Brown, Corrine
Engel
Fattah
Johnson, E. B.
Larson (CT)
Lowey
McMorris Rodgers
Melancon
Moran (KS)
Pomeroy
Rangel
Smith (NE)
Souder
Tiahrt

□ 1255

Mr. HALL of Texas and Mr. CRAMER changed their vote from ''yea'' to ''nay.''

Mr. CONYERS changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Mr. SMITH of Nebraska. Mr. Speaker, on rollcall No. 310 I was absent due to a meeting with constituents. Had I been present, I would have voted ''nay.''

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

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

The vote was taken by electronic device, and there were—yeas 222, nays 197, not voting 13, as follows:

[Roll No. 311]

YEAS—222

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyda (KS)
Braley (IA)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Eshoo
Etheridge
Farr
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney

Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NAYS—197

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—13

Boyd (FL)
Brady (PA)
Brown, Corrine
Engel
Fattah
Johnson, E. B.
Larson (CT)
McMorris Rodgers
Moran (KS)
Rangel
Souder
Tiahrt
Weller

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1304

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1873, SMALL BUSINESS FAIRNESS IN CONTRACTING ACT

The SPEAKER pro tempore. The unfinished business is the question of agreeing to the resolution, House Resolution 383, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

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

This is a 5-minute vote that will be followed by a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 223, nays 197, not voting 12, as follows:

[Roll No. 312]

YEAS—223

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyda (KS)
Braley (IA)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Eshoo
Etheridge
Farr
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NAYS—197

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Boyd (FL)
Brady (PA)
Brown, Corrine
Engel
Fattah
Johnson, E. B.
Larson (CT)
McMorris Rodgers
Moran (KS)
Rangel
Souder
Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1312

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

STUDENT LOAN SUNSHINE ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the

bill, H.R. 890, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER) that the House suspend the rules and pass the bill, H.R. 890, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 3, not voting 15, as follows:

[Roll No. 313]

YEAS—414

Abercrombie	Costa	Hastert
Ackerman	Costello	Hastings (FL)
Aderholt	Courtney	Hastings (WA)
Akin	Cramer	Hayes
Alexander	Crenshaw	Heller
Allen	Crowley	Hensarling
Altmire	Cubin	Herger
Andrews	Cuellar	Herseth Sandlin
Arcuri	Culberson	Higgins
Baca	Cummings	Hill
Bachmann	Davis (AL)	Hinchey
Bachus	Davis (CA)	Hinojosa
Baird	Davis (IL)	Hirono
Baker	Davis (KY)	Hobson
Baldwin	Davis, David	Hodes
Barrett (SC)	Davis, Jo Ann	Hoekstra
Barrow	Davis, Lincoln	Holden
Bartlett (MD)	Davis, Tom	Holt
Barton (TX)	Deal (GA)	Honda
Bean	DeFazio	Hooley
Becerra	DeGette	Hoyer
Berkley	Delahunt	Hulshof
Berman	DeLauro	Hunter
Berry	Dent	Inglis (SC)
Biggert	Diaz-Balart, L.	Inslee
Bilbray	Diaz-Balart, M.	Israel
Bilirakis	Dicks	Issa
Bishop (GA)	Dingell	Jackson (IL)
Bishop (NY)	Doggett	Jackson-Lee (TX)
Bishop (UT)	Donnelly	
Blackburn	Doolittle	Jefferson
Blumenauer	Doyle	Jindal
Blunt	Drake	Johnson (IL)
Boehner	Dreier	Johnson, Sam
Bonner	Duncan	Jones (NC)
Bono	Edwards	Jones (OH)
Boozman	Ehlers	Jordan
Boren	Ellison	Kagen
Boswell	Ellsworth	Kanjorski
Boucher	Emanuel	Kaptur
Boustany	Emerson	Keller
Boyda (KS)	English (PA)	Kennedy
Brady (TX)	Eshoo	Kildee
Braley (IA)	Etheridge	Kilpatrick
Brown (SC)	Everett	Kind
Brown-Waite, Ginny	Fallin	King (IA)
	Farr	King (NY)
Buchanan	Feeney	Kingston
Burgess	Ferguson	Kirk
Burton (IN)	Filner	Klein (FL)
Butterfield	Forbes	Kline (MN)
Buyer	Fortenberry	Knollenberg
Calvert	Fossella	Kucinich
Camp (MI)	Foxx	Kuhl (NY)
Campbell (CA)	Frank (MA)	LaHood
Cannon	Franks (AZ)	Lamborn
Cantor	Frelinghuysen	Lampson
Capito	Gallegly	Langevin
Capps	Garrett (NJ)	Lantos
Capuano	Gerlach	Larsen (WA)
Cardoza	Giffords	Latham
Carnahan	Gilchrest	LaTourette
Carney	Gillibrand	Lee
Carson	Gillmor	Levin
Carter	Gingrey	Lewis (CA)
Castle	Gohmert	Lewis (KY)
Castor	Goode	Linder
Chabot	Goodlatte	Lipinski
Chandler	Gordon	LoBiondo
Clarke	Granger	Loebsack
Clay	Graves	Lofgren, Zoe
Cleaver	Green, Al	Lowey
Clyburn	Green, Gene	Lucas
Coble	Grijalva	Lungren, Daniel E.
Cohen	Gutierrez	
Cole (OK)	Hall (NY)	Lynch
Conaway	Hall (TX)	Mack
Conyers	Hare	Mahoney (FL)
Cooper	Harman	Maloney (NY)
Manzullo	Pickering	Slaughter
Marchant	Pitts	Smith (NE)
Markey	Platts	Smith (NJ)
Marshall	Poe	Smith (TX)
Matheson	Pomeroy	Smith (WA)
Matsui	Porter	Snyder
McCarthy (CA)	Price (GA)	Solis
McCarthy (NY)	Price (NC)	Space
McCaul (TX)	Pryce (OH)	Spratt
McCollum (MN)	Putnam	Stark
McCotter	Radanovich	Stearns
McCrery	Rahall	Stupak
McDermott	Ramstad	Sullivan
McGovern	Regula	Sutton
McHenry	Rehberg	Tancredo
McHugh	Reichert	Tanner
McIntyre	Renzi	Tauscher
McKeon	Reyes	Taylor
McNerney	Reynolds	Terry
McNulty	Rodriguez	Thompson (CA)
Meehan	Rogers (AL)	Thompson (MS)
Meek (FL)	Rogers (KY)	Thornberry
Meeks (NY)	Rogers (MI)	Tiberi
Melancon	Rohrabacher	Tierney
Mica	Ros-Lehtinen	Towns
Michaud	Roskam	Turner
Miller (FL)	Ross	Udall (CO)
Miller (MI)	Rothman	Udall (NM)
Miller (NC)	Roybal-Allard	Upton
Miller, Gary	Royce	Van Hollen
Miller, George	Ruppersberger	Velázquez
Mitchell	Rush	Visclosky
Mollohan	Ryan (OH)	Walberg
Moore (KS)	Ryan (WI)	Walden (OR)
Moore (WI)	Salazar	Walsh (NY)
Moran (VA)	Sali	Walz (MN)
Murphy (CT)	Sánchez, Linda T.	Wamp
Murphy, Patrick		Wasserman Schultz
Murphy, Tim	Sanchez, Loretta	
Murtha	Sarbanes	Waters
Musgrave	Saxton	Watson
Myrick	Schakowsky	Watt
Nadler	Schiff	Waxman
Napolitano	Schmidt	Weiner
Neal (MA)	Schwartz	Welch (VT)
Neugebauer	Scott (GA)	Weldon (FL)
Nunes	Scott (VA)	Weller
Oberstar	Sensenbrenner	Wexler
Obey	Serrano	Whitfield
Olver	Sessions	Wicker
Ortiz	Sestak	Wilson (NM)
Pallone	Shadegg	Wilson (OH)
Pascrell	Shays	Wilson (SC)
Pastor	Shea-Porter	Wolf
Payne	Sherman	Woolsey
Pearce	Shimkus	Wu
Pence	Shuler	Wynn
Perlmutter	Shuster	Yarmuth
Peterson (MN)	Simpson	Young (AK)
Peterson (PA)	Sires	Young (FL)
Petri	Skelton	

NAYS—3

Flake	Paul	Westmoreland

NOT VOTING—15

Boyd (FL)	Johnson (GA)	Moran (KS)
Brady (PA)	Johnson, E. B.	Rangel
Brown, Corrine	Larson (CT)	Souder
Engel	Lewis (GA)	Tiahrt
Fattah	McMorris Rodgers	
Gonzalez		

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1319

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following resignation from the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 9, 2007.

Hon. NANCY PELOSI,
Speaker of the U.S. House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: This letter is to inform you that I have sent a letter to Massachusetts Governor Deval Patrick dated today, May 9, 2007, informing him that I am resigning my position as the United States Representative for the 5th Congressional District of Massachusetts, effective at the close of business July 1, 2007.

In March, the Board of Trustees of the University of Massachusetts voted to offer me the opportunity to serve as the next Chancellor of the University of Massachusetts Lowell. After deep personal reflection and lengthy discussions with my family, close friends and colleagues, I have decided to accept the Board's offer.

Serving in Congress for the past fifteen years has been one of the greatest honors of my life. I would like to thank the people of the Fifth District for this wonderful opportunity and for their confidence in me.

Sincerely,

MARTY MEEHAN,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 9, 2007.

Hon. DEVAL PATRICK,
Governor, Commonwealth of Massachusetts, Boston, MA.

DEAR GOVERNOR PATRICK: In March, the Board of Trustees of the University of Massachusetts voted to offer me the opportunity to serve as the next Chancellor of the University of Massachusetts Lowell. After deep personal reflection and lengthy discussions with my family, close friends and colleagues, I have decided to accept the Board's offer. Therefore, I am hereby resigning my position as the United States Representative for the 5th Congressional District of Massachusetts, effective July 1, 2007.

Serving in Congress for the past fifteen years has been one of the greatest honors of my life. I would like to thank the people of the Fifth District for this wonderful opportunity and for their confidence in me.

Sincerely,

MARTY MEEHAN,
Member of Congress.

GENERAL LEAVE

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1684.

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

There was no objection.

DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2008

The SPEAKER pro tempore. Pursuant to House Resolution 382 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1684.

□ 1322

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1684) to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes, with Mr. CARDOZA in the chair.

The Clerk read the title of the bill.

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

The gentleman from Mississippi (Mr. THOMPSON) and the gentleman from New York (Mr. KING) each will control 30 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Chairman, I also yield myself such time as I may consume.

Mr. Chairman, today we are considering H.R. 1684. This bill takes important steps to build capacity, provide resources, and ensure accountability at the Department of Homeland Security.

H.R. 1684 authorizes $39.8 billion in appropriations for the Department. This is $2.1 billion more than the President requested in his budget earlier this year. This bill sends a message to the President, America's security cannot be done on the cheap. Congress will not stand by as he cuts programs that help our hometown heroes protect our communities.

In this bill, we reinstate critical funding for first responder programs like the State Homeland Security grant program and FIRE Act grants.

In addition to authorizing funds, H.R. 1684 addresses issues that some of the committee's oversight efforts have exposed. For example, it has become obvious to us that the Department has no long-term vision. We created a Directorate of Policy to do just that. This office will also focus on private-sector partnerships, tribal security, and school security.

As another tool to help the Department get its house in order, we created a Comprehensive Homeland Security Review. This legislation also strengthens interagency coordination and supports integrating DHS at a single headquarters.

The Inspector General, GAO and the committee have all observed that DHS is spending a lot of money with little accountability. In the past few years, we have seen ice trucks take the scenic routes to disasters, trailers rotting in Arkansas, and border cameras packed away in warehouses. All of this waste was on the taxpayers' dime. No more. H.R. 1684 gives the Inspector General sharper teeth to investigate disaster response and border security programs.

The bill strengthens the integrity in the agency's contracting practices and promotes small business opportunities. This bill makes sure our Homeland Security agency is buying its uniforms and equipment here at home from U.S. sources. H.R. 1684 covers numerous other areas, including biosecurity, intelligence and cyber security.

Mr. Chairman, this bill is part of the real deal. It's the sixth Homeland Security bill that Democrats have brought to the floor since January. Only two bills made it to the floor last year in a Republican-led House. This Congress, we passed a 9/11 bill; and staff discussions have begun in preparation for a Member conference. We also passed bills on rail security, Homeland Security technology, international cooperation, and employee morale.

Winston Churchill once said, ''The pessimist sees difficulty in every opportunity. The optimist sees opportunity in every difficulty. ''

In H.R. 1684, we have an opportunity to protect our homeland. We can be naysayers and complain about bureaucratic bungling, or we can tackle head on the difficult issues of Homeland Security.

I urge all of my colleagues to support this bill that puts DHS on the path to becoming the agency that Congress envisioned and the American people deserve.

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

Mr. KING of New York. Mr. Chairman, I recognize myself for as much time as I may consume.

Mr. Chairman, at the outset, let me express my deep admiration for Chairman THOMPSON and for the bipartisan spirit he has shown in his running of the committee, both as chairman and during the previous 2 years as ranking member.

This is one committee of the House which I believe functions very affirmatively in a bipartisan manner because, as Chairman THOMPSON has said, that when the terrorists come, they don't care whether you are Democrat or Republican, they want to kill all of us. That's why I commend him again for the spirit of bipartisanship.

It was that spirit of bipartisanship that resulted in H.R. 1684 being passed out of committee by a unanimous 26–0 vote. It was a bipartisan effort, there was hard work on both sides, there was compromise on both sides, innovations on both sides. We came together, I believe, with a very strong package.

I am, however, very concerned about the manager's amendment, which is going to be coming up for a vote today, because of the 86 provisions in the bill, 42, 49.8 percent, of the provisions of the bill have either been eliminated or changed dramatically.

Some of the key ones on the issue of interoperability, in our legislation, the committee legislation, we provided that $1 billion in grants for interoperability could be used for training exercise, for training as well as for the purchase of hardware. This was demanded, strongly requested by local law enforcement, local law authorities. It is essential to interoperability. Yet that has been stricken from the legislation.

□ 1330

On the ''sense of Congress'' language which has been so strongly recommended by the 9/11 Commission, that the Committee on Homeland Security be the focal point for oversight of the Department of Homeland Security and for being the central committee on the issue of homeland security, just the ''sense of Congress'' language was eliminated from the bill. We go down the list, as far as authorization for Secret Service, especially considering the increased amount which will be necessary in this year to protect Presidential candidates. So many other amendments, so much other language, even, for instance, on the issue of employees who leave the Department, lobbying restrictions, which quite honestly was proposed by a Democratic Congressman, Mr. DEFAZIO, that has been stricken out.

Now, I realize what has happened here; I went through this during the time that I was chairman, but I think we approached it a little differently. There are other committees which are objecting to the jurisdiction of Homeland Security. There are others which are defying the wish of the 9/11 Commission, which is to have power vested in the Committee on Homeland Security. And, unfortunately, it appeased it at every juncture where objection was raised; those provisions were taken out.

Now, in the last Congress, we adopted the Port Security Bill. That was a long, hard fight. We had jurisdictional battles with other committees; but we stayed with it, and the final package tremendously increased the position of the Committee on Homeland Security and resulted in very strong legislation. On the restructuring of FEMA, that also caused severe conflicts with other committees of jurisdiction. We stayed with it, and the final product enhanced the position of the Committee on Homeland Security. On the issue of chemical plants security, similarly, there were severe conflicts with other committees. We worked with the leadership at the time, Speaker HASTERT and Majority Leader BOEHNER, and that resulted also in ultimate legislation which significantly enhanced the jurisdiction of the Committee on Homeland Security.

By acquiescing so quickly to the objections or the positions of other committees, I think we have weakened our committee. And that to me is not a turf battle or not a power struggle; the issue of life and death is too important for that. But the fact is, we did not stand firm in fighting for jurisdiction of the committee.

I know the chairman has mentioned that there was not an authorization bill passed by the House last year. I agree with that. We did pass one out of committee, there was one passed in 2005. The Senate has never passed an authorization bill.

I made the judgment last year that we had an opportunity, a window of opportunity to pass significant legislation which could be brought to the House floor, which could be brought to

the Senate floor, and which could pass, and that was port security, chemical plants and FEMA restructuring, and we did that. As far as this year now, we do have the H.R. 1, which still has not moved; it hasn't even gone to conference yet, and we have this legislation today, which was a fine product of the committee, but unfortunately, it has been dramatically weakened with, I must say, no input at all from the Republican side. And considering the extent to which Chairman THOMPSON does reach out at the committee level and there is such a bipartisan level of cooperation at the committee level, I would have hoped that we would have at least had something to say when it went to the Rules Committee when the manager's amendment was being constructed. Instead, this was done totally behind closed doors, totally to the exclusion of any Republican input. Again, perhaps it would be fine if we were an adversarial type committee, but we are not. This is a collegial committee. It is a bipartisan committee, and everything we do, every word of every provision both during the time when Chairman Cox was chairman, when I was chairman and certainly now under Chairman THOMPSON, it has been bipartisan. I regret that has not been the situation in bringing the legislation before the House today. So I will be later urging a vote against the manager's amendment.

But I again want to express my regard for Chairman THOMPSON, and hope that when this is over, when this is resolved today or tomorrow or whenever the final vote comes, we can go forward from there and work in a bipartisan way at the committee level the way we have done for the last 3½ years.

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

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland, our majority leader, Mr. HOYER.

Mr. HOYER. I thank the distinguished chairman, and I congratulate him for the great work that he is doing. This is a critical bill that we consider today. And, as he has pointed out, we have had a number of bills dealing with homeland security on the floor.

I also want to thank the ranking member for his leadership both in this Congress and in the past Congress on this issue. I think the American people are advantaged by having two people of real substance who care about this issue working together, even though from time to time, as the gentleman has pointed out, there are disagreements. He had the same problems that the chairman is having, and we are trying to work through those problems. And I certainly am going to support the manager's amendment as he tries to work this.

Mr. Speaker, I want to thank the chairman of the Homeland Security Committee, Congressman THOMPSON, for all his hard work on this very, very important authorization bill.

The highest duty of our government is to protect the American people, to secure our homeland and to defend our national security. Unfortunately, since the horrific terrorist attacks on our Nation on September 11 opened our eyes and exposed our vulnerabilities, we have not done enough to protect our homeland. As Tom Kean, the former Republican Governor of New Jersey and cochair of the bipartisan 9/11 Commission stated last August, ''We are not protecting our own people in this country. The government is not doing its job.''

Yesterday's arrest of six men who apparently were plotting to attack and kill soldiers in Fort Dix in New Jersey is a stark reminder that we cannot, we must not let down our guard; that we must remain vigilant.

This legislation, which I believe will receive strong bipartisan support, is a critical step in the right direction. Among other things, this bill authorizes $39.8 billion for the Department of Homeland Security for fiscal year 2008, which is $2.1 billion in addition for our homeland security that was asked for by the President. It restores the President's 52 percent cut to the State Homeland Security Grant Program, which helps first responders to prevent, prepare for and respond to acts of terrorism. It restores the President's 55 percent cut in firefighter assistance grants. It restores the elimination of the local law enforcement terrorism prevention program and restores the elimination of the SAFER, which is the Staffing for Adequate Fire and Emergency Response program. I want to thank the chairman for doing that and congratulate him on his leadership because, as the ranking member pointed out, this bill was reported out unanimously. It was a joint effort and a very important one at that.

Furthermore, Mr. Chairman, this legislation contains strong accountability measures aimed at strengthening and streamlining management of the Department of Homeland Security, which has struggled with its management challenges; and it includes provisions to improve information sharing, to enhance bioterrorism preparedness and to eliminate the Department's authority to establish its own personnel management system.

Mr. Chairman, ever since the Department of Homeland Security was created, an effort which I opposed because I thought that would create a Department too large and too diverse to manage well, frankly, I think my concerns have been evidenced. It is the challenge of this committee, now that we have created the Department, to ensure that in fact it does act in an efficient manner to protect our homeland. But I have been concerned about the efficacy of consolidating 22 agencies and 170,000 people into one Department. However, since the Congress chose to create this new Department, it is our duty, as I said, to ensure that it has the resources it needs to do its job as effectively as possible and to ensure that the Department is well managed.

This legislation, Mr. Chairman, by focusing on oversight and management is a critical response to the issues and problems that have been encountered at the Department since its creation.

I want to again congratulate Mr. THOMPSON, who is doing such an excellent job of leading this committee, and Mr. KING, who brings a focus for the country as opposed to a partisan focus to this work with Mr. THOMPSON. I want to congratulate them both.

Mr. KING of New York. Mr. Chairman, I thank the majority leader for his kind words. And would just add that this was genuinely bipartisan, and it did increase spending by $2.1 billion more than the President of our party was recommending, and yet we as Republicans did that because we wanted to act in a bipartisan way, which makes the fact that we were shut out of the manager's amendment much more painful.

Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. I thank the chairman.

Mr. Chairman, I rise in support of the underlying bill, but oppose the manager's amendment that will be presented basically as the alternative to the bipartisan work product that came out of the committee on a 29–0 vote, I believe. Not a single dissenting vote, Democrat or Republican, was recorded in the committee after we had gone through long debate not only on the base bill as it was presented to us, but numerous amendments presented by both Republicans and Democrats.

9/11 is the seminal moment of this century. It changed the world in which we live. One would hope that it would change the manner in which we work in this House. In many ways, that has occurred with respect to the bipartisan approach that has been utilized in the committee itself. We recall that in the last Congress, we managed to pass the SAFE Ports bill, a bipartisan product, all the way from subcommittee to full committee to the floor to working out the conference with the Senate. Essentially there wasn't too much to work out; they adopted our provisions. And then, on to the President of the United States to sign it. That showed that we can work in a changed world with a changed approach in this House. That is why today is so disappointing.

We have a completed product coming out of the committee, a 29–0 vote, with numerous amendments adopted after full consideration by both Democrats and Republicans, and yet a large portion of that will be stripped out with the manager's amendment to be presented by the chairman of this committee.

I do not question the motivation of my chairman. In fact, I want to believe in my heart that he would rather not tear his own bill apart. I believe he would like to have the whole thing

here. Why? Because we believe it is a better bill that actually goes further to protect America.

Some heard on this floor Mr. REICHERT from our committee, a distinguished member of our committee, the former sheriff of King County in the State of Washington, concerned about the lack of interoperability that reigns across this land. Mr. KING has spoken on the floor about the tragic consequences of a failure of interoperability on 9/11. Others in law enforcement throughout this country talked about it. We approved $1 billion a year ago. In this bill we actually allow greater flexibility so that first responders can utilize this money to make interoperability a fact, and yet that is stricken from this bill if we adopt the manager's amendment.

There are any number of other things that are involved here. One of them that seems to me to be extremely important, and we have held hearings on this, is strengthening maritime alien smuggling laws by denying alien smugglers the use of maritime routes and enhancing penalties for alien smuggling; taken out.

Also, the 9/11 Commission has made it very, very clear that business as usual is not acceptable, and that means in this Congress, and suggests that we should reorganize ourselves so that we have a prime committee that deals with these matters, not because it is a matter of jurisdictional pride, but because of a greater efficiency, a greater oversight, a greater responsibility, a greater accountability and having us mirror the new arrangement that exists in the executive branch.

And so we express a sense of Congress to do this, to carry out that important recommendation of the 9/11 Commission; stripped out by the manager's amendment. There is no real good argument why it should be stripped out except it is.

There is a pilot program for mobile biometrics identification of apprehended aliens at sea and authorizing $10 million for the program. We discussed this. There is a need. There is a vulnerability we have with respect to aliens at sea, and yet we strip it out of here.

□ 1345

I don't believe there is any good argument that you're going to hear on the floor for adopting the manager's amendment, because they have to point to those things that are stripped out to suggest why they're bad, why they don't enhance our security.

I recall when the majority leader came to the floor a year ago, or a little over a year ago and congratulated us on our bipartisan approach for the SAFE Ports bill. I wish he could come to the floor again. If you listened to his words carefully, he said, ''The committee has given us a good bipartisan bill.''

I agree with the majority leader. Let's keep the bipartisan bill. Let's pass it. Let's defeat the manager's amendment.

Mr. THOMPSON of Mississippi. Mr. Chairman, I now recognize the gentlelady from California for 2 minutes, Ms. HARMAN.

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

Ms. HARMAN. Mr. Chairman, as the majority leader pointed out several minutes ago, yesterday the FBI arrested six men following a 15-month investigation. The charges are that, inspired by al Qaeda, they were bent on taking out as many soldiers as possible at Fort Dix using semiautomatic weapons and rocket-propelled grenades. Three of them were in this country illegally. The other three were American citizens. All lived unremarkable lives and seemed well integrated into their communities. Even their next-door neighbors had no reason to suspect that they were actually the vanguard of a new breed of terrorist.

In Torrance, California, in my congressional district, four members of a prison-based jihadist cell await trial on charges of conspiring to wage war against the U.S. Government through terrorism, kill members of the Armed Forces, and murder foreign officials.

Mr. Chairman, this is our future. Protecting the homeland, preventing and disrupting the next terrorist attack is the primary responsibility of the Homeland Security Committee, and I congratulate Chairman THOMPSON and Ranking Member KING for putting together this authorization bill.

The bill strengthens homeland security by expanding on successful ideas like fusion centers and strengthening our infrastructure.

Many in this Chamber are focused on our broken Iraq policy. So am I. But I also worry that, while we are consumed with the Iraq debate, al Qaeda and its friends are successfully expanding and adapting in ways that are long-term, global and enormously dangerous. Al Qaeda has proven that the brand is ''portable.'' Its embrace of low-tech, unspectacular operations makes it much harder to stop.

Why haven't we been attacked here? Some say al Qaeda is waiting to exceed the lethality of 9/11. But if the U.S. is perceived as weaker and bogged down in Iraq and if terrorists are scaling down attacks, an attack or series of near-simultaneous attacks here seems inevitable.

The Homeland Security Subcommittee on Intelligence, which I chair, is focused on the threat of homegrown terrorism and improving ways to disrupt and prevent the next attack. If the terrorists are here, the activities of that subcommittee are critical.

This bill helps us build our intelligence competence. It strengthens parts of the budget that are underfunded and authorizes crucial activities. Vote ''aye.''

Mr. KING of New York. Mr. Chairman, to demonstrate the bipartisanship of the committee, I want to thank the gentleman from Texas (Mr. CUELLAR) for the free advice he just gave me.

With that, I recognize the gentlelady from Florida (Ms. GINNY BROWN-WAITE) for 3 minutes.

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I reluctantly rise today to speak against H.R. 1684, the Department of Homeland Security Authorization Act for Fiscal Year '08. I say reluctantly because even though I was cynical about the campaign promises made by the other side to implement the remaining 9/11 Commission reforms, I never dreamed that the American people would be betrayed the way I believe they are today.

Mr. Chairman, the majority of members on our committee rolled over and played dead, letting their other committee counterparts in the House pick this bill clean of many good security measures in a manager's amendment that will strip them out and gut the bill. Yet the majority has the audacity to come to the floor with this skeleton and call it a good bill.

My constituents will be horrified when I tell them that a provision that was worked out in the Homeland Security Committee to include in the base bill was stripped out. That language would have required employers at critical infrastructure sites to verify Social Security numbers of their employees before hiring them.

Do you know why constituents all around the Nation should be outraged? Because 2 years ago, a power plant in Florida unknowingly had a painting contractor who hired illegal aliens. Several of them had pending criminal charges and had been deported multiple times. These workers had access in and around the nuclear power plant. Let me repeat that. A nuclear power plant had illegal aliens with criminal records wandering around in them. Does that not scare you? It scared me, and that's why we added this amendment to fix it.

I wonder if the majority thought of the residents near any nuclear facility and the sheer devastation a criminal or terrorist act in that facility might cause. Were they thinking of the children and the working families, the people who trust us to keep them safe? Or were they thinking of just backroom deals with other committee Chairs?

I say to the people bent on stripping this bill of the security provisions: Stand up for this bill. Stand up for the good we are doing to safeguard the American people. Do not offer the manager's amendment to strip these provisions out and leave the Nation vulnerable in many areas.

There is no way that this House can possibly justify passing an amendment to this bill that will take out provisions like:

Denying alien smugglers access to maritime routes.

Tough postemployment lobbying restrictions on Department of Homeland Security officials, a Democrat provision being stripped.

Implementing the 9/11 Commission recommendation for a single committee overseeing the Department of Homeland Security.

Or authorizing better information sharing among Federal, State and local law enforcement partners.

These provisions were all stripped from the bill. There is no way that we could support this unless we want to water down homeland security.

We should all be concerned about the things that are not in this bill. We could fix the loophole today by giving authorization and leaving the bill the same as it was when it left the committee. That's an important procedure that would protect America's homeland.

Mr. THOMPSON of Mississippi. Mr. Chairman, I wish to help the gentlelady from Florida. If you will check, the data sharing and the child predator requirements are left in the bill. They're not taken out. I just want to make sure that you have the latest version of the bill in that respect.

Mr. Chairman, I yield 2 minutes to the gentlelady from the District of Columbia (Ms. NORTON).

Ms. NORTON. I thank the chairman for yielding. I could take a minute to thank him for his masterful handling of this bill in a bipartisan fashion before this committee.

I want to strongly thank the chairman for the way in which the committee has insisted on endorsing a headquarters for this department, because one of the continuing and most sustained criticisms of the department has been its management. But how can we expect the department to be managed when they are in 60 different places, 80 different leases?

The inefficiencies, Mr. Chairman, associated with the dispersal of this largest department are incalculable. The great cuts and deficiencies we have seen in the Homeland budget pale beside what we see in the way in which it is positioned: multiple and redundant mailrooms and screening facilities and parking and child care facilities and fitness centers; and, above all, shuttles just so that one part of the department can get to meet face to face with another part. Worst of all, one part that I know will be vacated is the Massachusetts Avenue headquarters, and yet they're having to spend $18 million just to make that livable. They are forced to live by short-term leases, rollover leases, wasting money.

We have an opportunity, because to the President's credit, he has put money in the appropriation to begin to build a headquarters for this department. It was in there last session. It did not get passed. It's up to the appropriators, the new appropriators, to make sure we have a real department and real headquarters.

Mr. KING of New York. Mr. Chairman, I am privileged to recognize for 4 minutes the gentleman from Florida who has done such an outstanding job in a brief time on the committee, Mr. BILIRAKIS.

Mr. BILIRAKIS. Mr. Chairman, I rise today in support of H.R. 1684, the Fiscal Year 2008 Department of Homeland Security Authorization Act, a good bill which could be much better. I say that because the manager's amendment, if adopted, would strip out many bipartisan provisions that would have helped prevent terrorism and strengthen immigration enforcement, including one that I authored.

H.R. 1684 currently includes an amendment I sponsored that was adopted during the committee's consideration of this bill which would improve maritime immigration enforcement. As a representative from Florida, I know how critically important it is to secure our maritime borders, as do many of our coastal colleagues.

Coast Guard RADM David Pekoske testified before our Border, Maritime, and Global Counterterrorism Subcommittee in February about the challenges of coastal security. During his testimony, he highlighted an ongoing partnership with US–VISIT to deploy mobile biometrics collection equipment on Coast Guard cutters operating in the Mona Pass between the Dominican Republic and Puerto Rico, where almost half of our maritime migrant apprehensions take place. I was intrigued by the possibility of this effort and the promise it may hold for strengthening our maritime defenses.

My amendment, which the manager's amendment removes from this bill, would expand this effort into a formal pilot program and require DHS to evaluate the results to determine the feasibility and appropriateness of expanding such capability to all DHS maritime vessels. This capability is critically important since we currently do not have the ability to verify the identity of apprehended migrants, previous immigration violators, criminals, and possible terrorists in the maritime environment. This deficiency allows those who seek to break our Nation's immigration laws and those who may wish to commit terrorist acts to remain undetected and be repatriated without consequence so that they are free to continue their illegal and dangerous behavior.

The biometric identification of interdicted aliens in the maritime environment has the potential to greatly improve the security of America's coastal borders. Unfortunately, since the majority has decided to remove this provision from this bill, we will not realize that promise.

I am extremely disappointed and frustrated at this process. Many of the provisions that the manager's amendment strips from this bill were supported by every member of the Homeland Security Committee, including our chairman, whom I greatly admire and respect. However, I cannot understand why we would allow those who do not serve on our committee to dictate to us how we should or should not do our jobs. We simply should not put political expediency above homeland security.

Mr. Chairman, I believe that this bill represents a missed opportunity to enhance our country's immigration enforcement, help stop terrorism, and improve our ability to respond should the unthinkable happen again.

Though I plan to support its final passage here, I implore my friends on the other side of the aisle to work with us to move forward on the many bipartisan provisions which would have made this bill much better.

Mr. THOMPSON of Mississippi. Mr. Chairman, how much time is remaining on both sides?

The CHAIRMAN. The gentleman from Mississippi has 20 minutes. The gentleman from New York has 11.

Mr. THOMPSON of Mississippi. Thank you very much.

Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Energy and Commerce Committee, the gentleman from Michigan (Mr. DINGELL).

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

□ 1400

Mr. DINGELL. Mr. Chairman, I thank my distinguished friend and colleague from Mississippi for the recognition. I recognize that securing our homeland is going to take tremendous efforts across the agencies and involve government expertise and cooperation throughout the government. I want to say that, in this matter, the business of the Nation is in good hands in those of my friend from Mississippi.

I represent Michigan, the State with three of the busiest northern border crossings in the United States. Our citizens have long been accustomed to an open border in which citizens on both sides were able to commute to jobs, visit families, do shopping and visiting across international borders.

With the events of September 11, 2001, our borders were shut. Michigan's economy literally ground to a halt. Just in time deliveries to Michigan factories and industries were stopped at the border. The new security realities threaten to idle factories and to lay off workers.

This bill goes a long way to making sure that we avoid that situation, and it will also enable thousands of our citizens on both sides of the border, Michiganders and Canadians, the freedom to travel when they need to and in ways to which they have grown accustomed.

The US–VISIT program is properly funded, more inspectors will be hired for the border. New technologies will be deployed to help ease the traffic and speed processing.

Under the leadership of our friend, the chairman, Mr. THOMPSON, the bill increases Department of Homeland Security budget by $2 billion more than last year, and nearly 8 percent above the President's budget. Not only is more being put into the border, but we are also restoring funding to our first

responders, money that was cut by the President's budget. State Homeland Security and Fire Assistance grants are restored to appropriate levels.

As I said before, preparing and preventing another terrorist attack is a responsibility to all. As we learned 6 years ago from the anthrax attacks here on Capitol Hill, it is important that the Federal Government have an intelligent, coordinated and effective response to bioterrorism and to all our terrorisms. All Cabinet-level Departments and the agencies under their purview must work towards ensuring our domestic security.

It is, however, important that as we move forward on this legislation, we keep in mind that the agencies have the expertise and the skill to answer public health emergencies. We must not allow mission creep to set in blurring lines of authority and diluting the effectiveness of our response effort.

I also want to point out the need for strong improvements in the cybersecurity of this Nation. The Committee on Energy and Commerce has long sought to raise the profile of cyber threats within DHS and to better prepare the Nation for potentially catastrophic cyber disruptions. The manager's amendment in this legislation will require DHS to collaborate with expert agencies, including the Department of Commerce and the Federal Communications Commission. This collaboration will ensure that ongoing efforts will not be interrupted or eroded.

Mr. KING of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. ROGERS) who did such an outstanding job as chairman of the Oversight Subcommittee in the previous conference.

Mr. ROGERS of Alabama. Mr. Chairman, as ranking member of the Homeland Security Subcommittee on Management, Investigations and Oversight, I have worked with my committee colleagues on this legislation for some time. I was also an original cosponsor of the bill, primarily because of its provisions to improve oversight, management and procurement at the Department of Homeland Security.

On March 28, our committee produced a sound bipartisan bill that the committee passed by a vote of 26–0. Unfortunately, as the bill headed to the House floor, jurisdictional turf battles took over. At least 16 important security provisions were dropped, and many more were altered without input from our side of the aisle.

Unfortunately, at least one of the dropped provisions addressed a key 9/11 Commission recommendation. This feature would centralize jurisdiction and oversight for homeland security in one committee, in both the House of Representatives and the Senate.

Last Congress, the Republican leadership in the House heeded this recommendation by creating a new standing Committee on Homeland Security. This new standing committee was wisely vested with substantial jurisdiction over DHS.

While we recognize that last Congress was an ambitious first step, experience has shown that jurisdiction over this department still needs further consolidation, not erosion. Far too many committees and subcommittees in Congress still exercise control and oversight authority over DHS. 88 to be exact. Already this year, DHS officials have testified at over 100 congressional hearings.

It's my hope that leaders on both sides of the aisle can come to an understanding to help consolidate authorization jurisdiction under this one committee. Had this been the case this year, the bipartisan, well-reasoned bill that was originally presented to the House would not have been carved up by jurisdictional turf battles.

Until this issue is resolved, the House will not be able to exercise the needed oversight over DHS, just as it does with the other Departments in the Federal Government. Consequently, I must oppose this bare boned bill, and hope that we will address this critical issue of jurisdiction in the near future.

Mr. THOMPSON of Mississippi. Mr. Chairman, I now recognize the chairman of the Transportation Subcommittee, Ms. JACKSON-LEE, for 2½ minutes.

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

Ms. JACKSON-LEE of Texas. Let me thank the chairman of the full committee, Mr. THOMPSON, and the ranking member. They know that our byline is that we are a bipartisan committee. The reason is because entrusted to the Homeland Security Committee is the security of the Nation, security of a Nation that we love, security of a people that we cherish.

Whenever we hear of a tragic truck accident in California, explosive truck accident, the viciousness of the shooting at Virginia Tech, and the bombing, or the threats of such, in the London train system, we begin to think of our security. No, maybe those are accidents, maybe those are not considered terrorist acts, Virginia Tech or the tragedy in California, but it causes America to begin to think about her own security.

That is why H.R. 1684 is a strong reflection of the importance of security to this majority leadership. I am very proud that, in the early days of our legislation or our time as the majority, we passed the 9/11 bill, certainly working with a bipartisan leadership. We have moved to ensure that for the first time that we have a strong authorization bill on homeland security.

We have not forgotten the employees, and I was glad to be able to offer a particular amendment that addressed the question of the morale and the leadership and the training of our employees. That is important, for if your employees are not fully functioning, the question of security is a question. And so I was delighted to be able to incorporate language regarding the CMOs qualifications, to ensure that the CMO possess a demonstrated ability and knowledge of treatment of illnesses caused by chemical, biological, nuclear and radiological agents.

I am also glad to have developed an amendment which strips the Department of the authority to develop a personnel system different from the traditional GS schedule Federal model. In a number of critical ways the personnel system established by the Homeland Security has been a litany of failure.

The question is, that if we don't order and put in order our homeland security function, then we cannot secure America. That is what 1684 does. And we will address the questions of security, of civil liberties, of protecting our highways, of being concerned about rail security, we will do it and continue to do it because we believe in America.

H.R. 1684 gives us the perfect road map, the perfect hand print to secure this Nation. I ask support for the bill.

Mr. Chairman, September 11, 2001, is a day that is indelibly etched in the psyche of every American and most of the world. Much like the unprovoked attack on Pearl Harbor on December 7, 1941, September 11, is a day that will live in infamy. And as much as Pearl Harbor changed the course of world history by precipitating the global struggle between totalitarian fascism and representative democracy, the transformative impact of September 11 in the course of American and human history is indelible. September 11 was not only the beginning of the Global War on Terror, but moreover, it was the day of innocence lost for a new generation of Americans.

Just like my fellow Americans, I remember September 11 as vividly as if it was yesterday. In my mind's eye, I can still remember being mesmerized by the television as the two airliners crashed into the Twin Towers of the World Trade Center, and I remember the sense of terror we experienced when we realized that this was no accident, that we had been attacked, and that the world as we know it had changed forever. The moment in which the Twin Towers collapsed and the nearly 3,000 innocent Americans died haunts me until this day.

At this moment, I decided that the protection of our homeland would be at the forefront of my legislative agenda. I knew that all of our collective efforts as Americans would all be in vain if we did not achieve our most important priority: the security of our nation. Accordingly, I became then and continue to this day to be an active and engaged Member of the Committee on Homeland Security, and Chairwoman of the Transportation Security and Infrastructure Protection Subcommittee, who considers our national security paramount.

Our nation's collective response to the tragedy of September 11 exemplified what has been true of the American people since the inception of our Republic—in times of crisis, we come together and always persevere. Despite the depths of our anguish on the preceding day, on September 12, the American people demonstrated their compassion and solidarity for one another as we began the process of response, recovery, and rebuilding. We transcended our differences and came together to

honor the sacrifices and losses sustained by the countless victims of September 11. Let us honor their sacrifices by passing H.R. 1684, which bolsters the efficacy, accountability, and our oversight over the Department of Homeland Security.

This bipartisan bill was reported out of the Homeland Security Committee by a unanimous vote and includes many significant provisions I ensured were incorporated either into the base bill or through amendments at the Full Committee Markup aimed at strengthening and streamlining management, organizational, personnel, and procurement issues at the Department to facilitate execution of its homeland security mission.

H.R. 1684 authorizes $39.8 billion in appropriations for the activities of the Department of Homeland Security for Fiscal Year (FY) 2008—$2.1 billion over the requested amount of the President's FY 2008 budget. H.R. 1684 is an oversight and management bill that builds capacity, provides resources, and ensures accountability at what GAO still views as a high-risk endeavor—the transformation and integration of 22 entities into the Department of Homeland Security.

H.R. 1684 establishes important offices such as the Directorate for Policy, the Office of Health Affairs, and the Office of Cybersecurity and Communications. Within the Office of Health Affairs, this bill creates a Chief Medical Officer, CMO, and I worked with Chairman THOMPSON to incorporate language regarding the CMO's qualifications to ensure that the CMO possess a demonstrated ability and knowledge of treatment of illnesses caused by chemical, biological, nuclear, and radiological agents.

Moreover, I introduced an amendment which passed during the Committee Markup of H.R. 1684 which strips the Department of the authority to develop a personnel system different from the traditional GS schedule Federal model. In a number of critical ways, the personnel system established by the Homeland Security has been a litany of failure.

The flexibility we originally granted in the Homeland Security Act of 2002 has not worked. That is why I offered an amendment repealing the DHS human resources personnel system.

The Department has abused the flexibility given by Congress. They have created a personnel system that eviscerates employee due process rights and puts in serious jeopardy the agency's ability to recruit and retain a workforce capable of accomplishing its critical missions.

We initially believed that the flexibility given the Department would allow it to respond better in times of crisis. We know now that nothing could be further from the truth. The abysmal response to Hurricane Katrina taught us that lesson.

Despite Court rulings, however, on March 7, 2007, DHS announced that it will put into effect portions of the personnel system not specifically enjoined by the Court. Just a few weeks earlier, DHS outlined plans to move slower on its controversial personnel overhaul, formerly known as MaxHR, but now called the Human Capital Operations Plan or HCOP.

Implementing these plans would further undercut the fairness of the appeals process for DHS employees by eliminating the Merit Systems Protection Board's current authority to modify agency-imposed penalties. These regulations would also provide the Secretary sole discretion to identify offenses and impose employee penalties as well as appoint a panel to decide the employee appeals the Secretary's action.

According to U.S. District Judge Rosemary Collyer, these regulations put the thumbs of the agencies down hard on the scales of justice in [the agencies'] favor.

The Federal Appeals Court agreed with the District Court's basic conclusion regarding the lack of fairness of these planned changes in adverse action and appeal rights, but ruled that they were not yet ripe for a decision since no one has been subject to discipline under them. It is clear that another court case will be filed should DHS put these provisions into place and an employee is harmed by the new adverse actions and appeals procedures.

Some insisted that employees would be happier and more efficient if they were managed more like the private sector. We know now that nothing could be further from the truth. The Department's morale ratings have consistently been at or near the bottom of all federal agencies.

In February of this year, the Department of Homeland Security received the lowest scores of any Federal agency on a Federal survey for job satisfaction, leadership and workplace performance. Of the 36 agencies surveyed: DHS ranked 36th on job satisfaction, 35th on leadership and knowledge management, 36th on results-oriented performance culture, and 33rd on talent management.

We know that the Department too often does not listen to their employees. In fact, the National Treasury Employees Union, NTEU, sent me a letter on behalf of the 15,000 employees of DHS' Bureau of Customs and Border Protection thanking me for introducing my amendment repealing DHS' failed human resource management system, MaxHR. Despite its incredibly low morale, the Department is not changing its plans to implement MaxHR. Instead the Department is merely changing the name of an unpopular and troubled system. MaxHR will become HCOP.

With the abysmal morale and extensive recruitment and retention challenges at DHS, implementing these personnel changes now will only further undermine the agency's employees and mission. From the beginning of discussions over personnel regulations with DHS more than 4 years ago, it was clear that the only system that would work in this agency is one that is fair, credible and transparent. These regulations promulgated under the statute fail miserably to provide any of those critical elements. It is time to end this flawed personnel experiment.

So it is time for Congress to once again step in. It is time to say to the dedicated workers of the Department of Homeland Security that they deserve to be treated with the same dignity and respect granted to other federal employees. Therefore, I thank my Homeland Security colleagues who supported my amendment repealing DHS' failed human resource management system because Homeland Security is too important to get it wrong again.

I also worked with Chairman THOMPSON to incorporate into H.R. 1684 language authorizing the Citizen Corps and the Metropolitan Medical Response System programs to strengthen emergency response and recovery efforts.

The Citizen Corps Program is a critical program within the Department of Homeland Security that engages the community to be involved in emergency preparedness through public education and outreach, training, and volunteer service.

My language ensured that funding will enable local Citizen Corps Councils to more adequately provide education and training for populations located around critical infrastructure. These populations will have an opportunity to be better prepared to respond to natural disasters, acts of terrorism and other man-made disasters.

In a bipartisan fashion, I also worked with my colleague from Texas, Representative MCCAUL, to draft an amendment regarding CBP officers and their policies. My amendment called for the GAO to study the Border Patrol's policies on pursuit and the use of lethal and non-lethal force.

Our Border Patrol officers operate in some of the most dangerous regions in the country and are often required to use force and pursue suspects on a daily basis. An independent evaluation of these practices and policies is important so that the Border Patrol knows the parameters of its enforcement tactics and has the information necessary to assess whether it needs to adopt new policies.

My amendment also requires GAO to examine the number of incidents where force was used and when it has led to penalties against our Border Patrol officers, so we have hard data that can guide any reassessments that may be necessary.

Recognizing the problem first is essential to fixing the situation. This non-partisan report by GAO will be a major step in evaluating these vital Border Patrol policies.

H.R. 1684 also requires the Department to conduct a Comprehensive Homeland Security Review, similar to the Quadrennial Defense Review conducted by the Department of Defense. In addition, the bill requires pay parity for Customs and Border Protection employees and other border personnel enhancements and addresses critical staffing needs by tapping into the pool of experienced Federal annuitants.

In conclusion, I stand here remembering those who still suffer, whose hearts still ache over the loss of so many innocent and interrupted lives. My prayer is that for those who lost a father, a mother, a husband, a wife, a child, or a friend will in the days and years ahead take comfort in the certain knowledge that they have gone on to claim the greatest prize, a place in the Lord's loving arms. And down here on the ground, their memory will never die so long as any of the many of us who loved them lives.

Mr. Chairman, the best way to honor the memory of those lost in the inferno of 9/11, is to do all we can to ensure that it never happens again. The best way to do that is to bolster the efficacy, accountability, and our oversight over the Department of Homeland Security, which we created in the aftermath of 9/11 to protect and preserve our Nation which we all hold so dear.

Mr. KING of New York. Mr. Chairman, I recognize the gentleman from Texas, the ranking member of the Emerging Threat Subcommittee, Mr. MCCAUL, for 3 minutes.

Mr. MCCAUL of Texas. Mr. Chairman, I rise today not in opposition to

what this legislation stands for, but out of concern for what this legislation fails to include.

Numerous provisions that were part of the authorization bill which were approved unanimously and reported by the Committee on Homeland Security were removed from the legislation that is before us today. And these provisions were largely eliminated without any real policy justification for their removal. Never in the history of the Homeland Security Committee has such an action been done.

One of these provisions stripped from the authorization bill before us today was based on a piece of legislation I introduced which authorizes the National Bio and Agro Facility, or NBAF. The text of this legislation was unanimously approved at the Committee on Homeland Security authorization bill markup.

I am at a loss as to why my colleagues across the other side of the aisle unilaterally decided to eliminate the NBAF provision from this bill, especially when some of my Democratic colleagues on the committee, including Chairman THOMPSON, were original cosponsors of the NBAF legislation.

The need for the NBAF is clear and immediate. Its establishment is crucial to defending our Nation from agroterrorism and naturally occurring animal diseases. Currently, there's not one Biosafety Level 3 and BSL 4 livestock laboratory in the United States, and the NBAF provision would have authorized a facility to fill that gap.

DHS is conducting a site selection process right now. Eighteen sites have been looked at across the country, one close to my district at Texas A&M. They are investing significant resources in the competition.

I'd also like to note that some of the other sites being considered lie in or near districts represented by Democratic colleagues.

Congress has already provided $46 million for pre-construction NBAF activities, and yet, DHS currently does not have the legal authority it needs to even procure the land.

Because the enactment of this legislation is crucial to the establishment of the NBAF and to defending the Nation against the threats of agroterrorism, and because this legislation was eliminated from the authorization bill before us, I urge my colleagues to work to move forward in a bipartisan way to help secure our homeland and to pass H.R. 1717.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3½ minutes to a former member of the committee, who is still very much interested in homeland security, the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, I want to congratulate the chairman for a great job and his counterpart, ranking member. There's a lot of work that goes into this, a lot of work.

But just 1 year ago today we were still debating the following: We were debating Federal agencies which still tended to spend needless energy fighting one another over turf and money issues. And it's always been unclear as to who is in charge.

The basic issues underlined by the 9/11 Commission and other committees remain unresolved until now. With this piece of legislation, 1684, we are going to really jump into the middle and the center of the storm. We still have inability of police and fire departments to communicate with one another. We still have senseless rivalries among our agencies under our jurisdiction, and, three, there's still incompatibility in computer systems impeding data sharing.

The institutions that we have oversight over must understand that they are the three major areas that they must do something about in a positive sense. This legislation before us, 1684, will strengthen the Department through better management and increased oversight. This finely crafted proposal is important to the security of the United States of America.

So I commend you both. I commend the chairman for his valiant efforts to improve national security. As a former member of the committee, I've worked closely with him over the years, and can state firmly that no one works harder or smarter on issues that affect America's safety than the gentleman from Mississippi.

I also know that working the legislative maze that is Capitol Hill is never an easy task, particularly when it comes to the wide array of turf battles between the various entities.

I think the bill we vote on today, which will pass, is a prudent course charted to overcome those obstacles.

□ 1415

Indeed, this bipartisan proposal includes many significant provisions aimed at strengthening and streamlining management, organizational personnel and procurement issues at the Department to facilitate execution of our mission.

This bill authorizes $39.8 billion in appropriations, $2.1 billion needed over the request of the President of the United States. This side of the aisle, joined by that side of the aisle, will no longer shortchange Homeland Security in the resources and apparatus needed to do the job.

This critical funding will help establish important offices, such as the Directorate for Policy, the Office of Health Affairs, and the Office of Cybersecurity and Communications. Areas that are crucial in homeland security but often are ignored. With this bill we no longer ignore the issues that have the potential to cause us severe harm if left unattended.

The security of our homeland is as important as it gets. This bill takes this austere responsibility seriously. So I applaud the chairman. I applaud the committee and its fantastic staff for crafting sound legislation. And I implore the support of all my colleagues.

Mr. KING of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, I rise to speak on the Homeland Security authorization bill, H.R. 1684.

The stated purpose of H.R. 1684 is to enhance homeland security. Unfortunately, the restricted rule enacted at the behest of the majority excludes certain measures that would have increased our domestic security. One such provision is my amendment on the Automated Targeting System for Passengers, or ATS-P. ATS-P coordinates information already available from sources and allows Customs and Border Protection to perform risk assessments of people entering the United States. In this way CBP can identify a person of interest and question that individual before, let me repeat, before that person gains formal admission into this country.

This amendment would have been a positive step towards improving border security.

ATS-P is a system that is already deployed and that has already had some notable successes. It would have fulfilled a 9/11 Commission recommendation. And yet the majority remains opposed to it and made sure that it was not made in order. The motive behind that exclusion remains a mystery.

The mystery deepens when one considers what was made in order today, specifically one portion of the manager's amendment. During committee proceedings at my request, we inserted language authorizing funding for the United States Secret Service. The Secret Service, once an entity of the Treasury Department, now falls within the jurisdiction of the Department of Homeland Security. The Secret Service plays an important function in safeguarding the citizens of this country. The amendment I offered would have fully funded the President's request for the Secret Service's protection missions. It also would have provided over $322 million for Investigations and Field Operations, the unit within the Secret Service that investigates and prosecutes counterfeiting, fraud and identity theft.

Mr. Chairman, I will insert a copy of a letter into the RECORD from the National Fraternal Order of Police endorsing the inclusion of Secret Service funding within the Homeland Security authorization bill.

FRATERNAL ORDER OF POLICE,
Washington, DC, May 8, 2007.

Hon. BENNIE THOMPSON,
Chairman, Committee on Homeland Security, Washington, DC.

Hon. PETER KING,
Ranking Member, Committee on Homeland Security, Washington, DC.

DEAR CHAIRMAN THOMPSON AND RANKING MEMBER KING: I am writing on behalf of the membership of the Fraternal Order of Police to express our support for H.R. 1684, the ''Department of Homeland Security Authorization Act of 2008.'' We are strongly supportive

of sections 501, 502, 504, 505, which would provide law enforcement retirement benefits and improve recruitment and retention for Customs and Border Protection (CBP) officers.

I also would like to urge the retention of Sections 1101 and 1120. Section 1101 allows funding from Department of Homeland Security interoperability grants to procure equipment that conforms to the SAFECOM interoperability continuum. SAFECOM is a communications program of the Department of Homeland Security's Office for Interoperability and Compatibility that, with its Federal partners, provides research, development, testing and evaluation, guidance, tools, and templates on communications-related issues to local, tribal, State, and, Federal emergency response agencies. In developing the continuum, SAFECOM coordinated its efforts with numerous State and local law enforcement and emergency services entities. Interoperable communications are critical in the successful prosecution of law enforcement missions and play a critical role in ensuring officer and civilian safety.

We are also asking that you support Section 1120, which authorizes $1.64 billion and an additional 122 personnel for the United States Secret Service, an increase of 14 percent over the President's request. The Secret Service is charged with protecting our nation's most important leaders and visiting foreign dignitaries as well as conducting criminal investigations. Since 9/11 the Secret Service's limited assets have been increasingly stretched thin at a time when the number of candidates they protect has increased from 20 to 55 and the amount of counterfeit money in circulation has increased by 30 percent.

This section would also provide additional funding for our overworked and undercompensated Secret Service Uniformed Division. These dedicated men and women work tirelessly to provide protection to an increasing number of visiting officials, as well as protecting foreign embassies in the United States. However, they are experiencing a turnover rate of 20–25 percent a year as officers leave the agency to find better paying jobs with other Federal law enforcement agencies.

It is important that law enforcement receives the tools and funding needed to fulfill its mission. Sections 1101 and 1120 do just that and we urge you to retain them in the final bill. On behalf of the more than 325,000 members of the Fraternal Order of Police, I want to thank you for all of your help on this important issue. Please do not hesitate to contact me, or Executive Director Jim Pasco, through our Washington office if we can be of any further assistance.

Sincerely,

CHUCK CANTERBURY,
National President.

In fulfilling our homeland security mission, this Congress should provide oversight of and support for homeland security agencies, one of which is now the Secret Service. The FOP endorses this suggestion. So do I. I wish that my colleagues on the other side would embrace this idea, along with the better security provided by the ATS–P provisions as well.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

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

Mr. ETHERIDGE. Mr. Chairman, I thank the gentleman for yielding. And let me thank the chairman and ranking member for their hard work.

The Department of Homeland Security is tasked with protecting America and its citizens. There is no greater charge. Oversight is critical to the Department both to root out waste, fraud and abuse, and to examine the effectiveness and to recommend improvements for the Department's operations. This bill provides support for the Inspector General's Office and creates tools that will enhance transparency for Congress and the public.

To help improve policymaking at the DHS and to promote long-term planning, this bill establishes a Directorate for Policy to be headed by an undersecretary for policy and requires a quadrennial review of the Department's practices and mission.

This policymaking must address the needs of America's most vulnerable citizens: its children. I thank the chairman for including my language that requires the Directorate for Policy to address the needs of children. That will enable the Department to enhance school preparedness and other emergency planning needs of facilities for children.

As a former superintendent of North Carolina's public schools, I know how important planning is to preparedness and security for our schools and other places that focus on our children. The Department must understand the importance of including schools and children in emergency planning, and this bill will ensure that it does so.

I also believe that DHS must prioritize the protection of our critical food and agriculture infrastructure to enhance the health and security of America. The ongoing melamine crisis only reveals how vulnerable we are.

This bill requires the Department to report on their progress on agriculture security in response to issues raised by two critical reports on their efforts. That will ensure that DHS is doing appropriate planning for agriculture security and give Congress the opportunity for oversight. I thank the chairman for including this in this bill.

I am also concerned about the security of sensitive materials used by the Department, uniforms, badges, identification cards, and protective equipment.

H.R. 1684 enhances the nation's security by requiring these items, subject to practical exceptions, produced domestically when they will be used domestically.

Taken together, the many good provisions in this bill will improve the Department's ability to protect our homeland. This is a good, bipartisan bill, and I urge my colleagues to support it.

Mr. KING of New York. Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1½ minutes to the gentleman from south Texas (Mr. CUELLAR).

Mr. CUELLAR. Mr. Chairman, I rise in support of H.R. 1684, the Department of Homeland Security Authorization Act.

As a cosponsor, I certainly want to thank Chairman THOMPSON for the leadership and the strong support that he has shown in moving this bill along, and I also want to thank my friend, Ranking Member KING, for his bipartisan work and for the hard work that he has provided.

This particular bill has three provisions that I have added with the help of the chairman, the ranking member, my colleagues and the committee staff. And I want to thank them for their work.

The first provision creates a direct line of communications between border local elected officials and the private sector and the policymakers at the Department through a Border Communities Liaison at the DHS Office of Policy. This is important to make sure that we get the local input.

The second provision calls for the evaluation of and emphasis on training of Border Patrol agents along the southwest border where many of them are going to serve.

And the third and last provision mandates for the first time a comprehensive assessment of the staffing, infrastructure and technology resources that are needed to reduce the wait times for pedestrian, commercial and noncommercial traffic at the border. We want to have border security, but at the same time, we do not want to impede trade and tourism.

I thank Chairman THOMPSON for his support and ask my colleagues to support H.R. 1684.

Mr. KING of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I would like to engage in a brief colloquy with the chairman about an amendment Mr. LIPINSKI and I offered in the Rules Committee yesterday afternoon regarding airport security badges.

Dave Savini of CBS TV revealed that, since 2004, 3,760 aviation security badges have gone missing at O'Hare. These badges are the only identification needed for law enforcement officials, independent contractors, baggage handlers, flight attendants and pilots to enter the airfield. When an employee is fired, some airport contractors are unwilling to reclaim their badges from employees, who retain full access to the airport.

This problem is not isolated at Chicago. In early February, officials at Los Angeles International Airport reported 120 missing TSA badges; in Oakland, 500 missing badges; in Buffalo, nearly 40 missing badges; and 42 missing badges in Dallas.

Mr. Chairman, the Kirk-Lipinski amendment we offered would require airport contractors to make a reasonable effort to retrieve badges from employees whose employment has ended and notify the local airport authority within 24 hours. Failure to comply would then result in a civil fine of up

to $10,000 per day. Hitting contractors where it hurts, in their pocketbooks, can help make our Nation's airports safer. And our amendment will now be included in a freestanding bill.

Mr. Chairman, I thank you for engaging in this colloquy on this matter and appreciate your support in working with Mr. LIPINSKI and me in a bipartisan manner to address this issue in the future.

I yield to the chairman.

Mr. THOMPSON of Mississippi. Mr. Chairman, I thank Mr. KIRK as well as Mr. LIPINSKI for bringing this to the committee's attention. I agree with the gentleman that the issue of airport security badges must be examined in closer detail.

I share your commitment to securing our airports and look forward to working with you on this issue in the Homeland Security Committee.

Mr. KIRK. I thank the chairman.

Mr. THOMPSON of Mississippi. Mr. Chairman, I now yield 2½ minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

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

Mr. LANGEVIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today in strong support of the Department of Homeland Security Authorization Act.

In 4 years Congress has not been able to successfully pass an authorization measure into law. That all changes today, and I want to commend the chairman and the ranking member for their leadership in bringing the bill to the floor today.

Today, the Democratic majority is changing paths by making homeland security and appropriate oversight a priority for Congress, and under the leadership of Chairman THOMPSON, we will pass the bill this year. This bill provides us that opportunity while authorizing an additional $2.1 billion for the Department. This is truly an historic moment. While I applaud many provisions of this bill, I particularly would like to focus on a few key elements that will significantly improve America's security.

As chairman of the Subcommittee on Emerging Threats, Cybersecurity, and Science and Technology, I am particularly pleased that this bill incorporates legislation I introduced to improve the material threat assessment process under Project BioShield. This language requires the Secretary to effectively group similar threats together in order to move towards a ''one drug, many bugs'' approach to biosecurity that will allow us to combat multiple threats simultaneously.

H.R. 1684 also establishes a National Biosurveillance Integration Center based on a measure that I introduced. Biointelligence and biosurveillance provide the early warning systems necessary to detect the spread of disease, whether natural or intentional. This center will integrate data from biosurveillance systems with other intelligence to provide a comprehensive and timely picture of existing biological threats.

Lastly, this bill recognizes the importance of investing more in cybersecurity, a critical need at this juncture. We authorize an additional $50 million for cybersecurity research and development activities at DHS, critical resources to address one of our most pressing and underfunded needs. We cannot overestimate the importance of biosecurity.

Again, I want to stress the importance of cybersecurity, and we need to do more in this area. And I look forward to working with the chairman on this and other priorities.

I want to thank Chairman THOMPSON for including these and many other critical provisions. I am proud that we are well on our way to seeing the first ever DHS authorization bill signed into law. And I urge my colleagues to join me in supporting this measure.

Thank you, Chairman THOMPSON, for your leadership.

Mr. KING of New York. Mr. Chairman, I will continue to reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, for the purpose of a colloquy, I would like to yield such time as he may consume to the gentleman from Texas.

□ 1430

Mr. RODRIGUEZ. Mr. Chairman, I would like to thank you for this time and for your willingness to work with me on issues that are important to my district and to the State and the country as a whole.

As you know, I represent one of the longest stretches of the southern border with Mexico, my congressional district, the 23rd. Eleven counties in my district are on the Mexican border, and a variety of others are 20 miles away from the Mexican border.

As I travel throughout my district, one of the most common concerns is the lack of resources rural law enforcement officers have on the border. These departments often have just a few officers on the entire force, and they have to handle the same drug cases and human smuggling cases that large cities do. Except processing these cases in small communities means taking half or, in some cases, all of the staff in those particular communities.

I had planned to offer an amendment that would have provided necessary additional resources for the border to local police departments as well as the sheriff's departments to hire and equip and train additional officers. I have withdrawn that amendment with the hopes of being able to work with the chairman and this committee to bring this critical aid to our local law enforcement on the Mexican border.

Mr. Chairman, once again, I thank you; and I would ask for your help and your assistance.

Mr. THOMPSON of Mississippi. Mr. Chairman, I would like to thank the gentleman from Texas (Mr. RODRIGUEZ) for his willingness to work with the committee. I know very well how important border security is to his constituents and how hard he has worked since returning to Congress to keep his community safe and bring the necessary resources to Federal, State and local law enforcement on the border. I certainly appreciate his expertise on border security issues. I look forward to working with him to ensure that our brave law enforcement men and women receive the assistance they need to keep border communities in our Nation safe and secure.

Mr. THOMPSON of Mississippi. Mr. Chairman, at this time, I will insert into the RECORD letters from the American Federation of Government Employees and The National Treasury Employees Union in support of this legislation.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL–CIO,
Washington, DC, May 7, 2007.

DEAR REPRESENTATIVE: On behalf of the American Federation of Government Employees (AFGE), which represents 26,000 Department of Homeland Security (DHS) workers, I strongly urge you to vote in support of passage of H.R. 1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008. The legislation responds to many issues AFGE has raised on behalf of the Border Patrol Agents, Customs and Border Protection Officers, Transportation Security Officers, Federal Protective Service Officers and other workers important to the agency's mission of keeping our country safe.

H.R. 1684 supports DHS workers by repealing the portion of MAXHR (the agency's flawed attempt to re-make civil service rules and protections) relating to employee appeal rights and performance management goals. The repeal of these provisions is of great importance because DHS has stated its intention to implement MAXHR regulations on employee appeal rights and performance management goals despite the likelihood that they will be overturned in federal court. The legislation also restores statutory authority for collective bargaining rights for DHS workers because the DHS regulations establishing a new collective bargaining system have been overturned by the courts. The reinstatement of fairness in DHS workplace rules and procedures is vitally important to keeping the expertise of highly trained, committed homeland security professionals at the agency.

H.R. 1684 recognizes the legitimate law enforcement responsibilities of Customs and Border Patrol Officers by including them in the federal Law Enforcement Retirement System, and strengthens Border Patrol Officer recruitment and retention measures, which will ensure that there are adequate personnel available to patrol our borders. The legislation also includes provisions that will prevent Immigration and Customs Enforcement from implementing its unsound plan to eliminate police officers and special agents at the Federal Protective Service. H.R. 1684 recognizes that worker security in the DHS workplace facilitates greater homeland security for us all.

The workers at DHS have performed above and beyond the call of duty, even with bad workplace rules and policies. H.R. 1684 recognizes the contribution of the men and women on the front lines of security and provides them with the resources necessary to ensure

that they continue to provide the best security in the world today. AFGE again strongly urges you to vote in support of H.R. 1684.

Sincerely,

BETH MOTEN,
Legislative and Political Director.

THE NATIONAL TREASURY EMPLOYEES UNION,
Washington, DC, May 7, 2007.

Re Vote Yes on H.R. 1684, FY 2008 Department of Homeland Security Authorization Act

DEAR REPRESENTATIVE: I am writing on behalf of the 150,000 members of the National Treasury Employees Union (NTEU) including 15,000 employees at the Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP) to urge you to vote for passage of H.R. 1684, a bill to authorize appropriations for fiscal year 2008 for DHS.

H.R. 1684 includes many provisions that will enhance DHS's national security mission. Of particular importance is Section 512 a provision that repeals the failed DHS human resource management system established by the Homeland Security Act of 2002 and the subsequent regulations issued by DHS.

In February of this year, DHS received the lowest scores of any federal agency on a federal survey for job satisfaction, leadership and workplace performance. Of the 36 agencies surveyed, DHS ranked 36th on job satisfaction, 35th on leadership and knowledge management, 36th of results-oriented performance culture, and 33rd on talent management. As I have stated previously, widespread dissatisfaction with DHS management and leadership creates a morale problem that affects the safety of this nation.

The four-year DHS personnel experiment has been a litany of failure because the law and the regulations effectively gut employee due process rights and put in serious jeopardy the agency's ability to recruit and retain a workforce capable of accomplishing its critical missions. When Congress passed the Homeland Security Act in 2002, it granted the new department very broad discretion to create new personnel rules. It basically said that DHS could come up with new systems as long as employees were treated fairly and continued to be able to organize and bargain collectively.

The regulations DHS came up with did not even comply with these two very minimal and basic requirements and subsequent court rulings confirmed this truth. It should be clear to Congress that DHS has learned little from these court losses and repeated survey results and will continue to overreach in its attempts to implement the personnel provisions included in the Homeland Security Act of 2002. On March 7,2007, DHS announced that it will implement portions these compromised personnel regulations that were not explicitly ruled illegal by the courts.

With the abysmal morale and extensive recruitment and retention challenges at DHS, implementing these personnel changes now will only further undermine the agency's employees and mission. From the beginning of discussions over personnel regulations with DHS more than four years ago, it was clear that the only system that would work in this agency is one that is fair, credible and transparent. These regulations promulgated under the statute fail miserably to provide by of those critical elements. It is time to end this flawed personnel experiment Passage of H.R. 1684 will accomplish this.

Also included in this legislation is Section 501, a provision that finally recognizes the Law Enforcement Officer (LEO) status of CBP Officers (CBPOs). Section 501 grants prospective LEO status and benefits to CBPOs as of March 2003. NTEU recognizes Section 501 as a significant breakthrough in achieving LEO status for those CBPOs on the frontlines protecting our nation's sea, air, and land ports. NTEU members appreciate this significant first step and vows to work with Congress to assure comprehensive coverage of all CBPOs.

NTEU strongly supports H.R. 1684 and urges you to vote to approve the bill this week on the House floor and oppose any amendments that would weaken the abovementioned provisions.

For more information or if you have any questions, please contact Jean Hutter with the NTEU Legislation Department.

Sincerely,

COLLEEN M. KELLEY,
National President.

I now recognize the gentleman from Texas (Mr. AL GREEN) for 1 minute.

Mr. AL GREEN of Texas. Mr. Chairman, I compliment you for the outstanding job that you have done in bringing this bill to the floor. I also thank the ranking member for the support that has been shown.

Mr. Chairman, this bill contains $39.8 billion for Homeland Security. It is worthy of noting that this is $2.1 billion more than the President has requested and that it restores some of the numerous cuts made by the President.

This bill provides accountability. This bill has a strong means by which our homeland will begin to move in the direction of getting the kind of support that it needs to be secure.

I strongly urge my colleagues to support this bill.

Mr. KING of New York. Mr. Chairman, as we leave general debate and begin to debate the amendments, I would again say I commend the gentleman from Mississippi, the chairman, for the bill that was put forth in the committee which came out of the committee.

I am, again, disappointed by the product that came here today. I understand the realities of politics and the realities of governing, but I just wish we could have made more of an effort to move the committee product further along, rather than make the concessions that were made. There are just so many important matters that were either dramatically revised or eliminated, which weakens the thrust of where we're going.

We will be debating amendments for the next several hours. The debate will be in good faith, just as our efforts on the committee are in good faith, but I just wish the leadership of the House would do more to improve and to enhance and to further the position of the Homeland Security Committee so we can do the job that we have been chartered to do and we can do the job the 9/11 Commission wants us to do, to do the job that the 9/11 families want us to do, and do the job that the memory of those who were murdered on 9/11 really command that we do.

With that, Mr. Chairman, I look forward to the upcoming debate. I am disappointed in the product that is before us. Having said that, I remain enthusiastic about the job that we as a committee can do under the chairmanship of Chairman THOMPSON and with the strong cooperation from the minority on the committee.

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

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself the balance of the time for closing.

First of all, let me pay tribute to my colleague from New York, Ranking Member KING. We have worked very well on this bill. This is the first time that we have done an authorization bill before an appropriation bill. We are trying to establish jurisdiction for this committee going forward. This is the first Democratic effort in that direction.

Some of us would have preferred a broader bill, but my colleague understands that, given the nature of Congress and the nature of how we do business, sometimes that's not practical.

What I did was brought, through this manager's amendment, which you will see after this debate, a bill that we all have agreement on, even the chairmen of the various communities of jurisdiction. So I am committed, just like the ranking member and most Members in Congress, to support the Department of Homeland Security, to make sure that we defend ourselves against terrorists abroad as well as terrorists at home, to make sure that we respond to disasters regardless of what nature they come in. But in order to do that, we need a robust organization. We need someone with accountability. This bill, H.R. 1684, builds on that.

Mr. Chairman, I urge my colleagues to vote ''aye'' on H.R. 1684.

Mr. CONYERS. Mr. Speaker, I rise today in support of "H.R. 1684, the Department of Homeland Security Authorization Act of 2008." One of our greatest responsibilities is the protection and security of our citizens and they deserve a vigorous and accountable homeland security policy. H.R. 1684 will now provide just such a policy that will allow us to address the weaknesses that were apparent in the administration's previous attempts at providing Homeland Security.

This legislation, which was developed through bipartisan support, is a proactive step in making our country a much safer place to live, work and play. The bill authorizes $39.8 billion for the Department of Homeland Security for Fiscal Year 2008—which is $2.1 billion more than President Bush requested in his budget and funds many much needed programs to keep America safe.

The bill restores funding to the State Homeland Security Grant Program, which supports first responders in their mission to prevent, prepare for and respond to acts of terrorism. This bill also restores the President's 55-percent cut in firefighter assistance grants and restores the elimination of the Local Law Enforcement Terrorism Prevention Program. H.R. 1684 will also provide funding for vital first responder programs and provide resources for a number of other critical homeland security activities that were reduced in the President's budget.

The Department of Homeland Security has been faced with management and oversight

issues since its inception. A July 27, 2006 article by the Washington Post stated that, ''The multibillion-dollar surge in Federal contracting to bolster the Nation's domestic defenses in the wake of the Sept. 11, 2001 attacks has been marred by extensive waste and misspent funds, according to a new bipartisan congressional report.'' This bill will help to refocus and provide the necessary training and resources to help the Agency achieve its goals and address mismanagement issues. H.R. 1684 will require the Department of Homeland Security to consider past performance of a firm before deciding whether to award a new contract. As a part of a contract bid, each firm seeking the contract must submit information regarding its past performance of Federal, State, local, and private sector contracts.

I am committed to ensuring that we are prepared to protect our families, our homes, and our Nation against any and all terrorist threats. So, I am honored to support this legislation.

Mr. LANGEVIN. Mr. Chairman, I rise in strong support of the Department of Homeland Security Authorization Act. In 4 years, Congress has not been able to successfully pass an authorization measure into law. Today the Democratic majority is changing paths by making homeland security and appropriate oversight a priority for Congress, and under the leadership of Chairman THOMPSON, we will pass a bill this year. This bill provides us that opportunity, while authorizing an additional $2.1 billion for the Department. While I applaud many provisions of this bill, I would like to focus on a few key elements that will significantly improve America's security.

As Chairman of the Subcommittee on Emerging Threats, Cybersecurity and Science and Technology, I am pleased that this bill incorporates legislation I introduced to improve the material threat assessment process under Project BioShield. This language requires the Secretary to effectively group similar threats together in order to move towards a ''one drug, many bugs'' approach to biosecurity that will allow us to combat multiple threats simultaneously.

H.R. 1684 also establishes a National Biosurveillance Integration Center based on a measure I introduced. Biointelligence and biosurveillance provide the early warning systems necessary to detect the spread of disease, whether natural or intentional. This Center will integrate data from biosurveillance systems with other intelligence to provide a comprehensive and timely picture of existing biological threats.

This legislation also incorporates the SAFETY Reform Act of 2007, a measure I introduced to help ensure that safe and effective anti-terrorism technologies are being deployed by the Department of Homeland Security. The provision will increase personnel trained to apply economic, legal and risk analyses involved in the review of anti-terrorism technologies, which will streamline the application process and encourage participation in this program across all levels of government and the private sector.

Lastly, this bill recognizes the importance of investing more in cybersecurity. We authorize an additional $50 million for cybersecurity research and development activities at DHS, critical resources to address one of our most pressing and under-funded needs.

I thank Chairman THOMPSON for including these and many other critical provisions. I am proud that we are well on our way to seeing the first-ever DHS Authorization bill signed into law, and I urge my colleagues to join me in supporting this measure.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I rise in support of H.R. 1684, the Department of Homeland Security Fiscal Year 2008 Authorization bill.

As the Vice Chair of the Homeland Security Committee I am proud to be an original cosponsor of this important, bipartisan authorization bill that will provide much needed guidance to and oversight of the Department of Homeland Security, and will be the first DHS Authorization bill voted on by the House.

H.R. 1684 contains many key provisions that will improve the Department's long range planning, accountability, personnel development. It will also provide long-neglected authorization for critical programs at the Department.

This legislation authorizes an Undersecretary for Policy and a Comprehensive Homeland Security Review at the start of each new Presidential Administration.

These provisions will help ensure that the Department is looking beyond the crisis at hand, planning for the future, and keeping its resources aligned with its mission and the National Strategy for Homeland Security.

In addition, I am pleased that this legislation includes a sense of the Congress that the consolidation of the Department's headquarters on the West campus of St. Elizabeth's Hospital should move forward rapidly.

I believe the establishment of this headquarters will have a positive effect on the efficiency, operations, and morale of the Department.

In terms of accountability, H.R. 1684 requires enhanced oversight of large contracts under the Department's Secure Border Initiative.

Personnel development is a major issue for the Department. This legislation authorizes expanded procurement training for acquisition employees; and enhanced incentives for the recruitment and retention of Border Patrol agents.

The bill also addresses several key policy areas. These include requiring the Department to plan for the implementation of the biometric exit component of the US–VISIT program.

This is an essential border security issue that will enable us to know who is in the country, and to better track people overstaying their visas.

In addition this legislation provides five year authorization of the Metropolitan Medical Response System, a critical program to ensure response capabilities for all-hazards mass casualty events.

I urge my colleagues to join me in supporting H.R. 1684, and in working together to have a Homeland Security Authorization bill signed into law this year for the first time ever.

Mrs. CHRISTENSEN. Mr. Chairman, I rise today in strong support of H.R. 1684, the Department of Homeland Security Authorization Act of 2008. I would like to commend Chairman THOMPSON and Ranking Member KING for their diligent leadership in bringing this bill to the floor today. I would also like to acknowledge the work of my colleagues on the committee and commend our leadership for the improved dialogue with Secretary Chertoff and other DHS officials.

The Department of Homeland Security's primary mission is to help prevent, protect against and respond to acts of terrorism on U.S. soil. On March 1, 2003, it united 22 agencies with more than 87,000 different governmental jurisdictions at the Federal, State and local levels having homeland security responsibilities. The agency has been in existence for 4 years and, although it has responded to an unprecedented number of terrorist threats and national emergencies, there remain many managerial, technical, and policy issues that prevent the agency from optimally functioning—and the whole world has witnessed some of these deficiencies.

H.R. 1684 addresses the department's current shortfalls by, among other things, providing for policy, management and integration improvements, oversight improvements, much needed integrity and enhanced accountability in the contracting process, workforce and training improvements, and grants and training to improve emergency response among other provisions. As a physician and Chair of the Congressional Black Caucus Health Braintrust, I am especially supportive of the provisions that will authorize the Chief Medical Office to serve as the Department's lead authority on matters relating to all aspects of health and creating an Office of Health Affairs to be headed by the CMO. This would give the CMO more autonomy in having oversight and regulating the agency's role in Bioshield—a program that itself has not functioned as envisioned or needed.

I am also very glad to see the increased funding in Customs and Border Protection. Our Nation's borders, including those in my district—the U.S. Virgin Islands, are major points of illegal entry to the United States and renders it vulnerable to terrorist attack. I am pleased to say that U.S. Border Patrol's Ramey Sector has begun detailing Border Patrol Agents to St. Thomas and also plan on detailing Agents to St. Croix. But our goal is to have a border patrol unit and we will work to see that this provision enables us to do that.

Mr. Chairman, H.R. 1684 is the product of numerous hours of oversight hearings to address the many issues that plague DHS. Not only does the bill address management issues but it will restore funding for vital first responder programs and provide resources for a number of critical homeland security activities. Today, we have the opportunity to show our Nation that its security is our priority. I urge my colleagues to support its passage.

Ms. ZOE LOFGREN of California. Mr. Chairman, congratulations to Chairman BENNIE THOMPSON for getting the DHS Authorization bill to the floor for the first time in 2 years.

This authorization bill is the result of countless hours of negotiation and I would like to recognize Chairman THOMPSON and his staff for all their hard work.

H.R. 1684 addresses the difficulties the Department of Homeland Security has faced in contracting, procurement, the morale of employees, management, and oversight.

We cannot continue to sit idly by while the Department which is charged with leading the unified national effort to secure America is not operating effectively.

Again, congratulations to my good friend Chairman THOMPSON on this accomplishment.

Mr. MARKEY. Mr. Chairman, I rise in support of this authorization bill, and I commend Chairman THOMPSON for his hard work in shepherding this important bill to the Floor

today. Today is a monumental moment for the Homeland Security Committee and for this House, as we bring forward an authorization bill to the floor—which our Committee was unable to do during the last Congress.

I am proud that the bill we are considering today to authorize the operations of the Department of Homeland Security for Fiscal Year 2008 includes a vital first responder provision on the Metropolitan Medical Response System—or MMRS. I'd like to thank Chairman THOMPSON for his leadership and also recognize the work of Subcommittee Chair SANCHEZ and Ranking Member KING on this important program.

Despite the Bush administration's repeated efforts to eliminate this unique and effective program, Congress has wisely and consistently appropriated funds for MMRS over the years, providing $33 million for the program this year. While preservation of the MMRS program is paramount, new duties and responsibilities assigned to MMRS—such as response to an avian flu pandemic—require additional funding. That is why I am pleased that the authorization bill contains funding at the $63 million level per year for fiscal year 2008 through 2011.

The authorization bill also resolves programmatic problems that MMRS responders have faced as they work to perform their difficult jobs.

Specifically, the bill clarifies that the cap on personnel expenses, which had been set at 15 percent of the grant funding a jurisdiction receives, is lifted. This change will ensure that jurisdictions have the resources—if needed—to hire and retain experienced and talented personnel. The bill we are considering today also makes clear that MMRS jurisdictions should have the authority they need to come to the aid of neighboring jurisdictions in emergencies—even if they are located across State lines—without being impeded by unnecessary bureaucratic restrictions. And the bill directs the Assistant Secretary of Health Affairs to conduct a review of the MMRS program and report to Congress on the several issues that could further strengthen the program, such as whether MMRS would be more effective if it were once again managed through a contractual agreement with the Federal Government rather than through the current process, which requires Federal funding to be passed through State administrative offices before the funds can be released to the MMRS jurisdictions.

Mr. Chairman, as you know, the MMRS program is the only Federal program that helps first responders, medical personnel, emergency management workers, and businesses develop effective, integrated capabilities to minimize casualties in the event of a terrorist attack using a weapon of mass destruction, a natural disaster such as a hurricane, or a public health emergency including an avian flu outbreak.

As demonstrated by the Bush administration's failed response to Hurricane Katrina, our country has a dangerous ''Preparedness Gap''. Established after the Oklahoma City bombing, the MMRS program is designed to increase our Nation's preparedness capabilities through grants that currently provide funding to 125 jurisdictions in 43 States.

The MMRS program helps local first responder and ''first receivers'' such as doctors, emergency medical technicians and public health officials buy the specialized equipment and get the training needed to act in a coordinated fashion that will save lives in the event of a mass casualty event—whether it's a terrorist attack or a natural disaster.

In the post 9/11 era, there can be no doubt that Al Qaeda is willing and capable of launching attacks on the United States. Moreover, the ongoing potential for severe hurricanes and flooding remind us of the urgent need to be prepared to respond in an organized, effective way to all hazards. The MMRS program is an essential part of our preparedness capability.

Our MMRS personnel across the Nation are hometown heroes. But even heroes need help. Thank you, Chairman THOMPSON, for your help and support of this program, and I urge my colleagues to support the authorization bill.

I would also like to note the strong need for this bill's cyber-security improvements. The Subcommittee on Telecommunications and Internet, which I chair, and full Energy and Commerce Committee under the leadership of Chairman DINGELL, have worked on a bipartisan basis, with Ranking Members UPTON and BARTON, to address cyber threats within the Department of Homeland Security in order to ensure that our country is adequately prepared for massive disruptions from cyber attacks.

This measure provides needed guidance to DHS on these Congressional expectations. Moreover, this legislation will require the Assistant Secretary for Cybersecurity and Communications at DHS to collaborate with the Department of Commerce and the Federal Communications Commission—agencies that have established roles in protecting vital telecommunications and cyber assets. Such collaboration will ensure that ongoing efforts will not be interrupted or wastefully duplicated at the Department of Homeland Security. For example, NTIA's organizing statute establishes the head of NTIA as the President's principal adviser on telecommunications issues. In addition, the agency is compelled by the same law to pursue policies to foster national safety and security, to promote efficient use of Federal spectrum, to coordinate Federal telecommunications assistance to State and local governments, and to coordinate the Executive Branch's telecommunications activities, including the formulation of policies and standards for interoperability, security, and emergency readiness and ongoing review of management of the Internet domain name system.

The FCC also protects telecommunications and cybersecurity, and under the Communications Act is responsible for assuring rapid and efficient communication services with adequate facilities for the purpose of the national defense and promotion of the safety of life and property.

I also support amending this important legislation in order to address the pressing need to improve interoperable communications among first responders. This is something that we have been working on for several years. Representatives CARDOZA's expected amendment does not limit interoperability efforts to a single technology or solution. This is vitally important, especially given the history at DHS with grant programs for these efforts. Last year, Congress established a $1 billion interoperability grant program at the Department of Commerce, distinct from DHS's efforts, so that the Commerce Department could draw upon its spectrum and telecommunications expertise. In their respective programs, both DHS and the Department of Commerce should include methodologies to better ensure that funds for interoperability are being used effectively. DHS would do well to implement all of the recommendations of the GAO suggested in its recent report. There is a significant amount of work that DHS must perform in order to improve its interoperability efforts and we will be watching such efforts closely.

Mr. LARSON of Connecticut. Mr. Chairman, I regret that I could not be present today because of a family medical situation and I would like to submit this statement for the record in support of H.R. 1684, the Department of Homeland Security Authorization for Fiscal Year 2008.

Since its creation in 2003, the Department of Homeland Security has been one of the most mismanaged departments in the Federal Government. Failing to learn from the severe preparedness gaps exposed by the failed response to Hurricane Katrina, the Administration has proposed deep cuts to vital, core programs that assist local communities in responding to disasters. For example, the Administration requested a 52 percent funding cut for the State Homeland Security Grant Program and no funding for the Metropolitan Medical Response System, MMRS, program—the only Federal program that helps first responders, medical personnel, emergency rmnagement workers, business and other stakeholders develop effective, integrated capabilities to minimize causalities in the event of a terrorist attack using a weapon of mass destruction, natural disaster, or public health emergency. Eliminating funding for MMRS would have grave implications for 125 municipal authorities, in 43 States, including Connecticut.

In comparison, the Democratic-led House has put forth a bill that invests in securing the homeland and ensures accountability within the Department of Homeland Security. The bill authorizes $39.8 billion for the Department of Homeland Security for fiscal year 2008. This funding would provide our local communities with the tools to respond to terrorist attacks and natural disasters and improve the Government's ability to prevent terrorist attacks through greater information sharing. The bill also authorizes $63 million annually for the MMRS program through fiscal year 2011. Most importantly, the bill includes accountability provisions and provisions to strengthen and streamline management of the Department.

We must remain vigilant in protecting the American people and in preparing to respond to terrorist attacks, major disasters, and other emergencies. I urge my colleagues to join me in supporting the underlying bill.

Mr. HOLT. Mr. Chairman, I urge my colleagues to support this bill. If enacted, it will spur needed improvements in a critical Federal department that is clearly struggling in many areas.

Earlier this year, the Department tried to put the best face on a devastating poll of Federal agencies in which DHS was ranked worst among places to work in the executive branch. Poor morale has led to significant turnover throughout the various agencies that comprise DHS, and inequitable pay scales have contributed to this problem. This bill corrects one of those inequities: the bill strips the Department

of the authority to develop a personnel system different from the traditional GS schedule Federal model. Workers who perform largely the same tasks at DHS that are performed at other agencies should not be paid less for doing the same work. This is a basic issue of fairness, and I'm glad the bill addresses this issue.

I'm also pleased that the bill requires pay parity for Customs and Border Protection employees. Our CBP officers often have some of the most dangerous and thankless jobs in the Federal Government. The fact that in the past they have not been compensated at the same rate as other Federal law enforcement officers is an injustice that this bill remedies. Recruiting and retaining CBP officers who are skilled at managing the complex and sometimes dangerous task of protecting our borders must be a national priority. This provision reaffirms that fact.

This bill also seeks to strengthen and formalize the Department's roles and relationships with State and local fusion centers. If there is one complaint I think every member of Congress receives from their local first responders, it's that information they receive from DHS is either late in getting to them, irrelevant to their needs, or both. I have spoken to DHS's Chief Intelligence Officer, Charlie Allen, about this ongoing problem. He knows there is much more that needs to be done to improve the information sharing process. What is unclear to me is whether the Department's senior leadership recognizes the problem.

What DHS needs—but still lacks—is a common intelligence database that is accessible to State and local law enforcement officials who are cleared to receive such information. Posting more DHS personnel to State and local fusion centers will improve the security of localities in States only if the information being provided through such liaison officers is timely and relevant.

Finally, I am concerned that DHS continues to flounder in its efforts to prioritize its science and technology needs.

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

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

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

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

H.R. 1684

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 ''Department of Homeland Security Authorization Act for Fiscal Year 2008''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. DEPARTMENT OF HOMELAND SECURITY.

There is authorized to be appropriated to the Secretary of Homeland Security for the necessary expenses of the Department of Homeland Security for fiscal year 2008, $39,863,000,000.

TITLE II—POLICY AND MANAGEMENT IMPROVEMENTS

SEC. 201. ESTABLISHMENT OF DIRECTORATE FOR POLICY.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by striking sections 401 through 403 and inserting the following:

"SEC. 401. DIRECTORATE FOR POLICY.

''(a) ESTABLISHMENT.—There is in the Department a Directorate for Policy. The Directorate for Policy shall contain each of the following:

''(1) The Office of the Private Sector, which shall be administered by an Assistant Secretary for the Private Sector.

''(2) The Victim Assistance Officer.

''(3) The Tribal Security Officer.

''(4) The Border Community Liaison Officer.

''(5) Such other offices as considered necessary by the Under Secretary for Policy.

''(b) UNDER SECRETARY FOR POLICY.—

''(1) IN GENERAL.—The head of the Directorate is the Under Secretary for Policy, who shall be appointed by the President, with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—No individual shall be appointed to the position of Under Secretary for Policy under paragraph (1) unless the individual has, by education and experience, demonstrated knowledge, ability, and skill in the fields of policy and strategic planning.

''(3) RESPONSIBILITIES.—Subject to the direction and control of the Secretary, the responsibilities of the Under Secretary for Policy shall be as follows:

''(A) To serve as the principal policy advisor to the Secretary.

''(B) To provide overall direction and supervision of policy development for the programs, offices, and activities of the Department.

''(C) To ensure that the budget of the Department (including the development of future year budgets and interaction with the Office of Management and Budget and with Congress) is compatible with the statutory and regulatory responsibilities of the Department and with the Secretary's priorities, strategic plans, and policies.

''(D) To conduct long-range, strategic planning for the Department, including overseeing the Comprehensive Homeland Security Review established in section 203.

''(E) To carry out such other responsibilities as the Secretary may determine are appropriate.''.

(b) ENSURING CONSIDERATION OF THE NEEDS OF CHILDREN.—

(1) IN GENERAL.—The Under Secretary for Policy of the Department of Homeland Security, acting through the Assistant Secretary for the Office of Policy and Development, shall ensure that all departmental policies, programs, and activities appropriately consider the needs of and impact upon children.

(2) SPECIFIC FUNCTIONS.—The Under Secretary for Policy shall—

(A) coordinate with other Federal Departments and agencies to ensure that the needs of children, schools, and other child-centered facilities are sufficiently understood and incorporated into Federal, State, local, and tribal preparedness, response, and recovery plans and activities for terrorist attacks, major disasters, and other emergencies (including those involving chemical, biological, radiological, nuclear, or other explosive weapons), or other manmade disasters;

(B) coordinate with the Office of Grants within the Federal Emergency Management Agency to monitor the use of homeland securtity grants by State, local, or tribal agencies to support emergency preparedness activities for children, schools, and other child-centered facilities, and make recommendations to improve the effectiveness of such funding;

(C) review public awareness programs and screening policies by departmental entities, including security screening at airports, and ensure that such policies consider the needs and well-being of children; and

(D) ensure that all other departmental activities that affect children include consideration of the needs of children and that relevant agencies of the Department coordinate on this matter where appropriate.

(3) REPORT TO CONGRESS.—One year after the date of the enactment of this subsection and on an annual basis thereafter, the Under Secretary for Policy shall report to the Committee on Homeland Security of the House of Representatives and to the Committee on Homeland Security and Governmental Affairs of the Senate on activities undertaken pursuant to this subsection and the resulting improvement in security for children, schools, and other child-centered facilities.

(c) CONFORMING AMENDMENTS.—Such Act is further amended—

(1) by striking the heading for title IV and inserting the following:

"TITLE IV—DIRECTORATE FOR POLICY";

(2) by striking the heading for subtitle A of title IV and inserting the following:

"Subtitle A—Under Secretary for Policy";

(3) in section 103(a)(3), by striking ''for Border and Transportation Security'' and inserting ''for Policy'';

(4) in section 102(f)(9), by striking ''the Directorate of Border and Transportation Security'' and inserting ''United States Customs and Border Protection'';

(5) in section 411(a), by striking ''under the authority of the Under Secretary for Border and Transportation Security,'';

(6) in section 430—

(A) in subsection (a)—

(i) by striking ''The'' and inserting ''There is in the Department an''; and

(ii) by striking ''shall be'' and all that follows through ''Security'';

(B) in subsection (b), by striking the second sentence; and

(C) by striking subsection (d).

(7) in section 441, by striking ''Under Secretary for Border and Transportation Security'' and inserting ''Secretary'';

(8) in section 442(a)—

(A) in paragraph (2), by striking ''who—'' and all that follows through ''(B) shall'' and inserting ''who shall''; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''Under Secretary for Border and Transportation Security'' each place it appears and inserting ''Secretary''; and

(ii) in subparagraph (C), by striking ''Border and Transportation Security'' and inserting ''Policy'';

(9) in section 443, by striking ''The Under Secretary for Border and Transportation Security'' and inserting ''Subject to the direction and control of the Secretary, the Deputy Secretary'';

(10) in section 444, by striking ''The Under Secretary for Border and Transportation Security'' and inserting ''Subject to the direction and control of the Secretary, the Deputy Secretary'';

(11) in section 472(e), by striking ''or the Under Secretary for Border and Transportation Security''; and

(12) in section 878(e), by striking ''the Directorate of Border and Transportation Security'' and inserting ''United States Customs and Border Protection, Immigration and Customs Enforcement''.

(d) CLERICAL AMENDMENTS.—The table of contents in section 1(b) of such Act is amended—

(1) by striking the item relating to title IV and inserting the following:

''TITLE IV—DIRECTORATE FOR POLICY'';

and

(2) by striking the items relating to subtitle A of title IV and inserting the following:

''Subtitle A—Under Secretary for Policy

''Sec. 401. Directorate for Policy.''.

SEC. 202. DIRECT LINE AUTHORITY FOR CHIEF OPERATING OFFICERS.

(a) IN GENERAL.—Title VII of the Homeland Security Act of 2002 (6 U.S.C. 341 et seq.) is amended by adding at the end the following new section:

"SEC. 707. CHIEF OPERATING OFFICERS.

''(a) IN GENERAL.—The Chief Operating Officers of the Department include the following officials of the Department:

''(1) The Chief Financial Officer.

''(2) The Chief Procurement Officer.

''(3) The Chief Information Officer.

''(4) The Chief Human Capital Officer.

''(5) The Chief Administrative Officer.

''(6) The Chief Security Officer.

''(b) DELEGATION.—The Secretary shall delegate to each Chief Operating Officer direct authority over that Officer's counterparts in component agencies to ensure that the component agencies adhere to the laws, rules, regulations, and departmental policies for which such Officer is responsible for implementing. In coordination with the head of the relevant component agency, such authorities shall include, with respect to the Officer's counterparts within component agencies of the Department, the following:

''(1) The authority to direct the activities of personnel.

''(2) The authority to direct planning, operations, and training.

''(3) The authority to direct the budget and other financial resources.

''(c) COORDINATION WITH HEADS OF COMPONENT AGENCIES.—In reporting to a Chief Operating Officer of the Department as required under subsection (b), a Chief Operating Officer of a component agency shall coordinate with the head of that component agency.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 706 the following:

''Sec. 707. Chief Operating Officers.''.

SEC. 203. COMPREHENSIVE HOMELAND SECURITY REVIEW.

(a) COMPREHENSIVE HOMELAND SECURITY REVIEW.—Subtitle A of title IV of the Homeland Security Act of 2002 is further amended by adding at the end the following:

"SEC. 402. COMPREHENSIVE HOMELAND SECURITY REVIEW.

''(a) REQUIREMENT TO CONDUCT REVIEWS.—The Secretary, acting through the Under Secretary for Policy, shall conduct a comprehensive

examination of the Department, to be known as the Comprehensive Homeland Security Review. The Secretary shall conduct the first such review in fiscal year 2009, and shall conduct a subsequent review in the first fiscal year in which there begins the first presidential term of a new presidential administration.

''(b) PURPOSE OF REVIEW.—In each Comprehensive Homeland Security Review, the Secretary shall—

''(1) include a Department of Homeland Security Strategy that is consistent with the most recent National Strategy for Homeland Security prescribed by the President;

''(2) define sufficient personnel and appropriate organizational structure and other requirements necessary for the successful execution of the full range of missions called for in the Department of Homeland Security Strategy; and

''(3) identify a budget plan, acquisition strategy, procurement process, and any other resources, that are necessary to provide sufficient resources for the successful execution of the full range of missions called for in the Department of Homeland Security Strategy.

''(c) CONDUCT OF REVIEW.—

''(1) CONSULTATION REQUIRED.—The Secretary shall conduct each review required under subsection (a) in consultation with key officials of the Department, including the Assistant Secretary of the Transportation Security Administration, the Commissioner of United States Customs and Border Protection, the Director of United States Citizenship and Immigration Services, the Assistant Secretary for Immigration and Customs Enforcement, the Director of the United States Secret Service, the Administrator of the Federal Emergency Management Agency, the Director of the Federal Law Enforcement Training Center, and the Commandant of the Coast Guard.

''(2) RELATIONSHIP WITH FUTURE YEARS HOMELAND SECURITY PROGRAM.—The Secretary shall ensure that each review conducted under this section is consistent with the Future Years Homeland Security Program required under section 874.

''(d) REPORT TO CONGRESS AND THE PRESIDENT.—

''(1) REPORT.—The Secretary shall submit to the Committee on Homeland Security of the House of Representatives, to the Committee on Homeland Security and Governmental Affairs of the Senate, and to the President a report on each Comprehensive Homeland Security Review. Each such report shall be submitted during the fiscal year following the fiscal year in which the review is conducted, but not later than the date on which the President submits to Congress the budget under section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the report is to be submitted.

''(2) CONTENTS.—Each such report shall include the following, with a focus on reducing and managing risk and in preparing for, mitigating against, responding to, and recovering from terrorist attacks, major disasters, and other emergencies:

''(A) A comprehensive assessment of the level of alignment between the Department of Homeland Security Strategy and the human resources, infrastructure, assets, and organizational structure of the Department.

''(B) An explanation of any and all underlying assumptions used in conducting the Review.

''(C) The human resources requirements and response capabilities of the Department as they relate to the risks of terrorist attacks, major disasters, and other emergencies.

''(D) The strategic and tactical air, border sea, and land capabilities and requirements to support the Department of Homeland Security Strategy.

''(E) The nature and appropriateness of homeland security operational capabilities, including operational scientific and technical resources and capabilities and the anticipated effects on the human resources capabilities, costs, efficiencies, resources, and planning of the Department of any technology or operational capabilities anticipated to be available during the years subsequent to the Review.

''(F) Any other matter the Secretary considers appropriate to include in the Review.

''(3) DEADLINE FOR INITIAL REPORT.—Notwithstanding paragraph (1), the Secretary shall submit the first Report required under subsection (a) not later than September 30, 2010.

''(e) PREPARATIONS FOR FISCAL YEAR 2008 REVIEW.—In fiscal year 2008, the Under Secretary for Policy shall make all preparations for the conduct of the first Comprehensive Homeland Security Review in fiscal year 2009, including—

''(1) determining the tasks to be performed;

''(2) estimating the human, financial, and other resources required to perform each task;

''(3) establishing the schedule for the execution of all project tasks;

''(4) ensuring that these resources will be available as needed; and

''(5) all other preparations considered necessary by the Under Secretary.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 401 the following:

''Sec. 402. Comprehensive Homeland Security Review.''.

SEC. 204. QUALIFICATIONS FOR THE UNDER SECRETARY FOR MANAGEMENT.

(a) QUALIFICATIONS.—Section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341) is amended by adding at the end the following:

''(c) QUALIFICATIONS.—The Under Secretary for Management shall have all of the following qualifications:

''(1) Extensive executive level leadership and management experience in the public or private sector.

''(2) Strong leadership skills.

''(3) A demonstrated ability to manage large and complex organizations.

''(4) A proven record of achieving positive operational results.''.

(b) DEADLINE FOR APPOINTMENT; INCUMBENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall name an individual who meets the qualifications of section 701 of the Homeland Security Act (6 U.S.C. 341), as amended by subsection (a), to serve as the Under Secretary for Management. The Secretary may submit the name of the individual who serves in the position of Under Secretary for Management of the Department of Homeland Security on the date of enactment of this Act together with a statement the informs the Congress that the individual meets the qualifications of such section as so amended.

SEC. 205. SENSE OF CONGRESS REGARDING CONSOLIDATION OF DEPARTMENT HEADQUARTERS.

(a) FINDINGS.—Congress finds that—

(1) the Department of Homeland Security and its component headquarters facilities are currently scattered widely throughout the National Capital Region (NCR);

(2) this geographic dispersal disrupts the Department's ability to operate in an efficient manner, and could impair its ability to prevent, deter, prepare for, and respond to a terrorist attack, major disaster, or other emergencies;

(3) the Government Accountability Office continues to list ''Implementing and Transforming the Department of Homeland Security'' on its ''High Risk list'';

(4) consolidating the Department's headquarters and component facilities, to the greatest extent practicable, would be an important step in facilitating the transformation and integration of the Department; and

(5) the President has provided funding for Department consolidation in the fiscal year 2008 budget, and has determined that the only site under the control of the Federal Government and in the NCR with the size, capacity, and security features to meet the Department of Homeland Security's minimum consolidation needs as identified in the Department of Homeland Security NCR Housing Master Plan submitted to Congress on October 24, 2006, is the West Campus of St. Elizabeths Hospital in the District of Columbia.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the consolidation of the Department and its key component headquarters on the West Campus of St. Elizabeths Hospital, to the maximum extent practicable consistent with the Department's Housing Plan as submitted to Congress in October 2006, should move forward as expeditiously as possible with all the agencies involved in this effort bearing those costs for which they are responsible.

SEC. 206. REQUIRED BUDGET LINE ITEM FOR OFFICE OF COUNTERNARCOTICS ENFORCEMENT.

In each fiscal year budget request for the Department of Homeland Security, the Secretary of Homeland Security shall include a separate line item for the fiscal year for expenditures by the Office of Counternarcotics Enforcement of the Department of Homeland Security.

SEC. 207. DESIGNATION OF OFFICE OF COUNTERNARCOTICS ENFORCEMENT AS PRIMARY DEPARTMENT COUNTERNARCOTICS ENFORCEMENT REPRESENTATIVE.

Section 878(d)(5) of the Homeland Security Act of 2002 (6 U.S.C. 458(d)(5)) is amended by striking ''to be a representative'' and inserting ''to be the primary representative''.

SEC. 208. GRANTING LINE AUTHORITY TO THE ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS.

Section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341) is further amended by adding at the end the following:

''(d) AUTHORITY OF THE ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS OVER DEPARTMENTAL COUNTERPARTS.—

''(1) IN GENERAL.—The Secretary for the Department shall ensure that the Assistant Secretary for Legislative Affairs has adequate authority over his or her respective counterparts in component agencies of the Department to ensure that such component agencies adhere to the laws, rules, regulations, and departmental policies that the Assistant Secretary for Legislative Affairs is responsible for implementing.

''(2) INCLUDED AUTHORITIES.—The authorities of the Assistant Secretary for Legislative Affairs shall include, with respect to the counterparts in component agencies of the Department, the following:

''(A) The authority to direct the activities of personnel responsible for any of the following:

''(i) Making recommendations regarding the hiring, termination, and reassignment of individuals.

''(ii) Developing performance measures.

''(iii) Submitting written performance evaluations during the performance evaluation process that shall be considered in performance reviews, including recommendations for bonuses, pay raises, and promotions.

''(iv) Withholding funds from the relevant component agency that would otherwise be available for a particular purpose until the relevant component agency complies with the directions of the Assistant Secretary for Legislative Affairs or makes substantial progress towards meeting the specified goal.

''(B) The authority to direct planning, operations, and training.

''(C) The authority to direct the budget and other financial resources.''.

TITLE III—OVERSIGHT IMPROVEMENTS

SEC. 301. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department of Homeland Security shall review each contract action related to the Department's Secure Border Initiative having a value greater than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and timelines. The Inspector General shall complete a review under this subsection with respect to a contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) REPORT BY INSPECTOR GENERAL.—Upon completion of each review required under subsection (a), the Inspector General shall submit to the Secretary of Homeland Security a report containing the findings of the review, including findings regarding any cost overruns, significant delays in contract execution, lack of rigorous departmental contract management, insufficient departmental financial oversight, bundling that limits the ability of small business to compete, or other high risk business practices.

(c) REPORT BY SECRETARY.—Not later than 30 days after the receipt of each report required under subsection (b), the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the findings of the report by the Inspector General and the steps the Secretary has taken, or plans to take, to address the findings in such report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Office of the Inspector General of the Department of Homeland Security to carry out enhanced oversight of the Secure Border Initiative—

(1) for fiscal year 2008, of the amount authorized by section 101 and in addition to the amount authorized by section 303, $5,500,000;

(2) for fiscal year 2009, at least 6 percent of the overall budget of the Office for that fiscal year; and

(3) for fiscal year 2010, at least 7 percent of the overall budget of the Office for that fiscal year.

(e) ACTION BY INSPECTOR GENERAL.—In the event the Inspector General becomes aware of any improper conduct or wrongdoing in accordance with the contract review required under subsection (a), the Inspector General shall, as expeditiously as practicable, refer to the Secretary of Homeland Security or other appropriate official in the Department of Homeland Security information related to such improper conduct or wrongdoing for purposes of evaluating whether to suspend or debar the contractor.

SEC. 302. AUTHORIZATION LIAISON OFFICER.

Section 702 of the Homeland Security Act of 2002 (6 U.S.C. 342) is amended by adding at the end the following:

''(d) AUTHORIZATION LIAISON OFFICER.—

''(1) IN GENERAL.—The Chief Financial Officer shall establish the position of Authorization Liaison Officer to provide timely budget and other financial information to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate. The Authorization Liaison Officer shall report directly to the Chief Financial Officer.

''(2) SUBMISSION OF REPORTS TO CONGRESS.—The Authorization Liaison Officer shall coordinate with the Appropriations Liaison Officer within the Office of the Chief Financial Officer to ensure, to the greatest extent possible, that all reports prepared for the Committees on Appropriations of the House of Representatives and the Senate are submitted concurrently to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.''.

SEC. 303. OFFICE OF THE INSPECTOR GENERAL.

Of the amount authorized by section 101, there is authorized to be appropriated to the Secretary of Homeland Security $108,500,000 for fiscal year 2008 for operations of the Office of the Inspector General of the Department of Homeland Security.

SEC. 304. CONGRESSIONAL NOTIFICATION REQUIREMENT.

(a) IN GENERAL.—Title I of the Homeland Security Act of 2002 (6 U.S.C. 111 et seq.) is amended by adding at the end the following:

''SEC. 104. CONGRESSIONAL NOTIFICATION.

''(a) IN GENERAL.—The Secretary shall actively consult with the congressional homeland security committees, and shall keep such committees fully and currently informed with respect to all activities and responsibilities within the jurisdictions of these committees.

''(b) RELATIONSHIP TO OTHER LAW.—Nothing in this section affects the requirements of section 872. The requirements of this section supplement, and do not replace, the requirements of that section.

''(c) CLASSIFIED NOTIFICATION.—The Secretary may submit any information required by this section in classified form if the information is classified pursuant to applicable national security standards.

''(d) SAVINGS CLAUSE.—This section shall not be construed to limit or otherwise affect the congressional notification requirements of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), insofar as they apply to the Department.

''(e) DEFINITION.—As used in this section, the term 'congressional homeland security committees' means the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to such title the following:

''Sec. 104. Congressional notification.''.

(c) COAST GUARD MISSION REVIEW REPORT.—Section 888(f)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(f)(2)) is amended—

(1) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F) respectively; and

(2) by striking subparagraph (A) and inserting the following:

''(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(B) the Committee on Homeland Security of the House of Representatives;''.

SEC. 305. SENSE OF CONGRESS REGARDING OVERSIGHT OF HOMELAND SECURITY.

It is the sense of the Congress that the House of Representatives and the Senate should implement the recommendation of the National Commission on Terrorist Attacks Upon the United States to designate a committee in each body to serve as the single, principal point of oversight and review for homeland security and to authorize the activities of the Department of Homeland Security.

TITLE IV—PROCUREMENT POLICY AND RESOURCES IMPROVEMENTS

SEC. 401. HOMELAND SECURITY PROCUREMENT TRAINING.

(a) IN GENERAL.—Subtitle D of title VIII of the Homeland Security Act of 2002 is amended by adding at the end the following new section:

''SEC. 836. HOMELAND SECURITY PROCUREMENT TRAINING.

''(a) PROVISION OF TRAINING.—The Chief Procurement Officer shall provide homeland security procurement training to acquisition employees.

''(b) RESPONSIBILITIES OF CHIEF PROCUREMENT OFFICER.—The Chief Procurement Officer shall carry out the following responsibilities:

''(1) Establish objectives to achieve the efficient and effective use of available acquisition resources by coordinating the acquisition education and training programs of the Department and tailoring them to support the careers of acquisition employees.

''(2) Develop, in consultation with the Council on Procurement Training established under subsection (d), the curriculum of the homeland security procurement training to be provided.

''(3) Establish, in consultation with the Council on Procurement Training, training standards, requirements, and courses to be required for acquisition employees.

''(4) Establish an appropriate centralized mechanism to control the allocation of resources for conducting such required courses and other training and education.

''(5) Select course providers and certify courses to ensure that the procurement training curriculum supports a coherent framework for the educational development of acquisition employees, including the provision of basic, intermediate, and advanced courses.

''(6) Publish an annual catalog that includes a list of the acquisition education and training courses.

''(7) Develop a system of maintaining records of student enrollment, and other data related to students and courses conducted pursuant to this section.

''(c) ELIGIBILITY FOR TRAINING.—An acquisition employee of any entity under subsection (d)(3) may receive training provided under this section. The appropriate member of the Council on Procurement Training may direct such an employee to receive procurement training.

''(d) COUNCIL ON PROCUREMENT TRAINING.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Council on Procurement Training to advise and make policy and curriculum recommendations to the Chief Procurement Officer.

''(2) CHAIR OF COUNCIL.—The chair of the Council on Procurement Training shall be the Deputy Chief Procurement Officer.

''(3) MEMBERS.—The members of the Council on Procurement Training are the chief procurement officers of each of the following:

''(A) United States Customs and Border Protection.

''(B) The Transportation Security Administration.

''(C) The Office of Procurement Operations.

''(D) The Bureau of Immigration and Customs Enforcement.

''(E) The Federal Emergency Management Agency.

''(F) The Coast Guard.

''(G) The Federal Law Enforcement Training Center.

''(H) The United States Secret Service.

''(I) Such other entity as the Secretary determines appropriate.

''(e) ACQUISITION EMPLOYEE DEFINED.—For purposes of this section, the term 'acquisition employee' means an employee serving under a career or career-conditional appointment in the competitive service or appointment of equivalent tenure in the excepted service of the Federal Government, at least 50 percent of whose assigned duties include acquisitions, procurement-related program management, or procurement-related oversight functions.

''(f) REPORT REQUIRED.—Not later than March 1 of each year, the Chief Procurement Officer shall submit to the Secretary a report on the procurement training provided under this section, which shall include information about student enrollment, students who enroll but do

not attend courses, graduates, certifications, and other relevant information.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to such subtitle the following:

''Sec. 836. Homeland security procurement training.''.

SEC. 402. AUTHORITY TO APPOINT AND MAINTAIN A CADRE OF FEDERAL ANNUITANTS FOR PROCUREMENT OFFICES.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''procurement office'' means the Office of Procurement Operations and any other procurement office within any agency or other component of the Department;

(2) the term ''annuitant'' means an annuitant under a Government retirement system;

(3) the term ''Government retirement system'' has the meaning given such term by section 501(a); and

(4) the term ''employee'' has the meaning given such term by section 2105 of title 5, United States Code.

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Chief Procurement Officer) may, for the purpose of supporting the Department's acquisition capabilities and enhancing contract management throughout the Department, appoint annuitants to positions in procurement offices in accordance with succeeding provisions of this section.

(c) NONCOMPETITIVE PROCEDURES; EXEMPTION FROM OFFSET.—An appointment made under subsection (b) shall not be subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and any annuitant serving pursuant to such an appointment shall be exempt from sections 8344 and 8468 of such title 5 (relating to annuities and pay on reemployment) and any other similar provision of law under a Government retirement system.

(d) LIMITATIONS.—No appointment under subsection (b) may be made if such appointment would result in the displacement of any employee or would cause the total number of positions filled by annuitants appointed under such subsection to exceed 250 as of any time (determined on a full-time equivalent basis).

(e) RULE OF CONSTRUCTION.—An annuitant as to whom an exemption under subsection (c) is in effect shall not be considered an employee for purposes of any Government retirement system.

(f) TERMINATION.—Upon the expiration of the 5-year period beginning on the date of the enactment of this Act—

(1) any authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

SEC. 403. ADDITIONAL REQUIREMENT TO REVIEW PAST PERFORMANCE OF CONTRACTORS.

(a) IN GENERAL.—Such subtitle is further amended by adding at the end the following new section:

''SEC. 837. REVIEW OF CONTRACTOR PAST PERFORMANCE.

''(a) CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.—In awarding a contract to a contractor, the Secretary shall consider the past performance of that contractor based on the review conducted under subsection (b).

''(b) REVIEW REQUIRED.—Before awarding to a contractor (including a contractor that has previously provided goods or services to the Department) a contract to provide goods or services to the Department, the Secretary, acting through the appropriate contracting officer of the Department, shall require the contractor to submit information regarding the contractor's performance of Federal, State, and local government and private sector contracts.

''(c) CONTACT OF RELEVANT OFFICIALS.—As part of any review of a contractor conducted under subsection (b), the Secretary, acting through an appropriate contracting officer of the Department, shall contact the relevant official who administered or oversaw each contract performed by that contractor during the five-year period preceding the date on which the review begins.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to such subtitle the following:

''Sec. 837. Review of contractor past performance.''.

SEC. 404. REQUIREMENT TO DISCLOSE FOREIGN OWNERSHIP OR CONTROL OF CONTRACTORS AND SUBCONTRACTORS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—With respect to any procurement of goods or services by the Department of Homeland Security, the Chief Procurement Officer of the Department shall conduct an independent review of the procurement to ensure that it complies with all relevant provisions of the Buy American Act (41 U.S.C. 10a et seq.).

(b) FOREIGN OWNERSHIP OR CONTROL OF CONTRACTORS AND SUBCONTRACTORS.—

(1) DISCLOSURE OF INFORMATION.—With respect to any procurement of goods or services by the Department of Homeland Security, the Secretary of Homeland Security shall require an offeror or prospective offeror to disclose whether the offeror or any prospective subcontractor (at any tier) is owned or controlled by a foreign person. The Secretary shall require all offerors, prospective offerors, and contractors to update the disclosure at any time before award of the contract or during performance of the contract, if the information provided becomes incorrect because of a change of ownership, a change in subcontractors, or for any other reason.

(2) FOREIGN OWNERSHIP OR CONTROL.—In this subsection:

(A) The term ''owned or controlled by a foreign person'', with respect to an offeror, contractor, or subcontractor, means that a foreign person owns or controls, directly or indirectly, 50 percent or more of the voting stock or other ownership interest in the offeror, contractor, or subcontractor.

(B) The term ''foreign person'' means any of the following:

(i) A foreign government.

(ii) A corporation organized under the laws of a foreign country.

(iii) An individual who is not a citizen of the United States.

(3) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall promulgate regulations to carry out this subsection.

SEC. 405. INTEGRITY IN CONTRACTING.

(a) IN GENERAL.—Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is further amended by adding at the end the following:

''SEC. 838. INTEGRITY IN CONTRACTING.

''(a) ATTESTATION REQUIRED.—The Secretary shall require any offeror for any contract to provide goods or services to the Department to submit as part of the offeror's bid for such contract an attestation that affirmatively discloses any substantial role the offeror, the employees of the offeror, or any corporate parent or subsidiary of the offeror may have played in creating a solicitation, request for proposal, statement of work, or statement of objectives (as those terms are defined in the Federal Acquisition Regulation) for the Department.

''(b) ADDITIONAL REQUIREMENTS FOR CERTAIN OFFERORS.—If an offeror submits an attestation under subsection (a) that discloses that the offeror, an employee of the offeror, or any corporate parent or subsidiary of the offeror played a substantial role in creating a solicitation, request for proposal, statement of work, or statement of objectives for the Department, the Secretary shall require the offeror to submit to the Secretary a description of the safeguards used to ensure that precautions were in place to prevent the offeror from receiving information through such role that could be used to provide the offeror an undue advantage in submitting an offer for a contract.

''(c) CERTIFICATION REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall require any offeror for any contract to provide goods or services to the Department to submit to the Secretary as part of the offeror's bid for such contract a certification in writing whether, as of the date on which the certification is submitted, the offeror—

''(A) is in default on any payment of any tax to the Federal Government; or

''(B) owes the Federal Government for any payment of any delinquent tax.

''(2) FAILURE OF CERTIFICATION.—Nothing in this section shall prevent the Department from awarding a contract to an offeror based solely on the offeror's certification.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is further amended by adding at the end of the items relating to such subtitle the following:

''Sec. 838. Integrity in contracting.''.

SEC. 406. SMALL BUSINESS UTILIZATION REPORT.

(a) REPORT.—Not later than 360 days after the date of the enactment of this Act, the Chief Procurement Officer of the Department of Homeland Security shall submit to the Secretary of Homeland Security, the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report that—

(1) identifies each component of the Department for which the aggregate value of contracts awarded in fiscal year 2006 by the component to qualified HUBZone small business concerns and small business concerns owned and controlled by service-disabled veterans was less than 3 percent of the total value of all contracts awarded under the component for that fiscal year; and

(2) identifies each component of the Department for which the aggregate value of contracts awarded in fiscal year 2006 by the component to socially or economically disadvantaged small business concerns, including 8(a) small business concerns, and small business concerns owned and controlled by women was less than 5 percent of the total value of all contracts awarded by the component for that fiscal year.

(b) ACTION PLAN.—

(1) ACTION PLAN REQUIRED.—Not later than 90 days after the date of the submission of the report required under subsection (a), the Chief Procurement Officer, in consultation with Office of Small and Disadvantaged Businesses Utilization of the Department, shall for each component identified under subsection (a)(1) and (a)(2), develop, submit to the Committees referred to in subsection (a), and begin implementing an action plan for achieving the objective described in subsection (b)(2). An action plan is not required if the component meets or exceeds the objective described in subsection (b)(2).

(2) IDENTIFICATION OF BARRIERS.—Each action plan shall identify and describe any barriers to achieving the objectives of awarding by the component, for a fiscal year, contracts having an aggregate value of at least 3 percent of the total value of all contracts awarded by the component for the fiscal year to small business concerns identified under subsection (a)(1) and 5 percent of the total value of all contracts awarded by the component for the fiscal year to small business concerns identified under subsection (a)(2).

(3) PERFORMANCE MEASURES AND TIMETABLE.—Each action plan submitted under paragraph (1) shall include performance measures and a timetable for compliance and achievement of the objectives described in paragraph (2).

(c) PRIORITY CONSIDERATION.—

(1) IN GENERAL.—The Chief Procurement Officer may give priority consideration to small business concerns for all open market procurements exceeding the simplified acquisition threshold prior to initiating full and open, or unrestricted, competition.

(2) ORDER OF PRIORITY.—In proceeding with priority consideration under paragraph (1), the Chief Procurement Officer shall consider contracting proposals in the following order:

(A) Proposals submitted by 8(a) small business concerns or HUBZone small business concerns; service-disabled veteran owned small business concerns; or women owned small business concerns.

(B) Proposals submitted by other small business concerns.

(C) Proposals submitted under full and open competition.

(3) For purposes of carrying out paragraph (2) with respect to proposals submitted by small business concerns described in the same subparagraph of paragraph (2), the Chief Procurement Officer shall select the appropriate category of concern based on market research, historical data, and progress toward achieving the objective described in subsection (b)(2).

(d) DEFINITIONS.—For purposes of this section, the terms ''small business concern'', ''socially or economically disadvantaged small business concern'', ''women owned small business concern'', ''small business concern owned and controlled by service-disabled veterans'', ''8(a) small business concerns'', and ''qualified HUBZone small business concern'' have the meanings given such terms under the Small Business Act (15 U.S.C. 631 et seq.).

SEC. 407. REQUIREMENT THAT UNIFORMS, PROTECTIVE GEAR, BADGES, AND IDENTIFICATION CARDS OF HOMELAND SECURITY PERSONNEL BE MANUFACTURED IN THE UNITED STATES.

(a) IN GENERAL.—Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is further amended by adding at the end the following new section:

''SEC. 839. REQUIREMENT THAT CERTAIN ARTICLES PROCURED FOR DEPARTMENT PERSONNEL BE MANUFACTURED IN THE UNITED STATES.

''(a) REQUIREMENT.—Except as provided in section (c), funds appropriated or otherwise available to the Department may not be used for the procurement of an article described in section (b) if the item is not manufactured in the United States.

''(b) COVERED ARTICLES.—An article referred to in subsection (a) is any of the following articles procured for personnel of the Department:

''(1) Uniforms.

''(2) Protective gear.

''(3) Badges or other insignia indicating the rank, office, or position of personnel.

''(4) Identification cards.

''(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary determines that satisfactory quality and sufficient quantity of the article cannot be procured as and when needed at United States market prices. If such a determination is made with respect to an article, the Secretary shall—

''(1) notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate within 7 days after making the determination; and

''(2) include in that notification a certification that manufacturing the article outside the United States does not pose a risk to the national security of the United States, as well as a detailed explanation of the steps any facility outside the United States that is manufacturing the article will be required to take to ensure that the materials, patterns, logos, designs, or any other element used in or for the article are not misappropriated.

''(d) OTHER EXCEPTIONS.—Subsection (a) does not apply—

''(1) to acquisitions at or below the micro-purchase threshold (as defined in section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428)); and

''(2) to acquisitions outside the United States for use outside of the United States.

''(e) USE OF DOMESTIC TEXTILES.—For fiscal year 2008 and each subsequent fiscal year, the Secretary shall take all available steps to ensure that, to the maximum extent practicable, the items described in subsection (b) procured by the Department are manufactured using domestic textiles.

''(f) RELATIONSHIP TO WAIVER UNDER TRADE AGREEMENTS ACT OF 1979.—Subsection (a) shall apply notwithstanding any waiver under section 301 of the Trade Agreements Act of 1979 (19 U.S.C. 2511).''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by adding at the end of the items relating to such subtitle the following new item:

''Sec. 839. Requirement that certain articles procured for Department personnel be manufactured in the United States.''.

(c) APPLICABILITY.—The amendments made by this section take effect 120 days after the date of the enactment of this Act and apply to any contract entered into on or after that date for the procurement of items to which such amendments apply.

SEC. 408. DEPARTMENT OF HOMELAND SECURITY MENTOR-PROTÉGÉ PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Homeland Security shall establish within the Department of Homeland Security's Office of Small and Disadvantaged Business Utilization a Mentor-Protégé Program, which shall motivate and encourage prime contractors that are large businesses to provide developmental assistance to small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, HUBZone small business concerns, small business concerns owned by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.

(b) PARTICIPATION BY CONTRACTORS AND OFFERORS.—The Secretary shall take affirmative steps to publicize and to ensure that Department contractors and offerors are fully aware of and are participating in the Mentor-Protégé Program, including that their efforts to seek and develop a formal Mentor-Protégé relationship will be a factor in the evaluation of bids or offers for Department contracts.

(c) FACTOR IN EVALUATION OF OFFERS.—When evaluating the offer of a contractor, the Department of Homeland Security shall consider that offeror's efforts to seek and develop a formal Mentor-Protégé relationship under the Mentor-Protégé Program.

(d) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of Homeland Security shall conduct a review of the Mentor-Protégé Program. Such review shall include—

(1) an assessment of the program's effectiveness;

(2) identification of any barriers that restrict contractors from participating in the program;

(3) a comparison of the program with the Department of Defense Mentor-Protégé Program; and

(4) development of recommendations to strengthen the program to include the maximum number of contractors as possible.

SEC. 409. PROHIBITION ON AWARD OF CONTRACTS AND GRANTS TO EDUCATIONAL INSTITUTIONS NOT SUPPORTING COAST GUARD EFFORTS.

(a) PROHIBITION.—The Secretary of Homeland Security may not award a contract or grant to an institution of higher education (including any subelement of that institution) if that institution (or any subelement of that institution) has a policy or practice (regardless of when implemented) that prohibits, or in effect prevents, the Commandant of the Coast Guard from gaining access to campuses of the institution, or access to students (who are 17 years of age or older) on such campuses, for purposes of recruiting, in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer.

(b) INSTITUTION OF HIGHER EDUCATION DEFINED.—For purposes of this section, the term ''institution of higher education'' has the meaning provided in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(c) LIMITATION ON APPLICATION.—The prohibition in this section shall not apply to an institution of higher education (or any subelement of that institution) if the Secretary of Homeland Security determines that the institution of higher education has a longstanding policy of pacifism based on historical religious affiliation.

SEC. 410. REPORT ON SOURCE OF SHORTFALLS AT FEDERAL PROTECTIVE SERVICE.

The Secretary of Homeland Security may not conduct a reduction in force or furlough of the workforce of the Federal Protective Service until—

(1) the Comptroller General of the United States submits to the Committees on Homeland Security and Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate the report on the source of shortfalls at the Federal Protective Service that was requested by the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Homeland Security and Governmental Affairs of the Senate and the Committees on Homeland Security and Transportation and Infrastructure of the House of Representatives have conducted hearings on such report.

TITLE V—WORKFORCE AND TRAINING IMPROVEMENTS

SEC. 501. CUSTOMS AND BORDER PROTECTION OFFICER PAY EQUITY.

(a) DEFINITIONS.—For purposes of this section:

(1) The term ''Government retirement system'' means a retirement system established by law for employees of the Government of the United States.

(2) The term ''Customs and Border Protection Officer position'' refers to any Customs and Border Protection Officer position—

(A) which is within the Department of Homeland Security, and

(B) the primary duties of which consist of enforcing the border, customs, or agriculture laws of the United States;

such term includes a supervisory or administrative position within the Department of Homeland Security to which an individual transfers directly from a position described in the preceding provisions of this paragraph in which such individual served for at least three years.

(3) The term ''law enforcement officer'' has the meaning given such term under the Government retirement system involved.

(4) The term ''Executive agency'' or ''agency'' has the meaning given under section 105 of title 5, United States Code.

(5) The term ''prior qualified service'' means service as a Customs and Border Protection Officer within the Department of Homeland Security, since its establishment in March 2003.

(b) TREATMENT AS A LAW ENFORCEMENT OFFICER.—In the administration of any Government retirement system, service in a Customs and Border Protection Officer position shall be treated in the same way as service performed in a law enforcement officer position, subject to succeeding provisions of this section.

(c) APPLICABILITY.—Subsection (b) shall apply in the case of—

(1) any individual first appointed to a Customs and Border Protection Officer position on or after the date of the enactment of this Act; and

(2) any individual who—

(A) holds a Customs and Border Protection Officer position on the date of the enactment of this Act pursuant to an appointment made before such date; and

(B) who submits to the agency administering the retirement system involved an appropriate election under this section, not later than five years after the date of the enactment of this Act or before separation from Government service, whichever is earlier.

(d) INDIVIDUAL CONTRIBUTIONS FOR PRIOR QUALIFIED SERVICE.—

(1) IN GENERAL.—An individual described in subsection (c)(2)(B) may, with respect to prior qualified service performed by such individual, contribute to the Government retirement system by which such individual is covered (for deposit in the appropriate fund within the Treasury) the difference between the individual contributions that were actually made for such service and the individual contributions that should have been made for such service if subsection (b) had then been in effect (with interest).

(2) EFFECT OF NOT CONTRIBUTING.—If less than the full contribution under paragraph (1) is made, all prior qualified service of the individual shall remain fully creditable as law enforcement officer service, but the resulting annuity (before cost-of-living adjustments) shall be reduced in a manner such that, when combined with the unpaid amount, would result in the present value of the total being actuarially equivalent to the present value of the annuity that would otherwise have been payable if the full contribution had been made.

(e) GOVERNMENT CONTRIBUTIONS FOR PRIOR QUALIFIED SERVICE.—

(1) IN GENERAL.—If an individual makes an election under subsection (c)(2)(B), the Department of Homeland Security shall remit, with respect to any prior qualified service, the total amount of additional Government contributions that would have been required for such service under the retirement system involved if subsection (b) had then been in effect (with interest).

(2) CONTRIBUTIONS TO BE MADE RATABLY.—Government contributions under this subsection on behalf of an individual shall be made ratably (on at least an annual basis) over the ten-year period beginning on the date an individual's retirement deductions begin to be made.

(f) EXEMPTION FROM MANDATORY SEPARATION.—Effective during the three-year period beginning on the date of the enactment of this Act, nothing in this section shall result in any individual being involuntarily separated on account of the provisions of any retirement system relating to the mandatory separation of a law enforcement officer on account of age or age and service combined.

(g) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to apply in the case of a reemployed annuitant.

(h) REGULATIONS.—Any regulations necessary to carry out this section shall be prescribed in consultation with the Secretary of Homeland Security.

SEC. 502. PLAN TO IMPROVE REPRESENTATION OF MINORITIES IN VARIOUS CATEGORIES OF EMPLOYMENT.

(a) PLAN FOR IMPROVING REPRESENTATION OF MINORITIES.—Not later than 90 days after the date of the enactment of this Act, the Chief Human Capital Officer of the Department of Homeland Security shall prepare and transmit to the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Comptroller General of the United States a plan to achieve the objective of addressing any under representation of minorities in the various categories of civil service employment within such Department. Such plan shall identify and describe any barriers to achieving the objective described in the preceding sentence and the strategies and measures included in the plan to overcome them.

(b) ASSESSMENTS.—Not later than 1 year after receiving the plan, the Comptroller General of the United States shall assess—

(1) any programs and other measures currently being implemented to achieve the objective described in the first sentence of subsection (a); and

(2) the likelihood that the plan will allow the Department to achieve such objective.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''under representation'' means when the members of a minority group within a category of Federal civil service employment constitute a lower percentage of the total number of employees within the employment category than the percentage that the minority constitutes within the labor force of the Federal Government, according to statistics issued by the Office of Personnel Management;

(2) the term ''minority groups'' or ''minorities'' means—

(A) racial and ethnic minorities;

(B) women; and

(C) individuals with disabilities; and

(3) the term ''category of civil service employment'' means—

(A) each pay grade, pay band, or other classification of every pay schedule and all other levels of pay applicable to the Department of Homeland Security; and

(B) such occupational, professional, or other groupings (including occupational series) as the Chief Human Capital Officer of the Department of Homeland Security may specify, in the plan described in subsection (a), in order to carry out the purposes of this section.

SEC. 503. CONTINUATION OF AUTHORITY FOR FEDERAL LAW ENFORCEMENT TRAINING CENTER TO APPOINT AND MAINTAIN A CADRE OF FEDERAL ANNUITANTS.

Section 1202(a) of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (42 U.S.C. 3771 note) is amended in the first sentence by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

SEC. 504. AUTHORITY TO APPOINT AND MAINTAIN A CADRE OF FEDERAL ANNUITANTS FOR CUSTOMS AND BORDER PROTECTION.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''CBP'' means the United States Customs and Border Protection;

(2) the term ''annuitant'' means an annuitant under a Government retirement system;

(3) the term ''Government retirement system'' has the meaning given such term by section 501(a); and

(4) the term ''employee'' has the meaning given such term by section 2105 of title 5, United States Code.

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Commissioner of the United States Customs and Border Protection) may, for the purpose of accelerating the ability of the CBP to secure the borders of the United States, appoint annuitants to positions in the CBP in accordance with succeeding provisions of this section.

(c) NONCOMPETITIVE PROCEDURES; EXEMPTION FROM OFFSET.—An appointment made under subsection (b) shall not be subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and any annuitant serving pursuant to such an appointment shall be exempt from sections 8344 and 8468 of such title 5 (relating to annuities and pay on reemployment) and any other similar provision of law under a Government retirement system.

(d) LIMITATIONS.—No appointment under subsection (b) may be made if such appointment would result in the displacement of any employee or would cause the total number of positions filled by annuitants appointed under such subsection to exceed 500 as of any time (determined on a full-time equivalent basis).

(e) RULE OF CONSTRUCTION.—An annuitant as to whom an exemption under subsection (c) is in effect shall not be considered an employee for purposes of any Government retirement system.

(f) TERMINATION.—Upon the expiration of the 5-year period beginning on the date of the enactment of this Act—

(1) any authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

SEC. 505. STRENGTHENING BORDER PATROL RECRUITMENT AND RETENTION.

(a) IN GENERAL.—In order to address the recruitment and retention challenges faced by United States Customs and Border Protection, the Secretary of Homeland Security shall establish a plan, consistent with existing Federal statutes applicable to pay, recruitment, relocation, and retention of Federal law enforcement officers. Such plan shall include the following components:

(1) The establishment of a recruitment incentive for Border Patrol agents, including the establishment of a foreign language incentive award.

(2) The establishment of a retention plan, including the payment of bonuses to Border Patrol agents for every year of service after the first two years of service.

(3) An increase in the pay percentage differentials to Border Patrol agents in certain high-cost areas, as determined by the Secretary, consistent with entry-level pay to other Federal, State, and local law enforcement agencies.

(4) The establishment of a mechanism whereby Border Patrol agents can transfer from one location to another after the first two years of service in their initial duty location.

(5) The establishment of quarterly goals for the recruitment of new Border Patrol agents, including goals for the number of recruits entering Border Patrol training, and the number of recruits who successfully complete such training and become Border Patrol agents.

(b) REPORT.—

(1) IN GENERAL.—Not later than the first calendar quarter after the date of the enactment of this Act and every calendar quarter thereafter, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report identifying whether the quarterly goals for the recruitment of new Border Patrol agents established under subsection (a)(5) were met, and an update on the status of recruitment efforts and attrition rates among Border Patrol agents.

(2) CONTENTS OF REPORT.—The report required under paragraph (1) shall contain, at a minimum, the following with respect to each calendar quarter:

(A) The number of recruits who enter Border Patrol training.

(B) The number of recruits who successfully complete such training and become Border Patrol agents.

(C) The number of Border Patrol agents who are lost to attrition.

SEC. 506. LIMITATION ON REIMBURSEMENTS RELATING TO CERTAIN DETAILEES.

In the case of an individual assigned to the Department of Homeland Security as a detailee under an arrangement described in subchapter VI of chapter 33 of title 5, United States Code, the maximum reimbursement by the Department of Homeland Security which may be made under section 3374(c) of such title with respect to such individual for the period of the assignment (including for any employee benefits) may not exceed the total amount of basic pay that would

have been payable for such period if such individual had been paid, at the highest rate allowable under section 5382 of such title, as a member of the Senior Executive Service.

SEC. 507. INTEGRITY IN POST-EMPLOYMENT.

(a) DESIGNATIONS AS SEPARATE AGENCIES AND BUREAUS BARRED.—No agency, bureau, or other entity of the Department of Homeland Security may be designated under section 207(h)(1) of title 18, United States Code, as a separate agency or bureau.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section takes effect on the later of—

(A) June 6, 2007; or

(B) the date of the enactment of this Act.

(2) APPLICABILITY TO DESIGNATIONS.—The following shall cease to be effective on the date this section takes effect under paragraph (1):

(A) Any waiver of restrictions made under section 207(c)(2)(C) of title 18, United States Code, before the enactment of this Act, with respect to any position, or category of positions, in the Department of Homeland Security.

(B) Any designation of an agency, bureau, or other entity in the Department of Homeland Security, before the enactment of this Act, under section 207(h)(1) of title 18, United States Code, as a separate agency or bureau.

SEC. 508. INCREASED SECURITY SCREENING OF HOMELAND SECURITY OFFICIALS.

(a) REVIEW REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall conduct a Department-wide review of the Department of Homeland Security security clearance and suitability review procedures for Department employees and contractors, as well as individuals in State and local government agencies and private sector entities with a need to receive classified information.

(b) STRENGTHENING OF SECURITY SCREENING POLICIES.—

(1) IN GENERAL.—Based on the findings of the review conducted under subsection (a), the Secretary shall, as appropriate, take all necessary steps to strengthen the Department's security screening policies, including consolidating the security clearance investigative authority at the headquarters of the Department.

(2) ELEMENTS.—In strengthening security screening policies under paragraph (1), the Secretary shall consider whether and where appropriate ensure that—

(A) all components of the Department of Homeland Security meet or exceed Federal and Departmental standards for security clearance investigations, adjudications, and suitability reviews;

(B) the Department has a cadre of well-trained adjudicators and the Department has in place a program to train and oversee adjudicators; and

(C) suitability reviews are conducted for all Department of Homeland Security employees who transfer from a component of the Department to the headquarters of the Departmental.

SEC. 509. AUTHORITIES OF CHIEF SECURITY OFFICER.

(a) ESTABLISHMENT.—Title VII of the Homeland Security Act of 2002 (6 U.S.C. 341 et seq.) is further amended by adding at the end the following:

''SEC. 708. CHIEF SECURITY OFFICER.

''(a) ESTABLISHMENT.—There is in the Department a Chief Security Officer.

''(b) RESPONSIBILITIES.—The Chief Security Officer shall—

''(1) have responsibility for personnel security, facility access, security awareness, and related training;

''(2) ensure that each component of the Department complies with Federal standards for security clearances and background investigations;

''(3) ensure, to the greatest extent practicable, that individuals in State and local government agencies and private sector entities with a need to receive classified information, receive the appropriate clearances in a timely fashion; and

''(4) perform all other functions as determined by the Secretary.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the items relating to such title the following new item:

''Sec. 708. Chief Security Officer.''.

SEC. 510. DEPARTMENTAL CULTURE IMPROVEMENT.

(a) CONSIDERATION REQUIRED.—The Secretary of Homeland Security, acting through the Chief Human Capital Officer, shall consider implementing recommendations set forth in the Homeland Security Advisory Council Culture Task Force Report of January 2007.

(b) IDENTIFICATION OF TERMS.—As part of this consideration, the Secretary, acting through the Chief Human Capital Officer, shall identify an appropriate term, as among ''workforce'', ''personnel'', and ''employee'', to replace ''human capital'' and integrate its use throughout the operations, policies, and programs of the Department of Homeland Security.

SEC. 511. HOMELAND SECURITY EDUCATION PROGRAM ENHANCEMENTS.

Section 845(b) of the Homeland Security Act of 2002 (6 U.S.C. 415(b)) is amended to read as follows:

''(b) LEVERAGING OF EXISTING RESOURCES.—To maximize efficiency and effectiveness in carrying out the Program, the Administrator shall use curricula modeled on existing Department-reviewed Master's Degree curricula in homeland security, including curricula pending accreditation, together with associated learning materials, quality assessment tools, digital libraries, asynchronous distance learning, video conferencing, exercise systems, and other educational facilities, including the National Domestic Preparedness Consortium, the National Fire Academy, and the Emergency Management Institute. The Administrator may develop additional educational programs, as appropriate.''.

SEC. 512. REPEAL OF CHAPTER 97 OF TITLE 5, UNITED STATES CODE.

(a) REPEAL.—

(1) IN GENERAL.—Effective as of the date specified in section 4 of the Homeland Security Act of 2002 (6 U.S.C. 101 note), chapter 97 of title 5, United States Code (as added by section 841(a)(2) of such Act), section 841(b)(3) of such Act, and subsections (c) and (e) of section 842 of such Act are repealed.

(2) REGULATIONS.—Any regulations prescribed under authority of chapter 97 of title 5, United States Code, are void ab initio.

(b) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by striking the item relating to chapter 97.

SEC. 513. UTILIZATION OF NON-LAW ENFORCEMENT FEDERAL EMPLOYEES AS INSTRUCTORS FOR NON-LAW ENFORCEMENT CLASSES AT THE BORDER PATROL TRAINING ACADEMY.

The Director of the Federal Law Enforcement Training Center (FLETC) of the Department of Homeland Security, in consultation with the Chief of the Border Patrol, is authorized to select appropriate employees of the Federal Government other than law enforcement officers (as defined in section 8401(17) of title 5, United States Code) to serve as instructors of non-law enforcement classes.

TITLE VI—BIOPREPAREDNESS IMPROVEMENTS

SEC. 601. CHIEF MEDICAL OFFICER AND OFFICE OF HEALTH AFFAIRS.

Section 516 of the Homeland Security Act of 2002 (6 U.S.C. 321e) is amended to read as follows:

''SEC. 516. CHIEF MEDICAL OFFICER.

''(a) IN GENERAL.—There is in the Department a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall have the rank and title of Assistant Secretary for Health Affairs and Chief Medical Officer (in this section referred to as the 'Chief Medical Officer').

''(b) OFFICE OF HEALTH AFFAIRS.—There is in the Department an Office of Health Affairs, which shall be headed by the Chief Medical Officer.

''(c) QUALIFICATIONS.—The individual appointed as the Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine, public health, and the treatment of illnesses caused by chemical, biological, nuclear, and radiological agents.

''(d) RESPONSIBILITIES.—The Chief Medical Officer shall have the primary responsibility within the Department for medical and health issues related to the general roles, responsibilities, and operations of the Department, and terrorist attacks, major disasters, and other emergencies, including—

''(1) serving as the principal advisor to the Secretary and leading the Department's medical care, public health, food, water, veterinary care, and agro- security and defense responsibilities;

''(2) providing oversight for all medically-related actions and protocols of the Department's medical personnel;

''(3) administering the Department's responsibilities for medical readiness, including—

''(A) planning and guidance to support improvements in local training, equipment, and exercises funded by the Department; and

''(B) consistent with the National Response Plan established pursuant to Homeland Security Presidential Directive 8, assisting in fulfilling the Department's roles in related emergency support functions;

''(4) serving as the Department's primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments and agencies, on all matters of medical and public health to ensure coordination consistent with the National Response Plan;

''(5) serving as the Department's primary point of contact for State, local, tribal, and territorial governments, the medical community, and the private sector, to ensure that medical readiness and response activities are coordinated and consistent with the National Response Plan and the Secretary's incident management requirements;

''(6) managing the Department's biodefense and biosurveillance activities including the National Biosurveillance Integration System, and the Departments responsibilities under Project BioShield in coordination with the Under Secretary of Science and Technology as appropriate;

''(7) assuring that the Department's workforce has science-based policy, standards, requirements, and metrics for occupational safety and health;

''(8) supporting the operational requirements of the Department's components with respect to protective medicine and tactical medical support;

''(9) developing, in coordination with appropriate Department entities and other appropriate Federal agencies, end-to-end plans for prevention, readiness, protection, response, and recovery from catastrophic events with human, animal, agricultural, or environmental health consequences;

''(10) integrating into the end-to-end plans developed under paragraph (9), Department of Health and Human Services' efforts to identify and deploy medical assets (including human, fixed, and material assets) used in preparation for or response to national disasters and catastrophes, and to enable access to patient electronic medical records by medical personnel to aid treatment of displaced persons in such circumstance, in order to assure that actions of

both Departments are combined for maximum effectiveness during an emergency consistent with the National Response Plan and applicable emergency support functions;

''(11) performing other duties relating to such responsibilities as the Secretary may require; and

''(12) directing and maintaining a coordinated system for medical support of the Department's operational activities.''.

SEC. 602. IMPROVING THE MATERIAL THREATS PROCESS.

(a) IN GENERAL.—Section 319F–2(c)(2)(A) of the Public Health Service Act (42 U.S.C. 247d–6b(c)(2)(A)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by moving each of such subclauses two ems to the right;

(3) by striking ''(A) MATERIAL THREAT.—The Homeland Security Secretary'' and inserting the following:

''(A) MATERIAL THREAT.—

''(i) IN GENERAL.—The Secretary of Homeland Security''; and

(4) by adding at the end the following clauses:

''(ii) USE OF EXISTING RISK ASSESSMENTS.—For the purpose of satisfying the requirements of clause (i) as expeditiously as possible, the Secretary of Homeland Security shall, as practicable, utilize existing risk assessments that the Secretary of Homeland Security, in consultation with the Secretaries of Health and Human Services, Defense, and Agriculture, and the heads of other appropriate Federal agencies, considers credible.

''(iii) ORDER OF ASSESSMENTS.—

''(I) GROUPINGS TO FACILITATE ASSESSMENT OF COUNTERMEASURES.—In conducting threat assessments and determinations under clause (i) of chemical, biological, radiological, and nuclear agents, the Secretary of Homeland Security shall, to the extent practicable and appropriate, consider the completion of such assessments and determinations for groups of agents toward the goal of facilitating the assessment of countermeasures under paragraph (3) by the Secretary of Health and Human Services.

''(II) CATEGORIES OF COUNTERMEASURES.—The grouping of agents under subclause (I) by the Secretary of Homeland Security shall be designed to facilitate assessments under paragraph (3) by the Secretary of Health and Human Services regarding the following two categories of countermeasures:

''(aa) Countermeasures that may address more than one agent identified under clause (i)(II).

''(bb) Countermeasures that may address adverse health consequences that are common to exposure to different agents.

''(III) RULE OF CONSTRUCTION.—A particular grouping of agents pursuant to subclause (II) is not required under such subclause to facilitate assessments of both categories of countermeasures described in such subclause. A grouping may concern one category and not the other.

''(iv) DEADLINE FOR COMPLETION OF CERTAIN MATERIAL THREAT DETERMINATIONS.—With respect to chemical, biological, radiological, and nuclear agents known to the Secretary of Homeland Security as of the day before the date of the enactment of this clause, and which such Secretary considers to be capable of significantly affecting national security, such Secretary shall complete the determinations under clause (i)(II) not later than December 31, 2007.

''(v) REPORT TO CONGRESS.—Not later than 30 days after the date on which the Secretary of Homeland Security completes a material threat assessment under clause (i), the Secretary shall submit to Congress a report containing the results of such assessment.

''(vi) DEFINITION.—For purposes of this subparagraph, the term 'risk assessment' means a scientific, technically-based analysis of agents that incorporates threat, vulnerability, and consequence information.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 521(d) of the Homeland Security Act of 2002 (6 U.S.C. 321j(d)) is amended—

(1) in paragraph (1), by striking ''2006,'' and inserting ''2009,''; and

(2) by adding at the end the following:

''(3) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS REGARDING CERTAIN THREAT ASSESSMENTS.—For the purpose of providing an additional amount to the Secretary to assist the Secretary in meeting the requirements of clause (iv) of section 319F–2(c)(2)(A) of the Public Health Service Act (relating to time frames), there are authorized to be appropriated such sums as may be necessary for fiscal year 2008, in addition to the authorization of appropriations established in paragraph (1). The purposes for which such additional amount may be expended include conducting risk assessments regarding clause (i)(II) of such section when there are no existing risk assessments that the Secretary considers credible.''.

SEC. 603. STUDY ON NATIONAL BIODEFENSE TRAINING.

(a) STUDY REQUIRED.—The Secretary of Homeland Security shall, in consultation with the Secretary of Defense and the Secretary for Health and Human Services, conduct a joint study to determine the staffing and training requirements for pending capital programs to construct biodefense laboratories (including agriculture and animal laboratories) at Biosafety Level 3 and Biosafety Level 4 or to expand current biodefense laboratories to such biosafety levels.

(b) ELEMENTS.—In conducting the study, the Secretaries shall address the following:

(1) The number of trained personnel, by discipline and qualification level, required for existing biodefense laboratories at Biosafety Level 3 and Biosafety Level 4, including the number trained in Good Laboratory Practices (GLP).

(2) The number of research and support staff, including researchers, laboratory technicians, animal handlers, facility managers, facility or equipment maintainers, safety and security personnel (including biosafety, physical security, and cybersecurity personnel), and other safety personnel required to manage biodefense research efforts to combat bioterrorism at the planned biodefense laboratories described in subsection (a).

(3) The training required to provide the personnel described by paragraphs (1) and (2), including the type of training (whether classroom, laboratory, or field training) required, the length of training required by discipline, and the curriculum required to be developed for such training.

(4) Training schedules necessary to meet the scheduled openings of the biodefense laboratories described in subsection (a), including schedules for refresher training and continuing education that may be necessary for that purpose.

(c) REPORT.—Not later than December 31, 2007, the Secretaries shall submit to Congress a report setting forth the results of the study conducted under this section.

SEC. 604. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following new section:

''SEC. 316. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

''(a) ESTABLISHMENT.—The Secretary shall establish a National Biosurveillance Integration Center (referred to in this section as the 'NBIC') to enhance the capability of the Federal Government to rapidly identify, characterize, and localize a biological event by integrating and analyzing data related to human health, animals, plants, food, and the environment. The NBIC shall be headed by a Director.

''(b) INTEGRATED BIOSURVEILLANCE NETWORK.—As part of the NBIC, the Director shall develop, operate, and maintain an integrated network to detect, as early as possible, a biological event that presents a risk to the United States or the infrastructure or key assets of the United States. The network shall—

''(1) consolidate data from all relevant surveillance systems maintained by the Department and other governmental and private sources, both foreign and domestic, to the extent practicable; and

''(2) use an information technology system that uses the best available statistical and other analytical tools to identify and characterize biological events in as close to real-time as possible.

''(c) RESPONSIBILITIES.—

''(1) IN GENERAL.—The Director shall—

''(A) monitor on an ongoing basis the availability and appropriateness of candidate data feeds and solicit new surveillance systems with data that would enhance biological situational awareness or overall performance of the NBIC;

''(B) review and seek to improve on an ongoing basis the statistical and other analytical methods used by the NBIC;

''(C) establish a procedure to enable Federal, State and local government, and private sector entities to report suspicious events that could warrant further assessments by the NBIC;

''(D) receive and consider all relevant homeland security information; and

''(E) provide technical assistance, as appropriate, to all Federal, State, and local government entities and private sector entities that contribute data relevant to the operation of the NBIC.

''(2) ASSESSMENTS.—The Director shall—

''(A) continuously evaluate available data for evidence of a biological event; and

''(B) integrate homeland security information with NBIC data to provide overall biological situational awareness and determine whether a biological event has occurred.

''(3) INFORMATION SHARING.—The Director shall—

''(A) establish a mechanism for real-time communication with the National Operations Center;

''(B) provide integrated information to the heads of the departments and agencies with which the Director has entered into an agreement under subsection (d);

''(C) notify the Secretary, the head of the National Operations Center, and the heads of appropriate Federal, State, tribal, and local entities of any significant biological event identified by the NBIC;

''(D) provide reports on NBIC assessments to Federal, State, and local government entities, including departments and agencies with which the Director has entered into an agreement under subsection (d), and any private sector entities, as considered appropriate by the Director; and

''(E) use information sharing networks available to the Department for distributing NBIC incident or situational awareness reports.

''(d) INTERAGENCY AGREEMENTS.—

''(1) IN GENERAL.—The Secretary shall, where feasible, enter into agreements with the heads of appropriate Federal departments and agencies, including the Department of Health and Human Services, Department of Defense, the Department of Agriculture, the Department of State, the Department of Interior, and the Intelligence Community.

''(2) CONTENT OF AGREEMENTS.—Under an agreement entered into under paragraph (1), the head of a Federal department or agency shall agree to—

''(A) use the best efforts of the department or agency to integrate biosurveillance information capabilities through NBIC;

''(B) provide timely, evaluated information to assist the NBIC in maintaining biological situational awareness for timely and accurate detection and response purposes;

''(C) provide connectivity for the biosurveillance data systems of the department or agency

to the NBIC network under mutually agreed protocols;

''(D) detail, if practicable, to the NBIC department or agency personnel with relevant expertise in human, animal, plant, food, or environmental disease analysis and interpretation;

''(E) retain responsibility for the surveillance and intelligence systems of that department or agency, if applicable; and

''(F) participate in forming the strategy and policy for the operation and information sharing practices of the NBIC.

''(e) NOTIFICATION OF DIRECTOR.—The Secretary shall ensure that the Director is notified of homeland security information relating to any significant biological threat and receives all classified and unclassified reports related to such a threat in a timely manner.

''(f) ADMINISTRATIVE AUTHORITIES.—

''(1) PRIVACY.—The Secretary shall—

''(A) designate the NBIC as a public health authority;

''(B) ensure that the NBIC complies with any applicable requirements of the Health Insurance Portability and Accountability Act of 1996; and

''(C) ensure that all applicable privacy regulations are strictly adhered to in the operation of the NBIC and the sharing of any information related to the NBIC.

''(2) COLLECTION OF INFORMATION.—The NBIC, as a public health authority with a public health mission, is authorized to collect or receive health information, including such information protected under the Health Insurance Portability and Accountability Act of 1996, for the purpose of preventing or controlling disease, injury, or disability.

''(g) NBIC INTERAGENCY WORKING GROUP.—The Director shall—

''(1) establish an interagency working group to facilitate interagency cooperation to advise the Director on recommendations to enhance the biosurveillance capabilities of the Department; and

''(2) invite officials of Federal agencies that conduct biosurveillance programs, including officials of the departments and agencies with which the Secretary has entered into an agreement under subsection (d), to participate in the working group.

''(h) ANNUAL REPORT REQUIRED.—Not later than December 31 of each year, the Secretary shall submit to Congress a report that contains each of the following:

''(1) A list of departments, agencies, and private or nonprofit entities participating in the NBIC and a description of the data that each entity has contributed to the NBIC during the preceding fiscal year.

''(2) The schedule for obtaining access to any relevant biosurveillance information not received by the NBIC as of the date on which the report is submitted.

''(3) A list of Federal, State, and local government entities and private sector entities that have direct or indirect access to the information that is integrated by the NBIC.

''(4) For any year before the NBIC is fully implemented or any year in which any major structural or institutional change is made to the NBIC, an implementation plan for the NBIC that includes cost, schedule, key milestones, and the status of such milestones.

''(i) RELATIONSHIP TO OTHER DEPARTMENTS AND AGENCIES.—The authority of the Secretary under this section shall not affect an authority or responsibility of any other Federal department or agency with respect to biosurveillance activities under any program administered by that department or agency.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year.

''(k) BIOLOGICAL EVENT.—For purposes of this section, the term 'biological event' means—

''(1) an act of terrorism involving biological agents or toxins of known or unknown origin; or

''(2) a naturally occurring outbreak of an infectious disease that may be of potential national significance.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the items relating to such title the following:

''Sec. 316. National Biosurveillance Integration Center.''.

(c) DEADLINE FOR IMPLEMENTATION.—The National Biosurveillance Integration Center required under section 316 of the Homeland Security Act of 2002, as added by subsection (a), shall be fully operational by not later than September 30, 2008.

SEC. 605. RISK ANALYSIS PROCESS AND INTEGRATED CBRN RISK ASSESSMENT.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is further amended by adding at the end the following:

''SEC. 317. RISK ANALYSIS PROCESS AND INTEGRATED CBRN RISK ASSESSMENT.

''(a) RISK ANALYSIS PROCESS.—The Secretary shall develop a risk analysis process that utilizes a scientific, quantitative methodology to assess and manage risks posed by chemical, biological, radiological, and nuclear (CBRN) agents.

''(b) INTEGRATED CBRN RISK ASSESSMENT.—The Secretary shall use the process developed under subsection (a) to conduct a risk assessment that shall support the integration of chemical, biological, radiological, and nuclear agents.

''(c) PURPOSE.—The purpose of the risk analysis process developed under subsection (a) and the integrated risk assessment conducted under subsection (b) shall be to identify high risk agents, determine how best to mitigate those risks, and guide resource allocation. Such risk analysis shall—

''(1) facilitate satisfaction of the requirements of section 602;

''(2) guide research, development, acquisition, and deployment of applicable countermeasures, including detection systems;

''(3) identify key knowledge gaps or vulnerabilities in the CBRN defense posture of the Department;

''(4) enable rebalancing and refining of investments within individual classes of threat agents as well as across such classes; and

''(5) support end-to-end assessments of the overall CBRN defense policy of the Department, taking into account the full spectrum of countermeasures available, including prevention, preparedness, planning, response and recovery activities, to better steer investments to strategies with the greatest potential for mitigating identified risks.

''(d) RISK INFORMATION.—

''(1) CLASSES OF THREAT AGENTS.—In developing the risk analysis process under subsection (a) and conducting the risk assessment under subsection (b), the Secretary shall consider risks posed by the following classes of threats:

''(A) Chemical threats, including—

''(i) toxic industrial materials and chemicals;

''(ii) traditional chemical warfare agents; and

''(iii) non-traditional agents, which are defined as novel chemical threat agents or toxicants requiring adapted countermeasures.

''(B) Biological threats, including—

''(i) traditional agents listed by the Centers of Disease Control and Prevention as Category A, B, and C pathogens and toxins;

''(ii) enhanced agents, which are defined as traditional agents that have been modified or selected to enhance their ability to harm human populations or circumvent current countermeasures;

''(iii) emerging agents, which are defined as previously unrecognized pathogens that may be naturally occurring and present a serious risk to human populations; and

''(iv) advanced or engineered agents, which are defined as novel pathogens or other materials of biological nature that have been artificially engineered in the laboratory to bypass traditional countermeasures or produce a more severe or otherwise enhanced spectrum of disease.

''(C) Nuclear and radiological threats, including fissile and other radiological material that could be incorporated into an improvised nuclear device or a radiological dispersal device or released into a wide geographic area by damage to a nuclear reactor.

''(D) Threats to the agriculture sector and food and water supplies.

''(E) Other threat agents the Secretary determines appropriate.

''(2) SOURCES.—The risk analysis process developed under subsection (a) shall be informed by findings of the intelligence and law enforcement communities and integrated with expert input from the scientific, medical, and public health communities, including from relevant components of the Department and other Federal agencies.

''(3) DATA QUALITY, SPECIFICITY, AND CONFIDENCE.—In developing the risk analysis process under subsection (a), the Secretary shall consider the degree of uncertainty and variability in the available scientific information and other information about the classes of threat agents under paragraph (1). An external review shall be conducted to assess the ability of the risk analysis process developed by the Secretary to address areas of large degrees of uncertainty.

''(4) NEW INFORMATION.—The Secretary shall frequently and systematically update the risk assessment conducted under subsection (b), as needed, to incorporate emerging intelligence information or technological changes in order to keep pace with evolving threats and rapid scientific advances.

''(e) METHODOLOGY.—The risk analysis process developed by the Secretary under subsection (a) shall—

''(1) consider, as variables—

''(A) threat, or the likelihood that a type of attack that might be attempted;

''(B) vulnerability, or the likelihood that an attacker would succeed; and

''(C) consequence, or the likely impact of an attack;

''(2) evaluate the consequence component of risk as it relates to mortality, morbidity, and economic effects;

''(3) allow for changes in assumptions to evaluate a full range of factors, including technological, economic, and social trends, which may alter the future security environment;

''(4) contain a well-designed sensitivity analysis to address high degrees of uncertainty associated with the risk analyses of certain CBRN agents;

''(5) utilize red teaming analysis to identify vulnerabilities an adversary may discover and exploit in technology, training, and operational procedures and to identify open-source information that could be used by those attempting to defeat the countermeasures; and

''(6) incorporate an interactive interface that makes results and limitations transparent and useful to decision makers for identifying appropriate risk management activities.

''(f) COORDINATION.—The Secretary shall ensure that all risk analysis activities with respect to radiological or nuclear materials shall be conducted in coordination with the Domestic Nuclear Detection Office.

''(g) TIMEFRAME; REPORTS TO CONGRESS.—

''(1) INITIAL REPORT.—By not later than June 2008, the Secretary shall complete the first formal, integrated, CBRN risk assessment required under subsection (b) and shall submit to Congress a report summarizing the findings of such assessment and identifying improvements that could be made to enhance the transparency and usability of the risk analysis process developed under subsection (a).

''(2) UPDATES TO REPORT.—The Secretary shall submit to Congress updates to the findings

and report in paragraph (1), when appropriate, but by not later than two years after the date on which the initial report is submitted. Such updates shall reflect improvements in the risk analysis process developed under subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the items relating to such title the following:

''Sec. 317. Risk analysis process and integrated CBRN risk assessment.''.

SEC. 606. NATIONAL BIO AND AGRO-DEFENSE FACILITY.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6. U.S.C. 181 et seq.) is further amended by adding at the end the following new section:

''SEC. 318. NATIONAL BIO AND AGRO-DEFENSE FACILITY.

''(a) ESTABLISHMENT.—There is in the Department a National Bio and Agro-defense Facility (referred to in this section as the 'NBAF'), which shall be headed by a Director who shall be appointed by the Secretary.

''(b) PURPOSES.—

''(1) IN GENERAL.—The NBAF shall be an integrated human, foreign-animal, and zoonotic disease research, development, testing, and evaluation facility with the purpose of supporting the complementary missions of the Department, the Department of Agriculture, and the Department of Health and Human Services in defending against the threat of potential acts of agroterrorism and natural-occurring incidents related to agriculture with the potential to adversely impact public health, animal health, and the economy, or may otherwise impact homeland security.

''(2) KNOWLEDGE PRODUCTION AND SHARING.—The NBAF shall produce and share knowledge and technology for the purpose of reducing economic losses caused by foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases of livestock and poultry, and preventing human suffering and death caused by diseases existing or emerging in the agricultural sector.

''(c) RESPONSIBILITIES OF DIRECTOR.—The Secretary shall vest in the Director primary responsibility for each of the following:

''(1) Directing basic, applied, and advanced research, development, testing, and evaluation relating to foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases, including foot and mouth disease, and performing related activities, including—

''(A) developing countermeasures for foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases, including diagnostics, vaccines and therapeutics;

''(B) providing advanced test and evaluation capability for threat detection, vulnerability, and countermeasure assessment for foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases;

''(C) conducting nonclinical, animal model testing and evaluation under the Food and Drug Administration's Animal Rule as defined in parts 314 and 601 of title 22, Code of Federal Regulations, to support the development of human medical countermeasures by the Department of Human Services under the Public Health Service Act (42 U.S.C. 201 et seq);

''(D) establishing NBAF information-sharing mechanisms to share information with relevant stakeholders, including the National Animal Health Laboratory Network; and

''(E) identifying and promoting uniform national standards for animal disease diagnostics.

''(2) Facilitating the coordination of Federal, State, and local governmental research and development efforts and resources relating to protecting public health and animal health from foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases.

''(3) Ensuring public safety during an emergency by developing an emergency response plan under which emergency response providers in the community are sufficiently prepared or trained to respond effectively and given sufficient notice to allow for an effective response.

''(4) Ensuring NBAF site and facility security.

''(5) Providing training to develop skilled research and technical staff with the needed expertise in operations conducted at biological and agricultural research facilities.

''(6) Leveraging the expertise of academic institutions, industry, the Department of Energy National Laboratories, State and local governmental resources, and professional organizations involved in veterinary, medical and public health, and agriculture issues to carry out functions describes in (1) and (2).

''(d) REQUIREMENTS.—The Secretary, in designing and constructing the NBAF, shall ensure that the facility meets the following requirements:

''(1) The NBAF shall consist of state-of-the-art biocontainment laboratories capable of performing research and activities at Biosafety Level 3 and 4, as designated by the Centers for Disease Control and Prevention and the National Institutes of Health.

''(2) The NBAF facility shall be located on a site of at least 30 acres that can be readily secured by physical measure.

''(3) The NBAF facility shall be at least 500,000 square feet with a capacity of housing a minimum of 80 large animals for research, testing and evaluation;

''(4) The NBAF shall be located at a site with a preexisting utility infrastructure, or a utility infrastructure that can be easily built.

''(5) The NBAF shall be located at a site that has been subject to an Environmental Impact Statement under the National Environmental Policy Act of 1969.

''(6) The NBAF shall be located within a reasonable proximity to a national or regional airport and to major roadways.

''(e) AUTHORIZATION TO PROCURE REAL PROPERTY AND ACCEPT IN KIND DONATIONS FOR THE NBAF SITE.—The Secretary may accept and use donations of real property for the NBAF site and may accept and use in-kind donations of real property, personal property, laboratory and office space, utility services, and infrastructure upgrades for the purpose of assisting the Director in carrying out the responsibilities of the Director under this section.

''(f) APPLICABILITY OF OTHER LAWS.—

''(1) PUBLIC BUILDINGS ACT.—The NBAF shall not be considered a ''public building'' for purposes of the Public Buildings Act of 1959 (40 U.S.C. 3301 et seq.).

''(2) LIVE VIRUS OF FOOT AND MOUTH DISEASE RESEARCH.—The Secretary shall enable the study of live virus of foot and mouth disease at the NBAF, wherever it is sited, notwithstanding section 113a of title 21, United States Code.

''(g) COORDINATION.—

''(1) INTERAGENCY AGREEMENTS.—

''(A) IN GENERAL.—The Secretary shall enter into understandings or agreements with the heads of appropriate Federal departments and agencies, including the Secretary of Agriculture and the Secretary of Health and Human Services, to define the respective roles and responsibilities of each Department in carrying out foreign-animal, zoonotic, and other endemic animal disease research and development at the NBAF to protect public health and animal health.

''(B) DEPARTMENT OF AGRICULTURE.—The understanding or agreement entered into with the Secretary of Agriculture shall include a provision describing research programs and functions of the Department of Agriculture and the Department of Homeland Security, including those research programs and functions carried out at the Plum Island Animal Disease Center and those research programs and functions that will be transferred to the NBAF.

''(C) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The understanding or agreement entered into with the Department of Health and Human Services shall describe research programs of the Department of Health and Human Services that may relate to work conducted at NBAF.

''(2) COOPERATIVE RELATIONSHIPS.—The Director shall form cooperative relationships with the National Animal Health Laboratory Network and American Association of Veterinary Laboratory Diagnosticians to connect with the network of Federal and State resources intended to enable an integrated, rapid, and sufficient response to animal health emergencies.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is further amended by adding at the end of the items relating to such title the following:

''Sec. 318. National Bio and Agro-defense Facility.''.

TITLE VII—HOMELAND SECURITY CYBERSECURITY IMPROVEMENTS

SEC. 701. CYBERSECURITY AND COMMUNICATIONS.

(a) IN GENERAL.—Subtitle C of title II of the Homeland Security Act of 2002 (6 U.S.C. 141 et seq.) is amended by adding at the end the following new section:

''SEC. 226. OFFICE OF CYBERSECURITY AND COMMUNICATIONS.

''(a) IN GENERAL.—There shall be within the Department of Homeland Security an Office of Cybersecurity and Communications, which shall be headed by the Assistant Secretary for Cybersecurity and Communications.

''(b) DUTY OF THE ASSISTANT SECRETARY.—The Assistant Secretary shall assist the Secretary in carrying out the responsibilities of the Department regarding cybersecurity and communications.

''(c) RESPONSIBILITIES.—The Assistant Secretary shall be responsible for overseeing preparation, situational awareness, response, reconstitution, and mitigation necessary for cybersecurity and to protect communications from terrorist attacks, major disasters, and other emergencies, including large-scale disruptions, and shall conduct the following activities to execute those responsibilities:

''(1) PREPARATION AND SITUATIONAL AWARENESS.—

''(A) Establish and maintain a capability within the Department to monitor critical information infrastructure to aid in detection of vulnerabilities and warning of potential acts of terrorism and other attacks.

''(B) Conduct risk assessments on critical information infrastructure with respect to acts of terrorism and other large-scale disruptions, identify and prioritize vulnerabilities in critical information infrastructure, and coordinate the mitigation of such vulnerabilities.

''(C) Develop a plan for the continuation of critical information operations in the event of a cyber attack or other large-scale disruption of the information infrastructure of the United States.

''(D) Oversee an emergency communications system in the event of an act of terrorism or other large-scale disruption of the information infrastructure of the United States.

''(2) RESPONSE AND RECONSTITUTION.—

''(A) Define what qualifies as a cyber incident of national significance for purposes of the National Response Plan.

''(B) Ensure that the Department's priorities, procedures, and resources are in place to reconstitute critical information infrastructures in the event of an act of terrorism or other large-scale disruption.

''(3) MITIGATION.—

''(A) Develop a national cybersecurity awareness, training, and education program that promotes cybersecurity awareness within the Federal Government and throughout the Nation.

''(B) Consult and coordinate with the Under Secretary for Science and Technology on cybersecurity research and development to

strengthen critical information infrastructure against acts of terrorism and other large-scale disruptions.

''(d) DEFINITION.—In this section the term 'critical information infrastructure' means systems and assets, whether physical or virtual, used in processing, transferring, and storing information so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting at the end of the items relating to subtitle C of title II the following:

''Sec. 226. Office of Cybersecurity and Communications.''.

SEC. 702. CYBERSECURITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Under Secretary for Science and Technology shall support research, development, testing, evaluation, and transition of cybersecurity technology, including fundamental, long-term research to improve the ability of the United States to prevent, protect against, detect, respond to, and recover from acts of terrorism and cyber attacks, with emphasis on research and development relevant to large-scale, high-impact attacks.

(b) ACTIVITIES.—The research and development supported under subsection (a) shall include work to—

(1) advance the development and accelerate the deployment of more secure versions of fundamental Internet protocols and architectures, including for the domain name system and routing protocols;

(2) improve and create technologies for detecting attacks or intrusions, including monitoring technologies;

(3) improve and create mitigation and recovery methodologies, including techniques for containment of attacks and development of resilient networks and systems that degrade gracefully;

(4) develop and support infrastructure and tools to support cybersecurity research and development efforts, including modeling, testbeds, and data sets for assessment of new cybersecurity technologies;

(5) assist the development and support of technologies to reduce vulnerabilities in process control systems (PCS); and

(6) test, evaluate, and facilitate the transfer of technologies associated with the engineering of less vulnerable software and securing the IT software development lifecycle.

(c) COORDINATION.—In carrying out this section, the Under Secretary for Science and Technology shall coordinate activities with—

(1) the Assistant Secretary for Cybersecurity and Communications; and

(2) other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, the Information Assurance Directorate of the National Security Agency, the National Institute of Standards and Technology, and other appropriate working groups established by the President to identify unmet needs and cooperatively support activities, as appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized by section 101, there is authorized to be appropriated for the Department of Homeland Security for fiscal year 2008, $50,000,000, for the cybersecurity research and development activities of the Directorate for Science and Technology to prevent, detect, and respond to acts of terrorism and other large-scale disruptions to information infrastructure.

TITLE VIII—SCIENCE AND TECHNOLOGY IMPROVEMENTS

SEC. 801. REPORT TO CONGRESS ON STRATEGIC PLAN.

Not later than 120 days after the date of enactment of this Act, the Under Secretary for Science and Technology shall transmit to Congress the strategic plan described in section 302(2) of the Homeland Security Act of 2002 (6 U.S.C. 182(2)). In addition to the requirements described in that section 302(2), the strategic plan transmitted under this section shall include—

(1) a strategy to enhance the Directorate for Science and Technology workforce, including education and training programs, improving morale, minimizing turnover, strengthening workforce recruitment, and securing institutional knowledge;

(2) the Department policy describing the procedures by which the Directorate for Science and Technology hires and administers assignments to individuals assigned to the Department as detailees under an arrangement described in subchapter VI of chapter 33 of title 5, United States Code;

(3) the Department policy governing the responsibilities of the Under Secretary for Science and Technology, the Under Secretary for Policy, and the Under Secretary for Management, and the operational components of the Department regarding research, development, testing, evaluation, and procurement of homeland security technologies;

(4) a description of the methodology by which research, development, testing, and evaluation is prioritized and funded by the Directorate for Science and Technology;

(5) a description of the performance measurements to be used or a plan to develop performance measurements that can be used to annually evaluate the Directorate for Science and Technology's activities, mission performance, and stewardship of resources;

(6) a plan for domestic and international coordination of all related programs and activities within the Department and throughout Federal agencies, State, local, and tribal governments, the emergency responder community, industry, and academia;

(7) a plan for leveraging the expertise of the National Laboratories and the process for allocating funding to the National Laboratories; and

(8) a strategy for the Homeland Security Advanced Research Projects Agency that includes—

(A) a mission statement;

(B) a description of the Department's high risk and high payoff research, development, test, and evaluation strategy; and

(C) internal policies designed to encourage innovative solutions.

SEC. 802. CENTERS OF EXCELLENCE PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized by section 101, there is authorized to be appropriated to the Secretary of Homeland Security for carrying out the Centers of Excellence Program $31,000,000 for fiscal year 2008 such that each center that received funding in fiscal year 2007 shall receive, at a minimum, the same amount it received in fiscal year 2007.

(b) MINORITY SERVING INSTITUTIONS PROGRAM.—Of the amount authorized by section 101, there is authorized to be appropriated to the Secretary of Homeland Security for carrying out the Minority Serving Institutions Program $8,000,000 for fiscal year 2008.

(c) CENTERS OF EXCELLENCE PROGRAM PARTICIPATION.—

(1) REQUIREMENT.—If, by the date of the enactment of this Act, the Secretary of Homeland Security has not selected a Minority Serving Institution to participate as a Center of Excellence under the Department of Homeland Security Centers of Excellence Program, at least one of the next four Centers of Excellence selected after the date of enactment of this Act shall be an otherwise eligible applicant that is a Minority Serving Institution.

(2) MINORITY SERVING INSTITUTION DEFINED.—In this subsection the term ''Minority Serving Institution'' means—

(A) an historically black college or university that receives assistance under part B of title III of the Higher Education Act of 1965 (20 U.S.C. 106 et seq);

(B) an Hispanic-serving institution (as that term is defined in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a); or

(C) a tribally controlled college or university (as that term is defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801)).

SEC. 803. NATIONAL RESEARCH COUNCIL STUDY OF UNIVERSITY PROGRAMS.

(a) STUDY.—Not later than 3 months after the date of enactment of this Act, the Under Secretary for Science and Technology of the Department of Homeland Security shall seek to enter into an agreement with the National Research Council of the National Academy of Sciences to conduct a study to assess the University Programs of the Department, with an emphasis on the Centers of Excellence Program and the future plans for these programs, and make recommendations for appropriate improvements.

(b) SUBJECTS.—The study shall include—

(1) a review of key areas of study needed to support the homeland security mission, and criteria that should be utilized to determine those key areas for which the Department should maintain or establish Centers of Excellence;

(2) a review of selection criteria and weighting of such criteria for Centers of Excellence;

(3) an examination of the optimal role of Centers of Excellence in supporting the mission of the Directorate of Science and Technology and the most advantageous relationship between the Centers of Excellence and the Directorate and the Department components the Directorate serves;

(4) an examination of the length of time the Centers of Excellence should be awarded funding and the frequency of the review cycle in order to maintain such funding, particularly given their focus on basic, long term research;

(5) identification of the most appropriate review criteria and metrics to measure demonstrable progress, and mechanisms for delivering and disseminating the research results of established Centers of Excellence within the Department, and to other Federal, State, and local agencies;

(6) an examination of the means by which academic institutions that are not designated or associated with Centers of Excellence can optimally contribute to the research mission of the Directorate;

(7) an assessment of the interrelationship between the different University Programs; and

(8) a review of any other essential elements of the University Programs to be determined in the conduct of the study.

(c) REPORT.—The Under Secretary for Science and Technology shall transmit a report containing the results of the study and recommendations required by subsection (a) and the Under Secretary's response to the recommendations, to the appropriate Congressional committees not later than 24 months after the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized in section 101, there is authorized to be appropriated to carry out this section $500,000.

SEC. 804. STREAMLINING OF SAFETY ACT AND ANTITERRORISM TECHNOLOGY PROCUREMENT PROCESSES.

(a) PERSONNEL.—The Secretary of Homeland Security shall ensure that, in addition to any personnel engaged in technical evaluations that may be appropriate, a sufficient number of full-time equivalent personnel, who are properly trained and qualified to apply legal, economic, and risk analyses, are involved in the review and prioritization of antiterrorism technologies for the purpose of determining whether such technologies may be designated by the Secretary as qualified antiterrorism technologies under

section 862(b) of the SAFETY Act (6 U.S.C. 441(b)) or certified by the Secretary under section 863(d) of such Act (6 U.S.C. 442(d)).

(b) COORDINATION WITHIN DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Homeland Security shall—

(1) establish a formal coordination process that includes the official of the Department of Homeland Security with primary responsibility for the implementation of the SAFETY Act, the Chief Procurement Officer of the Department, the Under Secretary for Science and Technology, the Under Secretary for Policy, and the Department of Homeland Security General Counsel to ensure the maximum application of the litigation and risk management provisions of the SAFETY Act to antiterrorism technologies procured by the Department; and

(2) promote awareness and utilization of the litigation and risk management provisions of the SAFETY Act in the procurement of antiterrorism technologies.

(c) ISSUANCE OF DEPARTMENTAL DIRECTIVE.—The Secretary of Homeland Security shall, in accordance with the final rule implementing the SAFETY Act, issue a Departmental management directive providing for coordination between Department procurement officials and any other Department official responsible for implementing the SAFETY Act in advance of any Department procurement of an antiterrorism technology, as required under subsection (b).

SEC. 805. PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION ACT.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is further amended by adding at the end the following:

"SEC. 319. PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) DIRECTOR.—The term 'Director' means the Director selected under subsection (b)(2).

''(2) INTERNATIONAL COOPERATIVE ACTIVITY.—The term 'international cooperative activity' includes—

''(A) coordinated research projects, joint research projects, or joint ventures;

''(B) joint studies or technical demonstrations;

''(C) coordinated field exercises, scientific seminars, conferences, symposia, and workshops;

''(D) training of scientists and engineers;

''(E) visits and exchanges of scientists, engineers, or other appropriate personnel;

''(F) exchanges or sharing of scientific and technological information; and

''(G) joint use of laboratory facilities and equipment.

''(b) SCIENCE AND TECHNOLOGY HOMELAND SECURITY INTERNATIONAL COOPERATIVE PROGRAMS OFFICE.—

''(1) ESTABLISHMENT.—The Under Secretary shall establish the Science and Technology Homeland Security International Cooperative Programs Office.

''(2) DIRECTOR.—The Office shall be headed by a Director, who—

''(A) shall be selected by and shall report to the Under Secretary; and

''(B) may be an officer of the Department serving in another position.

''(3) RESPONSIBILITIES.—

''(A) DEVELOPMENT OF MECHANISMS.—The Director shall be responsible for developing, in consultation with the Department of State, understandings or agreements that allow and support international cooperative activity in support of homeland security research, development, and comparative testing.

''(B) PRIORITIES.—The Director shall be responsible for developing, in coordination with the Directorate of Science and Technology, the other components of the Department of Homeland Security, and other Federal agencies, strategic priorities for international cooperative activity in support of homeland security research, development, and comparative testing.

''(C) ACTIVITIES.—The Director shall facilitate the planning, development, and implementation of international cooperative activity to address the strategic priorities developed under subparagraph (B) through mechanisms the Under Secretary considers appropriate, including grants, cooperative agreements, or contracts to or with foreign public or private entities, governmental organizations, businesses, federally funded research and development centers, and universities.

''(D) IDENTIFICATION OF PARTNERS.—The Director shall facilitate the matching of United States entities engaged in homeland security research with non-United States entities engaged in homeland security research so that they may partner in homeland security research activities.

''(4) COORDINATION.—The Director shall ensure that the activities under this subsection are coordinated with those of other relevant research agencies, and may run projects jointly with other agencies.

''(5) CONFERENCES AND WORKSHOPS.—The Director may hold international homeland security technology workshops and conferences to improve contact among the international community of technology developers and to help establish direction for future technology goals.

''(c) INTERNATIONAL COOPERATIVE ACTIVITIES.—

''(1) AUTHORIZATION.—The Under Secretary is authorized to carry out international cooperative activities to support the responsibilities specified under section 302.

''(2) MECHANISMS AND EQUITABILITY.—In carrying out this section, the Under Secretary may award grants to and enter into cooperative agreements or contracts with United States governmental organizations, businesses (including small businesses and small and disadvantaged businesses), federally funded research and development centers, institutions of higher education, and foreign public or private entities. The Under Secretary shall ensure that funding and resources expended in international cooperative activities will be equitably matched by the foreign partner organization through direct funding or funding of complementary activities, or through provision of staff, facilities, materials, or equipment.

''(3) LOANS OF EQUIPMENT.—The Under Secretary may make or accept loans of equipment for research and development and comparative testing purposes.

''(4) COOPERATION.—The Under Secretary is authorized to conduct international cooperative activities jointly with other agencies.

''(5) FOREIGN PARTNERS.—Partners may include Israel, the United Kingdom, Canada, Australia, Singapore, and other allies in the global war on terrorism, as appropriate.

''(6) EXOTIC DISEASES.—As part of the international cooperative activities authorized in this section, the Under Secretary, in coordination with the Chief Medical Officer, may facilitate the development of information sharing and other types of cooperative mechanisms with foreign countries, including nations in Africa, to strengthen American preparedness against threats to the Nation's agricultural and public health sectors from exotic diseases.

''(d) BUDGET ALLOCATION.—There is authorized to be appropriated to the Secretary, to be derived from amounts otherwise authorized for the Directorate of Science and Technology, $25,000,000 for each of the fiscal years 2008 through 2011 for activities under this section.

''(e) FOREIGN REIMBURSEMENTS.—Whenever the Science and Technology Homeland Security International Cooperative Programs Office participates in an international cooperative activity with a foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country to meet its share of the project may be credited to appropriate current appropriations accounts of the Directorate of Science and Technology.

''(f) REPORT TO CONGRESS ON INTERNATIONAL COOPERATIVE ACTIVITIES.—

''(1) INITIAL REPORT.—Not later than 180 days after the date of enactment of this section, the Under Secretary, acting through the Director, shall transmit to the Congress a report containing—

''(A) a brief description of each partnership formed under subsection (b)(4), including the participants, goals, and amount and sources of funding; and

''(B) a list of international cooperative activities underway, including the participants, goals, expected duration, and amount and sources of funding, including resources provided to support the activities in lieu of direct funding.

''(2) UPDATES.—At the end of the fiscal year that occurs 5 years after the transmittal of the report under subsection (a), and every 5 years thereafter, the Under Secretary, acting through the Director, shall transmit to the Congress an update of the report required under subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of contents for the Homeland Security Act of 2002 is further amended by adding at the end of the items relating to such title the following new item:

''Sec. 319. Promoting antiterrorism through international cooperation program.''.

TITLE IX—BORDER SECURITY IMPROVEMENTS

SEC. 901. US–VISIT.

(a) IN GENERAL.—Not later than 7 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, the comprehensive strategy required by section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 for the biometric entry and exit data system (commonly referred to as the United States Visitor and Immigrant Status Indicator Technology program or US–VISIT) established under the section and other laws described in subsection (b) of such section. The comprehensive strategy shall include an action plan for full implementation of the biometric exit component of US–VISIT, as required under subsection (d) of section 7208 of such Act.

(b) CONTENTS.—The comprehensive strategy and action plan referred to in subsection (a) shall, at a minimum, include the following:

(1) An explanation of how US–VISIT will allow law enforcement officials to identify individuals who overstay their visas.

(2) A description of biometric pilot projects, including the schedule for testing, locations, cost estimates, resources needed, and performance measures.

(3) An implementation schedule for deploying future biometric exit capabilities at all air, land, and sea ports of entry.

(4) The actions the Secretary plans to take to accelerate the full implementation of the biometric exit component of US–VISIT at all air, land, and sea ports of entry.

(c) AIRPORT AND SEAPORT EXIT IMPLEMENTATION.—Not later than December 31, 2008, the Secretary of Homeland Security shall complete the exit portion of the biometric entry and exit data system referred to in subsection (a) for aliens arriving in or departing from the United States at an airport or seaport.

(d) PROHIBITION ON TRANSFER.—The Secretary of Homeland Security shall not transfer to the National Protection and Programs Directorate of the Department of Homeland Security the office of the Department that carries out the biometric entry and exit data system referred to in subsection (a) until the Secretary submits to the committees specified in such subsection the action plan referred to in such subsection for full implementation of the biometric exit component of US–VISIT at all ports of entry.

SEC. 902. SHADOW WOLVES PROGRAM.

Of the amount authorized by section 101, there is authorized to be appropriated $4,100,000 for fiscal year 2008 for the Shadow Wolves program.

SEC. 903. COST-EFFECTIVE TRAINING FOR BORDER PATROL AGENTS.

(a) IN GENERAL.—The Secretary of Homeland Security shall take such steps as may be necessary to control the costs of hiring, training, and deploying new Border Patrol agents, including—

(1) permitting individuals who are in training to become Border Patrol agents to waive certain course requirements of such training if such individuals have earlier satisfied such requirements in a similar or comparable manner as determined by the Secretary; and

(2) directing the Office of Inspector General to conduct a review of the costs and feasibility of training new Border Patrol agents at Federal training centers, including the Federal Law Enforcement Training Center facility in Charleston, South Carolina, and the HAMMER facility in Hanford, Washington, and at training facilities operated by State and local law enforcement academies, non-profit entities, and private entities, including institutions in the southwest border region, as well as the use of all of the above to conduct portions of such training.

(b) LIMITATION ON PER-AGENT COST OF TRAINING.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall take such steps as may be necessary to ensure that the fiscal year 2008 per-agent cost of hiring, training, and deploying each new Border Patrol agent does not exceed $150,000.

(2) EXCEPTION AND CERTIFICATION.—If the Secretary determines that the per-agent cost referred to in paragraph (1) exceeds $150,000, the Secretary shall promptly submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a certification explaining why such per-agent cost exceeds such amount.

SEC. 904. STUDENT AND EXCHANGE VISITOR PROGRAM.

(a) IN GENERAL.—Section 442 of the Homeland Security Act of 2002 (6 U.S.C. 252) is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (5) as paragraph (10); and

(B) by inserting after paragraph (4) the following:

''(5) STUDENT AND EXCHANGE VISITOR PROGRAM.—In administering the program under paragraph (4), the Secretary shall—

''(A) prescribe regulations to require an institution or exchange visitor program sponsor participating in the Student and Exchange Visitor Program to ensure that each covered student or exchange visitor enrolled at the institution or attending the exchange visitor program—

''(i) is an active participant in the program for which the covered student or exchange visitor was issued a visa to enter the United States;

''(ii) is not unobserved for any period—

''(I) exceeding 30 days during any academic term or program in which the covered student or exchange visitor is enrolled; or

''(II) exceeding 60 days during any period not described in subclause (I); and

''(iii) is reported to the Department if within 21 days of—

''(I) transferring to another institution or program; or

''(II) being hospitalized or otherwise incapacitated necessitating a prolonged absence from the academic institution or exchange visitor program; and

''(B) notwithstanding subparagraph (A), require each covered student or exchange visitor to be observed at least once every 60 days.

''(6) ENHANCED ACCESS.—The Secretary shall provide access to the Student and Exchange Visitor Information System (hereinafter in this subsection referred to as the 'SEVIS'), or other equivalent program or system, to appropriate employees of an institution or exchange visitor program sponsor participating in the Student and Exchange Visitor Program if—

''(A) at least two authorized users are identified at each participating institution or exchange visitor sponsor;

''(B) at least one additional authorized user is identified at each such institution or sponsor for every 200 covered students or exchange visitors enrolled at the institution or sponsor; and

''(C) each authorized user is certified by the Secretary as having completed an appropriate training course provided by the Department for the program or system.

''(7) PROGRAM SUPPORT.—The Secretary shall provide appropriate technical support options to facilitate use of the program or system described in paragraph (4) by authorized users.

''(8) UPGRADES TO SEVIS OR EQUIVALENT DATA.—The Secretary shall update the program or system described in paragraph (4) to incorporate new data fields that include—

''(A) verification that a covered student's performance meets the minimum academic standards of the institution in which such student is enrolled; and

''(B) timely entry of academic majors, including changes to majors, of covered students and exchange visitors enrolled at institutions or exchange program sponsors participating in the Student and Exchange Visitor Program.

''(9) SAVINGS CLAUSE.— Nothing in this section shall prohibit the Secretary or any institution or exchange program sponsor participating in the Student Exchange Visitor Program from requiring more frequent observations of covered students or exchange visitors.''; and

(2) by adding at the end the following:

''(d) DEFINITIONS.—For purposes of this section:

''(1) The term 'covered student' means a student who is a nonimmigrant pursuant to section 101(1)(15)(F), 101(1)(15)(J), or 101(1)(15)(M) of the Immigration and Nationality Act of 1952.

''(2) The term 'observed' means positively identified by physical or electronic means.

''(3) The term 'authorized user' means an individual nominated by an institution participating in the Student Exchange Visitor Program and confirmed by the Secretary as not appearing on any terrorist watch list.

''(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized by section 101 of the Department of Homeland Security Authorization Act for Fiscal Year 2008, there are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.''.

(b) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall conduct a review of the fees for the Student and Exchange Visitor Program of the Department of Homeland Security. The Comptroller General shall include in such review data from fiscal years 2004 through 2007 and shall consider fees collected by the Department and all expenses associated with the review, issuance, maintenance, data collection, and enforcement functions of the Student and Exchange Visitor Program.

SEC. 905. ASSESSMENT OF RESOURCES NECESSARY TO REDUCE CROSSING TIMES AT LAND PORTS OF ENTRY.

The Secretary of Homeland Security shall, not later than 180 days after the date of the enactment of this Act, conduct an assessment, and submit a report to the Congress, on the personnel, infrastructure, and technology required to reduce border crossing wait times for pedestrian, commercial, and non-commercial vehicular traffic at land ports of entry into the United States to wait times less than prior to September 11, 2001, while ensuring appropriate security checks continue to be conducted.

SEC. 906. BIOMETRIC IDENTIFICATION OF UNAUTHORIZED ALIENS.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a pilot program for the mobile biometric identification in the maritime environment of aliens unlawfully present in the United States.

(b) REQUIREMENTS.—The Secretary shall ensure that the pilot program is coordinated with other biometric identification programs within the Department of Homeland Security and shall evaluate the costs and feasibility of expanding the capability to all appropriate Department of Homeland Security maritime vessels.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized in section 101, there is authorized to be appropriated $10,000,000 to carry out this section.

SEC. 907. REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE REGARDING POLICIES AND PROCEDURES OF THE BORDER PATROL.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the policies and procedures of the Border Patrol pertaining to the use of lethal and non-lethal force and the pursuit of fleeing vehicles, including data on the number of incidents in which lethal or non-lethal force was used and any penalties that were imposed on Border Patrol agents as a result of such use.

(b) CONSULTATION.—

(1) REQUIREMENT.—In complying with this section, the Comptroller General shall consult with Customs and Border Protection and with representatives of the following:

(A) State and local law enforcement agencies located along the northern and southern international borders of the United States.

(B) The National Border Patrol Council.

(C) The National Association of Former Border Patrol Officers.

(D) Human rights groups with experience regarding aliens who cross the international land borders of the United States.

(E) Any other group that the Comptroller General determines would be appropriate.

(2) INCLUSION OF OPINIONS.—The Comptroller General shall attach written opinions provided by groups referenced to in paragraph (1) as appendices to the report.

TITLE X—INFORMATION SHARING IMPROVEMENTS

SEC. 1001. STATE AND LOCAL FUSION CENTER PROGRAM.

(a) IN GENERAL.—Subtitle I of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 481 et seq.) is amended by striking sections 895 through 899 and inserting the following:

''SEC. 895. STATE AND LOCAL FUSION CENTER PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish within the Department a State and Local Fusion Center Program. The program shall be overseen by the component charged with overseeing information sharing of homeland security information with State, local and tribal law enforcement. The purpose of the State and Local Fusion Center Program is to facilitate information sharing between the Department and State, local, and tribal law enforcement for homeland security and other purposes.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as are necessary for the Secretary to carry out the purpose of the State and Local Fusion Center Program, including for—

''(1) deploying Department personnel with intelligence and operational skills to State and local fusion centers participating in the Program;

''(2) hiring and maintaining individuals with substantial law enforcement experience who have retired from public service and deploying such individuals to State and local fusion centers participating in the Program (with the consent of such centers); and

''(3) maintaining an adequate number of staff at the headquarters of the Department to sustain and manage the portion of the Program carried out at the headquarters and to otherwise fill positions vacated by Department staff deployed to State and local fusion centers participating in the Program.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by striking the items relating to sections 895 through 899 and inserting the following:

''Sec. 895. State and Local Fusion Center Program.''.

(c) PRIOR AMENDMENTS NOT AFFECTED.—This section shall not be construed to affect the application of sections 895 through 899 of the Homeland Security Act of 2002 (including provisions enacted by the amendments made by those sections), as in effect before the effective date of this section.

SEC. 1002. FUSION CENTER PRIVACY AND CIVIL LIBERTIES TRAINING PROGRAM.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following new section:

''SEC. 203. FUSION CENTER PRIVACY AND CIVIL LIBERTIES TRAINING PROGRAM.

''(a) ESTABLISHMENT.—The Secretary, through the Assistant Secretary for Information Analysis, the Privacy Officer, and the Officer for Civil Rights and Civil Liberties, shall establish a program within the Office of Civil Rights and Civil Liberties to provide privacy, civil liberties, and civil rights protection training for appropriate Department employees and State, local, tribal employees serving in State and local fusion centers participating in the State and Local Fusion Center Program.

''(b) MANDATORY TRAINING.—

''(1) DEPARTMENT EMPLOYEES.—The Secretary shall require each employee of the Department who is embedded at a State or local fusion center and has access to United States citizens and legal permanent residents personally identifiable information to successfully complete training under the program established under subsection (a).

''(2) FUSION CENTER REPRESENTATIVES.—As a condition of receiving a grant from the Department, a fusion center shall require each State, local, tribal, or private sector representative of the fusion center to successfully complete training under the program established under subsection (a) not later than six months after the date on which the State or local fusion center at which the employee is embedded receives a grant from the Department.

''(c) CONTENTS OF TRAINING.—Training provided under the program established under subsection (a) shall include training in Federal law in each of the following:

''(1) Privacy, civil liberties, and civil rights policies, procedures, and protocols that can provide or control access to information at a State or local fusion center.

''(2) Privacy awareness training based on section 552a of title 5, United States Code, popularly known as the Privacy Act of 1974.

''(3) The handling of personally identifiable information in a responsible and appropriate manner.

''(4) Appropriate procedures for the destruction of information that is no longer needed.

''(5) The consequences of failing to provide adequate privacy and civil liberties protections.

''(6) Compliance with Federal regulations setting standards for multijurisdictional criminal intelligence systems, including 28 CFR 23 (as in effect on the date of the enactment of this section).

''(7) The use of immutable auditing mechanisms designed to track access to information at a State or local fusion center.

''(d) CERTIFICATION OF TRAINING.—The Secretary, acting through the head of the Office of Civil Rights and Civil Liberties, shall issue a certificate to each person who completes the training under this section and performs successfully in a written examination administered by the Office of Civil Rights and Civil Liberties. A copy of each such certificate issued to an individual working at a participating fusion center shall be kept on file at that fusion center.

''(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized by section 101, there are authorized to be appropriate to carry out this section—

''(1) $3,000,000 for each of fiscal years 2008 through 2013; and

''(2) such sums as may be necessary for each subsequent fiscal year.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to such subtitle the following:

''Sec. 203. Fusion center privacy and civil liberties training program.''.

SEC. 1003. AUTHORITY TO APPOINT AND MAINTAIN A CADRE OF FEDERAL ANNUITANTS FOR THE OFFICE OF INFORMATION ANALYSIS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''IA'' means the Office of Information Analysis;

(2) the term ''annuitant'' means an annuitant under a Government retirement system;

(3) the term ''Government retirement system'' has the meaning given such term by section 501(a); and

(4) the term ''employee'' has the meaning given such term by section 2105 of title 5, United States Code.

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Assistant Secretary for Information Analysis) may, for the purpose of accelerating the ability of IA to perform its statutory duties under the Homeland Security Act of 2002, appoint annuitants to positions in IA in accordance with succeeding provisions of this section.

(c) NONCOMPETITIVE PROCEDURES; EXEMPTION FROM OFFSET.—An appointment made under subsection (b) shall not be subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and any annuitant serving pursuant to such an appointment shall be exempt from sections 8344 and 8468 of such title 5 (relating to annuities and pay on reemployment) and any other similar provision of law under a Government retirement system.

(d) LIMITATIONS.—No appointment under subsection (b) may be made if such appointment would result in the displacement of any employee or would cause the total number of positions filled by annuitants appointed under such subsection to exceed 100 as of any time (determined on a full-time equivalent basis).

(e) RULE OF CONSTRUCTION.—An annuitant as to whom an exemption under subsection (c) is in effect shall not be considered an employee for purposes of any Government retirement system.

(f) TERMINATION.—Upon the expiration of the 5-year period beginning on the date of the enactment of this Act—

(1) any authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

TITLE XI—MISCELLANEOUS PROVISIONS

SEC. 1101. ELIGIBLE USES FOR INTEROPERABILITY GRANTS.

The Secretary of Homeland Security shall ensure that all funds administered by the Department of Homeland Security to support the interoperable communications needs of State, local, and tribal agencies, including funds administered pursuant to a Memorandum of Understanding or other agreement, may be used to support the standards outlined in the SAFECOM interoperability continuum, including governance, standard operating procedures, technology, training and exercises, and usage.

SEC. 1102. RURAL HOMELAND SECURITY TRAINING INITIATIVE.

(a) ESTABLISHMENT.—The Secretary of Homeland Security shall establish a program to be administered by the Director of the Federal Law Enforcement Training Center of the Department of Homeland Security to expand homeland security training to units of local and tribal governments located in rural areas. The Secretary shall take the following actions:

(1) EVALUATION OF NEEDS OF RURAL AREAS.—The Secretary shall evaluate the needs of such areas.

(2) DEVELOPMENT OF TRAINING PROGRAMS.—The Secretary shall develop expert training programs designed to respond to the needs of such areas, including, but not limited to, those pertaining to rural homeland security responses including protections for privacy, and civil rights and civil liberties.

(3) PROVISION OF TRAINING PROGRAMS.—The Secretary shall provide to such areas the training programs developed under paragraph (2).

(4) OUTREACH EFFORTS.—The Secretary shall conduct outreach efforts to ensure that such areas are aware of the training programs developed under paragraph (2) so that such programs are made available to units of local government and tribal governments located in rural areas.

(b) NO DUPLICATION OR DISPLACEMENT OF CURRENT PROGRAMS.—Any training program developed under paragraph (2) of subsection (a) and any training provided by the program pursuant to such subsection shall be developed or provided, respectively, in a manner so as to not duplicate or displace any program in existence on the date of the enactment of this section.

(c) PRIORITIZED LOCATIONS FOR RURAL HOMELAND SECURITY TRAINING.—In designating sites for the provision of training under this section, the Secretary shall, to the maximum extent possible and as appropriate, give priority to facilities of the Department of Homeland Security in existence as of the date of the enactment of this Act and to closed military installations, and to the extent possible, shall conduct training onsite, at facilities operated by participants.

(d) RURAL DEFINED.—In this section, the term ''rural'' means an area that is not located in a metropolitan statistical area, as defined by the Office of Management and Budget.

SEC. 1103. CRITICAL INFRASTRUCTURE STUDY.

(a) IN GENERAL.—The Secretary of Homeland Security shall work with the Center for Risk and Economic Analysis of Terrorism Events (CREATE), led by the University of Southern California, to evaluate the feasibility and practicality of creating further incentives for private sector stakeholders to share protected critical infrastructure information with the Department for homeland security and other purposes.

(b) INCLUDED INCENTIVES.—Incentives evaluated under this section shall include, but not be limited to, tax incentives, grant eligibility incentives, and certificates of compliance and other non-monetary incentives.

(c) RECOMMENDATIONS.—The evaluation shall also include recommendations on the structure and thresholds of any incentive program.

SEC. 1104. TERRORIST WATCH LIST AND IMMIGRATION STATUS REVIEW AT HIGH-RISK CRITICAL INFRASTRUCTURE.

From amounts authorized under section 101, there may be appropriated such sums as are necessary for the Secretary of Homeland Security to require each owner or operator of a Tier I or Tier II critical infrastructure site as selected for the Buffer Zone Protection Program, to conduct checks of their employees against available terrorist watch lists and immigration status databases.

SEC. 1105. AUTHORIZED USE OF SURPLUS MILITARY VEHICLES.

The Secretary of Homeland Security shall include United States military surplus vehicles having demonstrated utility for responding to terrorist attacks, major disasters, and other

emergencies on the Authorized Equipment List in order to allow State, local, and tribal agencies to purchase, modify, upgrade, and maintain such vehicles using homeland security assistance administered by the Department of Homeland Security.

SEC. 1106. COMPUTER CAPABILITIES TO SUPPORT REAL-TIME INCIDENT MANAGEMENT.

From amounts authorized under section 101, there are authorized such sums as may be necessary for the Secretary of Homeland Security to encourage the development and use of software- or Internet-based computer capabilities to support real-time incident management by Federal, State, local, and tribal agencies. Such software-based capabilities shall be scalable and not be based on proprietary systems to ensure the compatibility of Federal, State, local, and tribal first responder agency incident management systems. In the development and implementation of such computer capabilities, the Secretary shall consider the feasibility and desirability of including the following capabilities:

(1) Geographic information system data.

(2) Personnel, vehicle, and equipment tracking and monitoring.

(3) Commodity tracking and other logistics management.

(4) Evacuation center and shelter status tracking.

(5) Such other capabilities as determined appropriate by the Secretary.

SEC. 1107. EXPENDITURE REPORTS AS A CONDITION OF HOMELAND SECURITY GRANTS.

(a) IN GENERAL.—Subtitle H of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 451 et seq.) is amended by adding at the end the following new section:

''SEC. 890A. EXPENDITURE REPORTS AS A CONDITION OF HOMELAND SECURITY GRANTS.

''(a) QUARTERLY REPORTS REQUIRED AS A CONDITION OF HOMELAND SECURITY GRANTS.—

''(1) EXPENDITURE REPORTS REQUIRED.—As a condition of receiving a grant administered by the Secretary, the Secretary shall require the grant recipient to submit quarterly reports to the Secretary describing the nature and amount of each expenditure made by the recipient using grant funds.

''(2) DEADLINE FOR REPORTS.—Each report required under paragraph (1) shall be submitted not later than 30 days after the last day of a fiscal quarter and shall cover expenditures made during that fiscal quarter.

''(b) PUBLICATION OF EXPENDITURES.—Not later than 30 days after receiving a report under subsection (a), the Secretary shall publish and make publicly available on the Internet website of the Department a description of the nature and amount of each expenditure covered by the report.

''(c) PROTECTION OF SENSITIVE INFORMATION.—In meeting the requirements of this section, the Secretary shall take appropriate action to ensure that sensitive information is not disclosed.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to such subtitle the following:

''Sec. 890A. Expenditure reports as a condition of homeland security grants.''.

SEC. 1108. ENCOURAGING USE OF COMPUTERIZED TRAINING AIDS.

The Under Secretary for Science and Technology of the Department of Homeland Security shall use and make available to State and local agencies computer simulations to help strengthen the ability of municipalities to prepare for and respond to a chemical, biological, or other terrorist attack, and to standardize response training.

SEC. 1109. PROTECTION OF NAME, INITIALS, INSIGNIA, AND DEPARTMENTAL SEAL.

Section 875 of the Homeland Security Act of 2002 (6 U.S.C. 455) is amended by adding at the end the following new subsection:

''(d) PROTECTION OF NAME, INITIALS, INSIGNIA, AND SEAL.—

''(1) IN GENERAL.—Except with the written permission of the Secretary, no person may knowingly use, in connection with any advertisement, commercial activity, audiovisual production (including film or television production), impersonation, Internet domain name, Internet e-mail address, or Internet Web site, merchandise, retail product, or solicitation in a manner reasonably calculated to convey the impression that the Department or any organizational element of the Department has approved, endorsed, or authorized such use, any of the following (or any colorable imitation thereof):

''(A) The words 'Department of Homeland Security', the initials 'DHS', the insignia or seal of the Department, or the title 'Secretary of Homeland Security'.

''(B) The name, initials, insignia, or seal of any organizational element (including any former such element) of the Department, or the title of any other officer or employee of the Department, notice of which has been published by the Secretary in accordance with paragraph (3).

''(2) CIVIL ACTION.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice that constitutes or will constitute conduct prohibited by paragraph (1) the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other actions as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

''(3) NOTICE AND PUBLICATION.—The notice and publication to which paragraph (1)(B) refers is a notice published in the Federal Register including the name, initials, seal, or class of titles protected under paragraph (1)(B) and a statement that they are protected under that provision. The Secretary may amend such notice from time to time as the Secretary determines appropriate in the public interest and shall publish such amendments in the Federal Register.

''(4) AUDIOVISUAL PRODUCTION.—For the purpose of this subsection, the term 'audiovisual production' means the production of a work that consists of a series of related images that are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the work is embodied.''.

SEC. 1110. REPORT ON UNITED STATES SECRET SERVICE APPROACH TO SHARING UNCLASSIFIED, LAW ENFORCEMENT SENSITIVE INFORMATION WITH FEDERAL, STATE, AND LOCAL PARTNERS.

(a) REPORT BY DIRECTOR OF UNITED STATES SECRET SERVICE.—Not later than 240 days after the date of the enactment of this Act, the Director of the United States Secret Service shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Inspector General of the Department of Homeland Security a report describing the approach of the Secret Service to sharing unclassified, law enforcement sensitive information with Federal, State, and local law enforcement agencies for homeland security and other purposes.

(b) REPORT BY INSPECTOR GENERAL.—The Inspector General of the Department of Homeland Security shall conduct a review of the report submitted by the Director of the United States Secret Service under subsection (a), and submit a report with recommendations on whether and how such approach could be incorporated throughout the Department to Congress within 240 days after receiving the report of the Director of the United States Secret Service under subsection (a).

SEC. 1111. REPORT ON UNITED STATES SECRET SERVICE JAMES J. ROWLEY TRAINING CENTER.

Within 240 days after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security shall provide to the appropriate congressional committees, including the Committees on Homeland Security and Appropriations of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Appropriations of the Senate, a report describing the following:

(1) The mission and training capabilities of the United States Secret Service James J. Rowley Training Center.

(2) Current Secret Service personnel throughput capacity of the James J. Rowley Training Center.

(3) Maximum Secret Service personnel throughput capacity of the James J. Rowley Training Center.

(4) An assessment of what departmental components engage in similar training activities as those conducted at the James J. Rowley Training Center.

(5) An assessment of the infrastructure enhancements needed to support the mission and training capabilities of the James J. Rowley Training Center.

(6) An assessment of the actual and expected total throughput capacity at the James J. Rowley Training Center, including outside entity participants.

SEC. 1112. METROPOLITAN MEDICAL RESPONSE SYSTEM PROGRAM.

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

''SEC. 522. METROPOLITAN MEDICAL RESPONSE SYSTEM PROGRAM.

''(a) IN GENERAL.—There is a Metropolitan Medical Response System Program (in this section referred to as the 'program').

''(b) PURPOSE.—The purpose of the program shall be to support local jurisdictions in enhancing and maintaining all-hazards response capabilities to manage mass casualty incidents (including terrorist acts using chemical, biological, radiological, nuclear agents, or explosives, large-scale hazardous materials incidents, epidemic disease outbreaks, and natural disasters) by systematically enhancing and integrating first responders, public health personnel, emergency management personnel, business representatives, and volunteers.

''(c) PROGRAM ADMINISTRATION.—The Assistant Secretary for Health Affairs shall develop the programmatic and policy guidance for the program in coordination with the Administrator of the Federal Emergency Management Agency.

''(d) PERSONNEL COSTS.—The program shall not be subject to an administrative cap on the hiring of personnel to conduct program activities.

''(e) FINANCIAL ASSISTANCE.—

''(1) ADMINISTRATION.—The Administrator of the Federal Emergency Management Agency shall administer financial assistance provided to State and local jurisdictions under the program.

''(2) ASSISTANCE TO LOCAL JURISDICTIONS.—In providing financial assistance to a State under the program, the Administrator shall ensure that 100 percent of the amount of such assistance is allocated by the State to local jurisdictions, except that a State may retain up to 20 percent of the amount of such assistance to facilitate integration between the State and the local jurisdiction pursuant to a written agreement between the State and the chair of the Metropolitan Medical Response System steering committee.

''(3) MUTUAL AID.—

''(A) AGREEMENTS.—Local jurisdictions receiving assistance under the program are encouraged to develop and maintain memoranda of understanding and agreement with neighboring jurisdictions to support a system of mutual aid among the jurisdictions.

''(B) CONTENTS.—A memorandum referred to in subparagraph (A) shall include, at a minimum, policies and procedures to—

''(i) enable the timely deployment of program personnel and equipment across jurisdictions and, if relevant, across State boundaries;

''(ii) share information in a consistent and timely manner; and

''(iii) notify State authorities of the deployment of program resources in a manner that ensures coordination with State agencies without impeding the ability of program personnel and equipment to respond rapidly to emergencies in other jurisdictions.

''(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized by section 101 there is authorized to be appropriated to carry out the program $63,000,000 for each of the fiscal years 2008 through 2011.''.

(b) PROGRAM REVIEW.—

(1) IN GENERAL.—The Assistant Secretary for Health Affairs shall conduct a review of the Metropolitan Medical Response System Program.

(2) CONTENT OF REVIEW.—In conducting the review of the program, the Assistant Secretary shall examine—

(A) strategic goals;

(B) objectives;

(C) operational capabilities;

(D) resource requirements;

(E) performance metrics;

(F) administration;

(G) whether the program would be more effective if it were managed as a contractual agreement;

(H) the degree to which the program's strategic goals, objectives, and capabilities are incorporated in State and local homeland security plans; and

(I) challenges in the coordination among public health, public safety, and other stakeholder groups to prepare for and respond to mass casualty incidents.

(3) REPORT.—Not later than 9 months after the date of enactment of this subsection, the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the results of the review.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 635 of the Post-Katrina Management Reform Act of 2006 (6 U.S.C. 723) is repealed.

(2) TABLE OF CONTENTS.—The table of contents contained in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 521 the following:

''Sec. 522. Metropolitan Medical Response System Program.''.

SEC. 1113. IDENTITY FRAUD PREVENTION GRANT PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) The National Commission on Terrorist Attacks Upon the United States found that the 19 hijackers had been issued 16 State driver's licenses (from Arizona, California, Florida, and Virginia) and 14 State identification cards (from Florida, Maryland and Virginia).

(2) The Commission concluded that ''[s]ecure identification should begin in the United States. The Federal Government should set standards for the issuance of birth certificates and sources of identification, such as driver's licenses. Fraud in identification is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.''

(b) GRANT PROGRAM.—Subtitle D of title IV of the Homeland Security Act of 2002 (6 U.S.C. 251 et seq.) is amended by adding at the end the following:

''SEC. 447. DOCUMENT FRAUD PREVENTION GRANT PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a program to make grants available to States to be used to prevent terrorists and other individuals from fraudulently obtaining and using State-issued identification cards and to develop more secure State-issued documents to be used for official Federal purposes.

''(b) USE OF FUNDS.—A recipient of a grant under this section may use the grant for any of the following purposes:

''(1) To develop machine readable technology, encryption methods, or other means of protecting against unauthorized access of information appearing on licenses or identification.

''(2) To establish a system for a State-to-State data exchange that allows electronic access to States to information contained in a State department of motor vehicles database.

''(3) To develop or implement a security plan designed to safeguard the privacy of personal information collected, maintained, and used by State motor vehicles offices from unauthorized access, misuse, fraud, and identity theft.

''(4) To develop a querying service that allows access to Federal databases in a timely, secure, and cost-effective manner, in order to verify the issuance, validity, content, and completeness of source documents provided by applicants for identity documents issued by State agencies, including departments of motor vehicles.

''(5) To develop a system for States to capture and store digital images of identity source documents and photographs of applicants in electronic format.

''(6) To design systems or establish procedures that would reduce the number of in-person visits required to State departments of motor vehicles to obtain State-issued identity documents used for Federal official purposes.

''(c) PRIORITY IN AWARDING GRANTS.—In awarding grants under this section the Secretary shall give priority to a State that demonstrates that—

''(1) the grant will assist the State in complying with any regulation issued by the Department to prevent the fraudulent issuance of identification documents to be used for official Federal purposes; and

''(2) such compliance will facilitate the ability of other States to comply with such regulations.

''(d) LIMITATION ON SOURCE OF FUNDING.—The Secretary may not use amounts made available under this section for any other grant program of the Department to provide funding for expenses related to the REAL ID Act of 2005 (Public Law 109–13).

''(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized by section 101 there are authorized to be appropriated to the Secretary for making grants under this section—

''(1) $120,000,000 for fiscal year 2008;

''(2) $100,000,000 for fiscal year 2009; and

''(3) $80,000,000 for fiscal year 2010.''.

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the items relating to such subtitle the following:

''Sec. 447. Document fraud prevention grant program.''.

SEC. 1114. TECHNICAL CORRECTIONS.

The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended—

(1) in section 1(b) in the table of contents by striking the items relating to the second title XVIII, as added by section 501(b)(3) of Public Law 109–347, and inserting the following:

''TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE

''Sec. 1901. Domestic Nuclear Detection Office.

''Sec. 1902. Mission of Office.

''Sec. 1903. Hiring authority.

''Sec. 1904. Testing authority.

''Sec. 1905. Relationship to other Department entities and Federal agencies.

''Sec. 1906. Contracting and grant making authorities.''.

(2) by redesignating the second title XVIII, as added by section 501(a) of Public Law 109–347, as title XIX;

(3) in title XIX (as so redesignated)—

(A) by redesignating sections 1801 through 1806 as sections 1901 through 1906, respectively;

(B) in section 1904(a) (6 U.S.C. 594(a)), as so redesignated, by striking ''section 1802'' and inserting ''section 1902''; and

(C) in section 1906 (6 U.S.C. 596), as so redesignated, by striking ''section 1802(a)'' each place it appears and inserting ''section 1902(a)''.

SEC. 1115. CITIZEN CORPS.

Of the amount authorized to be appropriated under section 101, such sums as may be necessary shall be available to the Secretary of Homeland Security to encourage the use of Citizen Corps funding and local Citizen Corps Councils to provide education and training for populations located around critical infrastructure on preparing for and responding to terrorist attacks, major disasters, and other emergencies.

SEC. 1116. REPORT REGARDING DEPARTMENT OF HOMELAND SECURITY IMPLEMENTATION OF COMPTROLLER GENERAL AND INSPECTOR GENERAL RECOMMENDATIONS REGARDING PROTECTION OF AGRICULTURE.

(a) REPORT REQUIRED.—The Secretary of Homeland Security shall prepare a report describing how the Department of Homeland Security will implement the applicable recommendations of the following reports:

(1) Comptroller General report entitled ''Homeland Security: How Much is Being Done to Protect Agriculture from a Terrorist Attack, but Important Challenges Remain'' (GAO–05–214).

(2) Department of Homeland Security Office of Inspector General report entitled ''The Department of Homeland Security's Role in Food Defense and Critical Infrastructure Protection'' (OIG–07–33).

(b) SUBMISSION OF REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit the report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate. If the Secretary determines that a specific recommendation will not be implemented or will not be fully implemented, the Secretary shall include in the report a description of the reasoning or justification for the determination.

SEC. 1117. REPORT REGARDING LEVEE SYSTEM.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees a report analyzing the threat, vulnerability, and consequence of a terrorist attack on the levee system of the United States.

(b) EXISTING REPORTS.—In implementing this section, the Secretary may build upon existing reports as necessary.

SEC. 1118. REPORT ON FORCE MULTIPLIER PROGRAM.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees a report on the progress of the Secretary—

(1) in establishing procedures to ensure compliance with section 44917(a)(7) of title 49, United States Code; and

(2) in accomplishing the operational aspects of the Force Multiplier Program, as required pursuant to the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295).

SEC. 1119. ELIGIBILITY OF STATE JUDICIAL FACILITIES FOR STATE HOMELAND SECURITY GRANTS.

(a) IN GENERAL.—States may utilize covered grants for the purpose of providing funds to

State and local judicial facilities for security at those facilities.

(b) COVERED GRANTS.—For the purposes of this section, the term ''covered grant'' means a grant under any of the following programs of the Department of Homeland Security:

(1) The State Homeland Security Grant Program.

(2) The Urban Area Security Initiative.

SEC. 1120. AUTHORIZATION OF HOMELAND SECURITY FUNCTIONS OF THE UNITED STATES SECRET SERVICE.

(a) AUTHORIZED FUNDING.—Of the amounts authorized by section 101, there is authorized to be appropriated for fiscal year 2008 for necessary expenses of the United States Secret Service, $1,641,432,000.

(b) AUTHORIZED PERSONNEL STRENGTH.—The United States Secret Service is authorized to provide 6,822 full-time equivalent positions.

SEC. 1121. DATA SHARING.

The Secretary of Homeland Security shall provide information relating to assistance requested or provided in response to a terrorist attack, major disaster, or other emergency, to Federal, State, or local law enforcement entities to assist in the location of a missing child or registered sex offender. In providing such information, the Secretary shall take reasonable steps to protect the privacy of individuals.

TITLE XII—MARITIME ALIEN SMUGGLING

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Maritime Alien Smuggling Law Enforcement Act''.

SEC. 1202. CONGRESSIONAL DECLARATION OF FINDINGS.

The Congress finds and declares that maritime alien smuggling violates the national sovereignty of the United States, places the country at risk of terrorist activity, compromises the country's border security, contravenes the rule of law, and compels an unnecessary risk to life among those who enforce the Nation's laws. Moreover, such maritime alien smuggling creates a condition of human suffering among those who seek to enter the United States without official permission or lawful authority that is to be universally condemned and vigorously opposed.

SEC. 1203. DEFINITIONS.

In this title:

(1) The term ''alien'' has the same meaning given that term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) The term ''lawful authority'' means permission, authorization, or waiver that is expressly provided for in the immigration laws of the United States or the regulations prescribed thereunder and does not include any such authority secured by fraud or otherwise obtained in violation of law or authority that has been sought but not approved.

(3) The term ''serious bodily injury'' has the same meaning given that term in section 1365 of title 18, United States Code, including any conduct that would violate sections 2241 or 2242 of such title, if the conduct occurred in the special maritime and territorial jurisdiction of the United States.

(4) The term ''State'' has the same meaning given that term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(5) The term ''terrorist activity'' has the same meaning given that term in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)).

(6) The term ''United States'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(7) The term ''vessel of the United States'' and ''vessel subject to the jurisdiction of the United States'' have the same meanings given those terms in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).

SEC. 1204. MARITIME ALIEN SMUGGLING.

(a) OFFENSE.—For purposes of enforcing Federal laws, including those that pertain to port, maritime, or land border security, no person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States, or who is a citizen or national of the United States or an alien who is paroled into or is a resident of the United States on board any vessel, shall assist, encourage, direct, induce, transport, move, harbor, conceal, or shield from detection an individual in transit from one country to another on the high seas, knowing or in reckless disregard of the fact that such individual is an alien, known, or suspected terrorist, or an individual seeking to commit terrorist activity, seeking to enter the United States without official permission or lawful authority.

(b) ATTEMPT OR CONSPIRACY.—Any person who attempts or conspires to commit a violation of this title shall be subject to the same penalties as those prescribed for the violation, the commission of which was the object of the attempt or conspiracy.

(c) JURISDICTION AND SCOPE.—

(1) IN GENERAL.—Jurisdiction of the United States with respect to vessels and persons subject to this section is not an element of any offense. All jurisdictional issues arising under this section are preliminary questions of law to be determined solely by the trial judge.

(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this section.

(3) NONAPPLICABILITY TO LAWFUL ACTIVITIES.—Nothing in this title shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

(d) CLAIM OF FAILURE TO COMPLY WITH INTERNATIONAL LAW; JURISDICTION OF COURT.—Any person charged with a violation of this title shall not have standing to raise the claim of failure to comply with international law as a basis for a defense. A claim of failure to comply with international law in the enforcement of this title may be invoked solely by a foreign nation, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this title.

(e) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a violation of this section, as to which the defendant has the burden of proof by a preponderance of the evidence, that prior to the alleged violation the defendant rescued the alien at sea, if the defendant—

(1) immediately reported to the Coast Guard the circumstances of the rescue, and the name, description, registry number, and location of the rescuing vessel; and

(2) did not bring or attempt to bring the alien into the land territory of the United States without official permission or lawful authority, unless exigent circumstances existed that placed the life of the alien in danger, in which case the defendant must have reported to the Coast Guard the information required by paragraph (1) of this subsection immediately upon delivering that alien to emergency medical personnel ashore.

(f) ADMISSIBILITY OF EVIDENCE.—Notwithstanding any provision of the Federal Rules of Evidence, the testimony of Coast Guard personnel and official records of the Coast Guard, offered to show either that the defendant did not report immediately the information required by subsection (e) or the absence of any such report by the defendant, shall be admissible, and the jury shall be instructed, upon request of the United States, that it may draw an inference from such records or testimony in deciding whether the defendant reported as required by subsection (e).

(g) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually or electronically preserved) deposition of a witness to any alleged violation of subsection (a) of this section who has been repatriated, removed, extradited, or otherwise expelled from or denied admission to the United States or who is otherwise unable to testify may be admitted into evidence in an action brought for that violation if the witness was available for cross examination at the deposition and the deposition otherwise complies with the Federal Rules of Evidence.

(h) PENALTIES.—A person who commits any violation under this section shall—

(1) be imprisoned for not less than 3 years and not more than 20 years, fined not more than $100,000, or both;

(2) in a case in which the violation furthers or aids the commission of any other criminal offense against the United States or any State for which the offense is punishable by imprisonment for more than 1 year, be imprisoned for not less than 5 years and not more than 20 years, fined not more than $100,000, or both;

(3) in a case in which any participant in the violation created a substantial risk of death or serious bodily injury to another person (including, but not limited to, transporting a person in a shipping container, storage compartment, or other confined space or at a speed in excess of the rated capacity of the vessel), be imprisoned for not less than 5 years and not more than 20 years, fined not more than $100,000, or both;

(4) in a case in which the violation caused serious bodily injury to any person, regardless of where the injury occurred, be imprisoned for not less than 7 years and not more than 30 years, fined not more than $500,000, or both;

(5) in a case in which the violation involved an alien who the offender knew or had reason to believe was an alien engaged in terrorist activity or intending to engage in terrorist activity, be imprisoned for not less than 10 years and not more than 30 years, fined not more than $500,000, or both; and

(6) in the case where the violation caused or resulted in the death of any person regardless of where the death occurred, be punished by death or imprisoned for not less than 10 years and up to a life sentence, fined not more than $1,000,000, or both.

SEC. 1205. SEIZURE OR FORFEITURE OF PROPERTY.

(a) IN GENERAL.—Any conveyance (including any vessel, vehicle, or aircraft) that has been or is being used in the commission of any violation of this title), the gross proceeds of such violation, and any property traceable to such conveyance or proceeds shall be seized and subject to forfeiture in the same manner as property seized or forfeited under section 274 of the Immigration and Nationality Act (8 U.S.C. 1324).

(b) PRIMA FACIE EVIDENCE OF VIOLATIONS OF THE TITLE.—Practices commonly recognized as alien smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, a violation of this title and may support seizure and forfeiture of the vessel, even in the absence aboard the vessel of an alien in unlawful transit. The following indicia may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, a violation of this title:

(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

(A) the configuration of the vessel to avoid being detected visually or by radar;

(B) the presence of any compartment or equipment that is built or fitted out for smuggling (excluding items reasonably used for the storage of personal valuables);

(C) the presence of an auxiliary fuel, oil, or water tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

(D) the presence of engines, the power of which exceeds the design specifications or size of the vessel;

(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel or avoid detection;

(F) the presence of a camouflaging paint scheme or materials used to camouflage the vessel; and

(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

(3) The presence of fuel, lube oil, food, water, or spare parts inconsistent with legitimate operation of the vessel, the construction or equipment of the vessel, or the character of the vessel.

(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation or in a manner of navigation.

(5) The failure of the vessel to stop, respond, or heave to when hailed by an official of the Federal Government, including conducting evasive maneuvers.

(6) The declaration to the Federal Government of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by a Government official.

(c) PRIMA FACIE EVIDENCE OF THE ABSENCE OF LAWFUL AUTHORITY TO ENTER.—Notwithstanding any provision of the Federal Rules of Evidence, in determining whether a violation of this title has occurred, any of the following shall be prima facie evidence in an action for seizure or forfeiture pursuant to this section that an alien involved in the alleged offense had not received prior official permission or legal authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law:

(1) Any order, finding, or determination concerning the alien's status or lack thereof made by a Federal judge or administrative adjudicator (including an immigration judge or an immigration officer) during any judicial or administrative proceeding authorized under the immigration laws or regulations prescribed thereunder.

(2) Official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack thereof.

(3) Testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack thereof.

The Acting CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 110–136. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. THOMPSON OF MISSISSIPPI

The Acting CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110–136.

Mr. THOMPSON of Mississippi. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. THOMPSON of Mississippi:

In the proposed section 401(b)(3)(B), as proposed to be added by section 201 of the bill, insert before the period at the end the following: '', excluding each agency that is a distinct entity within the Department''.

In the proposed section 401(b)(3)(E), as proposed to be added by section 201 of the bill, insert before the period at the end the following: '', consistent with this section''.

Strike subsection (b) of the proposed section 707, as proposed to be added by section 202 of the bill, and insert the following:

''(b) COORDINATION.—The Secretary shall direct the Chief Operating Officer of each component agency to coordinate with that Officer's respective Chief Operating Officer of the Department to ensure that the component agency adheres to Government-wide laws, rules, regulations, and policies to which the Department is subject and which the Chief Operating Officer is responsible for implementing.''.

In the proposed section 707(c), strike ''reporting to'' and insert ''coordinating with''.

In the proposed section 402(d), as proposed to be added by section 203 of the bill, insert after ''submit to the Committee on Homeland Security'' the following: ''and the Committee on Transportation and Infrastructure''.

Strike the proposed subsection (d), as proposed to be added by section 208 of the bill, and insert the following:

''(d) AUTHORITY OF ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS OVER DEPARTMENTAL COUNTERPARTS.—The Secretary for the Department shall ensure that the Assistant Secretary for Legislative Affairs has adequate authority or the Assistant Secretary's respective counterparts in component agencies of the Department to ensure that such component agencies adhere to the laws, rules, and regulations to which the Department is subject and the departmental policies that the Assistant Secretary for Legislative Affairs is responsible for implementing.''.

In section 301(c), after ''submit to the Committee on Homeland Security'' the following: ''and the Committee on Oversight and Government Reform''.

In the proposed subsection (d)(1), as proposed to be added by section 302 of the bill, strike ''and the Committee on Homeland Security and Governmental Affairs of the Senate'' and insert '', the Committee on Homeland Security and Governmental Affairs of the Senate, and other appropriate congressional committees''.

In the proposed subsection (d)(2), as proposed to be added by section 302 of the bill, strike ''and the Committee on Homeland Security and Governmental Affairs of the Senate'' and insert '', the Committee on Homeland Security and Governmental Affairs of the Senate, and other appropriate congressional committees''.

In the proposed section 104(a), as proposed to be added by section 304 of the bill, insert after ''congressional homeland security committees'' the following: ''and other appropriate congressional committees''.

Strike section 305 and conform the table of contents accordingly.

In section 402, strike subsection (b) and insert the following:

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Chief Procurement Officer) may, for the purpose of supporting the Department's acquisition capabilities and enhancing contract management throughout the Department, appoint annuitants to positions in procurement offices in accordance with succeeding provisions of this section, except that no authority under this subsection shall be available unless the Secretary provides to Congress a certification that—

(1) the Secretary has submitted a request under section 8344(i) or 8468(f) of title 5, United States Code, on or after the date of the enactment of this Act, with respect to positions in procurement offices;

(2) the request described in paragraph (1) was properly filed; and

(3) the Office of Personnel Management has not responded to the request described in paragraph (1), by either approving, denying, or seeking more information regarding such request, within 90 days after the date on which such request was filed.

In section 402, strike subsection (f) and insert the following:

(f) TERMINATION OF AUTHORITY.—Effective 2 years after the date of the enactment of this Act—

(1) all authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

In the proposed section 837(b), as proposed to be added by section 403 of the bill, after ''require the contractor to submit'' insert the following: ''past performance''.

In section 406, strike subsection (c) and redesignate subsection (d) as subsection (c).

In the proposed section 839(b), as proposed to be added by section 407 of the bill, strike paragraph (4).

In the proposed section 839(d), strike ''the micro-purchase threshold (as defined in section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428))'' and insert ''the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403))''.

In the proposed section 839, as proposed to be added by section 407 of the bill, strike subsection (f).

In section 408(c), strike ''the Department of Homeland Security shall consider'' and insert ''The Secretary of Homeland Security shall consider, among the other factors the Secretary deems relevant,''.

Strike section 409, redesignate section 410 as section 409, and conform the table of contents accordingly.

In section 409, as so redesignated, strike ''The Secretary'' and insert ''Consistent with any applicable law, the Secretary''.

In section 501, redesignate subsections (g) and (h) as subsections (h) and (i), respectively, and insert after subsection (f), the following new subsection (g):

(g) COMPTROLLER GENERAL REPORT.—The Comptroller General shall conduct a comprehensive review of the retirement system for law enforcement officers employed by the Federal Government. The review shall include all employees categorized as law enforcement officers for purposes of retirement and any other Federal employee performing law enforcement officer duties not so categorized. In carrying out the review, the Comptroller General shall review legislative proposals introduced over the 10 years preceding the date of the enactment of this Act that are relevant to the issue law enforcement retirement and consult with law enforcement agencies and law enforcement employee representatives. Not later than August 1, 2007, the Comptroller General shall submit to Congress a report on the findings of such review. The report shall include each of the following:

(1) An assessment of the reasons and goals for the establishment of the separate retirement system for law enforcement officers, as defined in section 8331 of title 5, United States Code, including the need for young and vigorous law enforcement officers, and whether such reasons and goals are currently appropriate.

(2) An assessment of the more recent reasons given for including additional groups of employees in such system, including recruitment and retention, and whether such reasons and goals are currently appropriate.

(3) A determination as to whether the system is achieving the goals in (1) and (2).

(4) A summary of potential alternatives to the system, including increased use of bonuses, increased pay, and raising the mandatory retirement age, and a recommendation as to which alternatives would best meet each goal defined in (1) and (2), including legislative recommendations if necessary.

(5) A recommendation for the definition of law enforcement officer.

(6) An detailed review of the current system including its mandatory retirement age and benefit accrual.

(7) A recommendation as to whether the law enforcement officer category should be made at the employee, function and duty, job classification, agency or other level, and by whom.

(8) Any other relevant information.

In section 502(a) by inserting after ''transmit to the Committee on Homeland Security'' the following: ''and the Committee on Oversight and Government Reform''.

In section 504, strike subsection (b) and insert the following:

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Commissioner of the United States Customs and Border Protection) may, for the purpose of accelerating the ability of the CBP to secure the borders of the United States, appoint annuitants to positions in the CBP in accordance with succeeding provisions of this section, except that no authority under this subsection shall be available unless the Secretary provides to Congress a certification that—

(1) the Secretary has submitted a request under section 8344(i) or 8468(f) of title 5, United States Code, on or after the date of the enactment of this Act, with respect to positions in the CBP;

(2) the request described in paragraph (1) was properly filed; and

(3) the Office of Personnel Management has not responded to the request described in paragraph (1), by either approving, denying, or seeking more information regarding such request, within 90 days after the date on which such request was filed.

In section 504, strike subsection (f) and insert the following:

(f) TERMINATION OF AUTHORITY.—Effective 2 years after the date of the enactment of this Act—

(1) all authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

In section 505(a), insert after ''statutes'' the following: '' and Office of Personnel Management Regulations and Guidelines''.

Strike section 507, redesignate sections 508 through 513 as sections 507 through 512, respectively, and conform the table of contents accordingly.

In the proposed section 708, as proposed to be added by section 508 of the bill, as so redesignated, strike subsection (b)(1) and insert the following:

''(1) have responsibility for overall Department-wide security activities, including issuing and confiscating credentials, controlling access to and disposing of classified and sensitive but unclassified materials, controlling access to sensitive areas and Secured Compartmentalized Intelligence Facilities, and communicating with other government agencies on the status of security clearances and security clearance applications;''.

Strike section 606 and conform the table of contents accordingly.

In the proposed section 226(c)(1)(A), as proposed to be added by section 701 of the bill, strike ''to monitor critical information infrastructure'' and insert ''for ongoing activities to identify threats to critical information infrastructure''.

In section 702(c)(2), insert after ''Standards and Technology,'' the following: ''the Department of Commerce,''.

Insert after section 702 the following (and conform the table of contents accordingly):

SEC. 703. COLLABORATION.

In carrying out this title, the Assistant Secretary of Homeland Security for Cybersecurity and Communications shall collaborate with any Federal entity that, under law, has authority over the activities set forth in this title.

In section 804(b)(1), strike ''maximum''.

In the proposed section 319(e), as proposed to be added by section 805 of the bill, after ''the project may'' insert the following: '', subject to the availability of appropriations for such purpose,''.

Insert at the end of title VIII the following (and conform the table of contents accordingly):

SEC. 806. AVAILABILITY OF TESTING FACILITIES AND EQUIPMENT.

(a) AUTHORITY.—The Under Secretary for Science and Technology or his designee may make available to any person or entity, for an appropriate fee, the services of any Department of Homeland Security owned and operated center, or other testing facility for the testing of materials, equipment, models, computer software, and other items designed to advance the homeland security mission.

(b) INTERFERENCE WITH FEDERAL PROGRAMS.—The Under Secretary for Science and Technology shall ensure that the testing of materiel and other items not owned by the Government shall not cause government personnel or other government resources to be diverted from scheduled tests of Government materiel or otherwise interfere with Government mission requirements.

(c) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available under subsection (a) and any associated data provided by the person or entity for the conduct of such tests are trade secrets or commercial or financial information that is privileged or confidential within the meaning of section 552b(4) of title 5, United States Code, and may not be disclosed outside the Federal Government without the consent of the person or entity for whom the tests are performed.

(d) FEES.—The fees for exercising the authorities under subsection (a) may not exceed the amount necessary to recoup the direct and indirect costs involved, such as direct costs of utilities, contractor support, and salaries of personnel that are incurred by the United States to provide for the testing.

(e) USE OF FEES.—The fees for exercising the authorities under subsection (a) shall be credited to the appropriations or other funds of the Directorate of Science and Technology.

(f) OPERATIONAL PLAN.—Not later than 90 days after the date of the enactment of this Act, the Under Secretary for Science and Technology shall submit to Congress a report detailing a plan for operating a program that would allow any person or entity, for an appropriate feel, to use any center or testing facility owned and operated by the Department of Homeland Security for testing of materials, equipment, models, computer software, and other items designed to advance the homeland security mission. The plan shall include—

(1) a list of the facilities and equipment that could be made available to such persons or entities;

(2) a five-year budget plan, including the costs for facility construction, staff training, contract and legal fees, equipment maintenance and operation, and any incidental costs associated with the program;

(3) A five-year estimate of the number of users and fees to be collected;

(4) a list of criteria for selecting private-sector users from a pool of applicants, including any special requirements for foreign applicants; and

(5) an assessment of the effect the program would have on the ability of a center or testing facility to meet its obligations under other Federal programs.

(g) REPORT TO CONGRESS.—The Under Secretary for Science and Technology shall submit to Congress an annual report containing a list of the centers and testing facilities that have collected fees under this section, the amount of fees collected, a brief description of each partnership formed under this section, and the purpose for which the testing was conducted.

(h) GAO.—Not later than two years after the date of the enactment of this Act, the Comptroller General shall submit to Congress an assessment of the implementation of this section.

Strike section 904 and insert the following (and conform the table of contents accordingly):

SEC. 904. REPORT ON IMPLEMENTATION OF THE STUDENT AND EXCHANGE VISITOR PROGRAM.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate congressional committees a report to update the Government Accountability Office report of June 18, 2004, GAO-04-690, on the Student and Exchange Visitor Program (referred to in this section as ''SEVP'') and specifically the Student and Exchange Visitor Information System (referred to in this section as ''SEVIS''). The report shall include the following information:

(1) The rate of compliance with the current SEVIS requirements by program sponsors and educational institutions, including non-academic institutions authorized to admit students under SEVIS.

(2) Whether there are differences in compliance rates among different types and sizes of institutions participating in SEVIS.

(3) Whether SEVIS adequately ensures that each covered foreign student or exchange visitor in nonimmigrant status is, in fact, actively participating in the program for which admission to the United States was granted.

(4) Whether SEVIS includes data fields to ensure that each covered foreign student or exchange visitor in nonimmigrant status is meeting minimum academic or program standards and that major courses of study are recorded, especially those that may be of national security concern.

(5) Whether the Secretary of Homeland Security provides adequate access, training, and technical support to authorized users from the sponsoring programs and educational institutions in which covered foreign students and exchange visitors in a non-immigrant status are enrolled.

(6) Whether each sponsoring program or educational institution participating in SEVP has designated enough authorized users to comply with SEVIS requirements.

(7) Whether authorized users at program sponsors or educational institutions are adequately vetted and trained.

(8) Whether the fees collected are adequate to support SEVIS.

(9) Whether there any new authorities, capabilities, or resources needed for SEVP and SEVIS to fully perform.

Strike section 906, redesignate section 907 as section 906, and conform the table of contents accordingly.

In section 1003, strike subsection (b) and insert the following:

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Assistant Secretary for Information Analysis) may, for the purpose of accelerating the ability of the IA to perform its statutory duties under the Homeland Security Act of 2002, appoint annuitants to positions in the IA in accordance with succeeding provisions of this section, except that no authority under this subsection shall be available unless the Secretary provides to Congress a certification that—

(1) the Secretary has submitted a request under section 8344(i) or 8468(f) of title 5, United States Code, on or after the date of the enactment of this Act, with respect to positions in the IA;

(2) the request described in paragraph (1) was properly filed; and

(3) the Office of Personnel Management has not responded to the request described in paragraph (1), by either approving, denying, or seeking more information regarding such request, within 90 days after the date on which such request was filed.

In section 1003, strike subsection (f) and insert the following:

(f) TERMINATION OF AUTHORITY.—Effective 2 years after the date of the enactment of this Act—

(1) all authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

Strike section 1101, redesignate sections 1102 through 1108 as sections 1101 through 1107, respectively, and conform the table of contents accordingly.

Strike sections 1109, 1110, 1111, redesignate sections 1112 through 1119 as sections 1108 through 1115, respectively, and amend the table of contents accordingly.

Strike section 1120, redesignate section 1121 as section 1116, and amend the table of contents accordingly.

Strike section 1102, as so redesignated, and insert the following:

SEC. 1102. CRITICAL INFRASTRUCTURE STUDY.

The Secretary of Homeland Security shall work with the Center for Risk and Economic Analysis of Terrorism Events (CREATE), led by the University of Southern California, to evaluate the feasibility and practicality of creating further incentives for private sector stakeholders to share protected critical infrastructure information with the Department for homeland security and other purposes.

In section 1103, as so redesignated, strike ''and immigration status databases''.

In the heading for section 1103, as so redesignated, strike ''**AND IMMIGRATION REVIEW**''.

In the proposed section 890A(a), as proposed to be added by section 1106 of the bill, as so redesignated, insert after paragraph (2) the following:

''(3) EXCLUDED PROGRAMS.—This section shall not apply to or otherwise affect any grant issued under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.).''.

Add at the end of title XI the following (and conform the table of contents accordingly):

SEC. 1117. COMPTROLLER GENERAL REPORT ON CRITICAL INFRASTRUCTURE.

(a) REQUIREMENT.—The Comptroller General of the United States shall conduct a study to—

(1) determine the extent to which architecture, engineering, surveying, and mapping activities related to the critical infrastructure of the United States are being sent to offshore locations;

(2) assess whether any vulnerabilities or threats exist with respect to terrorism; and

(3) recommend policies, regulations, or legislation, as appropriate, that may be necessary to protect the national and homeland security interests of the United States.

(b) CONSULTATION.—In carrying out the study authorized by this section, the Comptroller General shall consult with—

(1) such other agencies of the Government of the United States as are appropriate; and

(2) national organizations representing the architecture, engineering, surveying, and mapping professions.

(c) REPORT.—The Comptroller General shall submit to the Committees on Transportation and Infrastructure, Energy and Commerce, and Homeland Security of the House of Representatives, and to the Senate, by not later than 6 months after the date of the enactment of this Act a report on the findings, conclusions, and recommendations of the study under this section.

(d) DEFINITIONS.—As used in this section—

(1) each of the terms ''architectural'', ''engineering'', ''surveying'', and ''mapping''—

(A) subject to subparagraph (B), has the same meaning such term has under section 1102 of title 40, United States Code; and

(B) includes services performed by professionals such as surveyors, photogrammetrists, hydrographers, geodesists, or cartographers in the collection, storage, retrieval, or dissemination of graphical or digital data to depict natural or manmade physical features, phenomena, or boundaries of the earth and any information related to such data, including any such data that comprises the processing of a survey, map, chart, geographic information system, remotely sensed image or data, or aerial photograph; and

(2) the term ''critical infrastructure''—

(A) means systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters; and

(B) includes the basic facilities, structures, and installations needed for the functioning of a community or society, including transportation and communications systems, water and power lines, power plants, and the built environment of private and public institutions of the United States.

Add at the end of title XI the following (and conform the table of contents accordingly):

SEC. 1118. IMPROVING THE NEXUS AND FAST REGISTERED TRAVELER PROGRAMS.

(a) MERGING REQUIREMENTS OF NEXUS AND FAST.—

(1) IN GENERAL.—The Secretary of Homeland Security shall merge the procedures for the programs described in subsection (j) into a single procedure, with common eligibility and security screening requirements, enrollment processes, and sanctions regimes.

(2) SPECIFIC REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall ensure that the procedures for the programs known as ''NEXUS Highway'', ''NEXUS Marine'', and ''NEXUS Air'' are integrated into such a single procedure.

(b) INTEGRATING NEXUS AND FAST INFORMATION SYSTEMS.—The Secretary of Homeland Security shall integrate all databases and information systems for the programs described in subsection (j) in a manner that will permit any identification card issued to a participant to operate in all locations where a program described in such subsection is operating.

(c) CREATION OF NEXUS CONVERTIBLE LANES.—In order to expand the NEXUS program described in subsection (j)(2) to major northern border crossings, the Secretary of Homeland Security, in consultation with appropriate representatives of the Government of Canada, shall equip not fewer than six new northern border crossings with NEXUS technology.

(d) CREATION OF REMOTE ENROLLMENT CENTERS.—The Secretary of Homeland Security, in consultation with appropriate representatives of the Government of Canada, shall create a minimum of two remote enrollment centers for the programs described in subsection (j). Such a remote enrollment center shall be established at each of the border crossings described in subsection (c).

(e) CREATION OF MOBILE ENROLLMENT CENTERS.—The Secretary of Homeland Security, in consultation with appropriate representatives of the Government of Canada, shall create a minimum of two mobile enrollment centers for the programs described in subsection (j). Such mobile enrollment centers shall be used to accept and process applications in areas currently underserved by such programs. The Secretary shall work with State and local authorities in determining the locations of such mobile enrollment centers.

(f) ON-LINE APPLICATION PROCESS.—The Secretary of Homeland Security shall design an on-line application process for the programs described in subsection (j). Such process shall permit individuals to securely submit their applications on-line and schedule a security interview at the nearest enrollment center.

(g) PROMOTING ENROLLMENT.—

(1) CREATING INCENTIVES FOR ENROLLMENT.—In order to encourage applications for the programs described in subsection (j), the Secretary of Homeland Security shall develop a plan to admit participants in an amount that is as inexpensive as possible per card issued for each of such programs.

(2) CUSTOMER SERVICE PHONE NUMBER.—In order to provide potential applicants with timely information for the programs described in subsection (j), the Secretary of Homeland Security shall create a customer service telephone number for such programs.

(3) PUBLICITY CAMPAIGN.—The Secretary shall carry out a program to educate the public regarding the benefits of the programs described in subsection (j).

(h) TRAVEL DOCUMENT FOR TRAVEL INTO UNITED STATES.—For purposes of the plan required under section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, an identification card issued to a participant in a program described in subsection (j) shall be considered a document sufficient on its own when produced to denote identity and citizenship for travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)).

(i) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report on the implementation of subsections (a) through (g).

(j) PROGRAMS.—The programs described in this subsection are the following:

(1) The FAST program authorized under subpart B of title IV of the Tariff Act of 1930 (19 U.S.C. 1411 et seq.).

(2) The NEXUS program authorized under section 286(q) of the Immigration and Nationality Act (U.S.C. 1356(q)).

SEC. 1119. TRAVEL DOCUMENTS.

(a) TRAVEL TO CANADA AND MEXICO.—Section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 is amended by adding at the end the following new paragraphs:

''(3) PASS CARD INFRASTRUCTURE.—The Secretary of Homeland Security shall conduct not less than one trial on the usability, reliability, and effectiveness of the technology that the Secretary determines appropriate to implement the documentary requirements of this subsection. The Secretary may not issue a final rule implementing the requirements of this subsection until such time as the Secretary has submitted to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report on the results and outcome of such trial or trials. The report shall include data and evidence that demonstrates that the technology utilized in such trial or trials is operationally superior to other alternative technology infrastructures.

''(4) FLEXIBLE IMPLEMENTATION PERIOD.—In order to provide flexibility upon implementation of the plan developed under paragraph (1), the Secretary of Homeland Security shall establish a special procedure to permit an individual who does not possess a passport or other document, or combination of documents, as required under paragraph (1), but who the Secretary determines to be a citizen of the United States, to re-enter the United States at an international land or maritime border of the United States. The special procedure referred to in this paragraph shall terminate on the date that is 180 days after the date of the implementation of the plan described in paragraph (1)(A).

''(5) SPECIAL RULE FOR CERTAIN MINORS.—Except as provided in paragraph (6), citizens of the United States or Canada who are less than 16 years of age shall not be required to present to an immigration officer a passport or other document, or combination of documents, as required under paragraph (1), when returning or traveling to the United States from Canada, Mexico, Bermuda, or the Carribean at any port of entry along the international land or maritime border of the United States.

''(6) SPECIAL RULE FOR CERTAIN STUDENT MINORS TRAVELING AS PART OF AN AUTHORIZED AND SUPERVISED SCHOOL TRIP.—Notwithstanding the special rule described in paragraph (5), the Secretary of Homeland Security is authorized to consider expanding the special rule for certain minors described in such paragraph to a citizen of the United States or Canada who is less than 19 years of age but is 16 years of age or older and who is traveling between the United States and Canada at any port of entry along the international or maritime border between the two countries if such citizen is so traveling as a student as part of an authorized and supervised school trip.

''(7) PUBLIC OUTREACH.—To promote travel and trade across the United States border, the Secretary of Homeland Security shall develop a public communications plan to promote to United States citizens, representatives of the travel and trade industries, and local government officials information relating to the implementation of this subsection. The Secretary of Homeland Security shall coordinate with representatives of the travel and trade industries in the development of such public communications plan.

''(8) COST-BENEFIT ANALYSIS.—The Secretary of Homeland Security shall prepare an extensive regulatory impact analysis that is fully compliant with Executive Order 12866 and Office of Management and Budget Circular A-4 for an economically significant regulatory action before publishing a rule with respect to the implementation of the requirements of this subsection.''.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act and every 120 days thereafter, the Secretary of Homeland Security shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report on the implementation of paragraphs (3) through (8) of section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004.

Strike title XII and conform the table of contents accordingly.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from Mississippi (Mr. THOMPSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my manager's amendment strengthens H.R. 1684 by adding some things and taking out some others. Ninety-two percent of the provisions that I am seeking to have removed were items offered for the first time in the committee's mark-up. They were good ideas, but we haven't had the benefit of giving these novel ideas the full consideration they deserve.

After the mark-up, I had the opportunity to speak with a number of chairs who had a shared interest in these items. Collaboration is a wonderful thing, Mr. Chairman. In some cases, they offered suggestions to make the bill better. Those changes are contained in this amendment. In other cases, they offered to work together on these issues and other legislative vehicles. So, as a testament to the collaborative spirit of this majority, I offer this amendment.

I am well aware that some of my Republican colleagues are complaining about what my amendment does. I am reminded of what LBJ once told an audience: ''Perhaps you can help. Don't just complain, develop a better doctrine.'' This Congress, we're developing a better doctrine.

It is important to look at this milestone in context. Let me provide a little lesson on the Committee of Homeland Security's history.

In 2003, the year the committee was created, then Chairman Chris Cox failed to put forth an authorization bill.

In 2004, Chairman Cox scheduled his first markup of an authorization bill but barely got half the committee Republicans to show up. Outnumbered by Democrats, the markup was cancelled after opening statements. Even if the markup had proceeded, it was still 2 months late, as the appropriations bill had passed a month earlier.

In 2005, Mr. Cox was still a day late and a dollar short in getting the bill passed through the House. The appropriation bill still came first.

In 2006, the committee took two steps back. My colleague from New York didn't even mark up an authorization bill until late July, a month and a half after the appropriation bill passed the House. His bill never even went to the floor for a vote. Come on, now. We've all learned Legislation 101, that Congress first authorizes, then appropriates.

Today, under Democratic leadership, we are considering a timely, thorough and thoughtful authorization bill that has the input of numerous committees.

This is the earliest a Homeland Security authorization bill has ever appeared on the floor. It also bears mention that it is on the floor before the appropriations bill. America is not interested in congressional infighting but in getting the job done. We are doing just that.

I urge my colleagues on both sides of the aisle to support my manager's amendment.

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

Mr. KING of New York. Mr. Chairman, I claim time in opposition to the manager's amendment.

The Acting CHAIRMAN. The gentleman from New York is recognized for 5 minutes.

Mr. KING of New York. I recognize myself for as much time as I may consume.

Mr. Chairman, I understand the chairman's dilemma. The bottom line is we did pass a very strong bill out of committee. And let's just again delineate some of those provisions which were unanimously agreed to and have been agreed to: Language on maritime alien smuggling; language which would have monitored the activities of foreign students and visitors; biometric identification of illegal aliens; expanding the use of interoperability grants, which is so much needed by our local law enforcement and first responders; authorizing the Secret Service and its functions; increasing the authorizations of the Secret Service to provide security to Presidential candidates; prohibiting grants to universities which bar Coast Guard recruiters. It eliminated a report on Secret Service training facilities. And, as Mr. MCCAUL said before, it eliminated the provision providing for a National Bio and Agro Defense facility.

Also, more significantly, if we go to the heart of the 9/11 Commission, it eliminated the language calling for a sense of Congress that the homeland security be in fact the focal point and the central point when it comes to legislation on homeland security and also when it comes to overseeing the Department of Homeland Security.

Now the chairman has gone back in history to talk about what happened in the past. The fact is, this is a growing committee, and we all have to make decisions. We have to make value-based decisions. We have to make prudent decisions.

I was the chairman last year; and I did not go for an authorization bill

early on in the year because I thought it was important, in establishing the jurisdiction of the committee, that we go forward and adopt the most far-reaching port security bill ever enacted and, in doing so, confronting jurisdictional impediments thrown at us by other committees.

We did that. It was a long, hard fight. It began early spring and wasn't concluded until September, but we did conclude it. And not only did we enact solid legislation, but, as importantly, we were able to establish our jurisdiction at the expense of competing committees. And I say that not as part of a turf battle, but if we are going to have real homeland security, we have to have a real Homeland Security Committee.

Similarly, when it came to restructuring FEMA, which was a mammoth fight here in the Congress last year, we stood strong through May and June and July and into September; and when the final product came out, it again enhanced the jurisdiction of the Homeland Security Committee.

Also, on the issue of chemical plant security, we fought hard on that. We fought hard for our language, and we got it in. It was part of the omnibus appropriation, and that language again established the Committee on Homeland Security as the primary committee on that issue.

□ 1445

So these were all solid steps forward made by the committee.

Now, I understand the chairman's dilemma. I am not here to take cheap shots. I realize how tough this can be. But my point is, when we had such a solid vote, a unanimous vote coming out of committee, I think more should have been done in resisting the efforts of the other chairmen and of the Democratic leadership to strip so many of the provisions. Almost half of the provisions have been stripped out altogether or dramatically modified. So I do see this, unfortunately, as a step backwards. Certainly not a step forward.

I realize the significance of getting the authorization bill done. I am not trying to minimize that. But the fact is, considering the progress we made last year in such significant areas as port security, chemical plant security and the restructuring of FEMA, we could have done better on this authorization bill this year.

Again, I will have to urge a ''no'' vote on this manager's amendment because of the damage which I believe it does to the Committee on Homeland Security. And also, Mr. Chairman, to send a signal, not to Chairman THOMPSON but to the leadership of the House, that we did come forward on our side. We were willing to stand up to the administration and increase spending by over $2 billion more than the administration requests and wants. We did that unanimously on the Republican side. We also again worked with Chairman THOMPSON on the language that he wanted. He worked with us. So we did make that effort at the committee level.

I just wish the same level of bipartisan cooperation was shown at the leadership level of the House of Representatives rather than having the minority excluded altogether, which was never done at the committee level, either under myself or now under Chairman THOMPSON.

Mr. Chairman, with that, I will rest on the eloquence of my previous remarks and yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I insert for the RECORD a letter from the chairman and ranking minority member of the Judiciary Committee in support of our legislation but reserving, under rule X, the jurisdiction of their committee.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 1, 2007.

Hon. BENNIE G. THOMPSON,
Chairman,
Hon. PETER T. KING,
Ranking Minority Member, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR MR. THOMPSON AND MR. KING: We are writing regarding the bill H.R. 1684, the ''Department of Homeland Security authorization act for Fiscal Year 2008.'' We understand that the Committee on Homeland Security intends to report this bill in the next few days, and that it may come to the House floor as early as next week.

H.R. 1684 is an ambitious bill that contains a number of provisions that fall within the Rule X jurisdiction of the Committee on the Judiciary rather than the Committee on Homeland Security. Our Committee was not furnished the text of the bill as it will be reported until almost a month after your Committee approved it, and was not consulted regarding any of the provisions in question. As there is not adequate time now for our Committee to take a referral of this bill and appropriately consider these provisions, we would request that they be removed from the bill before its consideration on the floor.

The provisions in question include: section 305; section 507; section 901; section 904; section 906; section 1104; new subsection (d)(2) of 6 U.S.C. 455 as it would be added by section 1109; section 1110; section 1111; section 1120; section 1121; and all of title XII.

Thank you for your attention to our request.

Sincerely,

JOHN CONYERS, JR.
Chairman.
LAMAR SMITH,
Ranking Minority Member.

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

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

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

Mr. KING of New York. Mr. Chairman, I demand a recorded vote.

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

AMENDMENT NO. 2 OFFERED BY MR. TOM DAVIS OF VIRGINIA

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110–136.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. TOM DAVIS of Virginia:

Strike section 407.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from Virginia (Mr. TOM DAVIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

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

Mr. Chairman, my amendment will remove from this legislation a very dangerous and costly restriction on the government's ability to obtain protective gear, apparel and other materials that are critical to those charged with protecting our Nation.

Is 9/11 already such a distant memory that we are willing to sacrifice the safety of those protecting our country in order to delude ourselves into believing we are saving jobs? Are there Members of this House who believe we should not be doing everything we can to make sure that our Customs Officers, our Border Patrol agents, our Air Marshals have the best protective gear, the best bulletproof vest, the best body armor available in the world when we go out and purchase this for them? Wherever it is made, we want them to have the best.

Make no mistake about it, a vote against my amendment is a vote to jeopardize the safety and security of the agents and officers protecting our country by restricting the sourcing and our ability to buy the best available around the globe.

What is more, section 407 limits competition, which ends up driving up taxpayer costs, and it limits the Homeland Security Department's ability to obtain the best products to protect our homeland.

Members should not be conned into thinking that domestic source restrictions, ''Buy America,'' save jobs. Time and time again, these shortsighted restrictions have ended up costing us more American jobs than they save, as our trading partners then take retaliatory action against American-made goods and services that we sell abroad. We should remember that we are only 4 percent of the world's consumers here in the United States. Pretty soon, with these kind of source restrictions on what America can buy and sell, we are going to be selling only to ourselves.

Restrictions such as these jeopardize national security; do not make available to us the most modern technologies, the best body armor, the best

bulletproof vests in the world. The highest technology available in the world for ID cards could be eliminated under this amendment. It hamstrings market competition by eliminating who can bid on these contracts, it leads to higher prices and lower quality goods and services, and it wastes precious taxpayer dollars.

I think by supporting homeland security, you should support our amendment to strike section 407.

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

Mr. ETHERIDGE. Mr. Chairman, I rise in opposition to the gentleman's amendment.

The Acting CHAIRMAN. The gentleman from North Carolina is recognized for 5 minutes.

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

Mr. Chairman, I rise in opposition to this amendment because section 407 that my colleague wants to strike has one purpose, to strengthen our national security. It is a commonsense provision that says that sensitive materials, uniforms, protective gear, badges and identification cards should be produced and shipped only within the United States of America. It has a flexible provision that contains an exception for when materials are not available domestically of an acceptable quality or at market value. As long as the Secretary certifies that national security will be protected, he may do it. So if one of our allies makes an item of protective gear that is not available domestically, it will still be available to the Department.

Additionally, it does not apply to purchases made outside the United States for use outside the United States. So if an agent or officer is overseas and needs a bulletproof vest or other piece of protective gear quickly, he or she can get it.

Our national security could be compromised if terrorists, smugglers or other would-be counterfeiters had ready access to the Department of Homeland Security's uniforms, protective gear or ID cards.

This amendment would remove or reduce the opportunity for terrorists or others with bad intentions to pose as Homeland Security officials or officers. It is not uncommon for cargo to be hijacked or lost, particularly in the staging areas at our Nation's ports-of-entry.

The potential theft of uniforms, badges or ID cards, by the truckload it could be, poses a clear threat. In years past, there have been several reports on the overseas manufacture of uniforms for the Department of Homeland Security's operational components. Indeed, most Americans would be shocked to learn that Border Patrol uniforms have been manufactured in Mexico and other countries. This ongoing practice raises legitimate security concerns, not only at the border but all across this country, which is what this provision addresses.

For that reason, I oppose this amendment, and I urge my colleagues to join me in rejecting it.

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

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

Mr. Chairman, one of the difficulties in our procurement system today in government is that we try to reach too many competing policy goals in the way that we buy goods and services. When we use taxpayer dollars, when we take hard-earned money from our taxpayers and the government needs a good or a service, our purpose ought to be to buy the best good and the best service and get the best value for our tax dollars, period. That is what we do when we buy our cars. That is what we do when we add additions to our home. The government should be subject to the same rules and regulations.

In this particular case, there is no safety issue over where these materials may be made. That is a subterfuge. What this is is an attempt to try to protect American jobs in some ways, and of course, the end result is you lose them in others.

But by reaching these competing goals in procurement through set-asides, where we exclude parts of the economic system from bidding, this ''Buy America'' language is another effort another effort to restrict competition. We end up driving up costs for the taxpayers. We don't make use, many times, of the best technology. Although there is catch-all language in this and other ''Buy America'' language that allows the Secretary to certify certain things, in point of fact, they don't work. They are reluctant to do that, and you end up many times with higher-costing goods of the same order. That reduces our ability to use taxpayer dollars wisely.

In a global economy, American taxpayers should get the benefit of the best value when we go out and use our dollars to buy goods and services. Restrictions on competition like this means that tax dollars are limited in their choices. Fewer choices means inferior products. It means greater costs. It means less competition. Section 407 of this legislation restricts competition, and it should be restricted.

My amendment is endorsed by the U.S. Chamber of Commerce, by the Information Technology Association of America as well. I think every taxpayer ought to be concerned about how their tax dollars are spent.

Mr. Chairman, I appreciate the gentleman from North Carolina and his position in the area that he represents, but I just don't think these restrictive source provisions over the long term are in the American taxpayers' interests.

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

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

Mr. Chairman, I admire the gentleman, but I think, in this case, we are talking about an issue that transcends the issues we are talking about. We are talking about the safety and security of American people.

I believe in trade. I have supported it. But there are issues that are paramount to the security and protection of the American people. I think this is one where it goes to the badges and the uniforms that our men and women use to protect Americans' interests.

So, with that, I would urge a ''no'' vote on this amendment.

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

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

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

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

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

AMENDMENT NO. 3 OFFERED BY MR. LANGEVIN

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 110–136.

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. LANGEVIN:

At the end of title XI add the following:

SEC. ___. COOPERATIVE AGREEMENT WITH NATIONAL ORGANIZATION ON DISABILITY TO CARRY OUT EMERGENCY PREPAREDNESS INITIATIVE.

The Administrator of the Federal Emergency Management Agency, in coordination with the Disability Coordinator of the Department of Homeland Security and the Office for Civil Rights and Civil Liberties of the Department, shall use amounts authorized under section 101 to enter into a cooperative agreement with the National Organization on Disability to carry out the Emergency Preparedness Initiative of such organization.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from Rhode Island (Mr. LANGEVIN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Rhode Island.

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

Mr. Chairman, I am certainly grateful for the opportunity to offer this amendment, which would simply direct officials at the Department of Homeland Security to work with the National Organization on Disability on their Emergency Preparedness Initiative.

We all know that people with disabilities face unique challenges in their daily lives. They range from mobility

impairment to communications barriers, and they can become substantial obstacles in an emergency.

As we take steps to make our Nation a safer place, it is critical to keep in mind that if we neglect issues of accessibility and inclusion in our planning, the problems that surface later will be more complicated, more expensive and, in some cases, could cost people their lives.

After September 11, the National Organization on Disability, or NOD, as it is known, showed tremendous leadership by launching the Emergency Preparedness Initiative, or EPI, to ensure that emergency managers address disability concerns and that people with disabilities are included at all levels of emergency preparedness, planning, response and recovery. Indeed, this time of planning serves all those with special needs, not just individuals with disabilities but also the elderly and other vulnerable populations.

Now, with support from Congress and many in the disability community, EPI has become firmly established within the emergency management industry and among disability advocate organizations.

In my capacity as cochair of the Bipartisan Disabilities Caucus, I have worked closely with representatives from EPI to highlight these issues here on Capitol Hill and throughout the Nation. The work they are doing is a critical component to our national security, and I am proud to support their efforts.

□ 1500

As we work to keep all Americans safe and secure, I urge my colleagues to support this amendment.

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

Mr. KING of New York. Mr. Chairman, I rise to claim the time in opposition, although I will not oppose the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from New York is recognized for 5 minutes.

There was no objection.

Mr. KING of New York. Mr. Chairman, I urge its adoption, and I yield back the balance of my time.

Mr. LANGEVIN. Mr. Chairman, I thank the ranking member for his sensitivity and his foresight.

Again, I urge my colleagues to look seriously at this amendment. Again, it is vital that we think ahead of time at what people with special needs may need in an emergency situation. So many people who lost their lives, both on 9/11 and as a result of Hurricane Katrina, were people with disabilities in particular. The tragic loss of life across the board was incredibly sad.

We want to make sure where we can prevent loss of life we do so and made sure that those with special needs are not forgotten and their needs are a forethought rather than an afterthought. That is what EPI is all about. I commend them for their hard work in putting together their emergency preparedness plans and working with emergency management officials to include the needs of people with disabilities. I urge adoption of the amendment.

Having no further speakers, Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Rhode Island (Mr. LANGEVIN).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. ANDREWS

The Acting CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 110–136.

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. ANDREWS:

Insert after section 513 the following new section:

SEC. 514. TERMINATION OF EMPLOYMENT OF VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL PERSONNEL PROHIBITED.

(a) TERMINATION PROHIBITED.—

(1) IN GENERAL.—No employee may be terminated, demoted, or in any other manner discriminated against in the terms and conditions of employment because such employee is absent from or late to the employee's employment for the purpose of serving as a volunteer firefighter or providing volunteer emergency medical services as part of a response to an emergency or major disaster.

(2) DEPLOYMENT.—The prohibition in paragraph (1) shall apply to an employee serving as a volunteer firefighter or providing volunteer emergency medical services if such employee—

(A) is specifically deployed to respond to the emergency or major disaster in accordance with a coordinated national deployment system such as the Emergency Management Assistance Compact or a pre-existing mutual aid agreement; or

(B) is a volunteer firefighter who—

(i) is a member of a qualified volunteer fire department that is located in the State in which the emergency or major disaster occurred;

(ii) is not a member of a qualified fire department that has a mutual aid agreement with a community affected by such emergency or major disaster; and

(iii) has been deployed by the emergency management agency of such State to respond to such emergency or major disaster.

(3) LIMITATIONS.—The prohibition in paragraph (1) shall not apply to an employee who—

(A) is absent from the employee's employment for the purpose described in paragraph (1) for more than 14 days per calendar year;

(B) responds to the emergency or major disaster without being officially deployed as described in paragraph (2); or

(C) fails to provide the written verification described in paragraph (5) within a reasonable period of time.

(4) WITHHOLDING OF PAY.—An employer may reduce an employee's regular pay for any time that the employee is absent from the employee's employment for the purpose described in paragraph (1).

(5) VERIFICATION.—An employer may require an employee to provide a written verification from the official of the Federal Emergency Management Agency supervising the Federal response to the emergency or major disaster or a local or State official managing the local or State response to the emergency or major disaster that states—

(A) the employee responded to the emergency or major disaster in an official capacity; and

(B) the schedule and dates of the employee's participation in such response.

(6) REASONABLE NOTICE REQUIRED.—An employee who may be absent from or late to the employee's employment for the purpose described in paragraph (1) shall—

(A) make a reasonable effort to notify the employee's employer of such absence; and

(B) continue to provide reasonable notifications over the course of such absence.

(b) RIGHT OF ACTION.—

(1) RIGHT OF ACTION.—An individual who has been terminated, demoted, or in any other manner discriminated against in the terms and conditions of employment in violation of the prohibition described in subsection (a) may bring, in a district court of the United States of appropriate jurisdiction, a civil action against individual's employer seeking—

(A) reinstatement of the individual's former employment;

(B) payment of back wages;

(C) reinstatement of benefits; and

(D) if the employment granted seniority rights, reinstatement of seniority rights.

(2) LIMITATION.—The individual shall commence a civil action under this section not later than 1 year after the date of the violation of the prohibition described in subsection (a).

(c) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Labor shall conduct a study on the impact that the requirements of this section could have on the employers of volunteer firefighters or individuals who provide volunteer emergency medical services and who may be called on to respond to an emergency or major disaster.

(2) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Labor shall submit a report of the study conducted under paragraph (1) to the Committee on Health, Education, Labor, and Pensions and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Education and the Workforce and the Committee on Small Business of the House of Representatives.

(d) DEFINITIONS.—In this section—

(1) the term ''emergency'' has the meaning given such term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122);

(2) the term ''major disaster'' has the meanings given such term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122);

(3) the term ''qualified volunteer fire department'' has the meaning given such term in section 150(e) of the Internal Revenue Code of 1986;

(4) the term ''volunteer emergency medical services'' means emergency medical services performed on a voluntary basis for a fire department or other emergency organization; and

(5) the term ''volunteer firefighter'' means an individual who is a member in good standing of a qualified volunteer fire department.

Amend the table of contents by adding, after the item relating to section 513, the following new item:

Sec. 514. Termination of employment of volunteer firefighters and emergency medical personnel prohibited.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman

from New Jersey (Mr. ANDREWS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I would like to thank those involved in this bipartisan effort for a commonsense idea. I would especially like to thank my new colleague, Ms. SHEA-PORTER from New Hampshire, who has shown great interest in the volunteer fire service; Mr. PASCRELL from New Jersey, who wrote the FIRE Act; the gentleman from Delaware (Mr. CASTLE); and the gentleman from New York (Mr. KUHL), who has long been interested in this issue. I would also like to thank Mr. Matthew Riggins of my office for his participation on this matter.

Here is what the bill says. If a volunteer firefighter or EMT is called to a national emergency as declared under the relevant statutes and that volunteer responds to a call, not self-volunteers but responds to a call, that person should have protection when they go back to his or her job. They shouldn't be fired, they shouldn't be disciplined, they shouldn't have their pay docked for up to 14 days in each calendar year.

The service that is performed by our volunteer firefighters and EMTs across this country is enormous and enormously important. We believe that none of those individuals should have the burden of suffering problems at work because of their voluntary spirit. Again, one cannot self-volunteer. Again, the emergency must be sufficient in scope for a Presidential declaration.

We believe this makes good sense, and it is a good bipartisan issue, and I urge Members of the House to vote ''yes.''

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

Mr. KING of New York. Mr. Chairman, I claim the time in opposition, even though I am not opposed to the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from New York is recognized for 5 minutes.

There was no objection.

Mr. KING of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the ranking member from New York for yielding me this time.

I rise in strong support of this amendment. I believe its passage is important to ensure that our local first responders are prepared for major disasters.

Over the years, volunteer firefighters and EMS personnel have repeatedly answered the call of duty. In fact, my home State of Delaware, which is served almost entirely by volunteer firefighters, sent 37 ambulances to New York City on September 11. In the wake of Hurricane Katrina, as fires spread throughout New Orleans and survivors struggled to find dry land, volunteer firefighters and EMS personnel rose to the occasion and proved to be crucial in the massive rescue operation.

Unfortunately, under current law, volunteer firefighters and EMS personnel are not protected from termination or demotion by their employer when they respond to national disasters.

As a result, just a few weeks after Hurricane Katrina destroyed the gulf coast, a group of us got together here on Capitol Hill to craft this legislation which will make certain that our volunteer responders are more readily available to assist local authorities in major disasters.

This proposal is similar to the job protections given to members of the National Guard who serve their country on the battlefield, and it will go a long way in enhancing our ability to respond to catastrophic events and save lives.

Mr. Chairman, last Congress, we collected over 70 bipartisan co-sponsors on this legislation. I appreciate the support of the gentleman from New Jersey and his introduction of this and all the others who have been involved. I urge Members to support this amendment.

Mr. ANDREWS. Mr. Chairman, I now yield to a new Member who has shown a real affinity for and commitment to these issues in her short time here, the gentlewoman from New Hampshire (Ms. SHEA-PORTER) for 2 minutes.

Ms. SHEA-PORTER. Mr. Chairman, I rise as a proud sponsor of this amendment, the Volunteer Firefighter and EMS Personnel Protection Act. The bill will provide job protection to the brave men and women who volunteer their time as firefighters and EMTs during national disasters.

Some volunteers put their lives on hold to help others. Others literally put their lives on the line.

When Hurricane Katrina hit in 2005, our Nation's emergency services were overcome by the immensity of the disaster. Almost 400,000 people were displaced from their homes. The images of this tragedy will be seared in our minds forever.

In the aftermath of the hurricane, I went down to do a very small part to help those, and I saw the devastation. But in a disaster of the magnitude of Hurricane Katrina or the recent tragedy in Kansas, we need more than an extra pair of hands. When our Nation's emergency services are overwhelmed, we need highly skilled professionals who can step in to provide such help.

More than 800,000 skilled first responders volunteer for such emergencies each year. Volunteer firefighters and emergency medical technicians, EMTs, are a critical part of this effort. They are fighting fires and providing essential medical care. They are saving lives.

But, under current law, when volunteer firefighters and EMTs return to their homes, there is no guarantee that they will still have their jobs. They can do the right thing for America and find out they are left out in the cold. In effect, when disaster strikes, these first responders are forced sometimes to decide between helping others and having the security of knowing they still have their jobs when they go home.

This amendment would change all that. It would guarantee volunteer firefighters and EMT the right to keep their job when they respond in a national emergency and allow them to volunteer 14 days per calendar year when they act in an official capacity.

Our Nation absolutely needs highly skilled professionals who are willing to leave their homes and their jobs to help save lives. Congress can help support our volunteer firefighters and EMTs. I urge my colleagues to vote ''yes.''

Mr. KING of New York. Mr. Chairman, I reserve the balance of my time.

Mr. ANDREWS. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. PASCRELL), the author of the FIRE Act.

Mr. KING of New York. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, I thank Mr. ANDREWS and the ranking member, my good friend from New York.

In the book of Isaiah, chapter 6, the question is very specific: Who shall I send?

Volunteers come forward all the time. They come through for us every time. They come through. Three thousand of them came through after 9/11. Thousands and thousands came through after Hurricane Katrina. As we go to the very heart and soul of this great Nation, let us serve these volunteers. Let us serve.

I have spoken with these volunteers not only in New Jersey but throughout this great Nation. They always respond after these tragedies, and I said ''thank you.'' We are saying thank you, and we mean it. We are willing to put it in a law, a law of this Nation.

I am honored to co-sponsor this and join with ROB ANDREWS, who has been a tremendous leader in public safety issues throughout the United States, and CAROL SHEA-PORTER and Mr. CASTLE, real friends of the fire service.

How we respond to catastrophes shows the character of our Nation. How we treat our emergency responders shows who we are as people. We take them for granted. Let's be honest. Congress must do everything in its power to help those who help others.

We have heard about the 14 days a year as they carry out their duties. But, simply put, volunteers should not be penalized when they are off protecting lives of their fellow citizens. No volunteer should be terminated or demoted or discriminated against in their regular job when they are dealing with emergencies and providing vital assistance to the American family.

This amendment ensures that the major contributions of volunteers can and will continue. It ensures that those who have the calling to help will not have to worry about the ramifications of their nobility. It is a wise amendment. It is a bipartisan amendment. I ask for the full support of everyone on this floor.

Mr. KING of New York. Mr. Chairman, I yield myself the balance of my time.

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

Mr. KING of New York. I yield to the gentleman from New Jersey.

Mr. ANDREWS. I did want to thank personally thank the ranking member of the full committee, who is co-Chair of the Congressional Fire Service Caucus, for his support and the chairman of the full committee, Mr. THOMPSON, for his enthusiastic support for this amendment.

Mr. KING of New York. Mr. Chairman, I thank the gentleman from New Jersey (Mr. ANDREWS), Mr. PASCRELL, Mr. CASTLE, and all of the others in the House who support this amendment. Because 9/11 changed our lives in many ways, but one of the most dramatic ways is that it made our first responders and our volunteer firefighters front-line warriors in the war against Islamic terrorism. That is why it is essential that they receive the same protections as our warriors fighting overseas. They are at the front line and deserve our support. I am proud to support the amendment.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MS. CORRINE BROWN OF FLORIDA

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 110–136.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Ms. CORRINE BROWN of Florida:

Insert at the end of title XI the following:

SEC. 1122. CONSIDERATION OF TOURISM IN AWARDING URBAN AREA SECURITY INITIATIVE GRANTS.

In awarding grants under the Urban Area Security Initiative, the Secretary of Homeland Security shall take into consideration the number of tourists that have visited an urban area in the two years preceding the year during which the Secretary awards the grant.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentlewoman from Florida (Ms. CORRINE BROWN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Florida.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I rise today to urge my colleagues to support my amendment.

This amendment would direct the Secretary of Homeland Security to consider the number of tourists who have visited an urban area in the 2 years preceding the year the Secretary awards Urban Area Security Initiative Grants.

Urban Area Security Initiative Grants are designed to fund activities to prevent, protect against, and respond to terrorist attacks and catastrophic events in designated high-threat, high-risk urban areas.

□ 1515

The Department of Homeland Security uses a number of factors to allocate funds and assess risks, including special events, theme parks and population. However, a critical element is missing from their list of factors. Homeland Security has yet to explicitly account for tourists as a risk factor when allocating Urban Area Security Initiative Grants.

A recent Congressional Research Service report says due to the potential for mass casualty incidents and economic damage from terrorist attacks, tourist locations are at risk. In addition to the location of tourist destinations, the tourist population could possibly be at risk, too.

Heavy tourist areas present a twofold incentive for terrorists: a high probability of a sizeable number of casualties and damage to the economy. A 2005 study by the Rand Corporation found that terrorists have an increased concentration on civilian targets and an ongoing emphasis on economic attacks.

Most experts agree the evidence shows that terrorists are seeking to kill as many people as possible. The high number of tourists who are staying at any given time in tourist magnets such as Orlando or Miami significantly increases the potential consequence of an attack in those cities. Congress cannot let terrorists exploit this gap in our grant funding.

In addition, the economic danger resulting from a terrorist attack on a tourist location is another incentive. Terrorist attacks depress consumer confidence and spending that hurts businesses, undermines investment and our overall economic condition. Congress must ensure that the Department of Homeland Security considers this incentive for terrorists when distributing Urban Area Security Initiative Grants.

In past years, concerns were raised that the Department did not adequately account for the large tourist population in cities such as Las Vegas, Orlando and San Diego when they calculated the risk for our Nation's urban areas. In fact, in fiscal year 2006, Las Vegas and San Diego were left off the list of the top 35 cities that were eligible to receive grants under the UASI program.

The Department of Homeland Security has been very secretive regarding how Urban Area Security Initiative Grants are allocated. A recent General Accountability Office report stated, ''DHS has not provided us documentation on what analyses were conducted, how they were conducted, how they were used and how they affected the final risk assessment scores and relative rankings.''

The Department of Homeland Security has made claims that they consider tourist populations, but the problem is Homeland Security has not been specific regarding risk assessment methods or providing Congress adequate information to prove that they have done so. Although the Department of Homeland Security made administrative changes to the fiscal year 2007 grant process to account for tourist populations, my amendment would clearly codify this change.

I urge my colleagues to adopt this amendment.

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

Mr. KING of New York. Mr. Chairman, I rise to claim the time in opposition.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. KING of New York. Mr. Chairman, I yield myself as much time as I may consume, and I would say at the outset that my understanding is that this is already factored in by the Department of Homeland Security, the whole issue of tourism. Also, similar language is included in H.R. 1 and S. 4 which currently are ready to go to conference.

Having said that, no harm, no foul. I have no objection to the language. I think it is unnecessary, but having said that, I will not oppose the amendment.

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

Ms. CORRINE BROWN of Florida. Mr. Chairman, how much time do I have?

The Acting CHAIRMAN. The gentlewoman from Florida has 1 minute remaining.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I yield the remaining time to the gentleman from Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Mr. Chairman, I thank the gentlewoman, and I commend her for bringing this amendment to the floor.

This amendment is going to accord the kind of protection that tourists deserve and should receive in high-density areas. It is odd that Las Vegas, Orlando and San Diego were not adequately considered. We are talking about $746.9 million that will be allocated to 46 urban areas.

I strongly support the amendment. It will provide the protection that tourists richly deserve.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I am asking that the ranking member on the other side yield 1 minute to Ms. BERKLEY because I think I am out of time.

The Acting CHAIRMAN. The gentleman from New York (Mr. KING) has already yielded back the balance of his

time. The gentlewoman from Florida (Ms. CORRINE BROWN) does have 28 seconds remaining.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I yield 28 seconds to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, I thank Ms. BROWN for introducing this.

This is essential that we provide the necessary resources for those areas in our country that have a high number of tourists. Las Vegas is home to 1.9 million residents, but at any given time, we have over 300,000 visitors.

Now, God forbid anything should happen, they are not in the formula, but they are the ones that are going to be most needy because they are away from home. They do not know how to access facilities. We need to provide for these people, and I suspect that that is the case at all tourist destinations.

I rise in support of this amendment, which ensures that we take tourism into account when calculating a city's homeland security risk level. The Urban Area Security Initiative (UASI) addresses the homeland security needs of high-threat, high-density Urban Areas, and assists them in preventing, and recovering from acts of terrorism.

Las Vegas, my district, is a rapidly growing city, but it is even bigger when you add the 40 million tourists who visit our city every year. These tourists are particularly vulnerable because they are far from home and aren't familiar with our city. Al Qaeda and other terrorist groups have made it clear they intend to attack our most vulnerable populations, where they can do the most harm to our economy and our confidence.

The areas Mrs. BROWN and I represent are dependent on tourism and the dollars they bring in. It is therefore essential that tourists be included in any risk assessments for homeland security.

And yet, last year, Las Vegas was left off the list entirely due to various data errors and thoughtless criteria. Over 100,000 tourists per day were completely overlooked. I worked with the Department of Homeland Security to ensure that Las Vegas was ultimately included, but there is no guarantee it couldn't happen again.

Thankfully, this amendment would make sure that—by law—tourism would be taken into account when calculating risk. It's the right thing to do, it's the smart thing to do and it's the safe thing to do. I urge support for this amendment and thank the gentlewoman from Florida.

The Acting CHAIRMAN. All time for debate has expired on this amendment.

The question is on the amendment offered by the gentlewoman from Florida (Ms. CORRINE BROWN).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. CASTLE

The Acting CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 110–136.

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. CASTLE:

At the end of title XI, insert the following:

SEC. ___. STUDY OF FOREIGN RAIL SECURITY PRACTICES.

The Secretary shall—

(1) study select foreign rail security practices, and the cost and feasibility of implementing selected best practices that are not currently used in the United States, including—

(A) implementing covert testing processes to evaluate the effectiveness of rail system security personnel;

(B) implementing practices used by foreign rail operators that integrate security into infrastructure design;

(C) implementing random searches or screening of passengers and their baggage; and

(D) establishing and maintaining an information clearinghouse on existing and emergency security technologies and security best practices used in the passenger rail industry both in the United States and abroad; and

(2) report the results of the study, together with any recommendations that the Secretary may have for implementing covert testing, practices for integrating security in infrastructure design, random searches or screenings, and an information clearinghouse to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives not later than 1 year after the date of enactment of this Act.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from Delaware (Mr. CASTLE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Delaware.

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

I rise to offer a critical amendment to this legislation before us today.

Yesterday, it was revealed that several individuals operating out of the Philadelphia area had plotted to attack key installations in the Northeast, including Fort Dix, New Jersey, and Dover Air Force Base in my home State of Delaware. While the tremendous work of our law enforcement community prevented these attacks from taking place, this case serves as a clear reminder that terrorists are intent on attacking us wherever we are vulnerable.

One of our greatest vulnerabilities remains our mass transit systems, which move millions of people every year. In fact, terrorists are increasingly targeting rail and transit systems throughout the world, and the recent bombings in India, London and Madrid are clear evidence of this dangerous trend.

While the concept of rail security is relatively new here at home, security officials in Europe and Asia have decades of experience with terrorist attacks, and I have long believed in the importance of leveraging this experience to improve our own system.

In 2003, I asked the General Accountability Office to undertake an in-depth study of foreign rail security practices. Over the course of several months, the GAO team visited 13 different foreign rail systems, and its subsequent report identified several innovative measures to secure rail systems, many of which are currently being used in the United States.

Most significantly, however, the GAO report identified four important foreign rail security practices that are not currently being used to any great extent in the United States.

First, the report found that other nations had improved the vigilance of their security staff by performing daily unannounced events, known as covert testing, to gauge responsiveness to incidents such as suspicious packages or open emergency doors.

Similarly, two of the 13 foreign operators interviewed by GAO also reported success using some form of random screening to search passengers and baggage for bombs and other suspicious materials. This practice has been used sporadically in the U.S., including in New York City following the 2005 London bombings, but it has never been implemented for any continuous period of time.

The GAO also noted that many foreign governments maintain a national clearinghouse on security technologies and best practices. Such a government-sponsored database would allow rail operators to have one central source of information on the merits of rail security technology, like chemical sensors and surveillance equipment.

Finally, while GAO noted that the Department of Transportation has taken steps to encourage rail operators to consider security when renovating or constructing facilities, many foreign operators are still far more advanced when it comes to incorporating aspects of security into infrastructure design.

For example, this photograph of the London Underground demonstrates several security upgrades, such as vending machines with sloped tops to reduce the likelihood of a bomb being placed there, clear trash bins and netting throughout the station to prevent objects from being left in recessed areas. As you can see, the London stations are also designed to provide security staff with clear lines of sight to all areas of the station, including underneath benches and ticket machines.

The British Government has praised these measures for deterring terrorist attacks, and in one incident, their security cameras recorded IRA terrorists attempting to place an explosive device inside a station. According to London officials, due to infrastructure design improvements, the terrorists were deterred when they could not find a suitable location to hide the device inside the station.

While the GAO acknowledged that deploying these four practices in this country may be difficult, in fact random screening may pose many challenges, it is clear that these foreign security techniques deserve greater consideration.

Therefore, the amendment I am offering today would take steps to improve rail and transit security by requiring the Secretary of Homeland Security to study the cost and feasibility of implementing these practices and submit a report making recommendations to the Homeland Security and Transportation Committees within 1 year of enactment.

Mr. Chairman, recent attacks on rail and transit throughout the world underscore the importance of acting now to upgrade security here at home. My amendment will make certain that we are knowledgable and consider all available options when it comes to ensuring the safety and security of our rail system.

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

Mr. AL GREEN of Texas. Mr. Chairman, I rise to claim the time in opposition to the amendment. However, I do not oppose the amendment.

The Acting CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. AL GREEN of Texas. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Chairman, I rise in support of the amendment.

As chair of the Rail Subcommittee, we have done initial studies, and we have found that we are celebrating the anniversary of the bombing in Madrid, the bombing in London, the bombing in India, and yet the administration has not come forward with recommendations as to how to secure our rail system, how to implement a program to safeguard that we do not have this kind of attack on homeland security here in the United States.

So I strongly support the amendment.

March 11th marked the third anniversary of the train bombings in Madrid, and we have seen terrorist attacks in London and India in each year since. Yet the Bush Administration and past Republican leadership has done little to protect our Nation's freight rail or the millions of passengers that use public transportation every day.

The anniversary of this terrible tragedy again raises the serious question of whether we are prepared in this country for a similar attack. Sadly, that answer is a resounding NO. But with the passage of this legislation, we will start investing the money that is needed to safeguard our rail and transit infrastructure from those who wish us harm.

The Federal Government has focused most of its attention on enhancing security in the airline industry and has largely ignored the needs of public transit agencies and railroads. Yet, worldwide, more terrorist attacks have occurred on transit and rail systems since 9/11 than on airlines.

In 2006, we dedicated $4.7 billion to the airline industry for security, while 6,000 public transit agencies and one national passenger railroad, Amtrak, had to share a meager $136 million total for security upgrades. Nothing was provided to the 532 freight railroads for security upgrades.

Fortunately for the traveling public, the legislation on the floor today will address the security challenges facing our Nation's transit and rail systems.

This bill requires comprehensive security plans; strengthens whistleblower protections for workers; mandates security training; improves communication and intelligence sharing; authorizes a higher-level of grant funding for Amtrak, the freight railroads, and public transportation providers; and provides funding for life-safety improvements to the tunnels in New York, Boston, and Washington, DC.

Most importantly, it helps make sure our communities, our First Responders, and our transit and rail workers are safe and secure. And it does all of this through a coordinated effort between the Department of Homeland Security and the Department of Transportation, the agency that has the expertise to deal with transportation safety issues.

We are way behind many other countries in protecting our transit and rail systems, but with the new leadership in Congress and this comprehensive legislation, we have a plan that will protect millions of transit and rail passengers and the communities through which freight railroads operate from harm, while keeping the trains running on time.

I encourage all my colleagues to do the right thing for your constituents and support this long overdue rail and transit security legislation.

Mr. CASTLE. How much time do I have left, Mr. Chairman?

The Acting CHAIRMAN. The gentleman from Delaware has 1 minute remaining.

Mr. CASTLE. Mr. Chairman, let me just close by thanking those on the other side who have spoken in favor of the amendment and for their support of it. I truly believe that this is a small but a very significant step perhaps in preventing terrorism in mass transit in the United States. It is the reason I hope we all can support it.

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

Mr. AL GREEN of Texas. Mr. Chairman, I yield myself such time as I may consume.

I would like to, if I may, extend, my greatest appreciation to Mr. CASTLE for bringing this amendment to the floor. It is very thoughtful, and it is very timely.

Mr. Speaker, we must learn from the experiences of others. This amendment will provide us an opportunity to study the best practices available and to benefit from these practices by implementing policies and procedures within our country that will help to secure our rail system.

This is a good amendment, and I strongly urge my colleagues to support it. And again, I commend the gentleman for bringing it to the floor.

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

The Acting CHAIRMAN. All time for debate on the amendment having expired, the question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

□ 1530

AMENDMENT NO. 7 OFFERED BY MR. HASTINGS OF FLORIDA

The Acting CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 110–136.

Mr. HASTINGS of Florida. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. HASTINGS of Florida:

At the end of title XI, insert the following:

SEC. 2211. FEMA RECOVERY OFFICE IN FLORIDA.

(a) ESTABLISHMENT.—To provide eligible Federal assistance to individuals and State, local, and tribal governments affected by Hurricanes Charley, Frances, Ivan, Jeanne, Wilma, Tropical Storm Bonnie, and other future declared emergencies and major disasters, in a customer-focused, expeditious, effective, and consistent manner, the Administrator of the Federal Emergency Management Administration shall maintain a recovery office in the State of Florida for a period of not less than three years after the date of enactment of this Act.

(b) STRUCTURE.—The recovery office shall have an executive director, appointed by the Administrator, who possesses a demonstrated ability and knowledge of emergency management and homeland security, and a senior management team.

(c) RESPONSIBILITIES.—The executive director, in coordination with State, local, and tribal governments, non-profit organizations, including disaster relief organizations, shall—

(1) work cooperatively with local governments to mitigate the impact of a declared emergency or major disaster; and

(2) provide assistance in a timely and effective manner to residents of Florida and other States as determined appropriate by the Administrator for recovery from previous and future declared emergencies and major disasters.

(d) STAFFING.—Staffing levels of the recovery office shall be commensurate with the current and projected workload as determined by the Administrator.

(e) PERFORMANCE MEASURES.—To ensure that the recovery office is meeting its objectives, the Administrator shall identify performance measures that are specific, measurable, achievable, relevant, and timed, including—

(1) public assistance program project worksheet completion rates; and

(2) the length of time taken to reimburse recipients for public assistance.

(f) EVALUATION.—The Administrator shall evaluate the effectiveness and efficiency of the recovery office in the State of Florida in meeting the requirements of this section. Not later than three years after the date of enactment of this Act, the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives on whether continuing to operate such office is necessary.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from Florida (Mr. HASTINGS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

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

I rise today to offer an amendment to the Department of Homeland Security

bill which would establish in statute, a FEMA Office of Long-Term Recovery in Florida for a period of no less than 3 years.

FEMA initially opened an Office of Long-Term Recovery in Florida following the devastating 2004 hurricane season, which left my home State in peril following the landfall of four Category 3 or greater hurricanes. The results have been incredible, and it hasn't only been residents of my State who benefited from the work that FEMA is doing in Florida and elsewhere.

Since it was created, the office has reduced response times to disasters and helped to mitigate the impact of future storms.

In the first months of the office's existence, FEMA officials were successful in more than doubling public assistance reimbursements from $1 billion to $2 billion. Moreover, the full-time recovery staff, well versed in State and Federal and local policies, was able to rectify the mistakes made by previous emergency management teams.

The permanencies of the staff and the relationships they have cultivated with local governments, nonprofits, communities and Federal officials have reduced FEMA's response time to disasters, saving taxpayers' dollars and lives, while reducing confusion.

From this office, more mitigation funds have gone out to recipients than ever before in FEMA's history. The office also closed down two large-scale housing missions, something never accomplished in all of FEMA's history. Florida's Office of Long-Term Recovery has made FEMA more of a customer-oriented business, where citizens and government alike are better served by more responsive managing.

Congress has already established long-term recovery offices in Mississippi, Louisiana, Alabama and Texas, and rightly so. It would be appropriate that we officially establish a similar one in Florida to serve the State and region. Footnote there, there is a storm off the east coast that has now been named, which is indicative of the fact that we can expect not only Florida but the areas mentioned to continue to have this problem. It is the eve of hurricane season; and the House, acting today, could not be more timely.

Before I conclude, I want to thank the chairman and ranking member of the Homeland Security Committee and the Transportation and Infrastructure Subcommittee. I would like to especially thank, personally, Mr. THOMPSON of Mississippi and Mr. OBERSTAR and my good friend from New York (Mr. KING) and Mr. MICA for their help on this amendment. They all know the great benefit that this office provides for the State of Florida and the entire region, and I ask for my colleagues' support.

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

Mr. KING of New York. Mr. Chairman, I claim the time in opposition.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. KING of New York. Mr. Chairman, I commend the gentleman from Florida. I support his amendment.

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

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

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

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 110–136.

AMENDMENT NO. 9 OFFERED BY MR. STUPAK

The Acting CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 110–136.

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. STUPAK:

At the end of title IX, add the following:

SEC. 908. REPORT ON INTEGRATED BORDER ENFORCEMENT TEAM INITIATIVE.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Congress on the status of the Integrated Border Enforcement Team (IBET) initiative. The report should include an analysis of current resources allocated to IBETs, an evaluation of progress made since the inception of the program, and recommendations as to the level of resources that would be required to improve the program's effectiveness in the future.

In the table of contents, insert after the item relating to section 907 the following:

Sec. 908. Report on Integrated Border Enforcement Team initiative.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from Michigan (Mr. STUPAK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. STUPAK. I want to thank Chairman THOMPSON and the Homeland Security Committee for their work on this bill. I think it's an excellent piece of legislation and will go a long way towards making the Department of Homeland Security more accountable and effective.

Mr. Chairman, I rise to ask my colleagues to support my amendment to H.R. 1684, which would require the Secretary to conduct a study on ways to improve the effectiveness of the Integrated Border Enforcement Team, or IBET program. IBETs are already one of the border's great security success stories of the post-9/11 era. The program grew out of a history of informal cooperation between American and Canadian border protection officers.

In December 2001, the IBET concept was made official as part of the Smart Border Declaration signed by the United States and Canada. As a former law enforcement officer, I know that access to timely, reliable information is one of the most effective, important tools an officer can have. IBETs allow law enforcement officers from along our northern border to collaborate in real time and share information and expertise with their Canadian counterparts.

This strategy has paid off along our northern border. In the past year alone, IBETs helped to break up several organized criminal operations that were smuggling drugs and people into the United States, leading to dozens of arrests and confiscation of millions of dollars in drug and cash.

I have seen firsthand how important this program is to local border protection officers. One of the 15 current IBET sites is in my district in Sault Ste. Marie, Michigan.

The IBET consists of area law enforcement officers from the United States and Canada, including cooperation with county and local police officers, Customs and Border Protection agents, the Coast Guard and Canadian border officers and police officers. The officers involved in this IBET have been unanimous in telling me how much IBET has improved their ability to police the border and make our homeland more safe and secure.

I am concerned, however, that the potential of the IBET has not been fully realized at Sault Ste. Marie and other sites. The Department of Homeland Security has not assigned a full-time officer to monitor and lead the IBET, instead defining IBET as ''collateral duty'' for an officer who already has a full-time job. The previous IBET chairperson was transferred to a post in Miami, leading to a loss of valuable institutional knowledge.

Finally, there is no specific funding line for IBET activities; and direct funding has been minimal, in fact, only $5,000 for 15 IBETs for 2006.

My amendment would require the Secretary to report to Congress on the resources currently being devoted to the IBET program. In addition, the amendment asks the Secretary to make recommendations to Congress on how to make the IBET program even more effective in the future. It is clear that when the IBET program is fully funded and staffed it can be a powerful tool for law enforcement. My amendment is intended to improve accountability and oversight for the IBET program and ensure that all IBETs, not just some, receive the resources they need to be truly effective.

Once again, I would like to thank the chairman and the ranking member for their outstanding work on this bill and for their willingness to support this amendment. I urge support of the Stupak amendment.

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

Mr. KING of New York. Mr. Chairman, I claim the time in opposition.

The Acting CHAIRMAN. The gentleman from New York is recognized for 5 minutes.

Mr. KING of New York. Mr. Chairman, I recognize myself for as much time as I may consume.

Mr. Chairman, I want to commend the gentleman from Michigan for this amendment and for bringing his law enforcement expertise to the Congress in so many ways for so many years. I urge adoption of the amendment.

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

Mr. STUPAK. I appreciate the comments from Mr. KING, and I yield the remaining time to Mr. GREEN, my friend from Texas.

Mr. AL GREEN of Texas. How much time do I have, Mr. Chairman?

The Acting CHAIRMAN. The gentleman from Texas is recognized for 1½ minutes.

Mr. AL GREEN of Texas. Mr. Chairman, I would like to commend Mr. STUPAK for this outstanding amendment. This amendment is one of our best bets; and, hence, I think IBET is a great way to style the team that will be working.

This amendment will accord us an opportunity to have Customs enforcement, the Coast Guard, the immigration authority, Border Patrol, the Royal Canadian Mounted Police all work together to help thwart and hopefully end any human trafficking, drug trafficking, and cross-border terrorist activities that may take place.

This is a very thoughtful amendment. It provides an opportunity for our countries, Canada and the United States, to work together in the best effort possible to secure the northern border.

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

The amendment was agreed to.

AMENDMENT NO. 10 OFFERED BY MR. HASTINGS OF WASHINGTON

The Acting CHAIRMAN. It is now in order to consider amendment No. 10 printed in House Report 110–136.

Mr. HASTINGS of Washington. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. HASTINGS of Washington:

In section 801, amend paragraph (7) to read as follows:

(7) a plan for leveraging the expertise of the National Laboratories, the process for allocating funding to the National Laboratories, and a plan for fulfilling existing National Laboratory infrastructure commitments to maintain current capabilities and meet mission needs; and

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from Washington (Mr. HASTINGS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington.

Mr. HASTINGS of Washington. Mr. Chairman, this amendment would require the Department of Homeland Security, or DHS, to report on a plan for fulfilling its infrastructure commitments at our national laboratories.

I want to thank my two Washington State colleagues, Mr. NORMAN DICKS and Mr. DAVE REICHERT, a member of the committee, for their co-sponsorship of this amendment.

This amendment ensures that national laboratory infrastructure changes will not interrupt security programs needed by DHS.

When DHS was established, it inherited facilities around the Nation and from other agencies, some of which were aging and in need of repair. These capital facilities include critical components involving radiological and nuclear countermeasures, threat vulnerabilities and threat assessments, as well as work on biological and chemical countermeasures. In order for DHS to carry out its mission to protect our Nation, it is critical that the Department have the facilities that it needs.

At the Pacific Northwest National Laboratory, PNNL, in Washington State, critical DHS research and development will be transferred to new facilities as existing labs are torn down for environmental cleanup activities at the 300 Area of the Hanford Federal nuclear site in my district.

In 2006, the DHS Under Secretary for Science and Technology signed an MOU with the Department of Energy and National Nuclear Security Administration that established funding commitments for the agencies involved in the transition of PNNL's facilities from the 300 Area to new lab space. This MOU underscores DHS's critical role in making sure national security related work at PNNL will not be interrupted by this transition.

This amendment I have introduced is not only important to the State of Washington and my constituents but also to our overall national security. I understand that this has been accepted on both sides, and I want to thank Chairman THOMPSON and Ranking Member KING for agreeing to agree with that.

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

Mr. AL GREEN of Texas. Mr. Chairman, I would like to claim time in opposition to the amendment. However, I do not oppose it and, in fact, would like to say a word, if I might, in support of it.

The Acting CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. AL GREEN of Texas. I think this is an appropriate amendment that Mr. HASTINGS has brought to the attention of the House. It is most appropriate that we have a strategic plan that would provide some leverage such that the expertise of the national lab can be properly utilized.

This is a national plan. It is one that is most appropriate, and we support it. We commend the gentleman for bringing it to the attention of the House.

Mr. HASTINGS of Washington. Mr. Chairman, I yield to the ranking member from New York.

Mr. KING of New York. I thank the gentleman from Washington for yielding. I commend him for this amendment, and I strongly urge its adoption.

Mr. DICKS. Mr. Chairman, I am pleased to join the gentleman from Washington, Mr. HASTINGS, in amending H.R. 1684 to emphasize what we believe is an important connection between our national research laboratories and the Department of Homeland Security, DHS.

Our amendment would simply insert in the bill a requirement of the Department to report to Congress about its plan for ''leveraging the expertise of the National Laboratories, the process for allocating funding to the National Laboratories and . . . for fulfilling existing National Laboratory infrastructure commitments to maintain current capabilities and mission needs.''

I believe the national labs represent a tremendously valuable resource that can and should be used by the Department of Homeland Security to protect our population. With expertise it biological, chemical, radiological and nuclear science and technology and computer and information science the national laboratories—those controlled by the Homeland Security Department as well as the laboratories under the jurisdiction ofl the Department of Energy—can play a vital role in the prevention, deterrence, detection, mitigation and attribution of the use of weapons of mass destruction. DHS has already initiated a series of cooperative arrangements with several of the labs recognizing the great synergy that is possible through combined research efforts.

Congressman HASTINGS and I have been working on one such cooperative program with the Pacific Northwest National Laboratory, PNNL, in the State of Washington. Under a Memorandum of Understanding, the Department of Homeland Security, the Energy Department's National Nuclear Security Administration and DOE's Office of Science are contributing to PNNL's Capability Replacement Laboratory, CRL, to replace mission critical RDT&E capabilities that will be otherwise lost as a result of the Department of Energy Environmental Management Office's accelerated cleanup of Hanford's 300 Area. Among the capabilities of the CRL that should and will be utilized by DHS are radiation detection and analysis, information analytics, and the testing, evaluation and certification of new methods and technologies.

According to the interagency MOU signed by all parties, DHS was expected to provide $25 million for the project in FY 2008; however, the President's budget does not include the funds. With construction scheduled to begin this year, we are now worried about the future of this project due to the lack of attention to this issue at DHS.

Although Congressman HASTINGS and I are working to correct this situation in the FY 2008 budget, I believe this situation highlights the need to examine more closely the relationship of the labs to the Department's R&D effort. Thus, our amendment calls for a report to Congress on the Homeland Security Department's strategic plan for its research efforts to include a plan for fulfilling existing national laboratory infrastructure commitments in order to maintain current capabilities and mission needs.

Our hope is that such a public clarification of the role of the labs can help the Department to make a stronger case to Congress for

the importance of the work at PNNL as well as the other important national research laboratories.

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

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

The amendment was agreed to.

□ 1545

The Acting CHAIRMAN. It is now in order to consider amendment No. 11 printed in House Report 110–136.

PARLIAMENTARY INQUIRY

Mr. KING of New York. Mr. Chairman, I have a parliamentary inquiry.

The Acting CHAIRMAN. The gentleman from New York is recognized for his parliamentary inquiry.

Mr. KING of New York. Mr. Chairman, can you tell us the current status of the Committee of the Whole, what is being considered at this time?

The Acting CHAIRMAN. It is now in order to consider amendment No. 12 printed in House Report 110–136.

It is now in order to consider amendment No. 13 printed in House Report 110–136.

It is now in order to consider amendment No. 14 printed in House Report 110–136.

AMENDMENT NO. 15 OFFERED BY MR. TERRY

The Acting CHAIRMAN. It is now in order to consider amendment No. 15 printed in House Report 110–136.

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Mr. TERRY:

At the end of title XI add the following:

SEC. ___. REQUIREMENT TO CONSULT STATES REGARDING GRANT AWARDS.

Before the release by the Department of Homeland Security of any information regarding the award of any grant to a State with amounts authorized under section 101, including before submitting to Congress any list of such grant awards, the Secretary of Homeland Security shall consult with States.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from Nebraska (Mr. TERRY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Nebraska.

Mr. TERRY. Mr. Chairman, I appreciate the recognition.

This is a rather simple and focused amendment that recognizes that our Homeland Security Department has had difficulties communicating to its partners. My Governor called me last year when the press showed up in his office and wanted an answer about a grant and no one had notified the Governor's office. We contacted the National Governor's Association, NGA, and found out that this is a very deep and epidemic problem with our Department of Homeland Security.

So all that we are asking in this amendment is that in regard to grants that affect the State, that the State be put into the communication loop so when reporters show up at their office asking for comment, they actually know what the reporters are talking about.

I think it is egregious that reporters get to be notified sooner than the grant recipient or the State that was denied the grant.

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

Mr. AL GREEN of Texas. Mr. Chairman, I rise in opposition to the amendment; however, I do not oppose the amendment and would support it.

The Acting CHAIRMAN. The Member from Texas is recognized for 5 minutes.

Mr. AL GREEN of Texas. Mr. Chairman, let me say simply that I thank the Member for bringing this amendment to the attention of the floor of the House and would encourage my colleagues to support it.

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

Mr. TERRY. Mr. Chairman, with that very articulately stated and persuasive argument, I yield back the balance of my time.

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

The amendment was agreed to.

AMENDMENT NO. 16 OFFERED BY MR. KING OF NEW YORK

The Acting CHAIRMAN. It is now in order to consider amendment No. 16 printed in House Report 110–136.

Mr. KING of New York. Mr. Chairman, can you just tell me what amendments have gone by and what amendments are coming up now?

The Acting CHAIRMAN. We are on amendment No. 16.

Mr. KING of New York. Mr. Chairman, I will ask to be the designee of Mr. MICA.

The Acting CHAIRMAN. The gentleman is recognized as the designee of Mr. MICA.

It is now in order to consider amendment No. 16 printed in House Report 110–136.

Mr. KING of New York. Mr. Chairman, I am introducing the Mica amendment as his designee.

The Acting CHAIRMAN. Without objection, the Clerk will designate the amendment.

There was no objection.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. KING of New York:

In section 1102(a) of the bill, after ''The Secretary of Homeland Security'' insert ''and the Secretary of Transportation''.

In section 1102(a) of the bill, strike ''the Department of homeland security'' and insert ''the Department of Homeland Security, the Department of Transportation,''

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from New York (Mr. KING) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. KING of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment adds the Secretary of Transportation to a study to increase incentives for the sharing of critical infrastructure information with the Department of Homeland Security.

The Homeland Security Act of 2002 included the Critical Infrastructure Act in title II. All agencies will benefit from this study. I know that Congressman MICA has put effort into it. It has, my understanding, bipartisan support.

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I claim the time in opposition, and I am opposed to the amendment.

The Acting CHAIRMAN. The gentlewoman from Texas is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in opposition to the gentleman's amendment. And might I indicate, because I know Members are in their offices working and committees, and deliberations on the floor are instructive to the Members and their staff, make it very clear of the cooperative and collaborative relationship that the Homeland Security Committee has had with the Transportation and Infrastructure Committee, along with many other committees. Let me reemphasize the very strong working relationship of the chairman of the Homeland Security Committee and the chairperson of the Transportation Committee.

So this amendment is unnecessary. We have worked closely together on this bill and on many issues. I specifically remember the close relationship that we had in working on the rail security bill, where we are jointly responsible for securing the Nation's transportation system or rail transportation system.

This amendment, though possibly well-intended, unnecessarily creates a bureaucratic and burdensome process to what should be a simple study.

Let us be reminded of the 9/11 Commission. The 9/11 Commission wanted to emphasize the ending of bureaucratic red tape. That is why we have the Homeland Security Department and the Homeland Security Committee.

Specifically, this amendment seeks to add the Secretary of Transportation to a study on incentives to secure critical infrastructure information for private stakeholders. Mr. Chairman, we all know what happens when we have too many cooks in the kitchen. We also know that we have a working relationship between our committees and between the Members of this Congress, and also a duty and responsibility to Homeland Security Committee to ensure the securing of this Nation

through the securing and the responsibilities of the Homeland Security Department. Adding more layers to a project like this only assures that the project will not get done in a timely manner.

The Secretary of Homeland Security is charged with working to identify and help with other agencies and protect critical infrastructure. That is a component of our committee and the subcommittee that was set up by the chairman of this committee and the subcommittee that I serve to ensure efficiency. The Secretary of Homeland Security by himself is more than capable of working to complete a study of incentives, infrastructure, stakeholders, to share information with the government.

For these reasons, I oppose this amendment. And I would simply say to my colleagues, what did the 9/11 Commission dictate or ask us to do? Thoughtfully streamline the process of securing America and make sure that we are attentive, we are efficient, and we get the job done. Lives are at stake.

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

Mr. KING of New York. Mr. Chairman, I yield the balance of my time to the author of the amendment, Mr. MICA.

Mr. MICA. Mr. Chairman, I thank the ranking member for yielding me time and also for presenting my amendment.

My amendment would have required that the Department of Transportation participate in the infrastructure study that is required by this legislation. My amendment ensures that the government transportation experts are fully utilized to identify cost-effective measures for protecting critical infrastructure. Right now, as the bill is drafted, it is just limited to Homeland Security leading that effort.

Because our highest risk in this center is involved in addressing risks, terrorist risks, our highest risks are transportation and infrastructure under the jurisdiction of the Department of Transportation, it would only be logical to include them in this effort. I believe the bill as drafted was a mistake, and why the Congress would require a critical infrastructure study like this and not include the Federal agency that has the expertise and the private sector relationships necessary to get the job done. So, again, I have concerns about doing this further directive by the bill.

If you stop to look at what the risks are as far as terrorist risks: Look at the 1993 bombing of the World Trade Center; look at the 1995 Tokyo subway sarin gas attack; look at the Oklahoma City bombing against an infrastructure facility; look at the 9/11 attack using aviation transportation equipment on the World Trade Center and on the Pentagon; look at the Madrid train bombings; look at the London underground train and bus bombings.

What do they all have in common? They have in common transportation. What does the provision that they have included in this bill have in it? Homeland Security, with no participation with the Department of Transportation. The Department of Transportation also handles these transportation and infrastructure issues and really should be a part of this study if it in fact goes forward.

Now, consider some of our greatest concerns, attacks on hazardous materials, pipelines, chlorine gas, tank cars and transit systems. These are all areas regulated by DOT. And they want to leave them out of this study. The DOT has a long working relationship with all of these transportation and infrastructure issues, and I believe DOT would be a vital partner in assessing the risks and economic analysis associated with the terrorist attacks on our critical infrastructure.

And part of the study here is to find out how to get the private sector to participate in this. Who else would be better equipped, a bureaucracy of 177,000 or whatever it is up to, 200,000, in Homeland Security that doesn't have a clue or people who actually work with people in transportation, on transportation projects and with those projects and systems that may be at risk?

Including DOT will help us avoid problems like throwing billions of dollars at transit systems without understanding its impact on our economy and mobility.

I should point out finally that DOT is already involved in some of the critical infrastructure planning, and my amendment is simply an extension of that effort. It is a reasonable amendment. It doesn't replace or duplicate the Department of Homeland Security or diminish their role over these critical infrastructure protection efforts. And if other appropriate agencies or sectors are being left out, I think they should also be included in the effort. But to leave out DOT is to leave out the success that we need to make any kind of study or future partnership of working together to address terrorist risks and threats.

□ 1600

So I thank also Ms. CASTOR from my State of Florida for offering an amendment today.

Ms. JACKSON-LEE of Texas. I thank the distinguished chairman.

Let me just simply say to my good friend, nothing precludes the engaging by the Homeland Security Department of those who have a stakeholder's role. Remember, this is an assessment of critical infrastructure on the issue of security.

The rules of the House designate the Homeland Security Committee as the committee that deals with the question of security. In addition, none of us work in a vacuum; and we would expect this center of excellence to engage those necessary parties.

This amendment is opposed by the committee. This amendment will create another layer of bureaucracy. This amendment goes against the 9/11 Commission, which has asked us to be efficient and to be definitive on our questions of security issues. And what we are attempting to do is to allow the Homeland Security Department to do its job, which creates a center of excellence to focus on the security protection measures for critical infrastructure, a defined responsibility of the Homeland Security Department. And we simply expect that there will be a collaborative working on that such that no Department, Mr. Chairman and my colleagues, will be left out, including the very important Department of Transportation. And we would look forward to collaborating with them.

And, in that regard, I rise to vigorously oppose the amendment and ask for a ''no'' vote.

Ms. JACKSON-LEE of Texas. I rise in opposition to the gentleman's amendment. This amendment—while well-intented—unnecessarily creates a bureaucratic and burdensome process to what should be a simple study.

Specifically, this amendment seeks to add the Secretary of Transportation to a study on incentives to secure critical infrastructure information from private stakeholders.

Mr. Chairman, we all know what happens when we have too many cooks in the kitchen.

Adding more layers to a project like this only assures that the project will not get done in a timely manner.

The Secretary of Homeland Security is charged with working to identify and help, with other agencies, protect critical infrastructure.

The Secretary of Homeland Security by himself is more than capable of working with CREATE to complete a study of incentives for infrastructure stake holders to share information with the government.

For these reasons, I oppose this amendment.

The Acting CHAIRMAN. All time on the amendment having expired, the question is on the amendment offered by the gentleman from New York (Mr. KING).

The amendment was rejected.

AMENDMENT NO. 17 OFFERED BY MR. CARDOZA

The Acting CHAIRMAN. It is now in order to consider amendment No. 17 printed in House Report 110–136.

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. CARDOZA:

At the end of title XI add the following:

SEC. ___. SENSE OF THE CONGRESS ON INTEROPERABILITY.

It is the sense of the Congress that efforts to achieve local, regional, and national interoperable emergency communications in the near term should be supported and are critical in assisting communities with their local and regional efforts to properly coordinate and execute their interoperability plans.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from California (Mr. CARDOZA) and a member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. CARDOZA. Mr. Chairman, my amendment is a simple sense of Congress stressing the importance of interoperability in emergency communications.

We all know the importance of overcoming interoperability problems, which have been prevalent for years but only brought to light due to the 9/11 tragedy.

In this day and age, Mr. Chairman, it is critical that our first responders be able to communicate with each other in the field. The reality, however, is that firefighters, police and other emergency responders simply cannot communicate during times of emergency.

For example, police chiefs in my district have informed me that officers are forced to communicate on their cell phones literally from across the street because their radios cannot operate on the same frequency; and, recently, radio communications were ineffective and created an extremely dangerous situation in the 2006 canyon fire that devastated 34,000 acres in the western portion of Stanislaus County.

The need for improved emergency communications is not new. Whether we are talking about wilderness, wildfires, hurricanes or other disaster, or even day-to-day events, the same interoperability problems exist for the large communities as they do for the smallest.

Large cities are receiving the bulk of homeland security funding for interoperable communications. In many instances, that is rightly the case. But interoperability is a problem that permeates across the country and also affects our smaller communities. Smaller communities face the exact same problems, yet only receive a fraction of the funding and the attention that they need. As a result, smaller communities are left behind and are forced to do the best they can with what they've got.

In Stanislaus County, for example, the county was able to build the architecture for one channel through which all responders in the field can communicate. However, only one person can talk at a time. We can and need, Mr. Chairman, to do better.

The point of this amendment is simply to stress the importance of achieving local, regional and national interoperability plans and the impacts they have on the ongoing efforts in communities across the country.

Simply stated, localities and smaller communities matter as well, and their efforts to address interoperability should not be ignored by the Department of Homeland Security.

I want to make one other statement, Mr. Chairman. In the year 2000, FEMA issued a report that outlined the three greatest disaster scenarios that might befall the United States: a terror attack in New York, a hurricane that would hit New Orleans, and an earthquake on the Hayward fault in the east bay of California that would affect the California delta and flood massive lands near my area.

Well, the first two scenarios have, in fact, taken place, as we all know, and the third is still a very grave possibility. If, in fact, we have an earthquake on the Hayward fault in Northern California, the evacuation area would very likely be my area. Another area affected would be the San Joaquin delta in San Joaquin County.

All of this needs to be addressed, Mr. Chairman, and interoperability is the third awaiting disaster that could hit us anytime with an earthquake.

Mr. Chairman, I ask that we adopt this amendment and that Homeland Security help prepare California for the third disaster that FEMA's already noted could befall the United States at any time.

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

Mr. KING of New York. Mr. Chairman, I rise to claim the time in opposition.

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

I don't intend to oppose the amendment. My only concern is, as I understand it, this is an amendment expressing the sense of Congress. The language, which is actually my language in the bill which passed the full committee, actually would have called for the implementation and not just the sense of Congress; and this, to me, is another deficiency in the bill and that we are taking, at best, a half step forward. We could have taken the full step.

Having said that, I certainly agree in spirit with the amendment. Certainly this is better than nothing. And with that, I will urge the adoption of the amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. KING of New York. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for, again, his outstanding spirit of bipartisanship.

I think the importance of Mr. CARDOZA's amendment is that he agrees with the Homeland Security Committee and the message and the mission of yourself and Mr. THOMPSON and all of the Members that, in addition to just handing out equipment, you want to make sure there's a continuing of training, professional development, understanding of the system. And it really impacts firefighters, police, other emergency responders who cannot communicate during times of emergency. We know what happened in 9/11.

Let me just finish by saying, one of the other elements of helping us work through this question of interoperability is, as your amendment suggests, focusing on local and regional interoperability communications efforts and, particularly, and I raise this point for a city like Houston, that simply says, let us use the dollars, let us directly use the dollars so that we can follow the pathway of Mr. CARDOZA's amendment, which is to improve our interoperable communication efforts. Let us get the monies directly, as opposed to the layering that goes on through the State system.

But, in any event, let me thank the gentleman for his amendment.

The need for improved emergency communications is not new. Whether we are talking about the Oklahoma City bomb detonated by homegrown terrorist Timothy McVeigh, September 11, or Hurricanes Katrina and Rita—the same story emerged.

Firefighters, police, and other emergency responders cannot communicate during times of emergency.

Five and one-half years after the 9/11 attacks, and 1½ years after Hurricanes Katrina and Rita, the Department still does not have a dedicated interoperability grant program.

Subsequently, states and localities are forced to rob Peter to pay Paul by using large chunks of homeland security grant funding—in some instances 80 percent—to purchase communications equipment instead of securing bridges, ports, buildings.

The FY 2006 Budget Reconciliation Act created a $1 billion interoperability grant program to be administered by the Department of Commerce based on the proceeds from the sales of the 700 Mhz spectrum.

While that is a good start, the 9/11 Commission has called on Congress to prioritize and improve interoperable emergency communication.

Buying equipment is not enough!

Congress must support State, local and regional interoperable communication plans that recognize all of the critical factors for a successful interoperability solution.

Those factors are part of the SAFECOM Interoperability Continuum. They are: governance, standard operating procedures, training and exercises, and usage, in addition to technology.

We cannot just throw money at interoperability—we have to develop a strategic, national plan to improve interoperable communications.

The Administration and DHS officials have testified that the cost of achieving interoperability will cost in the tens of billions to $100 billion.

More than 90 percent of the public safety communication infrastructure in the United States is owned and operated at the local and state level. Therefore, we must have improved coordination, training, and planning across many jurisdictions to achieve interoperability.

According to Project SAFECOM at DHS, interoperability directly impacts the first responder community which consists of over 61,000 public safety agencies including 960,000 Firefighters, 830,000 EMS personnel, and 710,000 Law Enforcement Officers.

The Federal government must show leadership on this issue if it is going to tell state and local governments that they need to enhance and improve their emergency communications capability.

Funding is only one-half the solution for the interoperability crisis. There must be leadership by all the key stakeholders to sit down and develop the plans necessary to create effective nationwide interoperable communication standards.

This amendment provides support to the local governments and regions that are developing plans and systems that will better enable multi-jurisdictions to communicate during times of emergency.

The Cardozo amendment will encourage jurisdictions to move toward a truly ''national'' emergency communications capability.

This is an excellent amendment, and we rise to support it.

I yield back to the distinguished gentleman.

Mr. KING of New York. Reclaiming my time from the gentlelady from Texas, I always admire her eloquence and her kind words.

And, as I said, I appreciate what the gentleman is doing. I support it. I just wish we could have had the stronger language that was in the initial legislation.

But, having said that, I commend the gentleman from California and urge the adoption of his amendment.

Mr. CARDOZA. Mr. Chairman, I yield 1 minute to my colleague from Michigan, Mr. STUPAK.

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

Mr. STUPAK. Mr. Chairman, the key words to this whole amendment are ''in the near term.'' Unfortunately, it's been 25 years since the Air Florida accident. We've been talking about interoperability, and nothing ever gets done.

The time for studies and promises are over. If you listen to the program that DHS has, according to them, it will take us 20 years and $100 billion to achieve interoperability. That is not the case at all. We don't need 20 years. We don't have 20 years to wait in this country to have interoperability.

Last Congress, we passed the National Telecommunications Information Agency, which is advancing technologies that are available today to solve the interoperability problem, technologies that don't cost $100 billion and 20 years.

And what has happened, though, the $1 billion we put in the NTIA grant program, the administration used it to make further cuts in the Department of Homeland Security. So $1 billion that should have gone to interoperability has cut off other DHS programs.

This administration has ignored congressional intent on interoperability. It's time for the excuses to stop. The administration has to put forth a reasonable plan to achieve interoperability in this country, and that's what the Cardoza amendment does, and I fully support it.

Mr. Chairman, I ask unanimous consent that I am able to revise and extend my remarks.

I rise today in support of the Cardoza Amendment, which expresses the Sense of the Congress that efforts to achieve interoperable emergency communications in the near term should be supported and are critical in assisting communities properly execute their interoperability plans.

The key words in this amendment are ''in the near term.'' It's been 25 years since the Air Florida crash on the Potomac. It's been over 5 years since September 11th, when over 120 firefighters and hundreds of civilians lost their lives due to a lack of interoperability.

Terrorist attacks, man made disasters, and natural disasters are a certainty. Yet, we still do not have nationwide interoperability in this country.

This problem has been studied and studied.

In its final report, the 9/11 Commission concluded:

> The inability to communicate was a critical element of the World Trade Center, Pentagon, Somerset County, Pennsylvania, crash sites . . . The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, state and federal levels remains an important problem . . . Federal funding of such (interagency communication) units should be given high priority . . .

After September 11th, President Bush said, ''we want to spend money to make sure equipment is there, strategies are there, communications are there to make sure that you have whatever it takes to respond.''

Yet, under the President and the Republican-led Congress, the money was not allocated, the equipment was not there, strategies were incomplete, and first responders still cannot communicate across agencies and jurisdictions.

DHS has testified it will take an $18 billion to $100 billion investment to make our first responder communications fully interoperable.

DHS's plan to achieve full interoperability is 20 years. We do not have another 20 years.

The time for study and excuses is over. This bill and this amendment represent action by the Democratic Congress.

This bill reverses the draconian cuts to first responder grant programs made by this administration. And this amendment tells DHS to advance solutions that help first responders in the near term.

The Energy and Commerce Committee created, and Congress enacted, a $1 billion interoperability grant program at the National Telecommunications Information Agency (NTIA), in 2006.

Our intent was to advance new approaches to solve the interoperability problem; approaches that don't cost $100 billion and take 20 years to implement.

Yet, the administration seems to be missing the point. The administration's budget proposal justified the DHS grant cuts by ''offsetting'' those cuts with the $1 billion NTIA grant program.

Our committee has heard testimony from experts, industry, and first responders that there are new technologies today that can help our first responders at a fraction of the cost.

Again, this amendment tells DHS that Congress has lost its patience with excuses. It says invest in near term solutions that are available today. I urge my colleagues to support this amendment.

Mr. KING of New York. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Chairman, with the Cardoza amendment, the Congress expresses its support for efforts like the $1 billion interoperability program to be implemented by NTIA.

The House Energy and Commerce Committee is deeply concerned about the ongoing inability of our first responders to communicate with each other in times of emergency. This public safety interoperability problem has gone on for far too long, which is why the Energy and Commerce Committee is playing a stronger leadership role in setting the policy direction through its communications jurisdiction.

I will put the rest of my statement in the RECORD, Mr. Chairman. But we do support the Cardoza amendment, and I thank the gentleman from New York for yielding some time.

Mr. Chairman, with the Cardoza amendment, the Congress expresses its support for efforts like the $1 billion interoperability program to be implemented by the NTIA. The House Energy and Commerce Committee is deeply concerned about the ongoing inability of our first responders to communicate with each other in times of emergency. This public safety interoperability problem has gone on far too long, which is why the Energy and Commerce Committee is playing a stronger leadership role in setting the policy direction through its communications jurisdiction.

Our Committee authored a section in the Deficit Reduction Act of 2005 that set a final date for the DTV transition that will transfer 24 MHz of spectrum to public safety. To help first responders communicate on this spectrum efficiently, the DTV legislation also established the $1 billion Public Safety Interoperable Communications grant program to leverage NTIA's extensive telecommunications and spectrum policy expertise.

To improve interoperability throughout the Nation, Congress directed the NTIA to identify and fund forward-looking, spectrum-efficient, cost-effective and timely solutions. That program was designed to be separate from other programs, with its own criteria, and its own metrics for success. Until our existing, disparate public safety networks can communicate together, we will not truly be equipped to respond to a natural or man-made disaster.

Mr. KING of New York. Mr. Chairman, I yield myself the balance of my time.

I would just say to the gentleman from Michigan, my good friend, that I agree that the time for study is over and the time for delay is over.

I believe the original legislation that passed our committee would have moved it forward much more quickly. This is a sense of Congress. We actually were going to demand action.

But, having said that, this is a significant step, and I urge adoption of the amendment.

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

Mr. CARDOZA. Mr. Chairman, I thank the gentleman from New York and also the gentleman from Texas for their support.

This is an important amendment. It needs to state clearly, this bill needs to

state clearly that the Congress supports finding a resolution to interoperability conflicts that we have been besieged with. This is a very specific problem, as outlined in the FEMA report.

I thank Chairman DINGELL and Chairman THOMPSON for both appearing before my constituents and hearing this problem and also agreeing to shepherd this resolution through the House.

I encourage adoption of my amendment.

Mr. DOYLE, Madam Chairman, My colleagues who were with us last year, and frankly, I'm glad we have so many new faces, but my colleagues who were with us last year will recall my commitment to protecting local telecommunications resources and making sure decisions are made where they are best made.

That's why I'm glad to talk about this important issue. Spectrum itself is nearly infinite. But in terms of what's usable, what's worth investing in is much more limited.

Which is why we must challenge everyone who uses our airwaves to do so in the most efficient way possible. And that's why efforts to make public safety's communications interoperable, redundant and more effective are so critical to our Nation's first responders, and ultimately the American public. The days when government hands money over to people who don't understand technology to make choices between inefficient and expensive dead-end radios should be long gone.

My time is short, but we must take the best of what we have learned from the commercial space like interoperability and cost-effective technology and merge it with the best of public safety's communications legacy such as rock-solid dependability.

By passing this amendment today, Congress will be saying that we support innovative, forward-looking, technologically-neutral solutions, including IP-Based solutions.

And I believe we are saying that the Department of Homeland Security should follow all of the recommendations that the Government Accountability Office made earlier this year, and especially the one that the administration rejected—that first responders need to have the flexibility to take advantage of technological innovations that could advance the state of interoperability.

We need accountability and measurable goals from any and all programs that fund interoperability so that we can ensure that the money is being spent wisely. The Department of Homeland Security has told us we need to wait 15 years to get interoperability—it's clear to me that we need to get interoperable communications by any means necessary, even if it means relying on expertise outside Homeland Security and within other agencies like the National Telecommunications and Information Administration.

The Acting CHAIRMAN. All time for the amendment having expired, the question is on the amendment offered by the gentleman from California (Mr. CARDOZA).

The amendment was agreed to.

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

Amendment No. 1 by Mr. THOMPSON of Mississippi.

Amendment No. 2 by Mr. TOM DAVIS of Virginia.

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

AMENDMENT NO. 1 OFFERED BY MR. THOMPSON OF MISSISSIPPI

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 216, noes 209, not voting 12, as follows:

[Roll No. 314]

AYES—216

Abercrombie
Ackerman
Allen
Andrews
Arcuri
Baca
Baird
Baldwin
Barton (TX)
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boucher
Boyd (FL)
Boyda (KS)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Chandler
Christensen
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Emanuel
Eshoo
Etheridge
Faleomavaega
Farr
Filner
Frank (MA)
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murtha
Nadler
Napolitano
Neal (MA)
Norton
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Sutton
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NOES—209

Aderholt
Akin
Alexander
Altmire
Bachmann
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Bean
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly
Drake
Dreier
Duncan
Ehlers
Ellsworth
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fortuño
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hill
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Murphy, Patrick
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Space
Stearns
Sullivan
Tancredo
Tanner
Terry
Thornberry
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Bordallo
Brady (PA)
Doolittle
Engel
Fattah
Johnson, E. B.
Larson (CT)
McMorris Rodgers
Moran (KS)
Renzi
Souder
Tiahrt

□ 1639

Messrs. BARROW, EHLERS, FLAKE, ALTMIRE, CRAMER and GOHMERT changed their vote from ''aye'' to ''no.''

Messrs. PAUL, HOYER and MCNERNEY changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. TOM DAVIS OF VIRGINIA

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 36, noes 390, not voting 11, as follows:

[Roll No. 315]

AYES—36

Bachmann
Bachus
Barton (TX)
Berman
Biggert
Brady (TX)
Cannon
Cantor
Chabot
Davis, Tom
Dreier
Feeney
Flake
Fossella
Franks (AZ)
Hall (TX)
Hensarling
Hoekstra
Kingston
Kline (MN)
Lewis (CA)
Lungren, Daniel E.
Matheson
McKeon
Moran (VA)
Neugebauer
Paul
Ramstad
Rohrabacher
Ryan (WI)
Sensenbrenner
Sessions
Shadegg
Shays
Thornberry
Waxman

NOES—390

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Bean
Becerra
Berkley
Berry
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Bono
Boozman
Bordallo
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Braley (IA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Carter
Castle
Castor
Chandler
Christensen
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Jo Ann
Davis, Lincoln
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Drake
Duncan
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
English (PA)
Eshoo
Etheridge
Everett
Faleomavaega
Fallin
Farr
Ferguson
Filner
Forbes
Fortenberry
Fortuño
Foxx
Frank (MA)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Heller
Herger
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (GA)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Klein (FL)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McNerney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Norton
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reichert
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—11

Brady (PA)
Doolittle
Engel
Fattah
Johnson, E. B.
Larson (CT)
McMorris Rodgers
Moran (KS)
Renzi
Souder
Tiahrt

ANNOUNCEMENT BY THE ACTING CHAIRMAN

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

□ 1649

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

Mr. FEENEY and Mr. DANIEL E. LUNGREN of California changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 18 OFFERED BY MR. VAN HOLLEN

The Acting CHAIRMAN. It is now in order to consider amendment No. 18 printed in House Report 110–136.

Mr. VAN HOLLEN. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. VAN HOLLEN:

At the end of title XI of the bill, add the following (and conform the table of contents accordingly):

SEC. 1122. TRAVELERS REDRESS INQUIRY PROGRAM.

Of the amount authorized to be appropriated under section 101, such sums as may be necessary shall be available to the Secretary of Homeland Security to take all necessary actions to protect the security of personal information submitted electronically to the Internet website of the Department of Homeland Security established for the Travelers Redress Inquiry Program and other websites of the Department related to that program.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from Maryland (Mr. VAN HOLLEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland.

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

Madam Chairman, let me start by commending Chairman THOMPSON, Ranking Member KING and the Homeland Security Committee on a bipartisan basis for their good work on this piece of legislation. I have an amendment that I hope will be agreeable to all sides.

In January of this year, the TSA launched a Web site. Some of you may have seen it. It was called the Traveler Verification Identification Program, and it was designed to allow those passengers who were wrongfully identified on the no-fly lists or the selectee lists the opportunity to start the process of getting their names removed from that list.

The way you did that was you go and you log on to the TSA Web site and submit sensitive security information and personal information, like your Social Security number, the place and date of birth, your drivers license number and other personal identification numbers in order to demonstrate and prove to TSA that you were not a ''person of concern'' on their list. That was an important step forward, a positive

list. I think we have all heard the stories about individuals who were wrongfully placed on that list or whose identifications were mistaken for somebody else. So that was a good way to start to get people off the list.

But right after the launch of that program, they had to shut it down. The TSA had to shut down the site because, as was reported in The Washington Post and the high-tech magazine Wired, it was determined that the information that individuals were entering onto the TSA Web site was not secure, very personal types of information. Security experts found that the site lacked many of the basic measures necessary to protect personal information, no encryption devices, no other safeguards, and that the data being transferred to TSA was essentially vulnerable to being taken and used for identity theft and other purposes.

After these concerns were brought to the attention of TSA, they had to bring down the Web site. They put up another Web site and program in February called the Travelers Redress Inquiry Program.

Now, the TSA has said that it has made the necessary adjustments to protect this very personal and confidential information from exposure and theft, but it is not clear that they have taken all the measures that are necessary, especially in light of the fact that only last week we found out that a hard drive containing the personal data of almost 100,000 TSA employees disappeared.

Data security does not seem to have been taken seriously enough by the TSA. This amendment is designed to focus greater attention on that issue.

This amendment is very simple. It requires TSA to take the necessary steps required to protect the personal information submitted online by passengers, by our constituents, when they are seeking to remove their names from the no-fly list, the selectee list or other related lists. It is designed to get at a very specific problem that has arisen in recent months, and I urge its adoption.

Ms. JACKSON-LEE of Texas. Madam Chairman, will the gentleman yield?

Mr. VAN HOLLEN. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank the gentleman for a very thoughtful amendment. We have addressed this question in the Homeland Security Committee, but also in the subcommittee that I chair, and I think the important point is that when people are trying to clarify their name and they submit personal data, we should be responsible for protecting it. In light of what happened last week, and by the way, we will be having a briefing on that very issue dealing with the TSA's loss of the computer and all that data, this is a very instructive amendment.

It would be great to think that we would never lose material, but we do, and also to protect those that have been subjected to a lot of scrutiny, some of them coming from different ethnic groups. This is very thoughtful, and I rise to support the amendment.

Madam Chairman, this amendment should be supported as it seeks to require the Department of Homeland Security (the Department) to use funds to protect the security of personal information submitted electronically to the Department's website for the Department of Homeland Security Traveler Redress Inquiry Program, otherwise known as DHS–TRIP, and any other Web site associated with that program.

It would be great if we only had to theorize about the possible security, or lack thereof, of the information sent to the Department via redress websites.

However, the past has shown that this problem is very real.

In February of this year, the Department's Transportation Security Administration (TSA) learned that the website they were using to collect personal information to aid in traveler redress contained a link that was not secure.

This insecure link caused hundreds of individuals to transmit information through cyberspace that was not encrypted and subject to being captured by identity thieves, at best, and terrorists, at worst.

The Web site was established to provide a remedy for passengers that had been delayed at airports and therefore believed that they had been incorrectly identified as someone on an aviation watch list.

What causes even greater concern is that for 4 months and 8 days TSA did not detect the problem through their own internal procedures. In fact, they became aware of the situation through an independent internet blog.

The fact that the redress website lacked the necessary security measures to protect users' personal information is proof in the pudding that more needs to be done to protect personally identifiable information sent to TSA.

The American public needs to know that the "S" in TSA stands for something.

Individuals that may have already been wrongfully identified—which can cause airport delays for hours or even days—should not have to experience a second round of mistreatment by having their personal information, including their name, gender, date of birth, social security numbers and addresses vulnerable to being hacked.

A few weeks after this discovery TSA launched the Department of Homeland Security Traveler Redress Inquiry Program, otherwise known as DHS–TRIP.

We have not yet determined whether the internal controls that should have been in place during the first mishap have been put in place with respect to DHS–TRIP.

The recent revelation that a TSA hard drive containing the personal, payroll and bank information of over 100,000 former and current TSA employees was reported stolen, does nothing to alleviate our concerns.

For these reasons, this amendment is a good idea, and should be supported.

Mr. KING of New York. Madam Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from New York is recognized for 5 minutes.

Mr. KING of New York. I yield myself such time as I may consume.

Madam Chairman, I do not intend to oppose the amendment. I just would say to the gentleman, he is addressing a legitimate concern. One question I would have, and ask this be resolved as the process goes forward, it just says all funds that are necessary from the $39.8 billion. Since Homeland Security funding is stretched as it is, since every dollar is essential to be spent for the right purpose, I would ask, as the process goes forward, we try to find a way to specify the amount necessary. I am just raising that as a point with the gentleman. I would certainly work with the gentleman as we go forward and with the chairman.

Mr. VAN HOLLEN. Madam Chairman, will the gentleman yield?

Mr. KING of New York. I yield to the gentleman from Maryland.

Mr. VAN HOLLEN. Madam Chairman, I thank the gentleman, and I appreciate the point you are raising. As it says, such sums as may be necessary to address this issue. I wouldn't expect it to be a very large sum. TSA is telling us they have addressed this issue. I am not sure we are totally convinced. If we could get this amendment passed, obviously as we go through the process, if there is some claim that this is going to cost billions of dollars, I wouldn't expect it would, but I would be happy to work with the gentleman.

Mr. KING of New York. Madam Chairman, reclaiming my time, I will not oppose the amendment.

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

Mr. VAN HOLLEN. Madam Chairman, I thank the gentleman, and I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment No. 18 offered by the gentleman from Maryland (Mr. VAN HOLLEN).

The amendment was agreed to.

Mr. THOMPSON of Mississippi. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CLEAVER) having assumed the chair, Mrs. JONES of Ohio, Acting Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1684) to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes, had come to no resolution thereon.

□ 1700

PERMISSION TO OFFER SHERMAN AMENDMENT NO. 14 OUT OF ORDER DURING FURTHER CONSIDERATION OF H.R. 1684, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2008

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that during further consideration of H.R.

1684 in the Committee of the Whole, pursuant to House Resolution 382, the following amendment be permitted to be offered at any time: Sherman amendment No. 14.

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

Mrs. BLACKBURN. I object.

The SPEAKER pro tempore. Objection is heard.

PERMISSION TO OFFER KUCINICH AMENDMENT NO. 11 OUT OF ORDER DURING FURTHER CONSIDERATION OF H.R. 1684, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2008

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 1684 in the Committee of the Whole, pursuant to House Resolution 382, the following amendment be permitted to be offered at any time: Kucinich amendment No. 11.

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

Mrs. BLACKBURN. I object.

The SPEAKER pro tempore. Objection is heard.

PERMISSION TO OFFER ROTHMAN AMENDMENT NO. 12 OUT OF ORDER DURING FURTHER CONSIDERATION OF H.R. 1684, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2008

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 1684 in the Committee of the Whole, pursuant to House Resolution 382, the following amendment be permitted to be offered at any time: Rothman amendment No. 12.

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

Mrs. BLACKBURN. I object.

The SPEAKER pro tempore. Objection is heard.

PERMISSION TO OFFER ROTHMAN AMENDMENT NO. 13 OUT OF ORDER DURING FURTHER CONSIDERATION OF H.R. 1684, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2008

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 1684 in the Committee of the Whole, pursuant to House Resolution 382, the following amendment be permitted to be offered at any time: Rothman amendment No. 13.

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

Mrs. BLACKBURN. I object.

The SPEAKER pro tempore. Objection is heard.

DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2008

The SPEAKER pro tempore. Pursuant to House Resolution 382 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 1684.

□ 1702

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 1684) to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes, with Mrs. JONES of Ohio (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose earlier today, amendment No. 18 printed in House Report 110–136 by the gentleman from Maryland (Mr. VAN HOLLEN) had been disposed of.

AMENDMENT NO. 19 OFFERED BY MS. CASTOR

The Acting CHAIRMAN. It is now in order to consider amendment No. 19 printed in House Report 110–136.

Ms. CASTOR. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 19 offered by Ms. CASTOR:

At the end of title XI of the bill, add the following (and conform the table of contents accordingly):

SEC. 1122. TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL PROGRAM.

The Secretary of Homeland Security shall work with the State of Florida and other States, as appropriate, to resolve the differences between the Transportation Worker Identification Credential and existing access control credentials.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentlewoman from Florida (Ms. CASTOR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Florida.

Ms. CASTOR. Madam Chair, I rise today in support of this amendment. My amendment requires the Department of Homeland Security to work with the State of Florida and other States, if necessary, to resolve the differences between the Federal Transportation Worker Identification Credential, known as the TWIC, and Florida's existing access control card.

You see, shortly after 9/11, the State of Florida enacted a law requiring a centralized biometric credential for workers in deepwater ports in the State of Florida, including the three ports in my district in the Tampa Bay area.

This credential is known as the Florida Uniform Port Access Credential, or FUPAC. At the port of Tampa, we have credentialed over 39,000 port workers and the State of Florida has credentialed over 100,000 port workers throughout the State. This means that the FBI and the Florida Department of Law Enforcement have conducted extensive background checks.

Meanwhile, the Federal TWIC, which was first mandated in the Maritime Transportation Security Act, was not finalized by the Department of Homeland Security until just a few months ago.

The criteria in the FUPAC and the TWIC greatly duplicate each other. The Federal Government and the State of Florida must reconcile these credentials to ensure that our resources go to make our neighbors and our ports safe rather than satisfy bureaucratic red tape.

The Florida Ports Council says that this issue and its resolution will have a profound effect on both the viability of our maritime businesses and the security of Florida's ports.

As long as proper security requirements are being met, as they are with Florida's port credential, we need to spare the working folks who keep our ports moving from having to bear the burden and expense of undergoing unnecessarily duplicative background checks.

The amendment offered today requires that the Department of Homeland Security work with the State of Florida to resolve inconsistencies and avoid unnecessary duplication between the TWIC and the FUPAC.

I urge my colleagues to support this amendment which will aid Florida's strong maritime economy and ensure that valuable resources go to keeping our neighbors and our ports safe rather than to unnecessary bureaucratic red tape.

Madam Chair, I reserve the balance of my time.

Mr. KING of New York. Madam Chair, I claim time in opposition to the amendment, even though I do not oppose the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from New York is recognized for 5 minutes.

There was no objection.

Mr. KING of New York. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Madam Chair, I thank the gentleman.

I rise in strong support of the Castor amendment to the Homeland Security authorization bill.

I have worked long and hard to coordinate the agreement between TSA and Florida on their respective worker ID cards for screening port workers. TSA has been dragging their feet, unwilling to compromise so that Florida does not have to discontinue its own card. It wasn't until Senator Paula

Dockery, who shares some of my constituents, reached out to me that the TSA finally began to respond and started negotiations. Senator Dockery is now chairman of the committee that I chaired when I was in the Florida Senate, so I am very familiar with the biometric ID program. That is why she reached out to me.

Right now, congressional intervention has made sure that they are talking. There is still only one remaining sticking point. I am cautiously optimistic that we can work this out so Florida can be confident that TSA's Transportation Worker ID card is secure enough for our precious ports.

Florida has a great system, and TSA needs to recognize that and know that, if anything, Florida's system is above and beyond what TSA is looking at.

This amendment commits TSA to continuing the work my colleagues and I have already accomplished, getting TSA to sit down and talk to Florida. Most of the issues have been worked out. I am pleased to support this amendment.

Ms. CASTOR. Madam Chair, I reserve my time to close.

Mr. KING of New York. Madam Chair, I yield 2½ minutes to the gentleman from Florida (Mr. BILIRAKIS).

Mr. BILIRAKIS. Madam Chair, I rise in support of the Castor amendment to H.R. 1684. This amendment directs the Department of Homeland Security to work with my State of Florida to resolve differences between its ports access control credential and its Federal counterpart, the Transportation Worker Identification Credential, or the TWIC card.

Florida has been a national leader in developing its own credential, entering into an agreement with TSA in 2003 to implement this TWIC prototype. Florida's card is largely interchangeable with the TWIC. However, there are questions about the ability to integrate Federal requirements with Florida's standards.

I cannot stress enough the importance of resolving this issue so that maritime workers in my State do not have to obtain multiple cards and separate card readers for the same purposes.

I met with TWIC program officials on this matter and, during a hearing of my Transportation Security and Infrastructure Protection Subcommittee last month, asked them to delay implementation of the TWIC card in Florida until this issue can be satisfactorily resolved.

Although I am optimistic that we are moving in the right direction toward a resolution on this matter, I commend the gentlewoman from Florida for offering this amendment which will reinforce our State's bipartisan resolve to fix this problem.

I urge my colleagues to support this amendment.

Mr. KING of New York. Madam Chair, I want to thank the gentlewoman from Florida for her amendment and urge its adoption, and I yield back the balance of my time.

Ms. CASTOR. Madam Chair, in closing, I would like to thank Chairman THOMPSON and all of the hard-working members and staff of the Homeland Security Committee, and thank my colleagues from Florida, Ms. GINNY BROWN-WAITE and Mr. BILIRAKIS, for their bipartisan efforts to solve this problem. I urge adoption of the amendment.

Madam Chair, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Florida (Ms. CASTOR).

The amendment was agreed to.

AMENDMENT NO. 20 OFFERED BY MR. LAMPSON

The Acting CHAIRMAN. It is now in order to consider amendment No. 20 printed in House Report 110–136.

Mr. LAMPSON. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. LAMPSON:

In section 303, before the first sentence insert ''(a) AUTHORIZATION OF APPROPRIATIONS.—'', and add at the end the following:

(b) ASSISTING THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.—

(1) IN GENERAL.—An Inspector General of the Department of Homeland Security appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.) may authorize staff to use funds authorized under subsection (a) to assist the National Center for Missing and Exploited Children, upon request by the Center—

(A) by conducting reviews of inactive case files that the Inspector General has reason to believe involve a child or possible offender located outside the United States, and to develop recommendations for further investigations; and

(B) by engaging in similar activities.

(2) LIMITATIONS.—

(A) PRIORITY.—An Inspector General may not permit staff to engage in activities described in paragraph (1) if such activities will interfere with the duties of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.).

(B) FUNDING.—No additional funds are authorized to be appropriated to carry out this paragraph.

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from Texas (Mr. LAMPSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. LAMPSON. Madam Chair, I yield myself such time as I may consume.

I thank Chairman THOMPSON for the opportunity to offer an amendment to the DHS authorization bill.

My amendment would authorize the Department of Homeland Security Inspector General to assist the National Center for Missing and Exploited Children in conducting reviews of inactive case files. Upon the Center's request, the Inspector General may assist in resolving cases involving a child or an alleged offender located outside of the United States.

Federal Inspectors General have recognized that they could help the National Center in a very unique way not covered under present partnerships. They envision using the talent and expertise of the IG community's cadre of special agent criminal investigators to review old, unresolved cases in the hope of identifying new leads.

Passage of this amendment would allow IGs, when they are not otherwise engaged in meeting their obligations under the Inspector General Act, to assist in bringing closure to many suffering families. Allowing the Inspector General the authority to provide this limited service could aid in identifying perpetrators and ultimately to the recovery of missing children.

This proposal requires no additional funding since it would only authorize Inspectors General to provide assistance to the National Center, as resources are available. I hope this amendment will lay the groundwork for future legislation authorizing IGs from other agencies to assist the National Center in resolving cold cases domestically.

Again, I thank you for the opportunity to offer my amendment. I encourage my colleagues to support this effort to bring our children home.

Ms. JACKSON-LEE of Texas. Madam Chair, will the gentleman yield?

Mr. LAMPSON. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Let me thank the gentleman for his ongoing leadership on this issue. Since he started in the United States Congress many years ago, he has led out on this issue.

I want to simply refer my colleagues to the idea of imagining the horror of your child being missing, and imagine your child has been missing for so long that his case is declared inactive. Now think about where you would turn if you thought your missing child was in a foreign country. The only parents who do not fear that scenario are those who already live it.

So this idea of using the Department of Homeland Security, which should be certainly interested in securing our children, is an important step and certainly an important responsibility for the Inspector General.

I would suggest that when we think of security we think of children lost overseas or taken overseas. There is no better agency that could utilize its Inspector General facilities and resources to be able to help those families who are deeply suffering.

I want to thank the gentleman for yielding to me. I don't imagine any of us could imagine the need for the resources of DHS checking passengers, checking passports, interacting with the international law enforcement, could not imagine a better use of our time than supporting the gentleman's amendment and allowing the Inspector General to participate in this very important project.

I support this amendment.

This amendment will allow the Inspector General of the Department of Homeland Security to conduct reviews of "cold cases" stored at the National Center for Missing and Exploited Children when the children or the offenders are located outside of the U.S.

This amendment would permit the Inspector General to provide assistance and develop recommendations for further investigation of these hard to solve cases.

A missing child is the anguish of every parent and a concern to every caring adult.

Imagine the horror of your child being missing. Imagine that the child has been missing for so long, that its case is declared "inactive." Now think about where you would turn if you thought your missing child was in a foreign country.

The only parents who would not fear this scenario are those who already live it.

In the creation of the Department of Homeland Security, DHS assumed responsibility for border protection.

Many people may not understand how border protection intersects with missing children.

I can tell you that as our inspectors check passengers entering and leaving the United States, they have the opportunity to identify missing children and their abductors.

Those employees of homeland security who are responsible for protecting our borders and assuring that terrorists do not enter this country also play a role in assuring that children who are leaving this country are in the company of a parent or legal guardian.

But when efforts to intercept and detain a child abductor fail, more is lost than just one child.

According to the National Center for Missing and Exploited Children (NCMEC) thousands of American children are illegally transported from the United States every year.

Through this amendment, we will add one more weapon in our arsenal to safeguard America's children.

By bringing to bear the investigative abilities and fresh insights of the Inspector General to these cases we can help resolve these cases that others have given up on.

I urge my colleagues to support this amendment.

□ 1715

Mr. LAMPSON. Reclaiming my time, I thank the gentlewoman for her comments. There are some astounding statistics associated with this. More than 1,000 children a year taken out of the country, and over time, many of them grow cold. This is a perfect opportunity to allow a good agency who wants to help to be able to do so.

Madam Chairman, I reserve the balance of my time.

Mr. KING of New York. Madam Chair, I claim the time in opposition to the amendment.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. KING of New York. Madam Chair, I yield myself the balance of the time just to say that we have no objection to the gentleman's amendment. I commend him on it, and I yield back the balance of my time.

Mr. LAMPSON. Madam Chair, this is an excellent piece of legislation that will help many children be brought back home and families reunited.

I thank everyone, all of our colleagues, for consideration of this and urge support.

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

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

The amendment was agreed to.

AMENDMENT NO. 21 OFFERED BY MR. ROYCE

The Acting CHAIRMAN. It is now in order to consider amendment No. 21 printed in House Report 110–136.

Mr. ROYCE. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mr. ROYCE:

At the end of title IX, add the following new section:

SEC. 9___. STOLEN AND LOST TRAVEL DOCUMENT DATABASE.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Commissioner of United States Customs and Border Protection, shall, as expeditiously as possible, implement at primary inspection points at United States ports of entry the Stolen and Lost Travel Document database managed by Interpol.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report on the implementation required under subsection (a).

The Acting CHAIRMAN. Pursuant to House Resolution 382, the gentleman from California (Mr. ROYCE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. ROYCE. Madam Chair, I yield myself such time as I may consume.

What I wanted to share with this body is that Ramzi Yousef used a stolen passport to carry out the murderous attack that was conducted on the World Trade Center back in 1993. He used that stolen passport to enter the United States and claim asylum and then carry out that attack.

Three years after the 9/11 Commission recommended that our border officers have access to Interpol's lost and stolen passport data as an automatic check at our ports of entry, we still do not have a situation where we are utilizing that data, and this amendment would change that.

Now, there are many, many examples in Europe where these stolen passports have created a crisis. Fraudulent passports were used in the 2004 Madrid bombing. In the 2005 London subway attacks, again, stolen passports were used, and as argued recently in congressional testimony by the Secretary General of Interpol, and I will quote from that testimony before the Senate, "Terrorist use of fraudulent travel documents was one of the most dangerous gaps in global security back around the time of September 2001. Unfortunately, it still is today."

I can share with you as the ranking member of the Foreign Affairs Subcommittee on Terrorism Non-Proliferation and Trade, this remains a concern.

It has been a concern for Interpol since 2002. They started their stolen and lost travel document database at that time. There were several thousand passports that were stolen in blank form. This was a particular problem. They posed a severe threat, given that these can be easily made into bogus passports that are very, very easy to use and difficult for law enforcement to detect. A stolen blank passport from a visa waiver country raises the stakes, of course, because the holder is subject to considerably less scrutiny because it is a visa waiver country. So, if you look at the number of hits last year, 2,543, generated by Interpol's database, 62 percent were from visa waiver countries.

So the United States, we have some access to stolen passport information through our own systems and through bilateral agreements, but there is a gaping hole here. We need access to this system. There are 2½ million stolen passports that are not on our radar screen.

This amendment then would ensure that DHS implement the Interpol stolen passport database at primary inspection points at U.S. ports of entry. The system developed by Interpol would enable U.S. border security officials to check the passport database at the port of entry. The same swipe of the passport would check the Interpol database with a simultaneous check of the appropriate U.S. database. That is going to enhance our security.

I will just share with the members of this body that the Swiss now use this; 20,000 Swiss officers conduct between 300,000 and 400,000 database searches every month, and every month they detect over 100 people attempting to enter their country with stolen passports. The French have the same experience.

It is very important that the U.S. access this database, and that is what this amendment will do.

Madam Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Madam Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. THOMPSON of Mississippi. For the purpose of support only, I am in support of Mr. ROYCE's amendment. The database created by Interpol has proven to be very, very successful. The Swiss presently use the database provided by Interpol. They stop some 100 persons entering into that country per month. For the life of me, I cannot understand why CBP will not use it.

It is a commonsense amendment. I trust the Department, once we approve

it and ultimately pass the legislation, will follow the directions of Congress.

So I support the Royce amendment in its present form.

Imposters who would do us harm prize fraudulent passports as a way to gain entry into our country under false identities in order to carry out criminal or terrorist activities.

INTERPOL has created a ''Stolen and Lost Travel Document'' (SLTD) database to provide valuable and timely information about passports reported lost or stolen to database users in order to intercept imposters and assist law enforcement.

In the last couple of years, INTERPOL has populated its SLTD database with millions of passport numbers that were reported lost or stolen.

Receiving real-time reporting of lost and stolen passports would allow us to detect these imposters and prevent their entry into the U.S.

Other countries that use INTERPOL's SLTD database have been successful in intercepting imposters.

For example, the Swiss, have been stopping over 100 attempted entries per month using fraudulent passports since December 2005 on the basis of the real-time information INTERPOL has provided.

Yet, at U.S. Ports of Entry, Customs and Border Protection inspectors do not yet have access to INTERPOL's database at primary inspection, so this valuable anti-terrorism tool remains unavailable for screening persons trying to enter the U. S.

This amendment would require CBP to provide its inspectors access to INTERPOL's SLTD database at primary inspection within one year.

CBP has already declared that that it intends to implement use of INTERPOL's SLTD database as soon as possible; this amendment will ensure this takes place.

Support the Royce Amendment.

Mr. ROYCE. Madam Chairman, if I could just sum up on my time, again, the 9/11 Commission recognized the importance of Interpol's database. Janice Kephart, who was a counsel to the 9/11 Commission, testified recently that U.S. support and engagement with Interpol is key to fully implementing the 9/11 Commission recommendations on terrorist travel.

I would just also share with the body that yesterday we dodged a bullet. It is significant that there have been no terrorist attacks against our country since 9/11, but yesterday's disrupted plot shows there is much work left to be done.

Adoption of this database will help combat the threat of terrorists and criminals crossing our borders. I urge its adoption.

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

The amendment was agreed to.

The Acting CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. RAHALL) having assumed the chair, Mrs. JONES of Ohio, Acting Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1684) to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes, pursuant to House Resolution 382, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole?

Mr. PRICE of Georgia. Mr. Speaker, I demand a re-vote on the Thompson amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment to the amendment reported from the Committee of the Whole?

The Clerk will redesignate the amendment on which a separate vote has been demanded.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. THOMPSON of Mississippi:

In the proposed section 401(b)(3)(B), as proposed to be added by section 201 of the bill, insert before the period at the end the following: '', excluding each agency that is a distinct entity within the Department''.

In the proposed section 401(b)(3)(E), as proposed to be added by section 201 of the bill, insert before the period at the end the following: '', consistent with this section''.

Strike subsection (b) of the proposed section 707, as proposed to be added by section 202 of the bill, and insert the following:

''(b) COORDINATION.—The Secretary shall direct the Chief Operating Officer of each component agency to coordinate with that Officer's respective Chief Operating Officer of the Department to ensure that the component agency adheres to Government-wide laws, rules, regulations, and policies to which the Department is subject and which the Chief Operating Officer is responsible for implementing.''.

In the proposed section 707(c), strike ''reporting to'' and insert ''coordinating with''.

In the proposed section 402(d), as proposed to be added by section 203 of the bill, insert after ''submit to the Committee on Homeland Security'' the following: ''and the Committee on Transportation and Infrastructure''.

Strike the proposed subsection (d), as proposed to be added by section 208 of the bill, and insert the following:

''(d) AUTHORITY OF ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS OVER DEPARTMENTAL COUNTERPARTS.—The Secretary for the Department shall ensure that the Assistant Secretary for Legislative Affairs has adequate authority or the Assistant Secretary's respective counterparts in component agencies of the Department to ensure that such component agencies adhere to the laws, rules, and regulations to which the Department is subject and the departmental policies that the Assistant Secretary for Legislative Affairs is responsible for implementing.''.

In section 301(c), after ''submit to the Committee on Homeland Security'' the following: ''and the Committee on Oversight and Government Reform''.

In the proposed subsection (d)(1), as proposed to be added by section 302 of the bill, strike ''and the Committee on Homeland Security and Governmental Affairs of the Senate'' and insert '', the Committee on Homeland Security and Governmental Affairs of the Senate, and other appropriate congressional committees''.

In the proposed subsection (d)(2), as proposed to be added by section 302 of the bill, strike ''and the Committee on Homeland Security and Governmental Affairs of the Senate'' and insert '', the Committee on Homeland Security and Governmental Affairs of the Senate, and other appropriate congressional committees''.

In the proposed section 104(a), as proposed to be added by section 304 of the bill, insert after ''congressional homeland security committees'' the following: ''and other appropriate congressional committees''.

Strike section 305 and conform the table of contents accordingly.

In section 402, strike subsection (b) and insert the following:

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Chief Procurement Officer) may, for the purpose of supporting the Department's acquisition capabilities and enhancing contract management throughout the Department, appoint annuitants to positions in procurement offices in accordance with succeeding provisions of this section, except that no authority under this subsection shall be available unless the Secretary provides to Congress a certification that—

(1) the Secretary has submitted a request under section 8344(i) or 8468(f) of title 5, United States Code, on or after the date of the enactment of this Act, with respect to positions in procurement offices;

(2) the request described in paragraph (1) was properly filed; and

(3) the Office of Personnel Management has not responded to the request described in paragraph (1), by either approving, denying, or seeking more information regarding such request, within 90 days after the date on which such request was filed.

In section 402, strike subsection (f) and insert the following:

(f) TERMINATION OF AUTHORITY.—Effective 2 years after the date of the enactment of this Act—

(1) all authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

In the proposed section 837(b), as proposed to be added by section 403 of the bill, after ''require the contractor to submit'' insert the following: ''past performance''.

In section 406, strike subsection (c) and redesignate subsection (d) as subsection (c).

In the proposed section 839(b), as proposed to be added by section 407 of the bill, strike paragraph (4).

In the proposed section 839(d), strike ''the micro-purchase threshold (as defined in section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428))'' and insert ''the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403))''.

In the proposed section 839, as proposed to be added by section 407 of the bill, strike subsection (f).

In section 408(c), strike ''the Department of Homeland Security shall consider'' and insert ''The Secretary of Homeland Security shall consider, among the other factors the Secretary deems relevant,''.

Strike section 409, redesignate section 410 as section 409, and conform the table of contents accordingly.

In section 409, as so redesignated, strike ''The Secretary'' and insert ''Consistent with any applicable law, the Secretary''.

In section 501, redesignate subsections (g) and (h) as subsections (h) and (i), respectively, and insert after subsection (f), the following new subsection (g):

(g) COMPTROLLER GENERAL REPORT.—The Comptroller General shall conduct a comprehensive review of the retirement system for law enforcement officers employed by the Federal Government. The review shall include all employees categorized as law enforcement officers for purposes of retirement and any other Federal employee performing law enforcement officer duties not so categorized. In carrying out the review, the Comptroller General shall review legislative proposals introduced over the 10 years preceding the date of the enactment of this Act that are relevant to the issue law enforcement retirement and consult with law enforcement agencies and law enforcement employee representatives. Not later than August 1, 2007, the Comptroller General shall submit to Congress a report on the findings of such review. The report shall include each of the following:

(1) An assessment of the reasons and goals for the establishment of the separate retirement system for law enforcement officers, as defined in section 8331 of title 5, United States Code, including the need for young and vigorous law enforcement officers, and whether such reasons and goals are currently appropriate.

(2) An assessment of the more recent reasons given for including additional groups of employees in such system, including recruitment and retention, and whether such reasons and goals are currently appropriate.

(3) A determination as to whether the system is achieving the goals in (1) and (2).

(4) A summary of potential alternatives to the system, including increased use of bonuses, increased pay, and raising the mandatory retirement age, and a recommendation as to which alternatives would best meet each goal defined in (1) and (2), including legislative recommendations if necessary.

(5) A recommendation for the definition of law enforcement officer.

(6) An detailed review of the current system including its mandatory retirement age and benefit accrual.

(7) A recommendation as to whether the law enforcement officer category should be made at the employee, function and duty, job classification, agency or other level, and by whom.

(8) Any other relevant information.

In section 502(a) by inserting after ''transmit to the Committee on Homeland Security'' the following: ''and the Committee on Oversight and Government Reform''.

In section 504, strike subsection (b) and insert the following:

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Commissioner of the United States Customs and Border Protection) may, for the purpose of accelerating the ability of the CBP to secure the borders of the United States, appoint annuitants to positions in the CBP in accordance with succeeding provisions of this section, except that no authority under this subsection shall be available unless the Secretary provides to Congress a certification that—

(1) the Secretary has submitted a request under section 8344(i) or 8468(f) of title 5, United States Code, on or after the date of the enactment of this Act, with respect to positions in the CBP;

(2) the request described in paragraph (1) was properly filed; and

(3) the Office of Personnel Management has not responded to the request described in paragraph (1), by either approving, denying, or seeking more information regarding such request, within 90 days after the date on which such request was filed.

In section 504, strike subsection (f) and insert the following:

(f) TERMINATION OF AUTHORITY.—Effective 2 years after the date of the enactment of this Act—

(1) all authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

In section 505(a), insert after ''statutes'' the following: '' and Office of Personnel Management Regulations and Guidelines''.

Strike section 507, redesignate sections 508 through 513 as sections 507 through 512, respectively, and conform the table of contents accordingly.

In the proposed section 708, as proposed to be added by section 508 of the bill, as so redesignated, strike subsection (b)(1) and insert the following:

''(1) have responsibility for overall Department-wide security activities, including issuing and confiscating credentials, controlling access to and disposing of classified and sensitive but unclassified materials, controlling access to sensitive areas and Secured Compartmentalized Intelligence Facilities, and communicating with other government agencies on the status of security clearances and security clearance applications;''.

Strike section 606 and conform the table of contents accordingly.

In the proposed section 226(c)(1)(A), as proposed to be added by section 701 of the bill, strike ''to monitor critical information infrastructure'' and insert ''for ongoing activities to identify threats to critical information infrastructure''.

In section 702(c)(2), insert after ''Standards and Technology,'' the following: ''the Department of Commerce,''.

Insert after section 702 the following (and conform the table of contents accordingly):

SEC. 703. COLLABORATION.

In carrying out this title, the Assistant Secretary of Homeland Security for Cybersecurity and Communications shall collaborate with any Federal entity that, under law, has authority over the activities set forth in this title.

In section 804(b)(1), strike ''maximum''.

In the proposed section 319(e), as proposed to be added by section 805 of the bill, after ''the project may'' insert the following: '', subject to the availability of appropriations for such purpose,''.

Insert at the end of title VIII the following (and conform the table of contents accordingly):

SEC. 806. AVAILABILITY OF TESTING FACILITIES AND EQUIPMENT.

(a) AUTHORITY.—The Under Secretary for Science and Technology or his designee may make available to any person or entity, for an appropriate fee, the services of any Department of Homeland Security owned and operated center, or other testing facility for the testing of materials, equipment, models, computer software, and other items designed to advance the homeland security mission.

(b) INTERFERENCE WITH FEDERAL PROGRAMS.—The Under Secretary for Science and Technology shall ensure that the testing of materiel and other items not owned by the Government shall not cause government personnel or other government resources to be diverted from scheduled tests of Government materiel or otherwise interfere with Government mission requirements.

(c) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available under subsection (a) and any associated data provided by the person or entity for the conduct of such tests are trade secrets or commercial or financial information that is privileged or confidential within the meaning of section 552b(4) of title 5, United States Code, and may not be disclosed outside the Federal Government without the consent of the person or entity for whom the tests are performed.

(d) FEES.—The fees for exercising the authorities under subsection (a) may not exceed the amount necessary to recoup the direct and indirect costs involved, such as direct costs of utilities, contractor support, and salaries of personnel that are incurred by the United States to provide for the testing.

(e) USE OF FEES.—The fees for exercising the authorities under subsection (a) shall be credited to the appropriations or other funds of the Directorate of Science and Technology.

(f) OPERATIONAL PLAN.—Not later than 90 days after the date of the enactment of this Act, the Under Secretary for Science and Technology shall submit to Congress a report detailing a plan for operating a program that would allow any person or entity, for an appropriate feel, to use any center or testing facility owned and operated by the Department of Homeland Security for testing of materials, equipment, models, computer software, and other items designed to advance the homeland security mission. The plan shall include—

(1) a list of the facilities and equipment that could be made available to such persons or entities;

(2) a five-year budget plan, including the costs for facility construction, staff training, contract and legal fees, equipment maintenance and operation, and any incidental costs associated with the program;

(3) A five-year estimate of the number of users and fees to be collected;

(4) a list of criteria for selecting private-sector users from a pool of applicants, including any special requirements for foreign applicants; and

(5) an assessment of the effect the program would have on the ability of a center or testing facility to meet its obligations under other Federal programs.

(g) REPORT TO CONGRESS.—The Under Secretary for Science and Technology shall submit to Congress an annual report containing a list of the centers and testing facilities that have collected fees under this section, the amount of fees collected, a brief description of each partnership formed under this section, and the purpose for which the testing was conducted.

(h) GAO.—Not later than two years after the date of the enactment of this Act, the Comptroller General shall submit to Congress an assessment of the implementation of this section.

Strike section 904 and insert the following (and conform the table of contents accordingly):

SEC. 904. REPORT ON IMPLEMENTATION OF THE STUDENT AND EXCHANGE VISITOR PROGRAM.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate congressional committees a report to update the Government Accountability Office report of June 18, 2004, GAO-04-690, on the Student and Exchange Visitor Program (referred to in this section as ''SEVP'') and specifically the Student and Exchange Visitor Information System (referred to in this section as ''SEVIS''). The report shall include the following information:

(1) The rate of compliance with the current SEVIS requirements by program sponsors

and educational institutions, including non-academic institutions authorized to admit students under SEVIS.

(2) Whether there are differences in compliance rates among different types and sizes of institutions participating in SEVIS.

(3) Whether SEVIS adequately ensures that each covered foreign student or exchange visitor in nonimmigrant status is, in fact, actively participating in the program for which admission to the United States was granted.

(4) Whether SEVIS includes data fields to ensure that each covered foreign student or exchange visitor in nonimmigrant status is meeting minimum academic or program standards and that major courses of study are recorded, especially those that may be of national security concern.

(5) Whether the Secretary of Homeland Security provides adequate access, training, and technical support to authorized users from the sponsoring programs and educational institutions in which covered foreign students and exchange visitors in a non-immigrant status are enrolled.

(6) Whether each sponsoring program or educational institution participating in SEVP has designated enough authorized users to comply with SEVIS requirements.

(7) Whether authorized users at program sponsors or educational institutions are adequately vetted and trained.

(8) Whether the fees collected are adequate to support SEVIS.

(9) Whether there any new authorities, capabilities, or resources needed for SEVP and SEVIS to fully perform.

Strike section 906, redesignate section 907 as section 906, and conform the table of contents accordingly.

In section 1003, strike subsection (b) and insert the following:

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Assistant Secretary for Information Analysis) may, for the purpose of accelerating the ability of the IA to perform its statutory duties under the Homeland Security Act of 2002, appoint annuitants to positions in the IA in accordance with succeeding provisions of this section, except that no authority under this subsection shall be available unless the Secretary provides to Congress a certification that—

(1) the Secretary has submitted a request under section 8344(i) or 8468(f) of title 5, United States Code, on or after the date of the enactment of this Act, with respect to positions in the IA;

(2) the request described in paragraph (1) was properly filed; and

(3) the Office of Personnel Management has not responded to the request described in paragraph (1), by either approving, denying, or seeking more information regarding such request, within 90 days after the date on which such request was filed.

In section 1003, strike subsection (f) and insert the following:

(f) TERMINATION OF AUTHORITY.—Effective 2 years after the date of the enactment of this Act—

(1) all authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

Strike section 1101, redesignate sections 1102 through 1108 as sections 1101 through 1107, respectively, and conform the table of contents accordingly.

Strike sections 1109, 1110, 1111, redesignate sections 1112 through 1119 as sections 1108 through 1115, respectively, and amend the table of contents accordingly.

Strike section 1120, redesignate section 1121 as section 1116, and amend the table of contents accordingly.

Strike section 1102, as so redesignated, and insert the following:

SEC. 1102. CRITICAL INFRASTRUCTURE STUDY.

The Secretary of Homeland Security shall work with the Center for Risk and Economic Analysis of Terrorism Events (CREATE), led by the University of Southern California, to evaluate the feasibility and practicality of creating further incentives for private sector stakeholders to share protected critical infrastructure information with the Department for homeland security and other purposes.

In section 1103, as so redesignated, strike ''and immigration status databases''.

In the heading for section 1103, as so redesignated, strike ''and immigration review''.

In the proposed section 890A(a), as proposed to be added by section 1106 of the bill, as so redesignated, insert after paragraph (2) the following:

''(3) EXCLUDED PROGRAMS.—This section shall not apply to or otherwise affect any grant issued under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.).''.

Add at the end of title XI the following (and conform the table of contents accordingly):

SEC. 1117. COMPTROLLER GENERAL REPORT ON CRITICAL INFRASTRUCTURE.

(a) REQUIREMENT.—The Comptroller General of the United States shall conduct a study to—

(1) determine the extent to which architecture, engineering, surveying, and mapping activities related to the critical infrastructure of the United States are being sent to offshore locations;

(2) assess whether any vulnerabilities or threats exist with respect to terrorism; and

(3) recommend policies, regulations, or legislation, as appropriate, that may be necessary to protect the national and homeland security interests of the United States.

(b) CONSULTATION.—In carrying out the study authorized by this section, the Comptroller General shall consult with—

(1) such other agencies of the Government of the United States as are appropriate; and

(2) national organizations representing the architecture, engineering, surveying, and mapping professions.

(c) REPORT.—The Comptroller General shall submit to the Committees on Transportation and Infrastructure, Energy and Commerce, and Homeland Security of the House of Representatives, and to the Senate, by not later than 6 months after the date of the enactment of this Act a report on the findings, conclusions, and recommendations of the study under this section.

(d) DEFINITIONS.—As used in this section—

(1) each of the terms ''architectural'', ''engineering'', ''surveying'', and ''mapping''—

(A) subject to subparagraph (B), has the same meaning such term has under section 1102 of title 40, United States Code; and

(B) includes services performed by professionals such as surveyors, photogrammetrists, hydrographers, geodesists, or cartographers in the collection, storage, retrieval, or dissemination of graphical or digital data to depict natural or manmade physical features, phenomena, or boundaries of the earth and any information related to such data, including any such data that comprises the processing of a survey, map, chart, geographic information system, remotely sensed image or data, or aerial photograph; and

(2) the term ''critical infrastructure''—

(A) means systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters; and

(B) includes the basic facilities, structures, and installations needed for the functioning of a community or society, including transportation and communications systems, water and power lines, power plants, and the built environment of private and public institutions of the United States.

Add at the end of title XI the following (and conform the table of contents accordingly):

SEC. 1118. IMPROVING THE NEXUS AND FAST REGISTERED TRAVELER PROGRAMS.

(a) MERGING REQUIREMENTS OF NEXUS AND FAST.—

(1) IN GENERAL.—The Secretary of Homeland Security shall merge the procedures for the programs described in subsection (j) into a single procedure, with common eligibility and security screening requirements, enrollment processes, and sanctions regimes.

(2) SPECIFIC REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall ensure that the procedures for the programs known as ''NEXUS Highway'', ''NEXUS Marine'', and ''NEXUS Air'' are integrated into such a single procedure.

(b) INTEGRATING NEXUS AND FAST INFORMATION SYSTEMS.—The Secretary of Homeland Security shall integrate all databases and information systems for the programs described in subsection (j) in a manner that will permit any identification card issued to a participant to operate in all locations where a program described in such subsection is operating.

(c) CREATION OF NEXUS CONVERTIBLE LANES.—In order to expand the NEXUS program described in subsection (j)(2) to major northern border crossings, the Secretary of Homeland Security, in consultation with appropriate representatives of the Government of Canada, shall equip not fewer than six new northern border crossings with NEXUS technology.

(d) CREATION OF REMOTE ENROLLMENT CENTERS.—The Secretary of Homeland Security, in consultation with appropriate representatives of the Government of Canada, shall create a minimum of two remote enrollment centers for the programs described in subsection (j). Such a remote enrollment center shall be established at each of the border crossings described in subsection (c).

(e) CREATION OF MOBILE ENROLLMENT CENTERS.—The Secretary of Homeland Security, in consultation with appropriate representatives of the Government of Canada, shall create a minimum of two mobile enrollment centers for the programs described in subsection (j). Such mobile enrollment centers shall be used to accept and process applications in areas currently underserved by such programs. The Secretary shall work with State and local authorities in determining the locations of such mobile enrollment centers.

(f) ON-LINE APPLICATION PROCESS.—The Secretary of Homeland Security shall design an on-line application process for the programs described in subsection (j). Such process shall permit individuals to securely submit their applications on-line and schedule a security interview at the nearest enrollment center.

(g) PROMOTING ENROLLMENT.—

(1) CREATING INCENTIVES FOR ENROLLMENT.—In order to encourage applications for the programs described in subsection (j), the Secretary of Homeland Security shall develop a plan to admit participants in an amount that is as inexpensive as possible per card issued for each of such programs.

(2) CUSTOMER SERVICE PHONE NUMBER.—In order to provide potential applicants with

timely information for the programs described in subsection (j), the Secretary of Homeland Security shall create a customer service telephone number for such programs.

(3) PUBLICITY CAMPAIGN.—The Secretary shall carry out a program to educate the public regarding the benefits of the programs described in subsection (j).

(h) TRAVEL DOCUMENT FOR TRAVEL INTO UNITED STATES.—For purposes of the plan required under section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, an identification card issued to a participant in a program described in subsection (j) shall be considered a document sufficient on its own when produced to denote identity and citizenship for travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)).

(i) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report on the implementation of subsections (a) through (g).

(j) PROGRAMS.—The programs described in this subsection are the following:

(1) The FAST program authorized under subpart B of title IV of the Tariff Act of 1930 (19 U.S.C. 1411 et seq.).

(2) The NEXUS program authorized under section 286(q) of the Immigration and Nationality Act (U.S.C. 1356(q)).

SEC. 1119. TRAVEL DOCUMENTS.

(a) TRAVEL TO CANADA AND MEXICO.—Section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 is amended by adding at the end the following new paragraphs:

''(3) PASS CARD INFRASTRUCTURE.—The Secretary of Homeland Security shall conduct not less than one trial on the usability, reliability, and effectiveness of the technology that the Secretary determines appropriate to implement the documentary requirements of this subsection. The Secretary may not issue a final rule implementing the requirements of this subsection until such time as the Secretary has submitted to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report on the results and outcome of such trial or trials. The report shall include data and evidence that demonstrates that the technology utilized in such trial or trials is operationally superior to other alternative technology infrastructures.

''(4) FLEXIBLE IMPLEMENTATION PERIOD.—In order to provide flexibility upon implementation of the plan developed under paragraph (1), the Secretary of Homeland Security shall establish a special procedure to permit an individual who does not possess a passport or other document, or combination of documents, as required under paragraph (1), but who the Secretary determines to be a citizen of the United States, to re-enter the United States at an international land or maritime border of the United States. The special procedure referred to in this paragraph shall terminate on the date that is 180 days after the date of the implementation of the plan described in paragraph (1)(A).

''(5) SPECIAL RULE FOR CERTAIN MINORS.—Except as provided in paragraph (6), citizens of the United States or Canada who are less than 16 years of age shall not be required to present to an immigration officer a passport or other document, or combination of documents, as required under paragraph (1), when returning or traveling to the United States from Canada, Mexico, Bermuda, or the Carribean at any port of entry along the international land or maritime border of the United States.

''(6) SPECIAL RULE FOR CERTAIN STUDENT MINORS TRAVELING AS PART OF AN AUTHORIZED AND SUPERVISED SCHOOL TRIP.—Notwithstanding the special rule described in paragraph (5), the Secretary of Homeland Security is authorized to consider expanding the special rule for certain minors described in such paragraph to a citizen of the United States or Canada who is less than 19 years of age but is 16 years of age or older and who is traveling between the United States and Canada at any port of entry along the international or maritime border between the two countries if such citizen is so traveling as a student as part of an authorized and supervised school trip.

''(7) PUBLIC OUTREACH.—To promote travel and trade across the United States border, the Secretary of Homeland Security shall develop a public communications plan to promote to United States citizens, representatives of the travel and trade industries, and local government officials information relating to the implementation of this subsection. The Secretary of Homeland Security shall coordinate with representatives of the travel and trade industries in the development of such public communications plan.

''(8) COST-BENEFIT ANALYSIS.—The Secretary of Homeland Security shall prepare an extensive regulatory impact analysis that is fully compliant with Executive Order 12866 and Office of Management and Budget Circular A-4 for an economically significant regulatory action before publishing a rule with respect to the implementation of the requirements of this subsection.''.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act and every 120 days thereafter, the Secretary of Homeland Security shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report on the implementation of paragraphs (3) through (8) of section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004.

Strike title XII and conform the table of contents accordingly.

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

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

Mr. PRICE of Georgia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 212, nays 209, not voting 12, as follows:

[Roll No. 316]

YEAS—212

Abercrombie
Ackerman
Allen
Andrews
Arcuri
Baca
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boucher
Boyd (FL)
Boyda (KS)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Emanuel
Eshoo
Etheridge
Farr
Frank (MA)
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Sutton
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NAYS—209

Aderholt
Akin
Alexander
Altmire
Bachmann
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly
Doolittle
Drake
Dreier
Duncan
Ehlers
Ellsworth
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
Mica

Miller (FL)	Rehberg	Stearns
Miller (MI)	Reichert	Sullivan
Miller, Gary	Reynolds	Tancredo
Mitchell	Rogers (AL)	Tanner
Murphy, Patrick	Rogers (KY)	Terry
Murphy, Tim	Rogers (MI)	Thornberry
Musgrave	Rohrabacher	Tiberi
Myrick	Ros-Lehtinen	Turner
Neugebauer	Roskam	Upton
Nunes	Royce	Walberg
Pearce	Ryan (WI)	Walden (OR)
Pence	Sali	Walsh (NY)
Peterson (PA)	Saxton	Wamp
Petri	Schmidt	Weldon (FL)
Pickering	Sensenbrenner	Weller
Pitts	Sessions	Westmoreland
Platts	Shadegg	Whitfield
Poe	Shays	Wicker
Porter	Shimkus	Wilson (NM)
Price (GA)	Shuler	Wilson (SC)
Pryce (OH)	Shuster	Wolf
Putnam	Simpson	Young (AK)
Radanovich	Smith (NE)	Young (FL)
Ramstad	Smith (NJ)	
Regula	Space	

NOT VOTING—12

Brady (PA)	Larson (CT)	Souder
Engel	McMorris Rodgers	Tiahrt
Fattah	Moran (KS)	Waxman
Filner	Renzi	
Johnson, E. B.		

□ 1751

Mr. WALDEN of Oregon and Mr. JONES of North Carolina changed their vote from ''yea'' to ''nay.''

Mr. HODES, Mrs. GILLIBRAND, and Mr. HILL changed their vote from ''nay'' to ''yea.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

PARLIAMENTARY INQUIRY

Mr. PRICE of Georgia. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. PRICE of Georgia. Mr. Speaker, isn't it true that, under the rules of the House, rule XX, clause 2 states that the vote shall not be held open for the sole purpose of changing the outcome of the vote?

The SPEAKER pro tempore. It is true that, under clause 2(a) of rule XX, a vote by electronic device shall not be held open for the sole purpose of reversing the outcome of such vote.

Mr. PRICE of Georgia. Further inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Georgia will state his parliamentary inquiry.

Mr. PRICE of Georgia. Isn't it true that, on the vote that was just taken, that at a point after the expiration of the time, that in fact the noes had prevailed and that individuals then changed their votes?

The SPEAKER pro tempore. In conducting a vote by electronic device, the Chair is constrained to differentiate between activity toward the establishment of an outcome, on one hand, and activity that might have as its purpose the reversal of an already established outcome, on the other. The Chair will state that this was an ongoing vote.

Mr. PRICE of Georgia. Final inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. PRICE of Georgia. Is the Speaker able to inform the House as to the length of time that that vote was kept open?

The SPEAKER pro tempore. The Chair does not have that information.

Mr. PRICE of Georgia. I thank the Speaker.

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.

MOTION TO RECOMMIT OFFERED BY MR. DENT

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

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DENT. I am in its present form.

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

The Clerk read as follows:

MOTION TO RECOMMIT WITH INSTRUCTIONS OFFERED BY MR. DENT OF PENNSYLVANIA

Mr. Dent of Pennsylvania moves to recommit the bill H.R. 1684 to the Committee on Homeland Security with instructions that the committee report the same back to the House forthwith with the following instructions:

At the appropriate place in the bill, insert the following:

SEC. ___. AUTOMATED TARGETING SYSTEM FOR PERSONS ENTERING OR DEPARTING THE UNITED STATES.

(a) FINDINGS OF THE 9/11 COMMISSION.—Congress finds that the National Commission on Terrorist Attacks Upon the United States (commonly referred to as the 9/11 Commission) concluded that—

(1) ''The small terrorist travel intelligence collection and analysis program currently in place has produced disproportionately useful results. It should be expanded. Since officials at the border encounter travelers and their documents first and investigate travel facilitators, they must work closely with intelligence officials.'';

(2) ''Information systems able to authenticate travel documents and detect potential terrorist indicators should be used at consulates, at primary border inspection lines, in immigration service offices, and intelligence and enforcement units.'';

(3) ''The President should direct the Department of Homeland Security to lead the effort to design a comprehensive screening system, addressing common problems and setting common standards with systemwide goals in mind.'';

(4) ''A screening system looks for particular, identifiable suspects or indicators of risk. It does not involve guesswork about who might be dangerous. It requires frontline border officials who have the tools and resources to establish that people are who they say they are, intercept identifiable suspects, and disrupt terrorist operations.''; and

(5) ''Inspectors adjudicating entries of the 9/11 hijackers lacked adequate information and knowledge of the rules. A modern border and immigration system should combine a biometric entry-exit system with accessible files on visitors and immigrants, along with intelligence on indicators of terrorist travel.''.

(b) AUTOMATED TARGETING SYSTEM FOR PERSONS ENTERING OR DEPARTING THE UNITED STATES.—The Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, may establish an automated system for the purpose of the enforcement of United States law, including laws relating to anti-terrorism and border security, to assist in the screening of persons seeking to enter or depart the United States (in this section referred to as the ''system'').

(c) ADMINISTRATIVE PROCESS TO CORRECT INFORMATION.—The Secretary, acting through the Commissioner, shall ensure than an administrative process is established, or application of an existing administrative process is extended, pursuant to which any individual may apply to correct any information retained by the system established under subsection (b). Nothing in this section shall be construed as creating a private right of action for any case or claim arising from the application of the system or the corrective administrative process established or applied under this section.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as abrogating, diminishing, or weakening the provisions of any Federal or State law that prevents or protects against the unauthorized collection or release of personal records.

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

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, if this Congress is serious, truly serious about implementing the recommendations of the 9/11 Commission, Members should vote in favor of this motion to recommit.

The 9/11 Commission told us that we needed to develop a better border security system. And, let me repeat. This amendment implements a key 9/11 Commission recommendation.

Specifically, the 9/11 Commission advised the President to direct the Department of Homeland Security to design a comprehensive screening system that would target particular identifiable suspects or indicators of risk and give border officials the resources to establish that people are who they say they are, intercept identifiable suspects and disrupt terrorist operations. They went on to say and conclude that targeting travel is at least as powerful a weapon against terrorists as targeting their money, and that is the 9/11 Commission Report, recommendation 14, page 385, and recommended that a terrorist travel intelligence collection and analysis program which had produced disproportionately useful results should be expanded.

The Automated Targeting System for Passengers is such a system, and this motion would reinforce our intention to see ATS-P utilized at all of our Nation's international border crossing points.

ATS-P is nothing new. It is already being utilized by U.S. Customs and Border Protection, or CBP. It has been authorized in several appropriations bills, and the Department of Homeland Security has testified before Congress about the program several times.

ATS-P does not violate anyone's constitutional rights. It is deployed only at the border. And Federal courts have said time and time again that screening people who are trying to enter our country at a port of entry is perfectly permissible under the fourth amendment.

All ATS-P does is collect information from available sources, the Treasury Enforcement Communications System, or TECS, and the Passenger Name Record databases, so that CBP can perform risk assessments of people trying to enter the United States.

ATS-P addresses a major software issue that had previously hampered border control efforts. TECS has existed since the 1970s but was written in a cumbersome programming language that was difficult for Border Patrol agents to access. ATS-P just makes it easier for CBP to make inquiries into this database.

The bottom line here is that ATS-P, after factoring in the available information, indicates to the Customs and Border Protection officer whether an international traveler should be flagged for additional screening or questioning. That CBP officer retains the discretion to do with that information as he or she pleases. But by giving advance notice of an investigatory lead, ATS-P allows the officer and the agency to operate more effectively, to engage in screening that is risk-based. It is not surprising, then, that CBP considers ATS-P to be the cornerstone of its targeting efforts at the border.

ATS-P has had notable successes. It has been credited with identifying persons of interest to border security officials in Atlanta, Minneapolis and Boston.

For all of us here in the Congress who are serious about border security, this motion, which supports the already existing ATS-P program, is an absolute no-brainer: It follows the recommendations of the 9/11 Commission. It provides needed information to CBP officers. It does not violate anyone's civil or constitutional rights. And, most importantly, it works. For all the reasons I have just stated, I ask respectfully that you vote in favor of the motion to recommit.

At this time, I yield to the ranking member of the Homeland Security Committee, Mr. KING of New York.

□ 1800

Mr. KING of New York. I thank the gentleman for yielding. I urge adoption of the motion to recommit.

The time has come for the majority party to follow through on its commitment to carry out the recommendations of the 9/11 Commission. This is a basic recommendation of the 9/11 Commission. They have said it again and again. This an essential component.

Just as many provisions of the base bill were stripped out, now the majority, apparently, is opposing this, again, basic component of the 9/11 Commission.

The time has come. You stand with the Civil Liberties Union or you stand with the 9/11 Commission. We stand with the 9/11 Commission and urge the adoption of the motion to recommit.

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 1 minute to the gentlelady from California (Ms. ZOE LOFGREN).

The SPEAKER pro tempore. The gentleman may yield, but he may reclaim time as he sees fit.

Ms. ZOE LOFGREN of California. Mr. Speaker, this amendment is a bad idea.

In 1996, I think it was Congressman SENSENBRENNER who proposed the US–VISIT system. That was 11 years ago, and the US–VISIT is not yet fully implemented. That system is to biometrically check aliens who are entering the United States. I believe that to divert Homeland Security from that mission at this point would put our government at further risk.

We are promised by Homeland that US–VISIT will be completely implemented at airports by the end of this year. Land ports, they're not implementing. So I think it would be a huge mistake to start some new system when we haven't even implemented the Sensenbrenner plan from 1996.

I'd like to note further that in the body of the motion to recommit it suggests that it is true that the 9/11 hijackers were not admissible to the United States when they were admitted. But the inspectors at the airport didn't know that, not because of the biometric system. It was because the reasons for their inadmissibility lay in paper files on microfiche in a box in Florida.

We are about to receive a technology upgrade plan from USCIS. In fact, we have been told it is sitting at OMB today. What we need to do is to implement US–VISIT, integrate it with the new technology plan that is about to be brought online. It will be a dreadful mistake for the Congress to defer a Department that is not terrifically functional as is from this vital mission by creating still another program that will not actually do its job.

Mr. DENT. Will the gentlelady yield?

Ms. ZOE LOFGREN of California. No, I will not. That will not actually do its job because we have failed to do the screening of aliens.

I would thank the chairman of the committee for yielding this brief time, and I would urge my colleagues not to divert the Department from the vital mission of implementing US–VISIT.

Mr. THOMPSON of Mississippi. Reclaiming my time, Mr. Speaker, for the record, CBP filed a privacy notice act informing the public that they had been utilizing the Automated Targeting System, otherwise known as ATS, for 5 years without public notice. When I learned of the problems associated with ATS, I immediately joined hundreds of others by filing a comment.

Mr. DENT. Would the gentleman yield?

Mr. THOMPSON of Mississippi. I will not.

Filing a comment requesting that CBP take a second look at this program.

CBP has not re-issued a new notice, and the questions that I and many others have about ATS have not yet been answered. Until a new notice is released, I consider this program and this motion to recommit premature and the program itself highly questionable.

The amount of information collected by ATS and the fact that the information remains in the system for up to 40 years is reason enough to warrant a closer look.

The motion to recommit ignores the privacy act notice process that is under way, and I urge my colleagues to oppose it.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

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

The yeas and nays were ordered.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of final passage of the bill.

The vote was taken by electronic device, and there were—yeas 264, nays 160, not voting 8, as follows:

[Roll No. 317]

YEAS—264

Aderholt	Brady (TX)	Cramer
Akin	Braley (IA)	Crenshaw
Alexander	Brown (SC)	Cubin
Altmire	Brown-Waite, Ginny	Culberson
Andrews	Buchanan	Davis (AL)
Bachmann	Burgess	Davis (KY)
Bachus	Burton (IN)	Davis, David
Baker	Buyer	Davis, Jo Ann
Barrett (SC)	Calvert	Davis, Lincoln
Barrow	Camp (MI)	Davis, Tom
Bartlett (MD)	Campbell (CA)	Deal (GA)
Barton (TX)	Cannon	Dent
Bean	Cantor	Diaz-Balart, L.
Biggert	Capito	Diaz-Balart, M.
Bilbray	Carney	Dicks
Bilirakis	Carter	Donnelly
Bishop (UT)	Castle	Doolittle
Blackburn	Chabot	Drake
Blunt	Chandler	Dreier
Boehner	Coble	Duncan
Bonner	Cohen	Edwards
Bono	Cole (OK)	Ehlers
Boozman	Conaway	Ellsworth
Boren	Cooper	Emanuel
Boswell	Costa	Emerson
Boustany	Costello	English (PA)
Boyd (FL)	Courtney	Everett
Boyda (KS)		Fallin

Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Hall (NY)
Hall (TX)
Hare
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Hill
Hobson
Hodes
Hoekstra
Holden
Hooley
Hulshof
Hunter
Inglis (SC)
Issa
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Kagen
Keller
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lucas
Lungren, Daniel E.
Mack
Mahoney (FL)
Manzullo
Marchant
Marshall
Matheson
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McNerney
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mitchell
Moore (KS)
Moran (KS)
Murphy, Patrick
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Royce
Ryan (WI)
Salazar
Sali
Saxton
Schmidt
Schwartz
Sensenbrenner
Sessions
Sestak
Shadegg
Shays
Shimkus
Shuler
Shuster
Simpson
Sires
Smith (NE)
Smith (NJ)
Smith (TX)
Space
Spratt
Stearns
Sullivan
Tancredo
Tanner
Taylor
Terry
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Yarmuth
Young (AK)
Young (FL)

NAYS—160

Abercrombie
Ackerman
Allen
Arcuri
Baca
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boucher
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Castor
Clarke
Clay
Cleaver
Clyburn
Conyers
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Ellison
Eshoo
Etheridge
Farr
Filner
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Hirono
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Lynch
Maloney (NY)
Markey
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller, George
Mollohan
Moore (WI)
Moran (VA)
Murphy (CT)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shea-Porter
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Stark
Stupak
Sutton
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn

NOT VOTING—8

Brady (PA)
Engel
Fattah
Johnson, E. B.
Larson (CT)
McMorris Rodgers
Renzi
Souder

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LINCOLN DAVIS of Tennessee) (during the vote). Members are advised there are 2 minutes left in this vote.

□ 1825

Mr. GENE GREEN of Texas and Mr. LEVIN changed their vote from ''yea'' to ''nay.''

Messrs. HARE, SESTAK, SIRES, ROSS, COURTNEY, COHEN, YARMUTH, HOLDEN, PERLMUTTER, MILLER of North Carolina, UDALL of Colorado, EMANUEL, SPRATT, ANDREWS, VAN HOLLEN, GORDON of Tennessee, DICKS, COSTA, UDALL of New Mexico, and Ms. HOOLEY changed their vote from ''nay'' to ''yea.''

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Mr. THOMPSON of Mississippi. Mr. Speaker, pursuant to the instructions of the House on the motion to recommit, I report H.R. 1684 back to the House with an amendment.

I ask unanimous consent that title XII, the Maritime Alien Smuggling provision of the bill, as reported, be restored to the bill.

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

Mr. KING of New York. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from New York is recognized.

Mr. KING of New York. Mr. Speaker, can the gentleman from Mississippi explain the nature of his unanimous consent request?

Mr. THOMPSON of Mississippi. Absolutely. Some Members have raised the issue about the Maritime Alien Smuggling provision of the bill, and we have decided if we can get unanimous consent, we will put it back in the bill, as originally approved by our committee. And we are asking unanimous consent to do it.

Mr. KING of New York. Mr. Speaker, regrettably, not being told in advance, I would have to object to the unanimous consent request.

Mr. THOMPSON of Mississippi. Mr. Ranking Member, there is somebody on your side who received notice of this.

Mr. KING of New York. No one I am aware of has received notice. I am not trying to be disagreeable. This is the first I have heard of it.

Mr. HOYER. If the gentleman will yield, I believe we did give notice. My staff gave notice to the leader's staff, I believe. This came out of committee, as you know, unanimously. I think we are all for this provision. There was a jurisdictional issue raised. I think we have resolved that jurisdictional issue. I know that all your Members voted for it. I think most of our Members would want to vote for it, and we are certainly hopeful that we can move ahead and have this in the bill at this time.

I thank my friend for yielding.

Mr. KING of New York. Mr. Speaker, this is the first I have heard. All I heard from leadership staff several minutes ago was that there might be a unanimous consent request. We were not told any of the details of it whatsoever. I have not seen the language that is proposed to be put back in. And, again, regrettably, at this time, I would have to continue reserving the right to object.

Again, we had almost 20 minutes in the motion to recommit, and if someone would have shown it to us, we could have looked at it. We have not seen it. I have no idea what the language is.

Mr. HOYER. Will my friend yield?

Mr. KING of New York. I will yield, yes.

Mr. HOYER. I don't want to be cute about this, but this was the amendment that was offered by you, I don't mean you personally necessarily, but this was the amendment you just offered. It was not approved, not because we didn't favor it but because we had a jurisdictional issue on our side. And in light of the fact that it is your amendment that you offered and it is an amendment which I think will pass the House handily, I would hope that the gentleman would reconsider or perhaps if we could give him maybe 5 minutes for the purposes of reviewing his amendment to determine whether he is still for his amendment.

Mr. KING of New York. Mr. Speaker, I reserve the right to object. This is the first time we have seen a copy.

Mr. HOYER. This is your amendment we are asking unanimous consent to adopt.

Mr. KING of New York. Again, I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment:

At the appropriate place in the bill, insert the following:

SEC. ___. AUTOMATED TARGETING SYSTEM FOR PERSONS ENTERING OR DEPARTING THE UNITED STATES.

(a) FINDINGS OF THE 9/11 COMMISSION.—Congress finds that the National Commission on Terrorist Attacks Upon the United States (commonly referred to as the 9/11 Commission) concluded that—

(1) ''The small terrorist travel intelligence collection and analysis program currently in place has produced disproportionately useful results. It should be expanded. Since officials at the border encounter travelers and their documents first and investigate travel facilitators, they must work closely with intelligence officials.'';

(2) ''Information systems able to authenticate travel documents and detect potential terrorist indicators should be used at consulates, at primary border inspection lines, in immigration service offices, and intelligence and enforcement units.'';

(3) ''The President should direct the Department of Homeland Security to lead the effort to design a comprehensive screening system, addressing common problems and setting common standards with systemwide goals in mind.'';

(4) ''A screening system looks for particular, identifiable suspects or indicators of risk. It does not involve guesswork about who might be dangerous. It requires frontline border officials who have the tools and resources to establish that people are who they say they are, intercept identifiable suspects, and disrupt terrorist operations.''; and

(5) ''Inspectors adjudicating entries of the 9/11 hijackers lacked adequate information and knowledge of the rules. A modern border and immigration system should combine a biometric entry-exit system with accessible files on visitors and immigrants, along with intelligence on indicators of terrorist travel.''.

(b) AUTOMATED TARGETING SYSTEM FOR PERSONS ENTERING OR DEPARTING THE UNITED STATES.—The Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, may establish an automated system for the purpose of the enforcement of United States law, including laws relating to anti-terrorism and border security, to assist in the screening of persons seeking to enter or depart the United States (in this section referred to as the ''system'').

(c) ADMINISTRATIVE PROCESS TO CORRECT INFORMATION.—The Secretary, acting through the Commissioner, shall ensure than an administrative process is established, or application of an existing administrative process is extended, pursuant to which any individual may apply to correct any information retained by the system established under subsection (b). Nothing in this section shall be construed as creating a private right of action for any case or claim arising from the application of the system or the corrective administrative process established or applied under this section.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as abrogating, diminishing, or weakening the provisions of any Federal or State law that prevents or protects against the unauthorized collection or release of personal records.

□ 1830

Mr. PRICE of Georgia (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the reading.

The SPEAKER pro tempore (Mr. LINCOLN DAVIS of Tennessee). Is there objection to the request of the gentleman from Georgia?

Mr. PASCRELL. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk continued to read.

Mr. PRICE of Georgia. Mr. Speaker, I ask unanimous consent that the reading be dispensed with.

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

Mr. WATT. I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk continued to read.

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

PARLIAMENTARY INQUIRY

Mr. JACKSON of Illinois. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state a parliamentary inquiry.

Mr. JACKSON of Illinois. Mr. Speaker, the gentleman asked for a unanimous consent request. The minority rejected it, and now I understand that the Clerk continued the reading, and I get the impression that we are moving to a vote.

My inquiry is, because the unanimous consent request was brought up under unanimous consent and there was an objection, isn't that the end of it?

That is my parliamentary inquiry.

The SPEAKER pro tempore. The unanimous consent request actually addressed a separate amendment from the one reported back forthwith by the gentleman from Mississippi.

Mr. JACKSON of Illinois. So we're moving to a vote now on the amendment that was objected to brought up under unanimous consent. I'm asking for an inquiry. If the Speaker would kindly just explain to me what process we're in.

The SPEAKER pro tempore. The question is on the amendment that was proposed in the motion to recommit. That amendment has been reported forthwith and is the issue before the House.

Mr. JACKSON of Illinois. I thank the Speaker.

So we're voting on the Thompson amendment.

The SPEAKER pro tempore. No. The question before the House is the amendment reported by the chairman of the Committee on Homeland Security as ordered by the House's adoption of the motion to recommit.

The question is on the amendment.

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

PARLIAMENTARY INQUIRY

Mr. PRICE of Georgia. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Georgia is recognized for a parliamentary inquiry.

Mr. PRICE of Georgia. How did the Speaker call the voice vote?

The SPEAKER pro tempore. The noes prevailed.

Does the gentleman from Georgia ask for a recorded vote?

Mr. PRICE of Georgia. I ask for a recorded vote.

The SPEAKER pro tempore. A recorded vote is requested.

Those in favor of a recorded vote will rise.

Mr. ABERCROMBIE. Mr. Speaker, parliamentary inquiry.

How much time has to pass before you get to stand up and ask for a vote after you've already ruled? You can't stand there forever and do that. Now let's run this thing right. The vote's over.

The SPEAKER pro tempore. The gentleman from Georgia was on his feet and seeking recognition in a timely manner.

PARLIAMENTARY INQUIRIES

Mr. LINDER. Mr. Speaker, I have a parliamentary inquiry.

Isn't it true that the motion to recommit was passed by a recorded vote?

The SPEAKER pro tempore. Yes.

Mr. LINDER. Isn't it further true that the motion to recommit was brought back with the bill for final passage and that last motion was on final passage and you called the vote a ''no''?

The SPEAKER pro tempore. No. The last vote was on the amendment reported back forthwith.

Mr. LINDER. Actually, the amendment was already agreed to and it came back with the final bill. There was no call for a separate vote on the amendment again.

The SPEAKER pro tempore. That is not correct. The adoption of the motion to recommit caused a report forthwith that placed an amendment before the House, which separately bears adoption by the House.

Mr. LINDER. By vote about 20 minutes ago.

The SPEAKER pro tempore. The Chairman of the Committee reported the bill back to the House with an amendment, which amendment still must be disposed of.

Mr. LINDER. With instructions, with the amendment included in it. So the only vote left for you to put before the House is the vote on final passage, and you called it a ''no'' vote.

The SPEAKER pro tempore. That is not correct. The question must be taken on the amendment reported forthwith.

The Chair recognizes the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, as I understand it, the parliamentary situation in which we find ourselves is that we adopted a motion to recommit forthwith to be reported back with an amendment. That amendment was adopted favorably. When the vote was called, you indicated that amendment was defeated.

My parliamentary inquiry: Would at this point in time a motion to reconsider that vote be in order?

The SPEAKER pro tempore. Yes . . . the request for a recorded vote aside.

Mr. HOYER. I would suggest that a motion to reconsider might solve the problem.

Mr. Speaker, I ask unanimous consent that the last voice vote be vacated and that the question be put de novo.

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

PARLIAMENTARY INQUIRIES

Mr. BAKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana.

Mr. BAKER. I believe the gentleman, in order to offer the motion to reconsider, would have to be on the prevailing side, and I would question the gentleman's vote on the matter.

Mr. HOYER. By the way, I'm trying to help the gentleman. You may have missed that, but I'm trying to help your side. But we can do it by unanimous consent that it be done de novo.

Parliamentary inquiry. And just so that the gentleman from Louisiana knows, on a voice vote, of course, because there is not a recorded vote, anybody can ask for a motion to reconsider because there is no record as to who voted on the prevailing side or who voted on the opposing side.

But, notwithstanding that, I press my motion de novo; that, in other words, the question be placed, once again, de novo.

The SPEAKER pro tempore. Is there objection to vacating the voice vote and taking the question de novo?

Without objection, so ordered.

There was no objection.

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

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 noes appeared to have it.

RECORDED VOTE

Mr. THOMPSON of Mississippi. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 296, noes 126, not voting 10, as follows:

[Roll No. 318]

AYES—296

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Braley (IA)
Brown (SC)
Brown, Corrine
Buchanan
Butterfield
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castle
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Cole (OK)
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Jo Ann
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Emerson
Eshoo
Etheridge
Fallin
Farr
Ferguson
Filner
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gillmor
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (GA)
Johnson (IL)
Jones (OH)
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Klein (FL)
Knollenberg
Kuhl (NY)
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pearce
Perlmutter
Peterson (MN)
Petri
Platts
Pomeroy
Porter
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Reyes
Reynolds
Rodriguez
Rogers (MI)
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Space
Spratt
Stupak
Sutton
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (OH)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (FL)

NOES—126

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bilbray
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Carter
Chabot
Coble
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Doolittle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Feeney
Flake
Forbes
Foxx
Franks (AZ)
Gallegly
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hensarling
Hoekstra
Hunter
Inglis (SC)
Issa
Johnson, Sam
Jones (NC)
Jordan
King (IA)
Kingston
Kline (MN)
Kucinich
Lamborn
Lewis (CA)
Lewis (KY)
Linder
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McHenry
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pence
Peterson (PA)
Pickering
Pitts
Poe
Price (GA)
Putnam
Radanovich
Rogers (AL)
Rogers (KY)
Rohrabacher
Royce
Ryan (WI)
Sali
Schmidt
Sensenbrenner
Sessions
Shadegg
Shuster
Simpson
Smith (NE)
Smith (TX)
Stark
Stearns
Sullivan
Tancredo
Walberg
Walden (OR)
Wamp
Weldon (FL)
Westmoreland
Wicker
Wilson (SC)
Young (AK)

NOT VOTING—10

Brady (PA)
Engel
Fattah
Herger
Johnson, E. B.
Larson (CT)
McMorris Rodgers
Renzi
Souder
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1851

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Madam Speaker, I would like to submit this statement for the RECORD and regret that I could not be present today, Wednesday, May 9, 2007 to vote on rollcall vote Nos. 310, 311, 312, 313, 314, 315, 316, 317 and 318 due to a family medical situation. Had I been present, I would have voted:

"Yea" on rollcall vote No. 310 on ordering the previous question on H. Res. 382;

"Yea" on rollcall vote No. 311 on agreeing to H. Res. 382, the rule providing for consideration of H.R. 1684, the Fiscal Year 2008 Department of Homeland Security Authorization Act;

"Yea" on rollcall vote No. 312 on agreeing to H. Res. 383, the rule providing for consideration of H.R. 1873, the Small Business Fairness in Contracting Act;

"Yea" on rollcall vote No. 313 on the motion to suspend the rules and pass H.R. 890, the Student Loan Sunshine Act that establishes requirements for lenders and institutions of higher education in order to protect students and other borrowers receiving educational loans;

"Aye" on rollcall vote No. 314 on the amendment H.R. 1684 that would strike some provisions of the bill, add reporting requirements, revises annuitant provisions, and require a GAO report on law enforcement retirement systems;

"Aye" on rollcall vote No. 315 on the amendment to H.R. 1684 that would remove section 407 of the bill, which requires that identification cards, uniforms, protective gear, and badges of Homeland Security personnel be manufactured in the United States;

"Yea" on rollcall vote No. 316 on the amendment H.R. 1684 that would strike some

provisions of the bill, add reporting requirements, revises annuitant provisions, and require a GAO report on law enforcement retirement systems;

"Nay" on rollcall vote No. 317 on the motion to recommit H.R. 1684 with instructions;

"Aye" on rollcall vote No. 318 on final passage of H.R. 1684, the Fiscal Year 2008 Department of Homeland Security Authorization Act.

PERMISSION FOR AMENDMENT NO. 4 TO BE OFFERED AT ANY TIME DURING CONSIDERATION OF H.R. 1873, SMALL BUSINESS FAIRNESS IN CONTRACTING ACT

Ms. VELÁZQUEZ. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 1873 in the Committee of the Whole, pursuant to House Resolution 383, amendment No. 4 by Mr. SESTAK be permitted to be offered at any time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

Mr. PRICE of Georgia. Mr. Speaker, reserving the right to object, would you mind explaining exactly what that amendment pertains to and whether or not this has been discussed with our side?

Ms. VELÁZQUEZ. I thought that the ranking member was agreeable. Mr. SESTAK is in a markup on the Committee on Armed Services. We cleared this with your staff.

Mr. CHABOT. Mr. Speaker, if the gentlelady will yield, the amendment has been discussed with our side, and we are satisfied with it. It was a mistake made essentially between Rules and here.

Mr. PRICE of Georgia. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

GENERAL LEAVE

Ms. VELÁZQUEZ. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and enter into the RECORD extraneous material on the bill under consideration and that the CBO cost estimates for H.R. 1873 as reported by the Small Business Committee be entered into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The text of the Congressional Budget Office Cost Estimate is as follows:

MAY 7, 2007.

Hon. NYDIA M. VELÁZQUEZ,
Chairwoman, Committee on Small Business, House of Representatives, Washington, DC.

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed estimate for H.R. 1873, the Small Business Fairness in Contracting Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford, who can be reached at 226–2860.

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 1873—Small Business Fairness in Contracting Act

Summary: H.R. 1873 would make several changes to the laws that promote and encourage federal agencies to contract for goods and services with small businesses. The legislation would amend the definition of ''bundled contracts'' (the practice of combining two or more contracts into a single agreement) for the procurement of goods and services and require agencies to better justify the need for such larger contracts rather than smaller ones that could be available to small businesses. The federal government currently has a goal of acquiring 23 percent of most goods and services from small business. The bill would increase that goal to 30 percent and apply it to each agency individually, as well as to all agencies collectively. H.R. 1873 also would require the Small Business Administration (SBA) to develop new regulations and new databases and to conduct other efforts to encourage and promote the use of small businesses in government contracting.

CBO estimates that implementing H.R. 1873 would cost $83 million in fiscal year 2008 and $945 million over the 2008–2012 period, subject to the availability of appropriated funds. We expect that most of those costs would fall on the largest agencies the Department of Defense, the Department of Energy, and the National Aeronautics and Space Administration—that have not met the current goal for contracting with small businesses. Enacting the bill would have no effect on direct spending or revenues.

The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1873 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit) and all other budget functions that include spending to procure goods and services.

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Administration of Governmentwide Procurement:					
Estimated Authorization Level	100	175	200	240	260
Estimated Outlays	80	150	200	240	260
Small Business Administration:					
Estimated Authorization Level	3	3	3	3	3
Estimated Outlays	3	3	3	3	3
Total Changes:					
Estimated Authorization Level	103	178	203	243	263
Estimated Outlays	83	153	200	243	263

Basis of estimate: For this estimate, CBO assumes that H.R. 1873 will be enacted near the end of fiscal year 2007, that the necessary amounts will be appropriated over the 2008–2012 period, and that outlays will follow historical spending patterns for contract administration spending. CBO estimates that implementing H.R. 1873 would cost $83 million in 2008 and $945 million over the 2008–2012 period, assuming appropriation of the necessary funds.

Administration of governmentwide procurement

H.R. 1873 would change the definition of bundled contracts to include the procurement of new and existing goods or services with a value of at least $1.5 million and construction projects worth more than $65 million. Under the bill, agencies would have to justify the use of bundled contracts by evaluating whether or not such work could be performed by small business. The SBA could appeal to the Office of Federal Procurement Policy to determine whether the use of bundled contracts by an agency is justified. In addition, H.R. 1873 would amend current law to increase the goal of using contracts with small businesses from the current governmentwide goal of 23 percent of the value of all contracts to 30 percent. In addition, the goal would apply to each agency individually, as to well as all agencies collectively.

Based on information from agencies with the most procurement spending and an analysis of SBA reports on governmentwide and small business contracts, CBO expects that implementing the bill would have a significant discretionary cost to review and analyze the need for bundled contracts, prepare additional market research to identify small business concerns able to perform government contracts and provide necessary products, and expand existing mentoring and developmental programs to prepare small business to obtain government procurement opportunities. Based on current contract administration costs and the size and characteristics of those contracts, CBO estimates that complying with H.R. 1873 would increase costs by about $200 million annually—or about 7 percent of the roughly $2.5 billion that CBO estimates is spent each year to administer the government's procurement contracting efforts. We expect that this increase would occur over a 3-year period. Thus, the estimated costs are phased in between 2008 and 2010. Most of this cost would be incurred to administer additional smaller contracts.

Governmentwide procurement

CBO expects that agencies would continue to encourage the use of small business for the procurement of goods and services and seek to meet the goal for such contracts in this legislation. CBO expects, however, that agencies would continue to purchase goods and services at the lowest price available and that small business contracting goals would be met to the extent that doing so would not significantly increase the cost of procuring needed goods and services.

Small Business Administration

Several provisions of H.R. 1873 would increase the responsibilities of the SBA to monitor and support small business preferences in government contracting and procurement. Such responsibilities would include reviewing bundled contracts and auditing contractor databases. Based on information from SBA, CBO estimates that implementing those provisions would cost about $3 million per year, subject to the availability of appropriated funds.

Intergovernmental and Private-Sector Impact: H.R. 1873 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimate: On May 7, 2007, CBO also transmitted a cost estimate for H.R. 1873 as ordered reported by the House Committee on Oversight and Government Reform on May 3, 2007. The version of the bill ordered reported by the Committee on Oversight and Government Reform would not significantly change the current governmentwide goal for contracting with small businesses, and thus, CBO expects it would be less costly to implement.

Estimate prepared by: Federal Costs: Matthew Pickford and Susan Willie; Impact on State, Local, and Tribal Governments: Elizabeth Cove; Impact on the Private Sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

SMALL BUSINESS FAIRNESS IN CONTRACTING ACT

The SPEAKER pro tempore. Pursuant to House Resolution 383 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1873.

□ 1852

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1873) to reauthorize the programs and activities of the Small Business Administration relating to procurement, and for other purposes, with Mr. LINCOLN DAVIS of Tennessee in the chair.

The Clerk read the title of the bill.

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

The gentlewoman from New York (Ms. VELÁZQUEZ) and the gentleman from Ohio (Mr. CHABOT) each will control 30 minutes.

The Chair recognizes the gentlewoman from New York.

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

Mr. Chairman, there is no question that the Federal marketplace continues to grow at record rates. Just last year, the Federal Government spent $417 billion on goods and services. While the government's buying power is increasing, small businesses' opportunities and access to this market is decreasing. With unfair competition and the combining of government projects, entrepreneurs are being shut out of the Federal market. Currently, the state of procurement for small businesses is one that does more to create barriers than it does to encourage participation.

What we have heard time and time again is that access to government projects is out of the reach of small firms. The barriers in the way of accessing this work is clear, among them, the bundling of contracts, the lack of a strongly enforced small business contracting goal and large firms receiving contracts intended for small firms.

For the past 6 years, the government has failed to meet its 23 percent small business contracting goal, costing entrepreneurs last year alone as much as $4.5 billion in lost contracting opportunities. With small businesses creating three out of every four new jobs in this country, they deserve to compete on a level playing field for government work. Small firms do not deserve to be left out of the Federal marketplace but, instead, to be given every tool needed to continue to spur economic growth.

The number one reason the small business contracting goal is not being met is because of the bundling of contracts. Individual contracts being combined works to exclude small firms from bidding on them and often results in higher costs to taxpayers and decreased value for the government. For every $1,800 awarded in a bundled contract, there is a $33 decrease to small businesses. When contracts are bundled together creating ''super-contracts,'' they become too large for entrepreneurs to compete.

In 2002, the President pledged during the administration's announcement of their small business agenda that, ''We're going to insist we break down large Federal contracts so that small business owners have got a fair shot at Federal contracting.'' This legislation finally puts his words into action.

To create the illusion that the goal is being met, agencies are using contracts awarded to large companies and including them toward their small business contracting goal. In 2005, approximately $12 billion in contracts were falsely counted. This gives the impression that agencies are doing more work with small firms than they actually are.

Access to the Federal marketplace is an important mechanism for growth for small businesses. If competition for government projects is not fair, there is no way we can expect entrepreneurs to grow and expand their ventures. This not only benefits entrepreneurs, but also puts taxpayers' dollars to good use. For every dollar in contracts, $7 in revenue is generated for the Federal Government.

Clearly, large businesses have more resources than small firms. Oftentimes they have access to more capital, can hire more staff and have fewer barriers in the way of marketing and expanding their companies. The last thing they need to be doing is taking contracts intended for small businesses.

H.R. 1873 is a bipartisan effort introduced by Mr. BRALEY. I want to commend Mr. BRALEY for his work on addressing small business procurement issues and bringing this bill up for consideration.

This legislation will help open the marketplace for small business contracts. It ensures that fair competition is enforced and that small firms are given the opportunities they deserve to work with the Federal Government.

With the government being the largest buyer of services and goods and small businesses being the largest job creators, increased partnership between these two is the best value for the taxpayer dollar, and not only benefits entrepreneurs, but communities all across the country.

I strongly urge my colleagues to vote for the Small Business Fairness in Contracting Act.

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

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

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

Mr. CHABOT. Mr. Chairman, tonight I rise in support of H.R. 1873, the Small Business Fairness in Contracting Act. As an original cosponsor of this legislation, we worked closely with Chairwoman VELÁZQUEZ and Representative BRALEY to draft a good, bipartisan bill that passed the Small Business Committee by voice vote and was cosponsored by nearly all the members of the committee.

Our legislation was intended to reform the contracting process, increase competition and provide a better value to the taxpayer. The legislation also takes steps to provide greater opportunities to small businesses and addresses problems with the Federal procurement database.

Promoting competition and increasing suppliers depends on the active participation of small businesses, the fastest growing segment of the American economy.

□ 1900

Without small business's participation, the government is forced to rely on fewer and fewer businesses to satisfy its need for goods and services. This concentration is bad for the government and worse for the tax-paying public. For that reason, utilization of small businesses to fulfill government contracts has been a long-standing policy, a policy that is neither Republican nor Democrat.

Unfortunately, the bill we are considering today, while making many important reforms, is watered down from the original version we introduced.

I commend Chairman VELÁZQUEZ and her staff for working tirelessly to try and protect the sound work done by the Committee on Small Business.

I also want to thank the Rules Committee, and especially Chairwoman SLAUGHTER and Ranking Member DREIER, for allowing me to offer three important amendments, along with three of my Democratic colleagues, to restore significant provisions of the original bill.

One amendment that I proposed with Mr. SESTAK, however, was not ruled in order. This amendment would have restored a provision of our original Small Business Committee bill related to contract bundling. Contract bundling is a procurement strategy that represents a potential obstacle to small business participation in the Federal marketplace. Contract bundling allows Federal procurement officials to manage the procurement process using fewer contracts. At times, contract bundling may be appropriate. At other times, it may reduce competition by combining multiple contracts for goods or services that could be provided separately into a single contract that small businesses are incapable of performing.

Nothing in our original bill as reported by the Committee on Small Business would have completely prevented the Federal Government from bundling contracts, nor is there anything in the bill that we are debating

today that prevents contracts from being bundled. Instead, we take the view that bundling can be beneficial if the government gets substantial, measurable benefits in terms of better prices or higher quality or critical delivery terms.

However, our original bill would have required that Federal contracting officers examine their contracting strategies to ensure that the government was receiving real benefits through bundled contracts and also consider the potential loss of competition from small businesses being excluded. Or as President Reagan might have put it, trust but verify.

The bill we are debating now reduces the amount of contracts subject to the trust but verify standard as compared to our original bill. It does, however, represent an increase from current law in the number of contracts that will be scrutinized. With that in mind and with the amendments made in order, including a separate amendment by Mr. SESTAK, the bill moves us modestly in the right direction.

I would hope that as we proceed, and especially in conference, we continue to strengthen the trust but verify standards relative to bundled contracts.

While this may create more work for Federal contracting officers, it also ensures that the Federal procurement process protects competition in the long run while ensuring that the government benefits in the short run from necessary bundled contracts.

As we work through the legislative process with the Senate, it is important that a sensible mechanism exist for an independent arbiter to resolve disputes between the SBA and the agency issuing a bundled contract. It seems unfair that the SBA's only avenue of appeal is to the agency that is doing the procurement. Would anybody be surprised to learn that the administrator has never won an appeal on an agency head on a disputed bundled contract? Not once.

Nor should the legislation as it works its way to final passage substitute an appeals process by affected small businesses for that of the Small Business Administrator. Requiring a small business to challenge an agency's decision pits a David against a Goliath. But, unlike the biblical account, Goliath usually win these battles.

In addition to the provisions on bundling, the bill we are considering today increases the goals for prime Federal contracts to small businesses. But in my estimation and why I offered amendments is that the increase in the bill does not recognize the 10 percent growth in the number of small businesses since 1997, the last time the goals were raised. Nor does the modest increase from 23 to 25 percent recognize substantial technological changes and the capacity of small businesses to perform contracts overseas. Amendments we will be considering will raise those standards to appropriate levels and recognize the capacity of small businesses to perform work overseas.

In addition, I would ask the chairwoman that we work together to remove a provision included in the bill by the Committee on Oversight and Government Reform that treads on the sole jurisdiction of the Committee on Small Business. I believe that sets a bad precedent for future legislation in the House.

I also find that the provisions in title III of the bill are worthy of support. I congratulate the Committee on Oversight and Government Reform as well as members of the Committee on Small Business on working to eradicate errors in critical Federal procurement databases. These changes, although seemingly arcane, will ensure that contracting officers award contracts intended to small businesses to actual small businesses.

While this bill is not as strong as the version adopted by the Small Business Committee, it nevertheless represents an improvement over existing law. I will continue to work to further strengthen this bill and to ensure that small businesses have their fair opportunity to participate in the Federal procurement process.

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

Ms. VELÁZQUEZ. Mr. Chairman, I yield to the gentleman from California (Mr. WAXMAN), chairman of the Committee on Oversight and Government Reform, such time as he may consume; and I want to take this opportunity to thank him for his work on this legislation.

Mr. WAXMAN. Mr. Chairman, H.R. 1873, the Small Business Fairness in Contracting Act, would make a number of improvements to the preferences given small businesses in Federal contracts.

The bill is the product of much hard work by both the Small Business Committee and the Oversight Committee and reflects our consensus view on many important issues, and I would like to thank Chairwoman VELÁZQUEZ and the Small Business Committee for working with us to address their legitimate concerns and to reach the correct balance in this bill.

I would also like to commend Congressman BRALEY, a member of both the Small Business and Oversight Committees, for his leadership on this issue. I also thank the ranking member of the Oversight Committee, Congressman TOM DAVIS.

The bill represents a delicate balance between appropriate assistance for small businesses through the Federal acquisition system and the overriding purpose of the system, which must always be to ensure that taxpayers get the best value for their money.

The bill also starts us on the path of addressing the current contracting preference enjoyed by Alaska Native Corporations. These groups can be awarded Federal contracts of any size without competition.

To address these concerns about ANC contracts and promote competition in contracting, the bill includes a provision which would give Congress until the end of the year to adopt legislation addressing sole-source contracting by Alaska Native Corporations and economically disadvantaged Indian tribes. If we fail to act during this ''placeholder'' period, the bill would then require the administration to consult with Alaska Natives and Indian tribes to establish an appropriate limit on the size of the sole-source awards to these groups.

In crafting this provision, I have worked closely with the gentleman from Michigan (Mr. KILDEE), who is Democratic Chair of the Congressional Native American Caucus; and at this time I yield to the gentleman from Michigan (Mr. KILDEE) for the purpose of engaging in a colloquy.

Mr. KILDEE. I want to thank my chairman for yielding to engage in a colloquy on a matter of great importance to Native Americans.

Congress has long been concerned about addressing the social ills that plague our Native American communities which stem from the policies of the United States that were designed to terminate tribal nations and their culture.

While we cannot erase the deplorable history of Indian policy in the United States, Congress has sought to honor the political status of tribal governments by enacting a wide range of laws designed to promote Indian self-determination and economic self-sufficiency. The entirety of title 25 of the United States Code is a compilation of all Federal laws relating to Indians that seek to achieve those goals.

Congress has established the Native 8(a) program in furtherance of those Federal policies to foster strong economies in Native communities. The program is an important tool which has significant benefits to Native communities.

I understand that the authorizing committees have concerns relating to the Native 8(a) program, and I thank Chairman WAXMAN for agreeing to placeholder language at section 211 so we may continue our dialogue with the participants of that program to find a permanent solution to the committee's concern.

In addressing the committee's concerns, however, it is my strong desire that we balance the interest of all parties and that any change to that program take into account our trust relationship with tribal nations and the communities they serve.

I thank the gentleman for yielding.

Mr. WAXMAN. I think the gentleman makes a number of excellent points about the sorry history of Indian policy in the United States. I agree with him that the intent of this provision is to start a dialogue which can recognize the legitimate concerns of Alaska Natives and American Indians, while at the same time preserving the integrity of the Federal contracting process.

I congratulate the chairwoman of the Small Business Committee and thank her for her willingness to work with us.

Mr. CHABOT. Mr. Chairman, I continue to reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. BRALEY), the sponsor of the bill and the chairman of the Contracting and Technology Subcommittee of the Small Business Committee.

Mr. BRALEY of Iowa. I thank the gentlewoman for yielding me this time.

Last month, I introduced H.R. 1873, the Small Business Fairness in Contracting Act. Today, I rise as a voice for small business owners everywhere who want a fighting chance to compete for Federal contracts.

I would like to take a moment to thank Chairwoman NYDIA VELÁZQUEZ and Ranking Member STEVE CHABOT. I am pleased H.R. 1873 has such strong bipartisan support and is co-sponsored by nearly the entire Small Business Committee.

Additionally, I would like to thank Oversight and Government Reform Chairman HENRY WAXMAN and Ranking Member TOM DAVIS for their prompt consideration of this bill.

Finally, I would like to thank Rules Committee Chairwoman LOUISE SLAUGHTER and Ranking Member DAVID DREIER for acting on this bill. It is clear to me that members of all these committees understand the important role small businesses play in our communities.

Over the past 5 years, government agencies have greatly increased the practice known as contract bundling, oftentimes combining work that small businesses could perform into giant packages that exceed small firms' ability to compete for this work. During this same time, total government contracting has increased by 60 percent, while the number of small business contracts has decreased by 55 percent.

This is unacceptable; and that is why it is so important that today we are considering the Small Business Fairness in Contracting Act, sending a message to small businesses that this Congress is serious about leveling the playing field for them by improving their opportunities to compete for Federal contracts.

H.R. 1873 also increases competition in the contracting process, which can lead to lower prices for the government.

As we know, small businesses are the number one job creators in this country, and we must ensure that this engine remains not only healthy but also has the support it needs to grow. It is essential to remove the barriers blocking small businesses from entering the nearly $400 billion per year Federal marketplace.

Public support for this bill is broad and bipartisan. The Small Business Fairness in Contracting Act was cosponsored by 29 Representatives, 17 Democrats and 12 Republicans. H.R. 1873 has been endorsed by the National Federation of Independent Business, the Associated General Contractors, the National Small Business Association, Women in Public Policy, the U.S. Women's Chamber of Commerce, and the U.S. Hispanic Chamber of Commerce.

My State of Iowa ranks near the bottom in terms of government contracting dollars awarded to small businesses. Even though 477 small businesses in my district are registered with the Small Business Administration, the dollar value of contracts awarded to those businesses is a tiny fraction of the Federal contract pie. Everyone in this House understands the important role that small businesses play in each of our districts. Allowing them a fair opportunity to bid on Federal contracts will bring economic vitality to our towns and cities.

I thank all of my colleagues who join me today in standing up for the interests of small businesses in this country.

Mr. CHABOT. Mr. Chairman, we have no further speakers, and I yield back the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I would like to close by saying that it has been over a decade since a small business contracting bill has come to the floor. Clearly, addressing the concerns of entrepreneurs in regards to procurement is long overdue and much needed.

I just want to take this opportunity to thank Ranking Member CHABOT for all of his hard work and his collaboration in working on this legislation. I also want to thank Mr. BRALEY and to take this opportunity to thank the staff that worked on this bill.

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From the minority staff, Barry Pineles; from Mr. BRALEY's staff, Tom Wolf and Mike Goodman; from Mr. WAXMAN's staff, Mark Stevens and Phil Barnett; and from the majority staff, LeAnn Delaney and Melody Reis and Russ Orban.

I strongly urge my colleagues to vote for the Small Business Fairness in Contracting Act.

Mr. HOLT. Mr. Chairman, I rise today in support of H.R. 1873, the Small Business Fairness in Contracting Act.

Small businesses are a big part of the U.S. economy. In fact, small businesses employ more than half of all private sector employees and pay 45 percent of the total U.S. private payroll. New jobs come disproportionately from small businesses, which generated 60 to 80 percent of new jobs in the past 10 years.

Although federal government contracting practices are required by law to be supportive of small businesses, the bundling of contracts has prevented many small businesses from being able to compete fairly. This is a significant loss to small businesses, as federal contracts pay a total of $400 billion annually to contractors. H.R. 1873 gives small businesses a fair chance at competing for these contracts by preventing the contract bundling that has excluded them from being considered. In doing this, the Act also insures that taxpayer money is spent more efficiently, as more competition for government contracts will necessarily result in better use of public funds.

The Act further improves small business contracting practices by creating a system by which small businesses and opportunities for small businesses can be better catalogued and tracked. If a business has grown and should no longer be considered small, we will know, and well give priority to true small businesses. If a large business has not subcontracted enough to small businesses, we will know, and we will assist small businesses in finding these subcontracting opportunities.

When small businesses can compete fairly and are made aware of the opportunities provided them, jobs are created, entrepreneurship thrives, and the overall economy prospers. I therefore encourage my colleagues to support this resolution.

Ms. HIRONO. Mr. Chairman, I rise in support of H.R. 1873, the Small Business Fairness in Contracting Act.

This bill creates a competitive bid process in the federal marketplace by restricting the ability of federal agencies to generate contracts that are too large for small businesses to compete effectively. Within the last 7 years, larger firms have benefited from the bundling of contracts while the total number of contracts received by small businesses has declined nationwide by 55 percent. H.R. 1873 increases the goal for small-business participation in federal contracts to at least 25 percent and requires the Small Business Administration to work with government agencies each fiscal year to establish and meet contracting goals that benefit small businesses.

Small businesses represent the overwhelming majority of businesses in Hawaii and play a vital role in economic growth for the state. H.R. 1873 will provide increased opportunities for Hawaii's small business community to compete for federal contracts that formerly were bundled and ended up going to larger out-of-state corporations.

Of course, this bill will help small businesses throughout the country compete for their fair share of federally funded projects.

I urge my colleagues to support this measure.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in strong support of H.R. 1873, the Small Business Fairness in Contracting Act. From the bodegas of the Bronx to your favorite family owned restaurant scattered across the plains of small town America, small businesses are the backbone of the American economy. These entities epitomize the spirit of the American dream, and they speak to everything that is wonderful about our society. Small businesses represent an opportunity for those individuals who dare to dream, who take a chance, and who wish to fulfill that entrepreneurial spirit that built this mighty Nation. I find it interesting that we are giving this bill consideration in the midst of a heated immigration debate, because one will find that a significant number of immigrants start small businesses as a means to realizing the American dream. They enrich the local community while bringing in much needed tax revenue, the same revenue that helped build New York City, Chicago, and Boston back at the turn of the 20th century. Turning our focus back to H.R. 1873, the Small Business Fairness in Contracting

Act, I rise in strong support of this legislation as it ensures that the federal government maintains a strong commitment to small businesses, as they try to remain competitive in a growing global economy.

This legislation increases the government-wide goal for participation by small-business concerns in all contracts awarded in a fiscal year to no less than 25 percent, from the current 23 percent. This legislation also increases the government-wide goal for procurement for small disadvantaged and women-owned businesses to 8 percent from 5 percent. The bill also requires each federal agency to submit to the SBA and Congress a detailed plan outlining how the agency plans to meet its small-business goals each fiscal year.

As a body, we the members of this 110th Congress have a duty to protect the needs of the average American. By passing this legislation we ensure the owners of small businesses across the country that the 110th Congress eagerly performed their duties.

Mr. LARSON of Connecticut. Mr. Chairman, I regret that I could not be present today because of a family medical situation and I would like to submit this statement for the record in support of H.R. 1873, the Small Business Fairness in Contracting Act.

All too often mega contracts are too large for small business to compete for in the federal marketplace. Last year, the federal government spent more than $417 billion on goods and services in over 8 million contracts in 2006, of which small businesses won about $80 billion (22 percent). Of the $80 billion for small business contracts, $12 billion was actually awarded to large businesses, not small businesses.

For the past six years, the federal government has failed to meet its 23 percent small business contracting goal. The bill before the House today would create a fair and open federal contracting system, that would ensure all small businesses have an equal opportunity to secure government contracts. This bill would increase the government-wide goal for small-business participation in federal contracts, limit the ability of federal agencies to bundle small projects into large contracts, and require the Small Business Administration to take steps to reduce erroneous entries in the government's contractor registry. The Small Businesses Fairness in Contracting Act would require no less than 25 percent, an increase from 23 percent, of all contracts be awarded to small-business in a fiscal year. It would also increase the government-wide goal for procurement for small disadvantaged and women-owned businesses to 8 percent from 5 percent.

This bill is a vital step for America's 26 million small businesses, including Connecticut's 341,000 small businesses. It is an investment in our nation's small businesses. For every $1 invested, small businesses will contribute $7 to the economy. I call upon my colleagues to join me in supporting a bill that supports a vital national interest—America's small businesses and economy.

Ms. VELÁZQUEZ. Mr. Chairman, I yield back the balance of our time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Oversight and Government Reform, printed in the bill, is considered as an original bill for the purpose of amendment and is considered read.

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

H.R. 1873

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 ''Small Business Fairness in Contracting Act''.

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

SEC. 2. REGULATIONS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act—

(1) the Administrator of the Small Business Administration shall promulgate regulations to implement this Act and the amendments made by this Act; and

(2) the Federal Acquisition Regulation shall be revised to implement this Act and the amendments made by this Act.

(b) NOTICE AND COMMENT.—The regulations required by subsection (a) shall be promulgated after opportunity for notice and comment as required by section 553(b) of title 5, United States Code.

TITLE I—CONTRACT BUNDLING

SEC. 101. DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by amending subsection (o) to read as follows:

''(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—For purposes of this Act:

''(1) BUNDLED CONTRACT.—

''(A) IN GENERAL.—The term 'bundled contract' means a contract or order that is entered into to meet procurement requirements that are consolidated in a bundling of contract requirements, without regard to its designation by the procuring agency or whether a study of the effects of the solicitation on civilian or military personnel has been made.

''(B) EXCEPTIONS.—The term does not include—

''(i) a contract or order with an aggregate dollar value below the dollar threshold specified in paragraph (4); or

''(ii) a contract or order that is entered into to meet procurement requirements, all of which are exempted requirements under paragraph (5).

''(2) BUNDLING OF CONTRACT REQUIREMENTS.—

''(A) IN GENERAL.—The term 'bundling of contract requirements' means the use of any bundling methodology to satisfy 2 or more procurement requirements for new or existing goods or services, including any construction services, that is likely to be unsuitable for award to a small business concern due to—

''(i) the diversity, size, or specialized nature of the elements of the performance specified;

''(ii) the aggregate dollar value of the anticipated award;

''(iii) the geographical dispersion of the contract or order performance sites; or

''(iv) any combination of the factors described in clauses (i), (ii), and (iii).

''(B) EXCEPTIONS.—The term does not include—

''(i) the use of a bundling methodology for an anticipated award with an aggregate dollar value below the dollar threshold specified in paragraph (4); or

''(ii) the use of a bundling methodology to meet procurement requirements, all of which are exempted requirements under paragraph (5).

''(3) BUNDLING METHODOLOGY.—The term 'bundling methodology' means—

''(A) a solicitation to obtain offers for a single contract or order, or a multiple award contract or order;

''(B) a solicitation of offers for the issuance of a task or a delivery order under an existing single or multiple award contract or order; or

''(C) the creation of any new procurement requirement that permits a consolidation of contract or order requirements.

''(4) DOLLAR THRESHOLD.—The term 'dollar threshold' means—

''(A) $65,000,000, if solely for construction services; and

''(B) $1,500,000, in all other cases.

''(5) EXEMPTED REQUIREMENTS.—The term 'exempted requirement' means one or more of the following:

''(A) A procurement requirement solely for items that are not commercial items (as the term 'commercial item' is defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).

''(B) A procurement requirement with respect to which a determination that it is unsuitable for award to a small business concern has previously been made by the agency. However, the Administrator shall have authority to review and reverse such a determination for purposes of this paragraph and, if the Administrator does reverse that determination, the term 'exempted requirement' shall not apply to that procurement requirement.

''(6) PROCUREMENT REQUIREMENT.—The term 'procurement requirement' means a determination by an agency that a specified good or service is needed to satisfy the mission of the agency.''.

SEC. 102. JUSTIFICATION.

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by striking ''is in a quantity or estimated dollar value the magnitude of which renders small business prime contract participation unlikely'' and inserting ''would now be combined with other requirements for goods and services'';

(2) by striking ''(2) why delivery schedules'' and inserting ''(2) the names, addresses and size

of the incumbent contract holders; (3) a description of the industries that might be interested in bidding on the contract requirements; (4) the number of small businesses listed in the industry categories that could be excluded from future bidding if the contract is combined or packaged; (5) why delivery schedules'';

(3) by striking ''(3) why the proposed acquisition'' and inserting ''(6) why the proposed acquisition'';

(4) by striking ''(4) why construction'' and inserting ''(7) why construction'';

(5) by striking ''(5) why the agency'' and inserting ''(8) why the agency'';

(6) by striking ''justified.'' and inserting ''justified. The statement shall also set forth the proposed procurement strategy required by subsection (e) and, if applicable, the specifications required by subsection (e)(3). Concurrently, the statement shall be made available to the public, including through dissemination in the Federal contracting opportunities database.''; and

(7) by inserting after ''prime contracting opportunities.'' the following: ''If no notification of the procurement and accompanying statement is received, but the Administrator determines that there is cause to believe the contract combines requirements or a contract (single or multiple award) or task or delivery order for construction services or includes unjustified bundling, then the Administrator can demand that such a statement of work goods or services be completed by the procurement activity and sent to the Procurement Center Representative and the solicitation process postponed for at least 10 days to allow the Administrator to review the statement and make recommendations as described in this section before the procurement is continued.''.

SEC. 103. APPEALS.

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by striking ''If a proposed procurement includes in its statement'' and inserting ''If a proposed procurement would negatively affect one or more small business concerns, or if a proposed procurement includes in its statement''; and

(2) by inserting before ''Whenever the Administration and the contracting procurement agency fail to agree,'' the following: ''If a small business concern would be adversely affected, directly or indirectly, by the procurement as proposed, and that small business concern or a trade association on behalf of that small business concern so requests, the Administrator may, in the Administrator's discretion, take action to further the interests of that small business concern.''.

SEC. 104. THIRD-PARTY REVIEW.

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended by striking the sentence beginning ''Whenever the Administration and the contracting procurement agency fail to agree,'' and inserting the following: ''Whenever the Administrator and the contracting procurement agency fail to agree, the Administrator shall submit the matter to the Administrator of the Office of Federal Procurement Policy within the Office of Management and Budget, who shall render his decision regarding the matter not later than 10 days after receiving the matter.''.

TITLE II—INCREASING THE NUMBER OF SMALL BUSINESS CONTRACTS AND SUBCONTRACTS

SEC. 201. SMALL BUSINESS GOAL.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking ''23 percent'' and inserting ''30 percent''.

SEC. 202. INCLUDE OVERSEAS CONTRACTS IN SMALL BUSINESS GOAL.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

''(3) The procurement goals required by this subsection apply to all procurement contracts, without regard to whether the contract is for work within or outside the United States.''.

SEC. 203. ANNUAL GOAL NEGOTIATION.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking ''The President shall annually establish Government-wide goals for procurement contracts'' and inserting ''The President shall before the close of each fiscal year establish new Government-wide procurement goals for the following fiscal year for procurement contracts''.

SEC. 204. GOAL REASONABLENESS.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking ''Notwithstanding the Government-wide goal, each agency shall have an annual goal'' and inserting ''Each agency shall have an annual goal, not lower than the Government-wide goal,''.

SEC. 205. USAGE OF SMALL COMPANIES IN GOAL ACHIEVEMENT.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

''(4) For purposes of this subsection and subsection (h), a small business concern shall be counted toward one additional category goal only, even if that small business concern otherwise qualifies under more than one category goal. In this paragraph, the term 'category goal' means a goal described in paragraph (2).''.

SEC. 206. ANNUAL PLAN FOR EACH AGENCY EXPLAINING HOW AGENCY WILL MEET SMALL BUSINESS GOALS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

''(5) Before the beginning of each fiscal year, the head of each Federal agency shall submit to the Administrator of the Small Business Administration and to Congress a detailed plan explaining how the agency intends to meet the small business goals under this subsection that apply to that agency for that fiscal year.''.

SEC. 207. MAKING SMALL BUSINESSES THE FIRST CHOICE.

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) in paragraph (1)—

(A) by inserting ''or order'' after ''Each contract''; and

(B) by striking ''$100,000'' and insert ''the Simplified Acquisition Threshold''; and

(2) in paragraph (3), by striking ''subsection (a) of section 8'' and inserting ''section 8, 31, or 36''.

SEC. 208. UNIFORM METRIC FOR SUBCONTRACTING ACHIEVEMENTS.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:.

''(12) In carrying out this subsection, the Administrator shall require each prime contractor to report small business subcontract usage at all tiers based on the percentage of the total dollar amount of the contract award.''.

SEC. 209. SUBCONTRACTING DATABASE.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

''(13) In carrying out this subsection, the Administrator shall develop and maintain a password-protected database that will enable the Administration to assist small businesses in marketing to large corporations that have not achieved their small business goals.''.

SEC. 210. NATIONAL DATABASE.

The Administrator of the Small Business Administration shall ensure that whenever a small business enters its information in the Central Contractor Registry, or any successor to that registry, the Administrator contacts that business within 30 days regarding the likelihood of Federal contracting opportunities. The Administrator shall ensure that each small business that so registers is, for each industry code entered by that small business, provided with the total dollar value of government contract awards to small businesses for that industry.

SEC. 211. REVIEW OF SUBCONTRACTING PLANS.

Not later than 120 days after the date of the enactment of this section, the Administrator of the Small Business Administration shall, after an opportunity for notice and comment, prescribe regulations to govern the Administrator's review of subcontracting plans, including standards for determining good faith effort in compliance with the subcontracting plans.

SEC. 212. AGENCY OBLIGATION FOR FULFILLING CONTRACTING GOALS.

Section 15(h) of the Small Business Act (15 U.S.C. 644(h)) is amended by adding at the end the following:

''(4) At the conclusion of each fiscal year, the head of each Federal agency shall submit to Congress a report specifying the percentage of contracts awarded by that agency for that fiscal year that were awarded to small business concerns. If the percentage is less than 30 percent, the head of the agency shall, in the report, explain why the percentage is less than 30 percent and what will be done to ensure that the percentage for the following fiscal year will not be less than 30 percent.''.

TITLE III—PROTECTION OF TAXPAYERS FROM FRAUD

SEC. 301. SMALL BUSINESS SIZE PROTEST NOTIFICATION.

(a) IN GENERAL.—The Administrator of the Small Business Administration shall work with appropriate Federal agencies to ensure that whenever a business concern is awarded a contract on the basis that it qualifies as small and then is determined not to qualify as small, a notification of those facts (that an award was made on such a basis, and that such a determination was made) shall be placed adjacent to that concern's listing in the Central Contractor Registry (or any successor to that registry).

(b) COMPTROLLER GENERAL CERTIFICATION.—The Administrator shall, in making any report of small business goal accomplishments, qualify the accomplishments as ''estimated'', until the Administrator obtains from the Comptroller General the Comptroller General's certification that there are no data integrity issues with respect to the national repository of contract award information known as Federal Procurement Data System-Next Generation (FPDS–NG), or any successor to that repository.

(c) AWARDS TO LARGE BUSINESSES.—For each Federal agency, the Inspector General of that agency shall, on an annual basis, submit to Congress a report on the number and dollar value of contract awards that were coded as awards to small business concerns but in fact were made to businesses that did not qualify as small business concerns.

SEC. 302. REVIEW OF NATIONAL REGISTRY.

The Administrator of the Small Business Administration shall ensure, on a biannual basis, that an independent audit is performed of the Central Contractor Registry, or any successor to that registry, and that the Dynamic Small Business Search portion of the registry, or any successor to that portion of the registry, is purged of any businesses that are not in fact small businesses. If a business that has been so purged attempts, while not in fact a small business, to reregister, that business is subject to debarment as a Federal contractor and is further subject to penalties outlined in section 16 of the Small Business Act (15 U.S.C. 645).

SEC. 303. RECERTIFICATION OF COMPLIANCE WITH SIZE STANDARDS AND REGISTRATION WITH CENTRAL CONTRACTOR REGISTRY.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

''(5) RECERTIFICATION.—

''(A) IN GENERAL.—If a business concern is awarded a contract because of a standard by which it is determined to be a small business

concern, and the business concern is close to exceeding that standard at the time the award is made, then the business concern must, annually after the date of the award, recertify to the agency awarding the contract whether it meets that standard.

''(B) 'CLOSE TO EXCEEDING'.—For purposes of subparagraph (A), a business concern is close to exceeding—

''(i) a number-of-employees standard if the number of employees of the business concern is 95 percent or more of the maximum number of employees allowed under the standard; and

''(ii) a dollar-volume-of-business standard if the dollar volume of business is 80 percent or more of the maximum dollar volume allowed under the standard.

''(6) REGISTRY.—For a business concern to be awarded a contract because of a standard by which it is determined to be a small business concern, the business concern must, annually after the end of the fiscal year used by the business concern, update its listing in the Central Contractor Registry.''.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act and the amendments made by this Act.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Fairness in Contracting Act''.

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

SEC. 2. REGULATIONS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act—

(1) the Administrator of the Small Business Administration shall promulgate regulations to implement this Act and the amendments made by this Act; and

(2) the Federal Acquisition Regulation shall be revised to implement this Act and the amendments made by this Act.

(b) NOTICE AND COMMENT.—The regulations required by subsection (a) shall be promulgated after opportunity for notice and comment as required by section 553(b) of title 5, United States Code.

TITLE I—CONTRACT BUNDLING

SEC. 101. DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by amending subsection (o) to read as follows:

''(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—For purposes of this Act:

''(1) BUNDLED CONTRACT.—

''(A) IN GENERAL.—The term 'bundled contract' means a contract or order that is entered into to meet procurement requirements that are consolidated in a bundling of contract requirements, without regard to its designation by the procuring agency or whether a study of the effects of the solicitation on civilian or military personnel has been made.

''(B) EXCEPTIONS.—The term does not include—

''(i) a contract or order with an aggregate dollar value below the dollar threshold specified in paragraph (4); or

''(ii) a contract or order that is entered into to meet procurement requirements, all of which are exempted requirements under paragraph (5).

''(2) BUNDLING OF CONTRACT REQUIREMENTS.—

''(A) IN GENERAL.—The term 'bundling of contract requirements' means the use of any bundling methodology to satisfy 2 or more procurement requirements for goods or services, including any construction services, previously supplied or performed under separate smaller contracts or orders that is likely to be unsuitable for award to a small business concern due to—

''(i) the diversity, size, or specialized nature of the elements of the performance specified;

''(ii) the aggregate dollar value of the anticipated award;

''(iii) the geographical dispersion of the contract or order performance sites; or

''(iv) any combination of the factors described in clauses (i), (ii), and (iii).

''(B) INCLUSION OF NEW FEATURES OR FUNCTIONS.—A combination of contract requirements that would meet the definition of a bundling of contract requirements but for the addition of a procurement requirement with at least one new good or service shall be considered to be a bundling of contract requirements unless the new features or functions substantially transform the goods or services previously performed.

''(C) EXCEPTIONS.—The term does not include—

''(i) the use of a bundling methodology for an anticipated award with an aggregate dollar value below the dollar threshold specified in paragraph (5); or

''(ii) the use of a bundling methodology to meet procurement requirements, all of which are exempted requirements under paragraph (6).

''(3) BUNDLING METHODOLOGY.—The term 'bundling methodology' means—

''(A) a solicitation to obtain offers for a single contract or order, or a multiple award contract or order; or

''(B) a solicitation of offers for the issuance of a task or a delivery order under an existing single or multiple award contract or order.

''(4) SEPARATE SMALLER CONTRACT.—The term 'separate smaller contract', with respect to bundling of contract requirements, means a contract or order that has been performed by 1 or more small business concerns or was suitable for award to 1 or more small business concerns.

''(5) DOLLAR THRESHOLD.—The term 'dollar threshold' means—

''(A) $65,000,000, if solely for construction services; and

''(B) $5,000,000, in all other cases.

''(6) EXEMPTED REQUIREMENTS.—The term 'exempted requirement' means a procurement requirement solely for items that are not commercial items (as the term 'commercial item' is defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

''(7) PROCUREMENT REQUIREMENT.—The term 'procurement requirement' means a determination by an agency that a specified good or service is needed to satisfy the mission of the agency.''.

SEC. 102. JUSTIFICATION.

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by striking ''(2) why delivery schedules'' and inserting ''(2) the names, addresses and size of the incumbent contract holders; (3) a description of the industries that might be interested in bidding on the contract requirements; (4) the number of small businesses listed in the industry categories that could be excluded from future bidding if the contract is combined or packaged; (5) why delivery schedules'';

(2) by striking ''(3) why the proposed acquisition'' and inserting ''(6) why the proposed acquisition'';

(3) by striking ''(4) why construction'' and inserting ''(7) why construction'';

(4) by striking ''(5) why the agency'' and inserting ''(8) why the agency'';

(5) by striking ''justified.'' and inserting ''justified. The statement shall also set forth the proposed procurement strategy required by subsection (e) and, if applicable, the specifications required by subsection (e)(3). The statement shall be made available to the public, including through dissemination in the Federal contracting opportunities database, concurrently with the issuance of the solicitation.''; and

(6) by inserting after ''prime contracting opportunities.'' the following: ''If no notification of the procurement and accompanying statement is received, but the Administrator determines that there is cause to believe the contract combines requirements or a contract (single or multiple award) or task or delivery order for construction services or includes unjustified bundling, then the Administrator may request that such a statement of work goods or services be completed by the procurement activity and sent to the Procurement Center Representative and the solicitation process postponed for 10 days to allow the Administrator to review the statement and make recommendations as described in this section before the procurement is continued.''.

SEC. 103. APPEALS.

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended by inserting before ''Whenever the Administration and the contracting procurement agency fail to agree,'' the following: ''If a small business concern would be adversely affected, directly or indirectly, by the procurement as proposed, and that small business concern or a trade association on behalf of that small business concern so requests, the Administrator may, in the Administrator's discretion, take action to further the interests of that small business concern.''.

SEC. 104. REVIEW.

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended by striking the sentence beginning ''Whenever the Administration and the contracting procurement agency fail to agree,'' and inserting the following: ''Whenever the Administration and the contracting procurement agency fail to agree, the Administrator shall submit the matter to the head of the agency for a determination. The head of the agency shall provide a written response to the Administrator. A copy of such response shall also be provided to the Committees on Small Business of the House of Representatives and Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.''.

TITLE II—INCREASING THE NUMBER OF SMALL BUSINESS CONTRACTS AND SUBCONTRACTS

SEC. 201. SMALL BUSINESS GOAL.

(a) GOVERNMENT-WIDE GOAL.—Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking ''23 percent'' and inserting ''25 percent''.

(b) GOALS FOR SMALL DISADVANTAGED BUSINESSES AND WOMEN-OWNED BUSINESSES.—Section 15(g)(1) of such Act is further amended by striking ''5 percent'' both places it appears and inserting ''8 percent''.

SEC. 202. ANNUAL GOAL NEGOTIATION.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking ''The President shall annually establish Government-wide goals for procurement contracts'' and inserting ''The President shall before the close of each fiscal year establish new Government-wide procurement goals for the following fiscal year for procurement contracts''.

SEC. 203. USAGE OF SMALL COMPANIES IN GOAL ACHIEVEMENT.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

''(4) For purposes of this subsection and subsection (h), a small business concern shall be counted toward one additional category goal only, even if that small business concern otherwise qualifies under more than one category goal. In this paragraph, the term 'category goal' means a goal described in paragraph (2).''.

SEC. 204. ANNUAL PLAN FOR EACH AGENCY EXPLAINING HOW AGENCY WILL MEET SMALL BUSINESS GOALS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

''(5) Before the beginning of each fiscal year, the head of each Federal agency shall submit to the Administrator of the Small Business Administration and to Congress a detailed plan explaining how the agency intends to meet the small business goals under this subsection that apply to that agency for that fiscal year.''.

SEC. 205. MAKING SMALL BUSINESSES THE FIRST CHOICE.

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) in paragraph (1), by striking ''$100,000'' and inserting ''the Simplified Acquisition Threshold''; and

(2) in paragraph (3), by striking ''subsection (a) of section 8'' and inserting ''section 8, 31, or 36''.

SEC. 206. UNIFORM METRIC FOR SUBCONTRACTING ACHIEVEMENTS.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

''(12) In carrying out this subsection, the Administrator shall require each prime contractor to report small business subcontract usage at all tiers based on the percentage of the total dollar amount of the contract award.''.

SEC. 207. SUBCONTRACTING DATABASE.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

''(13) In carrying out this subsection, the Administrator shall develop and maintain a password-protected database that will enable the Administration to assist small businesses in marketing to large corporations that have not achieved their small business goals.''.

SEC. 208. NATIONAL DATABASE.

The Administrator of the Small Business Administration shall ensure that whenever a small business enters its information in the Central Contractor Registry, or any successor to that registry, the Administrator contacts that business within 30 days regarding the likelihood of Federal contracting opportunities. The Administrator shall ensure that each small business that so registers is, for each industry code entered by that small business, provided with the total dollar value of government contract awards to small businesses for that industry.

SEC. 209. REVIEW OF SUBCONTRACTING PLANS.

Not later than 120 days after the date of the enactment of this section, the Administrator of the Small Business Administration shall, after an opportunity for notice and comment, prescribe regulations to govern the Administrator's review of subcontracting plans, including standards for determining good faith effort in compliance with the subcontracting plans.

SEC. 210. AGENCY OBLIGATION FOR FULFILLING CONTRACTING GOALS.

Section 15(h) of the Small Business Act (15 U.S.C. 644(h)) is amended by adding at the end the following:

''(4) At the conclusion of each fiscal year, the head of each Federal agency shall submit to Congress a report specifying the percentage of contracts awarded by that agency for that fiscal year that were awarded to small business concerns. If the percentage is less than 25 percent, the head of the agency shall, in the report, explain why the percentage is less than 25 percent and what will be done to ensure that the percentage for the following fiscal year will not be less than 25 percent.''.

SEC. 211. APPROPRIATE LIMITS ON VALUE OF SOLE SOURCE CONTRACTS.

(a) APPROPRIATE LIMITS.—If a law is not enacted by December 31, 2007, revising the limits referred to in this subsection, the Administrator for Federal Procurement Policy, in consultation with the Administrator for Small Business, shall establish appropriate limits on the value of contracts awarded without the use of competitive procedures to participants in the program established by section 8(a) of the Small Business Act (15 USC 637(a)) that are not subject to the limits on the value of such contracts established by paragraph (1)(D) of section 8(a) of such Act.

(b) CONSULTATION.—In establishing any limit described in subsection (a). the Administrator for Federal Procurement Policy shall consult with representatives of the affected program participants. The Administrator shall also take into account—

(1) any special circumstances and needs of the affected program participants; and

(2) the advantages of promoting competition in Federal contracting.

TITLE III—PROTECTION OF TAXPAYERS FROM FRAUD

SEC. 301. SMALL BUSINESS SIZE PROTEST NOTIFICATION.

(a) IN GENERAL.—The Administrator of the Small Business Administration shall work with appropriate Federal agencies to ensure that whenever a business concern is awarded a contract on the basis that it qualifies as small and then is determined not to qualify as small, a notification of those facts (that an award was made on such a basis, and that such a determination was made) shall be placed adjacent to that concern's listing in the Central Contractor Registry (or any successor to that registry).

(b) COMPTROLLER GENERAL CERTIFICATION.—The Administrator shall, in making any report of small business goal accomplishments, qualify the accomplishments as ''estimated'', until the Administrator obtains from the Comptroller General the Comptroller General's certification that there are no data integrity issues with respect to the national repository of contract award information known as Federal Procurement Data System-Next Generation (FPDS–NG), or any successor to that repository.

(c) AWARDS TO LARGE BUSINESSES.—For each Federal agency, the Inspector General of that agency shall, on an annual basis, submit to Congress a report on the number and dollar value of contract awards that were coded as awards to small business concerns but in fact were made to businesses that did not qualify as small business concerns.

SEC. 302. REVIEW OF NATIONAL REGISTRY.

The Administrator of the Small Business Administration shall ensure, on a biannual basis, that an independent audit is performed of the Central Contractor Registry, or any successor to that registry, and that the Dynamic Small Business Search portion of the registry, or any successor to that portion of the registry, is purged of any businesses that are not in fact small businesses. If a business that has been so purged attempts, while not in fact a small business, to re-register, that business is subject to debarment as a Federal contractor and is further subject to penalties outlined in section 16 of the Small Business Act (15 U.S.C. 645).

SEC. 303. RECERTIFICATION OF COMPLIANCE WITH SIZE STANDARDS AND REGISTRATION WITH CENTRAL CONTRACTOR REGISTRY.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

''(5) RECERTIFICATION.—

''(A) IN GENERAL.—If a business concern is awarded a contract because of a standard by which it is determined to be a small business concern, and the business concern is close to exceeding that standard at the time the award is made, then the business concern must, annually after the date of the award, recertify to the agency awarding the contract whether it meets that standard.

''(B) 'CLOSE TO EXCEEDING'.—For purposes of subparagraph (A), a business concern is close to exceeding—

''(i) a number-of-employees standard if the number of employees of the business concern is 95 percent or more of the maximum number of employees allowed under the standard; and

''(ii) a dollar-volume-of-business standard if the dollar volume of business is 80 percent or more of the maximum dollar volume allowed under the standard.

''(6) REGISTRY.—For a business concern to be awarded a contract because of a standard by which it is determined to be a small business concern, the business concern must, annually after the end of the fiscal year used by the business concern, update its listing in the Central Contractor Registry.''.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out

this Act and the amendments made by this Act.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 110–137. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

Pursuant to the order of the House of today, amendment No. 4 may be offered out of order.

AMENDMENT NO. 4 OFFERED BY MR. SESTAK

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SESTAK:

Strike section 101 and insert the following:

SEC. 101. DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by amending subsection (o) to read as follows:

''(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—For purposes of this Act:

''(1) BUNDLED CONTRACT.—

''(A) IN GENERAL.—The term 'bundled contract' means a contract or order that is entered into to meet procurement requirements that are consolidated in a bundling of contract requirements, without regard to its designation by the procuring agency or whether a study of the effects of the solicitation on civilian or military personnel has been made.

''(B) EXCEPTIONS.—The term does not include—

''(i) a contract or order with an aggregate dollar value below the dollar threshold specified in paragraph (4); or

''(ii) a contract or order that is entered into to meet procurement requirements, all of which are exempted requirements under paragraph (5).

''(2) BUNDLING OF CONTRACT REQUIREMENTS.—

''(A) IN GENERAL.—The term 'bundling of contract requirements' means the use of any bundling methodology to satisfy 2 or more procurement requirements for goods or services previously supplied or performed under separate smaller contracts or orders, or to satisfy 2 or more procurement requirements for construction services of a type historically performed under separate smaller contracts or orders, that is likely to be unsuitable for award to a small business concern due to—

''(i) the diversity, size, or specialized nature of the elements of the performance specified;

''(ii) the aggregate dollar value of the anticipated award;

''(iii) the geographical dispersion of the contract or order performance sites; or

''(iv) any combination of the factors described in clauses (i), (ii), and (iii).

''(B) INCLUSION OF NEW FEATURES OR FUNCTIONS.—A combination of contract requirements that would meet the definition of a bundling of contract requirements but for the addition of a procurement requirement with at least one new good or service shall be considered to be a bundling of contract requirements unless the new features or functions substantially transform the goods or services and for which measurably substantial benefits to the government in terms of quality or price are identified.

''(C) EXCEPTIONS.—The term does not include—

''(i) the use of a bundling methodology for an anticipated award with an aggregate dollar value below the dollar threshold specified in paragraph (5); or

''(ii) the use of a bundling methodology to meet procurement requirements, all of which are exempted requirements under paragraph (6).

''(3) BUNDLING METHODOLOGY.—The term 'bundling methodology' means—

''(A) a solicitation to obtain offers for a single contract or order, or a multiple award contract or order; or

''(B) a solicitation of offers for the issuance of a task or a delivery order under an existing single or multiple award contract or order.

''(4) SEPARATE SMALLER CONTRACT.—The term 'separate smaller contract', with respect to bundling of contract requirements, means a contract or order that has been performed by 1 or more small business concerns or was suitable for award to 1 or more small business concerns.

''(5) DOLLAR THRESHOLD.—The term 'dollar threshold' means $65,000,000, if solely for construction services.

''(6) EXEMPTED REQUIREMENTS.—The term 'exempted requirement' means a procurement requirement solely for items that are not commercial items (as the term 'commercial item' is defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

''(7) PROCUREMENT REQUIREMENT.—The term 'procurement requirement' means a determination by an agency that a specified good or service is needed to satisfy the mission of the agency.''.

MODIFICATION TO AMENDMENT NO. 4 OFFERED BY MR. SESTAK

Mr. SESTAK. Mr. Chairman, I ask unanimous consent that the amendment be modified by the form I have placed at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 4 offered by Mr. SESTAK:

Strike section 101 and insert the following:

SEC. 101. DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by amending subsection (o) to read as follows:

''(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—For purposes of this Act:

''(1) BUNDLED CONTRACT.—

''(A) IN GENERAL.—The term 'bundled contract' means a contract or order that is entered into to meet procurement requirements that are consolidated in a bundling of contract requirements, without regard to its designation by the procuring agency or whether a study of the effects of the solicitation on civilian or military personnel has been made.

''(B) EXCEPTIONS.—The term does not include—

''(i) a contract or order with an aggregate dollar value below the dollar threshold specified in paragraph (4); or

''(ii) a contract or order that is entered into to meet procurement requirements, all of which are exempted requirements under paragraph (5).

''(2) BUNDLING OF CONTRACT REQUIREMENTS.—

''(A) IN GENERAL.—The term 'bundling of contract requirements' means the use of any bundling methodology to satisfy 2 or more procurement requirements for goods or services previously supplied or performed under separate smaller contracts or orders, or to satisfy 2 or more procurement requirements for construction services of a type historically performed under separate smaller contracts or orders, that is likely to be unsuitable for award to a small business concern due to—

''(i) the diversity, size, or specialized nature of the elements of the performance specified;

''(ii) the aggregate dollar value of the anticipated award;

''(iii) the geographical dispersion of the contract or order performance sites; or

''(iv) any combination of the factors described in clauses (i), (ii), and (iii).

''(B) INCLUSION OF NEW FEATURES OR FUNCTIONS.—A combination of contract requirements that would meet the definition of a bundling of contract requirements but for the addition of a procurement requirement with at least one new good or service shall be considered to be a bundling of contract requirements unless the new features or functions substantially transform the goods or services and will provide measurably substantial benefits to the government in terms of quality, performance, or price.

''(C) EXCEPTIONS.—The term does not include—

''(i) the use of a bundling methodology for an anticipated award with an aggregate dollar value below the dollar threshold specified in paragraph (5); or

''(ii) the use of a bundling methodology to meet procurement requirements, all of which are exempted requirements under paragraph (6).

''(3) BUNDLING METHODOLOGY.—The term 'bundling methodology' means—

''(A) a solicitation to obtain offers for a single contract or order, or a multiple award contract or order; or

''(B) a solicitation of offers for the issuance of a task or a delivery order under an existing single or multiple award contract or order.

''(4) SEPARATE SMALLER CONTRACT.—The term 'separate smaller contract', with respect to bundling of contract requirements, means a contract or order that has been performed by 1 or more small business concerns or was suitable for award to 1 or more small business concerns.

''(5) DOLLAR THRESHOLD.—The term 'dollar threshold' means $65,000,000, if solely for construction services.

''(6) EXEMPTED REQUIREMENTS.—The term 'exempted requirement' means a procurement requirement solely for items that are not commercial items (as the term 'commercial item' is defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

''(7) PROCUREMENT REQUIREMENT.—The term 'procurement requirement' means a determination by an agency that a specified good or service is needed to satisfy the mission of the agency.''.

Mr. SESTAK (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Without objection, the amendment is modified.

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 383, the gentleman from Pennsylvania (Mr. SESTAK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

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

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

Mr. SESTAK. Mr. Chairman, I rise to speak in support of this amendment to increase the number of Federal contracts granted to small businesses by addressing a practice known as contract bundling, which has allowed Federal agencies to award mega-contracts, contracts so large they cannot possibly be performed by a small business. This amendment will ensure that more large contracts will be reviewed as to their appropriateness to be bundled and potentially broken into smaller pieces more suitable for small business.

The goal: enhancing taxpayer savings by a more efficient and effective use of our resources by helping the Federal Government meet its statutory goal of small business contracts, which it presently does not.

Presently, the bill's current definition would prevent too many large contracts to be exempted from a bundling analysis as to their appropriateness for access to small business. This amendment will help reduce these exemptions by eliminating the monetary threshold for nonconstruction Federal contracts to be reviewed. Additionally, bundled contracts that ''substantially transform a good or service,'' referring to contracts that use a new, innovative contract process, are currently exempted from bundling analysis.

This amendment would mandate that in such cases measurable, substantial benefits must be demonstrated to the government in terms of quality, performance or price. If that cannot be shown, a bundling analysis must be completed.

This amendment, by also explicitly requiring that a bundling analysis be performed for new work and construction contracts, as opposed to just previously performed work, will also close the loophole that has been used by agencies to avoid unbundling contracts.

Let me give you an example of why addressing contract bundling is important to not just small businesses but also to efficient and effective use of our Nation's resources, particularly in new or transformational requirements that our Federal agencies increasingly contract for.

Gestalt, a small business located in my district, recently competed in an Army contract, which they competed for against a very large defense corporation, to fix the Defense Readiness Reporting System.

Right now, we have in the military a fairly arcane system, where obtaining detailed, up-to-date, instantaneous information on the readiness of our military and its units is challenging at best. What was required was a much more dynamic system that could present in real-time the readiness of our forces, in this case, the 5,000-plus Army units we have, which can greatly impact a commander's decision in what has become a fast-paced, battle space environment where speed of decision is so highly valued.

The large defense corporation said it would take 3 years to complete the project, while the smaller firm then did it in only 7 months. From my time as a vice admiral responsible for executing the Navy's annual $67 billion worth of warfare requirements and programs, I know there is a tendency, because of ease of execution, to want to go to a large corporation and have them subcontract their bundled program to other vendors.

The result, unfortunately, is particularly worrisome at a moment when we need to transform not just our military but many of our other federally funded efforts. The speed and agility that more entrepreneurial small businesses often can provide in a fast-paced, globalized and continuously changing world are key to rapidly meeting new, evolving requirements of our Nation, particularly in such transformational areas as software and information technology.

It is, therefore, inefficient and ineffective to our competitive edge to deny entrepreneurial small businesses direct access to the real requirements of the customer, the U.S. government, and it is also harmful to our interests to have large corporations bundle certain contracts so that only derived requirements are available to the subcontractors, these derived requirements having to be interpreted by sub-vendors or be interpreted to them by the large corporation, a middleman, adding complexity, time and misinterpretation, rather than streamlining, to the Federal contracting process.

In short, undue bundling of contracts cost the taxpayers money. More, this inefficiency leads to less effectiveness. By unbundling work requirements, this amendment will create new opportunities for small firms, expanding the government's access to more qualified contractors. Increased competition because of more fair access will lead to lower prices and to the improvement of the quality of goods and services procured by the Federal Government.

I urge all my colleagues to support this critical amendment, not only for the Nation's entrepreneurial small businesses but for a more efficient and effective application of our Nation's resources.

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

Mr. CHABOT. Mr. Chairman, I claim the 5 minutes in opposition to the amendment, although I do not oppose the amendment. I am in favor of it.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. CHABOT. Mr. Chairman, I yield such time as she might consume to the gentlewoman from New York (Ms. VELÁZQUEZ), if she would like to speak at this time.

Ms. VELÁZQUEZ. Mr. Chairman, contract bundling has been a major issue for years, and it is increasing. When contracts are combined together into mega-contracts, small businesses are unable to compete. In fact, some contracts are so large that only a handful of companies would be able to perform them. This can create a virtual monopoly, which is problematic for taxpayers concerned with getting the best value for their money.

This amendment would save taxpayers money and benefit the economy. It will increase competition, providing the government with more options to purchase goods and services from. This will ultimately lower prices for Federal agencies. Unbundling contracts will create new opportunities for entrepreneurs, leading to new jobs and more local tax revenue.

The amendment closes a loophole in current law. This amendment adds new work and construction, which previously were not subject to bundling analyses. Current law only required contracts that have been previously performed to be reviewed for bundling. This amendment closes this gap and gives Federal agencies the tools it needs to save the taxpayers money.

The expanded bundling definition will not be overly burdensome. Contracts that are not suitable for small businesses will not require a bundling analysis. Bundled construction contracts under $65 million will not require an analysis. By creating more competition in the Federal marketplace, this amendment will save taxpayers money.

Expanding the definition of bundling will require more contracts to be reviewed, and possibly unbundled, than the current statute permits. This will create more opportunities for small firms, give the government more options and lower costs and increase quality for taxpayers.

I thank both the gentleman from Pennsylvania for his work on this issue and Mr. CHABOT for all the work that he has done on the underlying bill and on this amendment.

Mr. CHABOT. Mr. Chairman, I yield myself as much time as I may consume. I will be brief.

The amendment offered by Mr. SESTAK will increase the protections against inappropriate contract bundling. It represents a compromise between the Small Business Committee's version and the Committee on Government Reform's version of H.R. 1873. I believe it represents an adequate resolution of the issue and pledge to work to make the protections in the Sestak amendment even stronger as we work through the legislative process.

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

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

Mr. CHABOT. I yield back the balance of our time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Pennsylvania (Mr. SESTAK).

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

Ms. VELÁZQUEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania will be postponed.

AMENDMENT NO. 1 OFFERED BY MR. REYES

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110–137.

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. REYES:

SEC. 209. REVIEW OF SUBCONTRACTING PLANS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the General Services Administration shall, after an opportunity for notice and comment, begin to make modifications, if necessary, to the Electronic Subcontracting Reporting System (ESRS) for the purpose of tracking companies' compliance with small business subcontracting plans included in successful contract bids. ESRS shall be further developed, if necessary, in such a way that it allows agencies to track whether or not the prime contractor actually subcontracted work out to the subcontracting firms described in the Small Business Subcontracting Plan. Further, ESRS shall be modified, if necessary, so that it facilitates review of a company's record of compliance with small business subcontracting plans.

(b) PERIODIC REPORTS.—Prime contractors shall be required to submit Small Business Subcontracting Plans to ESRS and submit subsequent periodic reports to ESRS describing the extent to which the prime contractor complied with small business subcontracting plans submitted as part of the company's successful contract proposal. Each such report shall include a specific accounting of compliance with subcontracting goals described in the prime contractor's Small Business Subcontracting Plans related to Small Disadvantaged Businesses Concerns, Women-Owned Small Business Concerns, Historically Black Colleges and Universities and Minority Institutions, Service-Disabled Veteran-Owned Small Business Concerns, and HUBZone Small Business Concerns. Each such accounting of compliance shall also be included in ESRS.

(c) INCLUSION IN ESRS.—The ''percentage of the total dollar amount of the contract award'' that is paid to small business, as referred to in paragraph (12) of section 8(d) of the Small Business Act (as added by section 206 of this Act) shall also be included in ESRS.

(d) AVAILABILITY OF ESRS.—ESRS and the information therein shall be made available to agency officials and Source Selection Evaluation Boards (as referred to in Federal Acquisition Regulations 3.104-1) that are charged with evaluating contract proposals, and, when evaluating contract proposals, agencies shall take into consideration the compliance with small business subcontracting plans of companies competing for Federal contracts, and within one year after the date of the enactment of this Act such consideration shall be reflected in the Federal Acquisition Regulations.

(e) FURTHER MODIFICATIONS REQUIRED.—ESRS shall be modified in such a way that it can generate comparable reports on individual companies' compliance records to be used in the contract proposal evaluation processes of agencies.

The CHAIRMAN. Pursuant to House Resolution 383, the gentleman from Texas (Mr. REYES) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

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

Mr. Chairman, my amendment is simple. It uses existing procedures and an existing resource to promote fairness in subcontracting. It makes a great bill, the Small Business Fairness in Contracting Act of 2007, I believe even better. Let me describe the problem as it currently exists.

For large government contracts, applicants are required to submit small business subcontracting plans during the bidding process detailing their intentions to include small businesses in the work. However, too often prime contractors disregard small business subcontracting plans submitted as part of winning government bids.

This is simply, in our eyes, not fair. Small business gets left behind, and prime contractors who keep their word, who are doing the right thing, end up at a competitive disadvantage with the bad actors.

This unfortunate practice has particularly adverse effects on the small businesses that are included in small business subcontracting plans but do not actually receive the contract work. When small businesses are included in the small business plans of prime contractors, the small businesses will often make investments on the front end to prepare themselves to do the subcontract work. If the prime does not ultimately subcontract the work to the small business in question, however, that small business will often find itself overextended. Often, the operating margins of small businesses are very small, and unmet subcontract obligations in small business subcontracting plans can force these small firms out of business.

Prime contractors receive bids based on their commitment to include small business in the contract, in part, and it is only fair that the primes fulfill their end of the deal.

My amendment provides much-needed accountability over small business subcontracting plans by doing two things. One, this amendment takes advantage of an existing online tool, the Electronic Subcontracting Reporting System, and existing procedures for reporting on contracts to accumulate and organize information about prime contractors' compliance records with small business subcontracting plans. ESRS will be developed to prepare easily comparable reports for tracking prime contractors and their compliance through their records.

We are not reinventing the wheel. This is a commonsense, efficient way to allow information to be organized in such a way as to provide the necessary accountability over these small business plans.

Second, this amendment brings fairness to subcontracting by requiring that agencies, even when evaluating subcontract or contract proposals, take into consideration compliance with small business subcontracting plans of companies competing for Federal contracts, and requiring that within 1 year after the date of the enactment such consideration be reflected in the Federal acquisition regulations.

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This is simply a matter of making sure that prime contractors are playing by the rules. This is an issue for us and, for small businesses, an issue of fairness. The amendment is fair to small businesses who are included in small business subcontracting plans and who have, in essence, helped prime contractors receive contract awards. The amendment is fair to prime contractors who do play by the rules by making sure that their records of helping small businesses are taken into account.

My amendment has the support of the U.S. Hispanic Chamber of Commerce and the National Black Chamber of Commerce. With that, I urge my colleagues to support it as well.

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

Mr. CHABOT. Mr. Chairman, we accept the amendment. We have no objection.

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, we are prepared to accept this amendment.

One of the areas in which small businesses could participate much more than they currently are is in the area of subcontracting. Subcontracting provides a great entry point to the Federal marketplace for small businesses.

The gentleman's amendment would expand the amount of information collected on subcontracting in the government-wide database. It also reinforces the notion that when prime contractors don't achieve their small business goals these should be reflected in their evaluation for subsequent contracts.

I am pleased to support the gentleman's amendment, and I thank the gentleman from Texas for his work on this legislation.

I ask adoption of this amendment.

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

The CHAIRMAN. The gentleman from Texas has 1 minute remaining.

Mr. REYES. Mr. Chairman, I want to thank the chairwoman for her tireless work on behalf of small business and her support of small business, as well as my good friend, the ranking member. Thank you.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. REYES).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. SHULER

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110–137.

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. SHULER:

After section 201 insert the following (and redesignate succeeding sections accordingly):

SEC. 202. INCLUDE OVERSEAS CONTRACTS IN SMALL BUSINESS GOAL.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

''(3) The procurement goals required by this subsection apply to all procurement contracts, without regard to whether the contract is for work within or outside the United States.''.

The CHAIRMAN. Pursuant to House Resolution 383, the gentleman from North Carolina (Mr. SHULER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. SHULER. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, American small businesses supply goods and services throughout the world. These businesses have led the way in providing innovative solutions to private and public sector challenges.

When Federal agencies spend taxpayers' funds, they should look to American small businesses first before outsourcing to foreign companies. In this age of high-speed communication and global transportation, American workers can contribute to American projects anywhere on earth.

This amendment does not require Federal agencies to use American small businesses for every project. It simply sets expectations that these agencies look first to American small businesses to meet their needs.

I urge passage of this amendment.

Mr. Chairman, I yield to the cosponsor of this amendment, Mr. CHABOT.

Mr. CHABOT. I want to thank the gentleman for his hard work on this particular amendment. I think it's a good amendment. I would urge its passage.

The amendment expands the pool of contracts included in the Federal governmentwide goal for participation of small business concerns and procurement contracts to include United States small business concern contracts performed overseas. Current law and regulations apply the small business concern Federal governmentwide goal only to contracts performed in the United States.

The bill as currently written would continue to apply the small business concern Federal governmentwide goal to contracts performed only in the United States. This methodology clearly does not address small business concerns involvement in today's global economy. When small business policy was first developed in the 1940 to 1950 timeframe, small business concern participation in the overseas markets was fairly limited.

In today's global economy, adding contracts where United States small business concerns perform overseas work is reasonable because the availability of the Internet and advances in technology allows contracting officers to acquire information on such activities.

Therefore, United States small business concerns global activity should be recognized and, thus, included as a part of the overall Federal governmentwide small business concern goal.

Again, I want to thank the chairwoman and I want to thank Mr. SHULER for their work on this particular amendment.

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

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, it is important that the small business goals apply to contracts performed overseas. For too long there has been an exclusive club of contractors for overseas work. This needs to change. Extending the small business goals to apply to these contracts will expand the pool of contractors available to the government. This amendment will help bring overseas opportunity to small businesses.

A recent study of $6 billion in overseas contracts showed only $122 million was awarded to small businesses, just 2 percent. This amendment gives agencies an incentive to award overseas contracts to small businesses. Agencies that do use small businesses for overseas contracts will now be able to get credit.

The Federal Government should be looking to small businesses for overseas work. Ninety-seven percent of all exporters are small businesses; 30 percent of all goods made for export are made by small businesses. Technological improvements give small businesses much greater access to worldwide markets than in the past.

It is important to help small businesses gain access to overseas contracting opportunities they have been locked out of. This amendment will accomplish this by helping encourage agencies to look to American small businesses for this work.

I thank both gentlemen, Mr. SHULER and Mr. CHABOT, for their work on this legislation. I urge adoption of this amendment.

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

Mr. SHULER. Mr. Chairman, I want to commend Ranking Member CHABOT and Chairwoman VELÁZQUEZ for her hard work and dedication on this amendment, along with this bill, an outstanding job.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. SHULER).

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

Ms. VELÁZQUEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina will be postponed.

AMENDMENT NO. 3 OFFERED BY MS. BEAN

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 110–137.

Ms. BEAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. BEAN:

Section 201(a), strike ''25 percent'' and insert ''30 percent''.

The CHAIRMAN. Pursuant to House Resolution 383, the gentlewoman from Illinois (Ms. BEAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois.

Ms. BEAN. Mr. Chairman, I rise today to offer an amendment to the Small Business Fairness in Contracting Act. I would like to thank Ranking Member CHABOT for cosponsoring and Chairman VELÁZQUEZ for her support. This amendment would increase the Federal Government's small business contracting goal from 23 to 30 percent.

Small businesses are the stimulative engine to our Nation's economy and drive our domestic job growth. They make up 97 percent of all businesses, provide 50 percent of our gross domestic product and 50 percent of our nonfarm employment. Clearly, small businesses have the capacity to compete for Federal contracts.

The government's small business prime contract goal has not been increased since 1997. Since that time, the Nation has added over 3 million net new small businesses. At the same

time, the Federal marketplace has doubled and now accounts for over $400 billion in goods and services. My amendment reflects that new reality that the number and capabilities of small businesses have grown to such an extent that an adjustment to our national goal is in the best interests of our country.

The increase would also address a discouraging development that, after some early successes in achieving the contracting goal, Federal agencies have become complacent in their efforts to provide opportunities to small business. Over the last 5 years, they have begun to use contract bundling and contract streamlining practices, which reduced opportunities for competition. Without competition, we cannot ensure that taxpayer dollars are being used most effectively.

In addition, Federal agencies have become careless in their reporting of contract awards, leading them to believe they have exceeded small business goals they were, in fact, failing to achieve. As a result, small businesses access to prime contracts have suffered. In 2005, the Federal marketplace rose by 7 percent, but prime small business contracts only rose by 2 percent.

Last year alone, we found that the Federal Government fell about $12 billion below their goal level, even though the SBA originally reported that they had exceeded their goal.

By raising our small business prime contracting goal and increasing competitive bids, we get a greater return on our tax dollars. At the same time, we provide economic stimulus for the small businesses in our communities. I urge your support of this amendment.

I yield to cosponsor CHABOT.

Mr. CHABOT. I thank the gentlewoman for yielding, and I thank her for her leadership on this amendment and her hard work, as well as the chairwoman's.

This is a simple amendment. The amendment increases the Federal government-wide goal for participation of small business concerns in procurement contracts from 23 percent to 30 percent. The bill, as currently written, would increase the Federal government-wide goal from 23 percent to 25 percent, which is only a 2 percent increase, which is really pretty miserable when one considers it. It ought to be, I think, significantly more than that, especially when you consider that the Federal market for goods and services has doubled in the past 10 years, and the number of small businesses has increased by 10 percent during that period of time.

So to maintain the congressional standard in the Small Business Act that a fair share Federal government procurement contracts are awarded the small business concerns, this amendment increases the goal a modest 8 percent, which is, quite frankly, long overdue.

Finally, the goal increase recognizes small business concern's role in the economy. Small businesses employ more than 50 percent of all employees in the United States, and this would cause increased competition, resulting in a downward pressure on pricing, which ultimately benefits the taxpayer. Small businesses are the main contributors to major technological paradigm breakthroughs, as opposed to simply advancing the current knowledge in a specific technological field.

I think this is a very good amendment. I, again, want to thank the gentlelady for offering it.

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

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, since 1977, the minimum goal for small businesses in the Federal marketplace has been 23 percent of the total value of goods and services acquired. Each year, the administration boasts of how it almost made its target. Unfortunately, in 2005 alone, at least $12 billion, almost 15 percent of the small business accomplishments, as reported by the Small Business Administration, were actually awarded to large businesses. Agencies have become so single-minded about achieving the minimum goal that they have lost sight of the intent.

The goal is a measurement of commitment to small businesses; and when the goal isn't achieved, small businesses pay the price. Because the minimum has not been met over the past 6 years, small businesses have lost almost $10 billion in contracting opportunities. This represents nearly 200,000 jobs that could have been created across the country.

Many people have asked me, if the small business contracting goal hasn't been met, why do you support increasing it? As I said, the goal is simply a measurement. There are no penalties to an agency for not achieving it.

It is already the policy of the United States, as set forth in the statute, that small firms shall have the maximum practical opportunity to participate in the performance of contracts let by any Federal agency.

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It doesn't say minimum; it says maximum. This is why the Bean-Chabot amendment is so important. It gets us away from the small business goal as ceiling mentality. It ensures that small business participation is maximized, not minimized.

I congratulate Ms. BEAN and Mr. CHABOT for this amendment. It was included when the Committee on Small Business unanimously reported this legislation, and I was disheartened to see that it was diluted as the bill progressed. I am pleased to support this amendment, and I look forward to working with my colleagues to ensure that this amendment creates new opportunity for small businesses in the Federal marketplace. I thank Ms. BEAN and Mr. CHABOT on their work on this amendment, and I urge adoption of this amendment.

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

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

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois (Mr. BEAN).

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

Ms. VELÁZQUEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Illinois will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. WELCH OF VERMONT

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 110–137.

Mr. WELCH of Vermont. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. WELCH of Vermont:

At the end of title II, insert the following:

SEC. 212. SMALL BUSINESS GOALS FOR GREEN SMALL BUSINESS CONCERNS.

(a) IN GENERAL.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''and small business concerns owned and controlled by women'' both places such term appears and inserting ''small business concerns owned and controlled by women, and green small business concerns''; and

(B) by inserting before ''Notwithstanding the Government-wide goal'' the following: ''The Government-wide goal for participation by green small business concerns shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year.''; and

(2) in paragraph (2)—

(A) by striking ''and by small business concerns owned and controlled by women'' both places such term appears and inserting ''by small business concerns owned and controlled by women, and by green small business concerns''; and

(B) by striking ''and small business concerns owned and controlled by women'' and inserting ''small business concerns owned and controlled by women, and green small business concerns''.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 3 of that Act (15 U.S.C. 632) is amended by adding at the end the following:

''(s) DEFINITIONS RELATING TO GREEN SMALL BUSINESS CONCERNS.—In this Act, the term 'green small business concern' means a small business concern that carries out its activities in an environmentally sound manner. The Administrator shall, in consultation with the Environmental Protection Agency, the General Services Administration, and other appropriate agencies, specify detailed definitions or standards by which a small business concern may be determined

to be a green small business concern for the purposes of this Act.''.

(2) POLICY.—Section 8(d) of that Act (15 U.S.C. 637(d)) is amended—

(A) in paragraph (1) (in both places such term appears), paragraph (3)(A) (in both places such term appears), paragraph (4)(D), paragraph (6)(A), paragraph (6)(C), paragraph (6)(F), and paragraph (10)(B) by striking ''and small business concerns owned and controlled by women'' and inserting ''small business concerns owned and controlled by women, and green small business concerns'';

(B) in paragraph (3)(F) by striking ''or a small business concern owned and controlled by women'' and inserting ''a small business concern owned and controlled by women, or a green small business concern''; and

(C) in paragraph (4)(E) by striking ''and for small business concerns owned and controlled by women'' and inserting ''for small business concerns owned and controlled by women, and for green small business concerns''.

(3) REPORTS ON GOALS.—Section 15(h) of that Act (15 U.S.C. 644(h)) is amended, in each of paragraphs (1), (2)(A), (2)(D), and (2)(E) by striking ''and small business concerns owned and controlled by women'' and inserting ''small business concerns owned and controlled by women, and green small business concerns''.

(4) PENALTIES.—Section 16 of that Act (15 U.S.C. 645) is amended in each of subsections (d)(1) and (e) by striking ''or a 'small business concern owned and controlled by women'' and inserting ''a 'small business concern owned and controlled by women', or a 'green small business concern' ''.

The Acting CHAIRMAN. Pursuant to House Resolution 383, the gentleman from Vermont (Mr. WELCH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Vermont.

Mr. WELCH of Vermont. Mr. Chairman, I yield myself such time as I may consume.

I first congratulate the gentlelady from New York and the gentleman from Ohio on the incredible hard-working committee that is producing more legislation that is good for the American people, and I think just about everybody else in Congress, so all of us appreciate your good work. And it is all about the fact that they recognize, as I think we all do, that small businesses are the backbone of our Nation's economy. They must have the opportunity to compete for Federal contracts.

This underlying legislation establishes broad parameters and goals to make small business opportunities available to folks in this country who have not had access to that opportunity. The purpose of this amendment is to establish a goal that will give an opportunity for businesses that are green to have access to these contracts.

Small businesses in my State of Vermont create two out of every three jobs, and it is critical that small businesses be encouraged to develop and supply products and services in an environmentally sound way. My amendment would take a step towards encouraging green businesses by recognizing that those practices of companies can be considered in Federal Government contracts. This isn't just because it is the right thing to do for the environment, it is because there is a growing recognition that if we take on the challenge of cleaning up our environment, it can be pro-high-tech, pro-growth policies that will accomplish that, and I urge favorable consideration.

Mr. Chairman, I yield to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy, and it is a pleasure to work with him in cosponsoring this amendment.

Mr. Chairman, the Federal Government is the largest consumer of energy in the world. If we harness the ability of our Federal agencies in terms of what they do with energy, what they do with procurement, we have an opportunity to revolutionize the business practices in this country in a way that doesn't require a lot of new rules and regulations and fees. It is simply leading by example.

It has been my privilege early in my career to do work dealing with minority enterprises, with women-owned enterprises, with small business; because, as the gentleman from Vermont mentions, these are areas that are tremendously underserved, but there is a great deal of energy and vitality and it has made our economy stronger. This is the next logical addition to that portfolio of activities.

By giving a preference to procurement with small businesses that are environmentally sound, it is going to help nurture an explosion of new technology, of new business opportunities, and, most important, most important, it is going to help to bring these activities to scale. It is going to make best green practices more cost effective. It is going to be a better value for the taxpayer. It is the cheapest way to improve the environment. And, ultimately, it is going to strengthen our economy, because areas in the European Union, in Canada and, dare I say, even in Asia dealing with China and Japan, progress is being made. This is going to help us. It is going to give a better value to the taxpayers. It is going to jump start these.

I look in Portland at TerraClean, Ecos Consulting, Rejuvenation House Parts, ecological small businesses. If this is enacted, they will be able to do a better job in the future.

Mr. Chairman, I appreciate the gentleman's courtesy and leadership.

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

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, we accept this amendment by Mr. WELCH, which proposes a 5 percent goal for Federal contracting with green small businesses. I look forward to working with my colleague on this amendment, which encourages the government to reward small businesses that meet higher environmental standards.

I thank the gentleman from Vermont for his work on this legislation, and I urge adoption of the amendment.

Mr. Chairman, I yield to the ranking member, Mr. CHABOT, for any comments that he might have.

Mr. CHABOT. I thank the gentlelady. We have no objection and support the amendment, and thank the gentleman for offering it.

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

Mr. WELCH of Vermont. Mr. Chairman, I thank the gentlelady and the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. WELCH).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. WYNN

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 110–137.

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. WYNN:

At the end of title II, add the following:

SEC. 2___. STUDY ON PROVIDING FINANCIAL INCENTIVES TO CONTRACTORS THAT MEET MINORITY AND DISADVANTAGED BUSINESS ENTERPRISE GOALS.

The Administrator of the Small Business Administration shall carry out a study on the feasibility and desirability of providing financial incentives to contractors operating under contracts from a federal agency that achieve the percentage goals set forth in said contracts' subcontracting plans for the utilization of small business concerns owned and controlled by socially and economically disadvantaged individuals. The Administrator shall submit to Congress a report on the results of the study, together with any findings, conclusions, and recommendations that the Administrator considers appropriate.

The CHAIRMAN. Pursuant to House Resolution 383, the gentleman from Maryland (Mr. WYNN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland.

Mr. WYNN. Mr. Chairman, let me begin by thanking the gentlelady, the chairman of the Committee on Small Business, for her leadership over the years on this very important issue.

The amendment I am introducing this evening would require that the Small Business Administration study the feasibility and desirability of providing financial incentives to encourage prime contractors to meet their goals for subcontracting with socially and economically disadvantaged businesses.

Specifically, the amendment would commission the SBA to study different

types of financial incentives that could help or encourage prime contractors to meet their goals set forth in their subcontracting claims for the utilization of small business companies owned and controlled by socially and economically disadvantaged individuals.

Ironically, you heard earlier this evening about the problem of prime contractors failing to utilize small minority and economically disadvantaged businesses. Given the constitutional constraints that we as legislators have in legislating mandates for achieving these goals for minority and disadvantaged businesses, I believe that we must come up with creative and viable alternatives that can help encourage greater participation in the Federal contracting process by these businesses.

One such method to encourage greater participation by small minority and economically disadvantaged businesses would be to devise a means of rewarding prime contractors who meet their small business contracting goals rather than penalizing them. This is similar to the incentives placed in contracts for meeting deadlines and staying within budget.

My amendment would simply require that SBA study and report to Congress about different types of financial incentives that could be implemented that would encourage prime contractors to meet their goals for increasing opportunity for socially and economically disadvantaged businesses. This would allow us to encourage DB participation rather than attempting to penalize contractors who fail to meet their goals. This is an approach that offers more carrot and less stick.

Mr. Chairman, I yield to the gentlelady, the chairwoman of the committee.

Ms. VELÁZQUEZ. Mr. Chairman, I thank the gentleman for yielding.

We are prepared to accept this amendment. Many times the proposed solution to a problem, particularly in the Federal procurement environment, is the assessment of penalties. Sometimes this works. Sometimes it doesn't. I have found that when it works best, it is also accompanied by incentives for good performance.

The gentleman from Maryland begins this process. It is a worthy endeavor, and I am pleased to support the gentleman's amendment. I want to thank him for the work that he is doing on this legislation, and I urge adoption of the amendment.

Mr. CHABOT. Mr. Chairman, we accept the amendment, and we thank the gentleman from Maryland for his leadership on this as he has shown such great leadership on so many other issues as well.

Mr. WYNN. I thank the gentleman for his kind comments and for his support of the amendment, and, of course, I thank the gentlelady for supporting the amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. WYNN).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 110–137.

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Ms. JACKSON-LEE of Texas:

Section 103, strike ''concern.'' and insert ''concern, and shall make available to the public on the website of the Administration the action taken and the result achieved.''.

The CHAIRMAN. Pursuant to House Resolution 383, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Let me thank the distinguished Chair for yielding and let me also thank the distinguished chairwoman and ranking member for their leadership on this very important issue of small business, and thank them for the series of bills that have come to the floor that are like building blocks in helping small businesses across America. I would like to thank the majority committee staff for working with my staff. I would like to thank Mr. Tsehai for working on I think an important issue.

Let me quickly say that this amendment comes from experience of some of the frustration that small businesses will express coming to your office. The Federal Government is big, and the refuge for small businesses is the SBA. They look for incentives. They look for instruction. They look for guidance. And so my amendment simply says that when there is a dispute and there is a response by the FDA and an action is taken, any action with regard to any disagreement between the SBA and contract procurement agency, this resolve should be put on the Web site.

This is an important part of educating small businesses about their action and gives them an empowerment. And I say that in the backdrop of so many businesses that were housed in Houston who fled New Orleans after Hurricane Katrina. Many businesses were there. They were looking to get restarted back in New Orleans. And the confusion of not being able to access what happened in their request or what happened in a dispute led me to believe that more information on the Web site of the SBA would be extremely helpful.

So I ask my colleagues to support this amendment. It simply provides an opportunity for the Small Business Administration to post on their Web site any action taken and the result achieved with regards to any disagreement between the SBA and any contract procurement agency.

I yield to the chairwoman of the full committee, Congresswoman VELÁZQUEZ.

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Ms. VELÁZQUEZ. I thank the gentlelady for yielding.

We accept this amendment which will require the Administrator of SBA to make public the actions taken on behalf of small businesses or trade associations with regard to bundled contracts. More importantly, it will publicize the results of their actions.

I look forward to working with my colleague on this amendment which will add transparency to the bundling appeals process.

I, again, want to thank the gentlewoman from Texas for her work. I urge adoption of the amendment, and I yield to Ranking Member CHABOT.

Mr. CHABOT. I thank the chairwoman for yielding.

I want to thank the gentlelady from Texas for offering this very helpful amendment. We've looked over it, and we think it's a very good amendment. I've had the pleasure to serve on the Judiciary Committee with the gentlelady for the past 13 years. I've agreed with some amendments. Unfortunately, oftentimes, I've disagreed with her amendments. But it's very nice to be able to agree with one that the gentlelady has offered. So we thank the gentlelady for offering it.

Ms. JACKSON-LEE of Texas. Thank you very much. I thank the chairwoman and the ranking member. And, Mr. Chairman, it's always good when light comes into this place and we have consensus; and I'd ask my colleagues to support this amendment.

I thank the Chairman and Ranking Member for allowing me to explain my amendment to H.R. 1873, the ''Small Business Fairness in Contracting Act.''

My amendment, which enjoys full support from Chairwoman VELÁZQUEZ, brings transparency, accountability and responsiveness to the process of procuring federal contracts. By mandating that the Small Business Administration (SBA) post on their Web site any action taken and the result achieved, with regards to any disagreement between the SBA and the contract procurement agency, individuals can be assured that their government is open and honest. The purpose of this amendment is to ensure transparency and accountability of the SBA to the small businesses it was designed to protect and assist.

My amendment is straightforward. My amendment is vital. My amendment is essential. And my amendment is bipartisan.

We may not realize the impact that small businesses have on our lives, but they represent the sole diner that is open on a late night trip, the catering service that turns a family gathering into a lifetime of memories, or the mechanic that will not allow your first car to die.

In conclusion, we the members of the 110th Congress are sending the right message to the American people and small business owners that we are committed to eliminating waste, fraud, and abuse.

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

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

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 110–137.

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Ms. JACKSON-LEE of Texas:

Section 104, strike ''Senate.'' and insert ''Senate, and any other committee of the House and Senate that has jurisdiction over the agency concerned.''.

The SPEAKER pro tempore. Pursuant to House Resolution 383, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. I thank the distinguished chairman for his yielding to me and appreciate his leadership in the Speaker's chair this evening.

Let me again express my appreciation to the chairwoman of the full Committee on Small Business and, as well, the ranking member for their assistance in this amendment and their staff and my staff as well.

This amendment is one that reflects, again, that small businesses are small businesses, and they need our assistance. They also work with a number of agencies, and those agencies have contracting procurement offices. Those, of course, are challenges for many small businesses, one, to have a road map of how to get a procurement from a large, if you will, government agency. Many times, there may be disputes.

This amendment simply says that any disagreement between the SBA and the contracting procurement agency, the appropriate House and Senate committees with jurisdiction over the matter should be informed. This includes the Committees on Small Business and Oversight and Government Reform. This, of course, is designed to ensure that both the SBA and the procuring agency are accountable and forthcoming to the committees which have jurisdiction over the procuring agency as it relates to small businesses and meeting SBA and congressionally mandated goals. Of course, this emphasizes the fact to make sure that we do have the widespread of small businesses, women-owned businesses, minority-owned businesses.

My amendment is simple; my amendment is, I think, helpful; and my amendment is necessary and bipartisan. Small businesses are the backbone of our society, and they represent an American dream for numerous families and provide much-needed revenue to the local municipalities they live in. So I therefore ask that that amendment be accepted.

I thank the Chairman and Ranking Member for allowing me to explain my amendment to H.R. 1873, the ''Small Business Fairness in Contracting Act.''

My amendment has the full support of Chairwoman Velázquez and mandates that whenever there is a disagreement between the SBA and the contracting procurement agency, the appropriate House and Senate committees with jurisdiction over the matter are informed. This includes the Committees on Small Business and Oversight & Government Reform. This amendment is designed to ensure that both the SBA and the procuring agency are accountable and forthcoming to the committees which have jurisdiction over the procuring agency, (as it relates to small businesses and meeting SBA and congressionally mandated goals.)

My amendment is simple. My amendment is important. My amendment is necessary. And my amendment is bi-partisan.

Small businesses are the backbone of our society. They represent the American dream for numerous families, and provide much needed revenue to the local municipalities they serve. The very nature of small businesses tend to create a bond between customer and shop owner that can not be duplicated within the confines of our super-malls, or on the never ending maze we call the internet. Small business owners value the relationship they share with their customers, and tend to go above and beyond the normal call of duty to meet their clients' needs.

Mr. Chairman, I would yield to the distinguished gentlelady from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, I want to thank the gentlelady for yielding.

We are prepared to accept this amendment. The gentlelady's amendment provides a measure of enforcement. It requires agencies to send copies of letters in which they have disagreed with the SBA's attempts to maximize the usage of small businesses on bundled contracts to the relevant authorizing committee.

The committees will soon become familiar with the extent to which agencies within their jurisdiction are bundling contracts and will have a better handle on the extent of this problem.

I urge adoption of this amendment, and I yield to the ranking member, Mr. CHABOT.

Mr. CHABOT. I thank the gentlelady for yielding, and I want to again commend the gentlewoman for offering a helpful amendment. And we accept this amendment as well.

Ms. JACKSON-LEE of Texas. I thank both the chairwoman and the ranking member. I ask my colleagues to support this amendment.

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

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

The amendment was agreed to.

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

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. SUTTON) having assumed the chair, Mr. LINCOLN DAVIS of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1873) to reauthorize the programs and activities of the Small Business Administration relating to procurement, and for other purposes, had come to no resolution thereon.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1873, SMALL BUSINESS FAIRNESS IN CONTRACTING ACT

Ms. VELÁZQUEZ. Madam Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of H.R. 1873, including corrections in spelling, punctuation, section numbering and cross-referencing, and the insertion of appropriate headings.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

CONTINUATION OF THE NATIONAL EMERGENCY BLOCKING PROPERTY OF CERTAIN PERSONS AND PROHIBITING THE EXPORT OF CERTAIN GOODS TO SYRIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 110–33)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the national emergency declared in Executive Order 13338 of May 11, 2004, and expanded in scope in Executive Order 13399 of April 25, 2006, authorizing the blocking of property of certain persons and prohibiting the exportation and reexportation of certain goods to Syria, is to continue in effect beyond May 11, 2007.

The actions of the Government of Syria in supporting terrorism, interfering in Lebanon, pursuing weapons of mass destruction and missile programs, and undermining United States and

international efforts with respect to the stabilization and reconstruction of Iraq pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue in effect the national emergency declared with respect to this threat and to maintain in force the sanctions I have ordered to address this national emergency.

GEORGE W. BUSH.
THE WHITE HOUSE, *May 8, 2007*.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1684, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2008

Mr. MCDERMOTT. Madam Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of H.R. 1684, including corrections to the spelling, punctuation, section numbering and cross-referencing, and the insertion of appropriate headings.

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

There was no objection.

WE ARE AT A CROSSROADS AGAIN

(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. Madam Speaker, we are at a crossroads again. The legislation that we worked so meticulously on to ensure the funding of our troops just about a week ago saw the veto pen of the White House without consideration of the failed mission that Iraq has become.

I did not say military operations because I believe that our soldiers are valiant, and they have achieved the success that we've asked them to achieve. That is why I went to the Rules Committee today to ask for the consideration that the resolution in the fall of 2002 should expire. In fact, it has expired, because we have shown there is no nexus or was no nexus between Saddam Hussein and terrorism. There were no weapons of mass destruction; and, of course, we know that Saddam Hussein is no longer in power.

Unfortunately, our President has expanded the resolution, building on it, surging troops, and the great loss of life has harmed the United States.

There's been no diplomacy, there's no reconstruction, and the government of Iraq is weak. I hope that when we debate this question tomorrow that we will recognize that the best solution is a diplomatic, a political and social solution that requires a reconstruction, if you will, of Iraq, the inclusion of the allies surrounding the region, the engagement with Syria and Jordan and Saudi Arabia, working with NATO. But, more importantly, it requires that we redeploy out of Iraq; and I hope we will consider at some point the idea of the resolution expiring.

It is time to save lives, those of our soldiers, and to bring them home in dignity.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

UP OR DOWN VOTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Madam Speaker, I rise to call for an up or down vote on a timetable for getting U.S. soldiers out of Iraq. Simple, straightforward and to the point.

Do we stay or do we redeploy?

All this talk about benchmarks is a diversionary tactic by the administration to keep making war. Last November, the American people elected Democrats for one reason above all others, to get U.S. soldiers out of Iraq and get Americans out of the Iraq war.

The American people have given up on the credibility of the President. Every week another poll confirms another vote of no confidence by the American people against this President. In a new poll, the Americans disapprove of the President's handling of the Iraq war by a two to one margin.

Newsweek magazine has the President's approval ratings even lower. Nearly 7 in 10 Americans believe the President's actions in Iraq show he is stubborn and unwilling to admit his mistakes.

In USA Today, nearly 80 percent don't believe the President's assertion that a U.S. presence in Iraq is preventing terror attacks here at home.

The American people get it. Nothing good comes from being in Iraq, and nothing worse will happen by leaving Iraq.

The American people have issued orders, but the President refuses to redeploy his thinking. More U.S. soldiers and more Iraqi civilians are dying every day. Iraqi children are being traumatized every day by the sight of dead bodies in the street. Over a million Iraqi civilians have fled to Jordan and Syria, where the refugee crisis grows by the hour.

And the President's plan to address this reality is spending more money building concrete walls in Baghdad. Walling in the Iraqi people isn't going to solve anything and may, in fact, worsen the ethnic cleansing that is essentially a part of a civil war raging throughout the country.

How ironic that a Republican President authorizes building concrete walls to contain and separate Iraqi people. The Soviets tried it in Berlin, and it wasn't many years later that Ronald Reagan, a Republican President, told Gorbachev, ''Tear down this wall.''

Iraqi leaders are demanding that the U.S. stop building walls that are in effect concrete jail cells, locking up innocent Iraqi citizens and making them easy prey for more attacks. It may be their country, but that doesn't matter to this White House.

By yesterday, 144 Iraqi lawmakers out of 275 signed a petition calling for the U.S. to set a timetable to withdraw. That is a majority. The story broke this morning on Alternet.com, and one of the reporters, Joshua Holland, has broken other significant news stories concerning Iraq. This is the first time that over half of the duly elected members of the Iraqi Parliament have gone on the record demanding a date for U.S. withdrawal.

Iraqi leaders want their country back, but this President isn't going to honor that request. The President's veto of the supplemental Iraq spending bill was his de facto military escalation of the war, a declaration that he intends to keep making declarations of war, not peace, and the President's veto was his rejection of working with the Congress to end the Iraq war.

A war with benchmarks is still a war. A war with benchmarks in this administration is a war without end. The only benchmark this administration will understand is an up-or-down vote on the Iraq war. And we have been promised an up-or-down vote on Iran, and we need to take that as well.

Members deserve the opportunity to say with their vote what they think and what we are hearing back home from our constituents. Unless we do the job the American people elected us to do, the President won't be the only one getting a vote of no confidence.

The people have spoken and spoken. In the People's House, it is time we accept the will of the American people. Schedule an up-or-down vote on setting a timetable for getting U.S. soldiers out of Iraq.

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The SPEAKER pro tempore (Ms. SUTTON). Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

(Mr. POE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

LIVABLE PITTSBURGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ALTMIRE) is recognized for 5 minutes.

Mr. ALTMIRE. Madam Speaker, it is a true pleasure for me to stand here tonight to talk about my favorite city, the city of Pittsburgh, which was once again named by Rand McNally as America's ''most livable'' city.

Now, Rand McNally has been designating cities as livable for 26 years, and

Pittsburgh is the first city to ever repeat. We also won it in 1985. They do it every 4 years. And I can't tell you how happy I am to have this designation because this shows for the rest of the country and the rest of the world what we already know in Southwestern Pennsylvania, that Pittsburgh is a great place to live and work. And Rand McNally has done this through formula. And 379 cities are rated on nine categories: housing, transportation, jobs, education, climate, crime, health care, recreation and ambiance, which covers its being a great place to live and work and things to do.

Pittsburgh was in the top 30 percent in the housing category. It is 93 percent of the national average in the cost of living with regard to housing. In transportation, Pittsburgh's commute is 25 minutes to work one way. And I challenge the rest of my colleagues in some other areas of the country to match that. I know that it is frustrating during rush hour to find your way into work, and in Pittsburgh generally on most days you can get in relatively quickly.

The average house in Pittsburgh is 49 percent below the national average in cost at $112,000. So that is why we rank so high in housing. In jobs, Pittsburgh is in the top quarter there. For 100 years, it still is one of the Nation's top corporate centers as home to Fortune 500 companies: Alcoa, Heinz, Mellon, PNS, PPG, U.S. Steel, and WESCO International. We have more than 90 multi-billion dollar, global corporations that call the city of Pittsburgh home.

We have more than 2,000 acres of ready-to-go sites near our airport. We have the Nation's second busiest inland port with our three rivers and the waterways. And importantly, for the environmentally conscious, Pittsburgh has the most certified ''green'' buildings in the entire country.

In education, we are home to 34 colleges and universities, including Carnegie Mellon University, which always is ranked as one of the best in the entire Nation. We have four distinct seasons with 7 months that see sunshine 50 percent of the time. And I will admit that our winters can be tough, and that was probably not our strong suit, but we still were number one overall.

Pittsburgh in crime has the lowest crime rate of any of the top 25 cities in the entire country, and this is a consistent rating that Pittsburgh has finished strongly.

In health care, we are an international leader in medical research and innovation. We have a world class health care system. We are ranked 14th overall in the country and our children's hospital is ranked 11th in the entire country.

In recreation, we have five cities. We have three rivers that provide 38 miles of shoreline for recreational purposes such as fishing. And we have PNC Park for our baseball team, which has been rated consistently as the top baseball park in the country. We have a new Penguins arena scheduled to be built and a great young hockey team. And we have a football team that has now won five Super Bowls. So we have a lot of sports and recreation to do.

And in the performing arts, we have more performing arts concentrated in one area than any city in the country outside of New York City. It has been voted the second best cityscape in America, the view from the top of Mt. Washington in Pittsburgh. We have whitewater rafting and downhill skiing within 90 minutes. And we have a bike passage that goes all the way from the city of Pittsburgh to right here in Washington, D.C.

So, again, the fact that we were number one in Rand McNally for the second time did not surprise me, and it did not surprise the rest of the people in western Pennsylvania. But it might have come as a surprise to some other people around the country.

And I stand here tonight to tell my colleagues and anyone else that may be viewing tonight that Pittsburgh is a fantastic place to live and work, especially for young people. And we are doing a much better job now attracting and retaining a younger workforce, and we have shown through a variety of ways that we have young and dynamic leadership.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

(Ms. ROS–LEHTINEN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SESTAK) is recognized for 5 minutes.

(Mr. SESTAK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SHAYS) is recognized for 5 minutes.

(Mr. SHAYS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

(Mrs. MCCARTHY of New York addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE 30-SOMETHING WORKING GROUP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Connecticut (Mr. MURPHY) is recognized for 60 minutes as the designee of the majority leader.

Mr. MURPHY of Connecticut. Madam Speaker, I would like to welcome my colleagues to another addition of the 30-Something's hour. I would like to thank the Speaker of the House, NANCY PELOSI, for allowing us the opportunity to get together and talk not only about some of the most important issues that face this hall this week and at this moment but also talk a little bit about how these issues are of particular concern to people of younger generations in this country.

We are going to be joined today, I know, by Mr. ALTMIRE, who just gave a very compelling 5-minute address to the House and, hopefully very soon, by Ms. WASSERMAN SCHULTZ, one of our favorite members of the 30-Something Group.

Madam Speaker, hopefully we will get to touch on a few different topics, but I think we need to touch on at the beginning of this hour the subject that really dominates the debate in Washington, D.C., right now, that dominates

most of the discussion out in the coffeehouses and pancake breakfasts and pasta dinners happening across this land, and that is, what is happening in this town? What is happening in Washington, D.C., inside the beltway? And that is, why can't government figure out what everyone else has figured out across the country, that we need to set a new direction when it comes to this country's policy in Iraq.

Now, I am certainly starting to feel that frustration. People thought when they weighed in on the national elections in the beginning of November of last year that they were actually saying something; that when they stood up in record numbers in some parts of this country and made courageous decisions district by district to replace long-time incumbent Members this Congress with relatively new Members, such as myself, such as Mr. ALTMIRE and some 40-odd number of our friends on this side of the aisle that became new Members this January, they thought that it meant something. They thought that that voice that they spoke with in the beginning of November was going to be heard down here. And I can tell when I go back to my district, and I just came back this last weekend and I have been back every weekend since we have been down, that the patience of the American people is starting to wear thin. Now, it is not necessarily directed here. I think some people are still in some sort of sense of euphoria that we finally have a Congress that is listening to the American people again. Their anger is directed at the President of the United States. Their anger is directed at an administration that just doesn't seem to get it, that refuses every step of the way to step up to the plate and have some type of accountability for what is happening here, refuses to listen to the American people.

And the American people have spoken in the election, and they continue to speak today. A CNN poll that came out just a short while ago said a majority of Americans, 65 percent, oppose the Iraq war, and a full 54 percent disapprove of the President's decision to veto the Iraq accountability bill last week. Nearly six in ten Americans, in a recent Gallup poll, support setting a firm timetable for withdrawing U.S. troops out of Iraq; 61 percent of Americans, in another CNN poll, favor a bill that sets benchmarks that the Iraq government must meet to show progress that is being made in Iraq; 55 percent of Americans think it was the wrong thing for the United States to go to war in the first place. That is an amazing number, Madam Speaker; 55 percent of Americans, the majority of the Americans, now today believe that it was the wrong decision to go into Iraq in the first place.

Before the time of Mr. ALTMIRE and me, the 30-Something Democrats, Mr. RYAN and Mr. MEEK and Ms. WASSERMAN SCHULTZ, liked to point out third-party verifiers. It is not just our saying it. Things that we stand here and say have actually been said time and time again by people who know what they are talking about and the American people.

Here is third-party verification: The American people by large numbers support not only the actions of this Congress when it comes to setting firm benchmarks for the Iraqis to stand up for themselves but also to set firm timetables by which we would start to redeploy our troops. Now, the American people join a growing hegemony of opinion within our foreign policy community. There are very few times when Republicans and Democrats outside this hall decide to agree on a course forward on something as weighty as the foreign policy issues that confront us in the Middle East. But the Iraq Study Group, five Democrats, five Republicans, Mr. ALTMIRE, came together and told us, it is time to set a new course. It is time to start bringing our troops home, start redeploying them to fights that matter. Record numbers of retired generals.

Now, it has become kind of de rigueur to see on a daily basis retired generals from across America to come out and start to criticize the President's policy. This didn't happen before in these numbers. This is not the normal course of business for the men and women who have spent their lives fighting and leading American troops to then turn around after they have left their military service and criticize the very government that they have worked for, fought for and bled for all of those years. But that is what is happening today because the stakes are so high. The American public, bipartisan leaders on foreign policy issues and former military leaders are standing up and saying enough is enough.

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We need to set a new course.

Now, there seems to be a very powerful sound barrier that has been built around the White House. Because for as many voices, the multitudes of American people, the multitudes of foreign policy experts, of retired generals, many of which ended their careers on the ground in Iraq, for all of those people throwing the might of their collective voices at the White House, a deafening silence.

Madam Speaker, I got the chance to go over and visit our troops in Iraq and Afghanistan; and the first thing you're struck by is the unbelievable and unconditional bravery that they show this Nation. The capability of these forces is almost beyond explanation, and I got the chance to come back and talk to the President very briefly about it in a visit to the White House.

Those troops know that the situation on the ground has changed dramatically, that the fight that began as a battle against the autocrat that was Saddam Hussein now has become a civil war. The troops know it because they're right in the middle of it.

We asked our military leaders, how much of the fire that is being directed at American troops is the result of insurgent forces and al Qaeda forces firing at Americans and how much of it is simply a sectarian war that we find ourselves in the middle of? And the answer was the same no matter who you asked. Ninety percent of the fire directed at American forces are Sunni and Shia fighting each other, sometimes Shia and Shia fighting each other, that we are caught in the middle of.

This President, for some reason, refuses to understand how things have changed on the ground in Iraq and how things have changed when it comes to the opinion of foreign policy leaders, military leaders and the American public.

I think many of us were very proud to stand together, certainly the freshman class and as a caucus, to support our leadership's position to set a new course; and we were dismayed to see a President who is unwilling to work with this Congress. We will take another shot at that this week by presenting the President with another alternative on his desk once again to set that new direction. And from what we hear today, it will be met with the same resounding deafening silence and indifference to the will of the American people.

I am so glad to be joined here by one of my great freshman colleagues, Mr. ALTMIRE from Pennsylvania, who I think shares with me, as new Members, as two young guys who have only spent about 4 or 5 months down here, that sort of growing sense of frustration when we go back to our districts and we hear people who wanted that change feeling like they're not getting it here because there is an administration that simply won't join that growing unanimity of opinion to set a new course.

I would like to yield to my friend from Pennsylvania.

Mr. ALTMIRE. I appreciate the gentleman from Connecticut, and I admire his leadership. I know that you did make that trip to Iraq and you came back and you can speak with some authority and some expertise, and I appreciate hearing from you. And I especially appreciate the opportunity to speak tonight on what is definitely the most important issue I think everyone would agree that we face.

I was struck by the fact that the gentleman mentioned third-party verification for different options and different opinions in Iraq. And what strikes me is the fact that the President of the United States has declined to listen to any third-party verification. He has delivered a loud and clear message last November that the American people called for change, not only domestically here in America but especially in Iraq. He has been told by his generals on the ground that he is not moving in the correct direction. He has been told by his advisers, before they're replaced, that he's not going in

the right way. The Iraq Study Group, as we all know, recommended the course of action that we have advocated; and the bill that he vetoed was verified by the Iraq Study Group.

The fact that he fails to listen to the American people, he fails to listen to his military advisers, he fails to listen to his White House advisers and he fails to listen to the Iraq Study Group, that demonstrates a clear decision on his part that he is going to ignore all of those opinions and continue down the same failed course.

I was dismayed today when I heard the news that 35,000 American troops have been told that they can expect to be sent to Iraq this fall and that their tour is going to last at least through the spring of 2008. Now, this is additional troops after the surge that we had been told in January was only going to last a few months and only going to be 21,000 troops. Now we're hearing an additional 35,000 troops and the surge is going to be at least 18 months instead of the 2 or 3 or 4 months that were we were initially led to believe.

But, thankfully, this Congress took clear and decisive action by sending the President a bill, which we have talked about before, that gives the troops the money that they need. It actually contains more money in funding for our troops on the ground in Iraq and Afghanistan than the President requested, and that bill was met with a veto, as we know.

I had someone come up to me over the weekend and say, well, when are you going to get our troops the money that they need? And I said, we sent the President a bill that does exactly that. It was the President's decision to veto that bill and delay this process and, most importantly, delay the funding for our troops.

So the fact that he now came out and made a statement today that if we sent him a bill, that is, we took out all the things that he talked about that he doesn't like, it is not going to have the timelines and the things that he used as his reason for vetoing it the first time, we are going to send him a bill that gives the troops the funding that they need to get them through the next several months, and it is actually going to again be more funding than he asked for for the period of time that we are going to send him the money for, and we were told today that is going to be met with a veto.

So I am exasperated to hear this, because I want the troops to get the money and the funding and all the equipment and resources that they need to continue the brave fight that Mr. MURPHY from Connecticut was talking about and that he witnessed firsthand. But we can't do that alone. We need the President to sign the bill that we sent him.

Tomorrow, we are going to vote on our second bill after the veto; and we are going to send it to the White House. I hope that the President will reconsider his decision to delay the funding that our troops in the field need, because these are the bravest and brightest Americans. These are people who are putting their lives on the line. They are giving every sacrifice. They are leaving their families back home for extended periods of time, multiple tours. And we are giving them the money that is required, but the President is delaying the process. So I share the frustrations of the gentleman from Connecticut.

At this time, I will yield to the gentlewoman from Florida, our fearless leader with the 30-Something Working Group, Ms. WASSERMAN SCHULTZ.

Ms. WASSERMAN SCHULTZ. Thank you so much, Mr. ALTMIRE.

I have to tell you what a pleasure it is to have the reinforcements in you and Mr. MURPHY and a number of other Members, you, Madam Speaker, to have been elected on November 7 to bolster the efforts of the 30-Something Working Group. Because we hung in there for the last couple of cycles and took to the floor every night to talk to the American people and to our colleagues on this floor about the issues that we believed were important to them that were not being addressed by our colleagues and good friends on the other side of the aisle when they were in charge.

I want to follow up on what you and Mr. MURPHY have just been discussing relating to the President and his attitude. The conclusion that I have reached is that it must be that the President has contempt for the democratic process. I can't really reach any other conclusion besides that.

Because we are not a monarchy. He hopefully realizes that he was not elected king. He is not self-appointed. He is one of three branches of government that are coequal, coequal meaning we have as much say and as much right to weigh in on something as significant as whether to, A, commit our troops to war, and, B, we control the appropriations, we control the purse.

And what we believe, as Democrats, is that it is irresponsible for us to give this President a blank check and an open-ended commitment to the Iraqi government with absolutely no accountability and no requirement that there be progress forward or benchmarks met. I mean, the President must believe that we aren't listening to our constituents, or maybe he's not listening. He says he is listening. In fact, on April 24 of this year the President said this, ''Last November, the American people said they were frustrated and wanted change in our strategy in Iraq. I listened.''

Really? I have yet to see any evidence of him listening. What I have seen evidence of, and, you know, I know that I often go back to the analogy of my interaction with my own children when talking about this President, but my frustration and observation about the insolence on occasion of my own children is similar to what we have been observing from the reaction from this White House.

I really can analogize it that when I am talking to, for us as the Democratic majority in Congress, we sent him legislation in the supplemental appropriations bill that he vetoed. And I have the privilege of serving on the Appropriations Committee and served on the conference committee. We sent him the legislation with a timeline for withdrawal, with his own benchmarks as he outlined on January 10, with accountability and with protection for our troops, A, ensuring that they not have a tour of duty without a 365-day separation in between those tours, the Army's own rules. We made sure that there was $1.7 billion in funding for veterans' health care. We made sure that there was $1.7 billion in there for military health care, something that you have been incredibly concerned about, veteran and military health care, Mr. ALTMIRE. And on and on. The issues that were, according to the President, very important to him and clearly important to the American people.

And so he vetoed that and said that there were other concerns that he had, that he didn't want his hands tied, that he wanted to have the flexibility, that he just wanted a blank check and open-ended commitment. We, being a coequal branch of government, have gone back to the drawing board. And the Democratic majority believing in compromise and a need to negotiate in good faith, we have now put forward another proposal, a proposal that is designed to address the concerns that he outlines.

And normally when you're going through a good-faith negotiation there is what's called ''back and forth,'' for example, the analogy that I began a minute ago, when my children don't like what I'm telling them, when I'm talking to my kids and I explain to them that I want them to do A and they don't want to do A, and we kind of go back and forth. And being a parent of small children, sometimes it's a dictatorship, but sometimes there's negotiation. And it always works better when you can work things out with your kids and teach them that compromise is going to get you further. But when they don't like that compromise, my kids, just like all kids, stamp their foot and whine a little bit and tell me that they don't want to do that.

That really feels like how this President has reacted to Congress' clear ability to weigh in on the direction that this war should be taking. The American people certainly have weighed in. And what I don't understand is why the President isn't willing to come to the table and negotiate in good faith. The my-way-or-the-highway attitude that he has taken is irresponsible.

What we are doing in this next proposal is we are making sure that we fully fund over the next 3 months the

funding that the troops need. We provide the President and the Army with the funding that they need, but we tie it to benchmarks, we tie it to progress. The Iraqi government cannot believe that we will be there forever.

And then we have a second vote where we would come back; and if the President can certify to us that those benchmarks are being met, then the rest of the funding would be released. If he can't certify that to us, then the funding that we would appropriate would be used to go through a redeployment process.

Because at some point the madness has to end. That is what the American people have told us when we've gone home to our districts in town halls, in e-mails, in phone calls. The President appears to have ear plugs in his ears, and it's wrong. And that's why the Founding Fathers established coequal branches of government, so that one person in the executive office, in the Oval Office could not unilaterally decide to commit our troops, to keep them there and to engage us in military action indefinitely. It's irresponsible.

Mr. MURPHY.

Mr. MURPHY of Connecticut. Thank you, Ms. WASSERMAN SCHULTZ.

Your question is a perfect one: When will this madness end? When will we recognize that we need to set a new course, that we need to start paying attention to not just what's happening within the borders of Iraq but what's happening in Afghanistan, what's happening on our own shores, where we still haven't appropriated the amount of money to devote to the resources that we should in order to secure our own borders and our own ports?

And here is what it comes down to: If the Democrats weren't in control, the madness would never end; it would go on forever. There is absolutely no commitment, no willingness, no one on the other side of the aisle, very few at least on the other side of the aisle and certainly very few in the administration have woken up to the new reality here.

And to me, I won't say who it was, but a member of the Republican leadership the other day was quoted in the paper as saying this. This person said, you know what? The President, we are going to give him some time to put forth this plan to escalate the war in and around Baghdad.

□ 2045

But if it doesn't work, he is going to have to tell us what plan B is. Guess what. We are not on plan B we are on plan like double R. We have tried everything. We have been in there for longer than we were involved in World War II, and we still haven't found out what works.

Well, at some point, we are going to have to wake up to the notion that nothing that our military may try is going to work.

Now, if anyone can do this job, I think our military can do it. The problem is that we have gotten ourselves into a political quagmire, and the sooner we realize that plan A and plan B and plan C and D and E and F all didn't work, in large part because we have gotten ourselves into a mess that has probably, we hope, a political and diplomatic solution but may not have a military solution.

Ms. WASSERMAN SCHULTZ, I just want to talk for a minute, I know we really want to talk about some domestic issues here, but I want to talk about some of the stress we have put on our forces here at home. Because I have to tell you, as we watched some of the tragedies unfold in the Midwest, in Kansas, and we saw the inability of our National Guard in that State to respond, unfortunately, it took that incident for a lot people to finally wake up to the notion that our Reserve units and our National Guard units, the very troops that we relied on for years, decades, to provide us with security when tragedy befell our compatriots here at home, aren't there any longer. We heard it from Governors in Iowa, Minnesota and, of course, now in Kansas.

The administration, as usual, seems to be more interested in throwing around blame than they seem to be interested in actually solving the problem. When the Governor of Kansas came out and said, listen, here you see it; we don't have the resources to respond to this devastating crisis because our National Guard units have been deployed over and over again overseas in a way that we never asked our National Guard and Reserve units to be deployed in the past, the White House came back and said, well, you know what? That is not our fault. That is the Governor's fault for not telling us that she had problems. If she had just told us she had problems, we would have done something about it.

Well, guess what? She did. Last year, quoted in the New York times, the Governor of Kansas said, we are not only missing National Guard personnel, we are also missing a lot of the equipment that is used to deal with situations at home, day in and day out.

Well, you know, we have heard a lot about how folks in the White House don't read newspapers with the rigor that some of us do. They certainly did not read The New York Times that day when the Governor of Kansas almost a year ago sounded the bell and said, if we don't start replenishing our units here at home, we are going to be in big trouble. And we are.

Ms. WASSERMAN SCHULTZ. I am really glad that you touched on that, because you read my mind. I am obviously from a State where the National Guard and its readiness is imperative. We are approaching June 1st, which is the beginning of hurricane season. It runs all the way through to the end of November. I know from conversations that I have had with our Guard leadership in Florida that a good amount of our equipment is over in Iraq still. And to make matters worse is that the equipment that has come back is in such horrendous shape that it is almost unusable.

When I had a meeting in my district office with the head of our National Guard, with the commander, this was over a year ago, he expressed that concern to me over a year ago. We can't deal with the lack of readiness in Kansas but certainly not in a State like Florida where we are in the middle of hurricane alley. And we have already had the first main storm today, three weeks before the hurricane season even begins.

So we are not just talking about the foreign policy impact, the perception of our Nation across the world or the impact on our troops. There is a domestic impact, a significant detrimental domestic impact to our inability to address where we are in this war and when it is going to end.

We have got to make sure that the Iraqi government and the Iraqi troops are in a position to stand on their own so that we can bring our troops home and deal with the domestic needs that we have in this country.

Mr. ALTMIRE. Mr. Speaker, I think the gentlelady has touched on that issue in a way that makes sense to most onlookers. She comes from a State that has seen problems. But we saw as a nation what happened in New Orleans in 2005 and the lack of response that took place in large part because of these issues that we are talking about, because the Guard and the Reserve that would usually be called upon to address those issues and come to the aid of the victims of that hurricane were deployed or otherwise engaged.

We have a National Guard and Reserve that has been the subject of multiple deployments now, often three, four deployments. And when we have a situation like unfortunately happened in Kansas recently, we see the result. The Guard and Reserve is over deployed, and we are not able to respond in the fashion we need to respond when we have a national emergency, such as we saw in Kansas.

I wanted, if it is okay with the gentleman from Connecticut, to switch the topic to gas prices, because I realized as I was looking at the gentlewoman from Florida, there may be some viewers who are wondering what that apparatus is that is next to her. It is a gas pump. I will let her talk about that momentarily.

But I just wanted to start the ball rolling on that discussion and read you a quote from the President of the United States from July of 2001. So we are going back 6 years now. This is what the President said: ''My administration has proposed a plan that will reduce America's reliance on foreign oil.'' Six years ago.

For those who are interested in the success or lack thereof of that statement: In 2002, this Nation got 58 percent of its oil from foreign sources. That was our dependence. In the year 2006, last year, that number had risen to 66 percent.

Here you have a President who says that it is one of his priorities to reduce our dependence on foreign oil. We went from 58 percent in his first full year in office to 66 percent last year, and it is exponential growth, just a chart that goes straight up. So I would say that his philosophy has not worked as well as perhaps he would have hoped.

What is most disappointing to me is I sat here for my first State of the Union address as a Member of Congress, and I listened to the President go on for quite some time about energy independence and the need to reduce our dependence and reliance on foreign oil. I was encouraged by that. This was still my first month in office, and I thought, this is a President that has finally seen the light and was going to move in that direction.

But, unfortunately, I went back and I reread some of his previous State of the Union addresses, and I realized that he has made that claim multiple times over the years of his administration. And instead of seeing a diminishment of our reliance on foreign oil source, it is growing exponentially.

So it is frustrating to me to see the lack of attention to what is the first issue domestically that I hear about when I go back to my district, and I am sure the gentlelady from Florida and the gentleman from Connecticut have the same questions bestowed upon them when they go back to their districts, why are gas prices so high, and what are you doing about it?

Well, this Congress is taking steps to do something about it. After years of coddling the big oil companies and giving them taxpayer subsidies in the billions of dollars at a time when they are making all-time record profits for any industry in the history of the country, we have finally decided we are going to pull back on those subsidies and redirect them to alternative sources of energy, to research and development of a myriad of sources of energy, to get us off of our dependence on foreign oil, something the President said was his priority 6 years ago, but nothing was done about it.

So this Congress is going to use that money for research and development to grow us out of this problem through research and development.

I yield back to the gentleman from Connecticut, who has a chart that illustrates what has happened to gas prices since this President first took office.

Mr. MURPHY of Connecticut. Mr. Speaker, let me set the stage to kick it over to Ms. WASSERMAN SCHULTZ.

Here it is. The President took office January 22, 2001, $1.47; $1.47, that is like sort of a mystical number now. I can't even fathom when we were paying $1.47 for gas. Today, the average price for a gallon in the United States, $3.05.

Now, I am going to admit that in my part of the world, in northwestern Connecticut, probably like everybody's district, we have a couple of conspiracy theorists up there. We have a couple of people that are not actually willing to believe that the best of intentions are always at the root of decisions made in our political and economic system.

I have to tell you, the cynic in me and the conspiracy theorist in me, and there is a little bit of it, wonders a little bit why gas prices dipped down, curiously, right about the time when we were all up for election and reelection. Just when there was this sort of wave of economic discontent swinging across the country and all of the people were talking about finally taking our economy back from the oil companies. Just as this country was poised to make a decision to finally end, as Mr. ALTMIRE said, our firm decades-long dependence on oil and foreign oil in large part, why did gas prices just dip right then? And then as soon as January, February came around, creeping up and up, a little bit more and a little bit more. Now as we head into the summer, into the prime driving months of the year, we are at $3.05 a gallon.

Now, I am not willing to say that is just politics, but the cynic in me has to wonder sometimes whether or not our gas and oil companies were just hoping, hoping that they could stem the tide and that they wouldn't have a Democratic majority here who would make a difference.

Mr. ALTMIRE. I don't mean to interrupt the gentleman, but I did want to remind anyone who is observing this discussion tonight that the ''Six for '06'' was the Democratic mantra moving forward and going into the election. Ms. WASSERMAN SCHULTZ was here for that discussion, and Mr. MURPHY and I were out on the campaign trail. And we talked a lot about gas prices and taking on big oil for the first time in many years and revoking some of these subsidies and redirecting them. That was a key staple of this six policy issues that the Democrats made as their top priority for that election cycle and for the first 100 hours in Congress after we were able to retake the Congress.

The gentleman talks about the sequence of events that, as that discussion was brought out, it became pretty clear to everybody that this was going to be a change. This was going to be a new direction for the country.

Again, I am just saying that, as the gentleman is, it is an amazing coincidence that just as that proposal comes forward and just as the momentum starts to shift and look like the Democrats have a chance to promote this agenda in the majority for the first time in 12 years, we do see an incredible drop in gas prices. I think it went down something like 80 cents over a several week period leading up to the election. Now, as you said, it is back up to record levels here shortly thereafter.

I did not mean to interrupt.

Mr. MURPHY of Connecticut. I would like to think that miracles do happen when it comes to energy policy, but unfortunately, I think that may be a little naive.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. MURPHY.

You know, I really became enraged this weekend because you both have heard me refer to myself as what I am, and that is a ''minivan mom.'' I am a minivan mom, one of the millions of minivan moms that drive around my district with the kids in the back seat. And I can tell you that we, ideally, if you are a mom with little kids, would drive a smaller vehicle so that you could save gas, so that you could save money, so that you could be more energy efficient and environmentally conscious.

However, when you are traveling from soccer to baseball to dance class to school and all the things that minivan moms have to do, you need a vehicle the size of a minivan. And they are expensive to fill up. Believe me.

This weekend, we were back up, just for 87 octane, when I filled my gas tank, 87 octane in my hometown of Weston was $3.06 a gallon. The 93 octane was about $3.88. I stood there, and it had been a while since we felt the rage and actually a while since I have gotten feedback from constituents about their frustration, because, like you said, I am actually an idealist. I am not a cynic. I am not someone that believes in conspiracy theories.

There is just no question in my mind that that drop in gas prices was absolutely tied to the potential fortunes of the Republican candidates for Congress and this administration. So I am just going to say it straight out.

The only explanation other than that and the only explanation for the insensitivity on the part of the President and this White House must be that they are not filling their own tanks. Maybe their drivers are doing it for them.

I would like to take the opportunity to introduce our colleagues and the President to a gas tank. This is what they look like. And when you insert the pump into your vehicle, the indicator on the gas pump shows you how much you are paying and shows you the total at the end after you are done filling your tank.

□ 2100

They are not filling their own tank. That must be the only explanation why the President hasn't taken any steps to address our dependence on foreign oil, to deal with the record profits, obscene profits that the oil industry is making.

I don't understand how he could look himself in the mirror after the 2006 State of the Union which I was here for and you guys were running to join us here. I heard President Bush stand at that lectern and tell us that we must end America's addiction to foreign oil. It clearly was just words. That is what they are good at. They are good at the words. They just are not good at backing up the words with action. But we are. Here we are talking about what we need to do. I want us to share with our colleagues and other folks that might be listening what our plans are, because we are going to take some action.

We represent the folks that drive minivans around their district and drive pickup trucks and who run small businesses who need to make sure that gas prices don't cut their legs out from under their business and prevent them from being able to function. That is the reality on the ground every day.

Your gas prices go up, you have a harder time choosing to provide your employees with health insurance, you have a harder time being able to buy that piece of equipment your business needs. There is a direct result on small businesses from gas prices going up.

We are taking several significant steps. The Speaker has created a Select Committee on Global Warming and Energy Independence. That was a controversial move but something that she felt was important because it is so critical that we address the issue of global warming and energy independence that we needed to highlight it and put it up on a pedestal and get Members to travel the world and talk about how we can move the ball down the field and address this issue.

In addition to the hearings and oversight that select committee will be doing, and that select committee will meet for a year time period because there needs to be action taken within a very short time span so we can get some results for the American people.

Also, in the Energy and Commerce Committee, we will be hearing Mr. STUPAK's legislation called the Energy Price Gouging Prevention Act to immediately provide relief to consumers and prevent the oil companies from price gouging like what is clearly going on here. I mean, we cannot allow the oil industry to put our constituents on the roller coaster ride that they are clearly on right now.

We have to do a number of things. We have to set an example in this institution. Speaker PELOSI has moved forward with the Greening the Capitol Initiative. I am privileged to chair the subcommittee which will be working on a lot of the initiatives for the Greening the Capitol project.

What we will be doing is within the next 2 years, by the end of the 110th Congress, we will establish policies that will make our Capitol complex carbon neutral; and we will make sure that we set an example for businesses across the country. We have to take several major steps to provide relief and balance and focus on alternative energy research so we can truly wean ourselves off dependence from foreign oil and not just talk about it.

I am a little hot about that. I see the Speaker is standing on her feet, which means we are probably getting close to the end of our time.

Mr. MURPHY of Connecticut. On the heels of introducing some of our colleagues and members of the administration to a gas pump, and I think you are right, it is hard to understand how people can be so indifferent to the rising costs. Maybe they haven't seen a gas pump. I want to introduce them to something else.

This is a wallet. If you are an oil company executive, your wallet is busting at the seams. So your wallet is going to look different. This is a thin wallet. This is what the American people, working-class individuals throughout this country are dealing with. They are dealing with wages that have been pretty much flat for the last 5 years.

Oil company profits over the last 5 years have gone from $6.5 billion in 2002 to $30.2 billion in 2007. I want to make sure that while we are introducing some of our colleagues and some people in the administration to a gas pump, let's also introduce them to the thin wallet. If the average worker's income doubled from 2001 to 2007, I would say no problem, you can handle gas prices that doubled over that time. But the fact is that wages for average Americans have remained flat. Why? Because we have set up an economy that is designed to fail for regular, working-class individuals in this country, the folks that we represent, the people working in small businesses, who are living from paycheck to paycheck and can't take these increases at the pump.

As much as we have to introduce people to the notion that we have to start redirecting our energy policy, we also have to reintroduce people to the fact that there are millions of Americans out there playing by the rules who simply don't have the means to deal with these increased prices.

Mr. ALTMIRE. The gentlewoman from Florida listed off a number of initiatives that this Democratic Congress has taken at long last to address the gas price crisis that we are facing in this country. We are going to move with great speed to address these issues. We are going to address the price-gouging situation. We are going to address alternative sources of energy. We are going to address the environmental impact of the choices and the long-term consequences. We will address the price of gas that we see at pumps every day, similar to the one that the gentlewoman was holding up.

But I want to remind everybody, which is obvious because we are having this Iraq debate now and the President has sent one bill back with a veto and may send a second bill back with a veto, that we, because of the Constitution, can't do it ourselves. This is a divided government that we have, and we need the assistance of the people on the other end of Pennsylvania Avenue down at the White House to join us in this effort to make a national priority of lowering the gas prices and addressing this issue for the first time since this President took office.

I don't see any indication that he is willing to do that. We can pass legislation, we can have committee hearings and oversight and talk all that we want, but if we are not joined in this effort by our colleagues on the other side of the aisle, and especially the President, we are going to be unable to address this issue in a way that is satisfactory to the American people.

I would urge my colleagues to voice their opinion that this is a priority. It is important to their constituents, and we do need to have a bipartisan effort moving forward to do this because this is an important issue. These are big topics that we are trying to pursue, and we need a unified American people and a unified body to take the initiative to the President and hopefully work with him on a positive solution.

Ms. WASSERMAN SCHULTZ. I think what is important for us to emphasize in the 30-Something Working Group here is we are about action. Our Democratic leadership under Speaker PELOSI and Majority Leader HOYER and Mr. CLYBURN, our whip, and Mr. EMANUEL, our caucus Chair, we spend a lot of time on this floor. The people who are watching see us doing a lot of talking. I mean, talk is nice, but I want us to make sure that we are getting across what we are going to be doing about this problem.

The Speaker has made a commitment that has directed the committees that are chaired by Democratic Members that, by July 4, that we will expand and extend renewable energy and energy efficiency initiatives, that we will make efforts to make our Nation's farmers leaders in reducing our independence on foreign oil by promoting clean, domestically produced alternative fuels.

They do that in Brazil. Brazil has become completely independent of foreign oil. In fact, our own auto industry, our American automobile industry manufactures vehicles to be driven in Brazil because they use an ethanol-based gasoline so they can be self-sufficient. It is entirely doable.

We need to refocus, and our policies and committee hearings and legislation that will be moving through by Independence Day will move us in the direction of changing our dependence from the Middle East to the Midwest in our country.

We will also provide incentives for an energy-innovation economy that will create new jobs and efficiency measures to help consumers and small businesses reduce energy costs. And we are going to make sure that we strengthen our national commitment to energy research and development for the next generation of high-risk, high-reward energy technology.

We have an innovation agenda that was part of the New Direction for America agenda that we ran on and talked about in race after race in district after district. People want to know that it is not just words, that it is not just lips flapping up here. We are going to actually move legislation and use our congressional oversight capability and leadership on this issue so they don't hear one more quarter go by where they see record profits from the oil industry, one more quarter go by where they are on a roller coaster ride for gas prices.

We need to make sure that we help our colleagues on the other side of the

aisle and the President of this country knows what a gas tank is. Because Mr. ALTMIRE did make reference that this is a gas tank, but this is a pretty ancient gas tank. This is a representation of a gas tank that probably dates back to the 1950s. Perhaps that is the last time that our colleagues on the other side of the aisle or the President actually used one of these. That really is, I think, the only explanation for their insensitivity.

It is our job to make sure that we move this innovation agenda forward so we can make it a priority. That is why rolling back those subsidies were part of our 6 in '06 agenda.

One of the first bills that we passed in the first 100 hours in the majority was a repeal of the subsidies that were given away to the oil industry that they literally said they did not need. How could they need them? They are sitting on piles of money, billions of dollars, and we gave them subsidies. We gave them back money that they owed us, that were royalties that we should have earned because we give them the right to drill on government-owned land.

It is just unbelievable that the priorities of the administration would be closer to the oil industry than it would be to the people. It is immoral. It really is. It is nothing short of immoral.

We have to start thinking about how the decisions we make here impact real people. We stand in this Chamber every day. And you know what happens? I was in the legislature in Florida. My district is 450 miles from the capitol in Tallahassee, and it is a lot further from Washington. It becomes really easy, I think, for a lot of the Members to forget the impact of the decisions that we make in this room on real people. You can easily become desensitized. Maybe that is what it is.

I know the President goes around the country and talks to people. But the way they set those events up for the President, as I understand it, he is isolated. They screen a lot of the people that get an opportunity to be in the room with him, if not all of them. I just don't think he hears from enough people about the true impact of his policies. It is the only explanation.

If he was really hearing what people were saying and if he was really sympathetic to the plight of people who are struggling, and not just poor people, but we are talking about middle-class people who have a job and who are, like you said, living paycheck to paycheck, and even people not living paycheck to paycheck.

Just because you can afford to pay $55 to fill up your gas tank doesn't mean it is okay. It shouldn't cost that much. It doesn't have to, and we need to make sure that our actions become reality and that we put pressure on the President to sign what we send him when we send it by Independence Day.

Mr. MURPHY of Connecticut. I always think there is this pyramid of political influence out there. For a very long time, the only people that really mattered in this system were the people gathered at the tip of the pyramid, the people with the big political action committees and who could afford to hire 10 lobbyists to patrol the halls of Congress. And all of us, you know, that exist down at the bottom of that pyramid, and when we come here we get to be closer to the top than the bottom, but the regular folks who sit wondering, and even if they don't wonder if they can afford to fill their tank, they wonder whether increasing gas prices means they can save less, whether this will have some impact on their retirement savings. All of those folks that exist at the base of that pyramid didn't matter any longer.

As much as for me and Mr. ALTMIRE, as much as we care about setting a different course in Iraq and taking on the hegemony of the oil companies and setting a new course for health care policy, I think for us this election was as much about sort of flipping that pyramid on its head and saying we have got to start taking the time to form consensus back at the base of that pyramid and having those decisions be the ones that matter here in Washington.

I have to tell you, standing here as a member of the 30-Something Working Group, nobody knows more than we do about how many Americans now stand on a precipice of jumping off a cliff to having faith in their government. Young people, whether in their 20s or 30s, but people now in their 40s, 50s and 60s have just lost any faith that what they care about will actually be reflected in what happens in Washington.

□ 2115

Guess what, in January, when a new Congress got sworn in, it all changed. Now, it may not change so much that things happen here with the alacrity that people may like. This government is still designed not exactly to respond overnight, but you would not be seeing the policy proposals that you are outlining, whether it is taking on the royalties and the tax breaks, whether it is taking a look at antitrust provisions, whether it is passing a strong price-gouging bill. You just would not see that.

You would hear a lot of bluster, but you would not be seeing action if we did not flip government on its head in January and start once again listening to people out in communities rather than just listening to the conversations that happen perpetually within the halls of government. All those conversations are focused on one thing, the status quo.

Ms. WASSERMAN SCHULTZ. Just what all this boils down to for me is just one word, and that is insensitivity. I mean, there is a disconnect, which is almost a word that has almost become cliche, but a disconnect between what is really going on in the lives of the average American person and the policies that the White House and the President advance.

And that insensitivity, it is not isolated just to the price of oil. It is not isolated just to the President's believing that he is the only one that is right, and he was elected to be the decision-maker, as he said, and to heck with anyone else's opinion. The insensitivity is reflective, and it permeates every decision they make.

Let me just give you an example. I sit on the House Judiciary Committee as well, and tomorrow we have Attorney General Gonzales coming in front of our committee for our regular oversight of the Department of Justice. So the insensitivity and the tone deafness extends to even an issue like that.

The White House has defended their firings of the U.S. attorneys, essentially saying they had the right to do it, and they told us whatever reasons that they decided to release those U.S. attorneys, but they got caught in a fabrication. They got caught in a whole series of different stories that have come back to bite them.

Now we have a situation where we have an Attorney General who has completely undermined our ability and the American people's ability to have any confidence and trust in what he says. That is a pattern that exists. I mean, we talked during the campaign and during the 109th and the 108th about the culture of corruption. I mean, that is what has been hanging over this Capitol, which finally we have been able to lift it.

There are still remnants of it. We still have, sadly, a number of even our colleagues who have been accused of things and are going through investigations, but the Department of Justice and the Attorney General could have handled this U.S. attorney issue in a very simple way, a way that I do not think I could have or you could have questioned.

They had the right to decide to change who was sitting in those offices, who was serving as a U.S. attorney, and all they had to say was, we wanted to change the leadership in those eight offices. Instead, they got so caught up in telling a story that they thought was legitimate enough, that now it is not the firings, it is the coverup that is the problem. And that is what the White House does not seem to get.

We are almost talking apples and oranges. They are defending their right to have fired them. We are not disagreeing with them over their right to have fired the U.S. attorneys. We do have a serious problem, and we should have a serious problem not being able to trust that the information the administration and the Department of Justice provides to us when we ask them questions is accurate and that it is factual.

It is the trust and the violation of that trust that has been undermined for so long, and that was another result on November 7. Part of the result of the election is that the American people's confidence in their government was so badly undermined that they

wanted us to help them move in a new direction.

So it is just not isolated just to the issues we have been talking about tonight. We could go through a laundry list.

Mr. ALTMIRE. We only have about a minute and a half left, and Mr. MURPHY is going to do the wrap-up.

I just wanted to say that I see this prop that we have here, and it reminds me of, Mr. MURPHY and I were watching you and Mr. MEEK and Mr. RYAN last year with that big oil rubber stamp that you kept bringing around. Thankfully, we were able to retire that rubber stamp because the American people voted for a change in direction. I hope it is not going to take 18 months for us to retire that prop, that we are going to take clear and decisive action here in Congress, as I know we will under the Speaker's a leadership, and we are going to be able to do something about the gas prices in a way that is going to allow us to retire your prop there. But we are going to do our part, and I am going to send it over now to Mr. MURPHY.

Mr. MURPHY of Connecticut. Speaking of props, I think by displaying that rather thin wallet before, I inadvertently started to make a case for an increase in congressional pay, for staff members here.

So, we are on honored to be able to have this opportunity that the Speaker has given us, Mr. ALTMIRE and I, certainly to be able to join our colleagues who have been up here for the last few years beating the drum.

You can e-mail us at 30somethingdems@mail.house.gov or you can visit us on the web at www.speaker.gov/30something. We hope that people will share their thoughts with us.

DUST AND TOXINS FROM 9/11

The SPEAKER pro tempore (Ms. SUTTON). Under the Speaker's announced policy of January 18, 2007, the gentlewoman from New York (Mrs. MALONEY) is recognized for 60 minutes.

Mrs. MALONEY of New York. Madam Speaker, today on the House floor, we passed a very important bill to reauthorize the Department of Homeland Security. Tonight, we must take time to remember the horrific event that made our Nation realize that we needed a Department of Homeland Security to begin with, the attacks of September 11, 2001.

We will never forget that fateful day and the thousands of people who lost their lives, and now we know that thousands more lost their health.

We must not forget the firefighters, police officers, EMTs and other first responders who bravely rushed to save the lives of others, even as everyone else was running in the opposite direction.

Within hours of the collapse of the World Trade Center, those first responders labored alongside hard hats and average New Yorkers without regard for their own health or safety. They spent countless hours working the pit, sifting through the rubble, hoping against hope that they would be able to rescue someone trapped deep below.

Unfortunately, as the days went on and the mission turned from a rescue-and-recovery mission to a cleanup site, these brave men and women stayed. While they labored, most were not given the proper respiratory equipment, and all were given inaccurate information about the quality of the air they were breathing. They were told that the ''air was safe to breathe.'' They were told that it was not a health hazard to be there.

Let us take a closer look: This air, the air enveloped by this massive toxic dust cloud, they said was safe to breathe. Unfortunately, we now know better. We know more about what was in that cloud, a poisonous cocktail of thousands of tons of coarse and fine particulate matter, pulverized cement and glass and other toxic pollutants.

To the mix were added 24,000 gallons of burning jet fuel and plastics, which created a dense plume of black smoke containing cancer-causing volatile organic compounds, dioxins and hydrocarbons, a specific combination of toxins probably never seen before and hopefully that we will never see again.

And all of this went into the mouths, throats and lungs of tens of thousands of workers while they tirelessly worked long shifts, not thinking first of their health but of serving this great Nation.

Later in this hour, I am going to share with you the stories of the individual brave men and women who worked at ground zero, but now let me just share one about the dust.

This is a story from Denise Bellingham of Long Island, New York. In her own words, as reported in the New York Daily News, she said, ''The air was indescribable,'' as you can see. ''You couldn't eat anything that wasn't covered with dust. We had paper masks, but they were no good. Condensation from breathing turned the mask into mud. It was worse to breathe with it on. We got respirators about a week into it, but they were not fit-tested. They just came in boxes, and we grabbed one that might fit.

''I worked more than 300 hours at ground zero. I considered it a thank you to America, a chance to do something for my country and for my fellow New Yorkers and for my co-workers who were buried in the rubble.

''We never expected anything to go wrong. Every day we were told the air was safe to breathe. Working down there as a team gave us healing. We could feel all the angels, all the people who had died there.''

Again, that was one of the personal accounts of work at ground zero, as reported in the Pulitzer Prize-winning Daily News series on the Forgotten Heroes of 9/11.

Now, well over 5 years after 9/11, we are seeing the potentially deadly effects on the thousands who worked around ground zero. This is in addition to the untold numbers of residents, area office workers and school children also exposed to the toxins of ground zero but have never received any medical monitoring or assistance from the Federal Government.

We have numerous peer-reviewed, scientific studies linking people's sicknesses to the toxins of ground zero.

Last year we learned from Mount Sinai, an important hospital in my district, and the World Trade Center Medical Monitoring Program that 70 percent of 9/11 responders suffered respiratory problems and 60 percent are still sick as a direct result of their work at ground zero. Making matters worse, nearly 40 percent of those screened have no health insurance, and for those who do have insurance, work-related illnesses are most often not covered.

We also learned from the fire department that the average New York City firefighter has lost 12 years of lung capacity following their service at ground zero, and many have been forced to retire or be reassigned due to their 9/11 illnesses.

And just 2 days ago, a new report from the fire department and Einstein College of Medicine in New York clearly linked World Trade Center dust to a rare type of lung-scarring disease, sarcoidosis, which involves an inflammation that produces tiny lumps of cells in the lungs. In some cases, the illness gets progressively worse and can be fatal.

Let there be no doubt. We now have scientific proof that the 9/11 health crisis is real, and that it is truly a matter of life and death.

□ 2130

Tonight I want everyone listening to understand this. The 9/11 health crisis is not only a New York City problem. The attacks on 9/11 were attacks against our Nation, not just New York. The whole country was touched; and, in the aftermath, people from every State in the Nation were exposed to these toxins while they assisted in the massive rescue recovery and cleanup efforts. Whether you came from California, Florida, Michigan, Pennsylvania, Hawaii, Alaska, you breathed in the same toxic air.

Last month, Congressman VITO FOSSELLA and I released a report showing that Americans from all 50 States were exposed to the aftermath of 9/11 and have serious concerns about their health.

This map shows how many people from each State enrolled in the World Trade Center Health Registry, which is a comprehensive health survey of those most heavily exposed to the toxins of Ground Zero. Those who enrolled answered a 30-minute telephone survey about where they were and what they did on 9/11, and they were asked to report the status of their health. This will allow health professionals to compare the health of those most exposed

to the events of 9/11 with the health of the general population.

Over 71,000 people who met the eligibility requirements of direct exposure decided to enroll in the registry. We know that there are an estimated 410,000 people who would have been eligible, meaning that 410,000 people were likely directly exposed to the deadly toxins of 9/11.

Of the 71,000 people who were concerned enough about their health to enroll, over 8,000 live in New Jersey, over 1,200 live in California, another 1,200 live in Florida, 156 live in Arizona, 350 live in Georgia, 238 in Maryland, and 341 live in Texas. At least 28 people came from as far away as Hawaii.

The list goes on and on, but the message of this map is clear: This is a national emergency, and it deserves a strong Federal response.

Over 1,000 people are from Pennsylvania, including Ryan McCormick, who came to Ground Zero from Representative DENT's district in Pennsylvania. His father, David McCormick, sent me an e-mail explaining that Ryan was a paramedic for University Hospital in Newark, New Jersey, who came to the aid of New York in our country in our time of need.

In his 5 days at Ground Zero, he served in many capacities. A year and a half later, he came down with Hodgkin's Disease, a cancer of the lymphatic system. He has undergone a great deal of chemotherapy and radiation, but nothing has worked. We sincerely thank Ryan for his service to our country, and we pledge that we will not forget his service or his health needs.

I also thank him for his hard work in getting the message out to country and Congress that we cannot forget the heroes of 9/11, and I am told that he is with us tonight in the gallery. We want to personally thank you for your service and your courage.

With a problem of this scope, what we need right now is a plan from the current administration on how they intend to medically monitor everyone who was exposed to the deadly toxins at Ground Zero, and we need a plan to treat everyone who is sick. That is the least that we can do for these heroes and heroines.

Along with my colleagues in New York and our entire delegation, I have been calling for a plan for years now. We don't have a plan yet, but we have made some important progress.

After a long fight with the administration, in May, 2003, we were successful in securing $90 million for medical monitoring for responders.

Then, with the leadership of Representative SHAYS, the Government Reform Committee started a series of important congressional hearings bringing this topic to light.

Then, after the President actually rescinded, they took out of the budget $125 million meant for New York recovery efforts, the New York delegation fought to have the $125 million restored in October of 2005. Of that, $50 million was set aside for workers' compensation, and $75 million was for medical monitoring and treatment. This was the first-ever Federal funding for treatment of sick 9/11 responders.

Unfortunately, then we had to fight just as hard to get that $75 million out of the hands of the Department of Health and Human Services and to the doctors and patients that need to be monitored and treated.

Finally, in late fall of this year, the $75 million was finally released to help the men and women who helped so many on 9/11.

While we were fighting to get that funding released, we took a step closer to having a coordinated Federal response when the Director of the National Institute of Occupational Safety and Health, Dr. John Howard, was appointed at the request of the New York congressional delegation as the Federal coordinator for 9/11 health issues in February of 2006.

Since his appointment, we have seen the release of the first clinical guidelines on the physical health effects many have suffered from the World Trade Center attacks and a draft of autopsy guidelines.

We have also seen Assistant Secretary John Agwunobi appointed as leader of a task force on 9/11 health within the Department of Health and Human Services. While we were promised a plan from this new task force between February of this year, Congress has yet to see one. We still do not have a plan from the administration to medically monitor everyone exposed to those deadly toxins and treat those who are sick as a result of exposure in their hard work at Ground Zero.

That is why, along with Congressman FOSSELLA, I have introduced a resolution which calls on the administration to create a comprehensive long-term plan to medically monitor everyone exposed and treat those who have become sick.

Along with many Members of Congress, I have also introduced the first comprehensive authorizing legislation to care for both the health and economic well-being of all those affected. Named after New York City Police Detective James Zadroga, one of the first 9/11 responders to have his death directly attributed to his exposure to the toxins of Ground Zero, this legislation combines and builds upon two pieces of legislation that we have previously introduced in the 108th and 109th Congress, the Remember 9/11 Health Act and the James Zadroga Act to reopen the Victims' Compensation Fund.

H.R. 1638, the James Zadroga Act, the 9/11 Health and Compensation Act, has four main components. It provides, first, for medical monitoring and treatment; secondly, compensation; thirdly, research; and, fourthly, coordination.

To provide medical monitoring and treatment, the James Zadroga Health and Compensation Act continues and expands the current programs at three Centers for Excellence dedicated to 9/11 health issues to all people exposed to the toxins of 9/11, including first responders, rescue, recovery and cleanup workers, area residents, office workers and students. It would ensure that everyone exposed is monitored, and everyone who is sick is treated.

With regard to compensation, the legislation reopens the September 11 Victims' Compensation Fund to provide individuals who have become sick with 9/11 compensation for their loss. We can't make a person whole by helping them with their health but not addressing their economic needs.

For research, H.R. 1638 directs the Department of Health and Human Services to conduct or support diagnostic and treatment research for health conditions that are associated with the exposure to the terrorist attacks of September 11, 2001.

To ensure coordination, the bill establishes the 9/11 Health Emergency Coordinating Council for the purpose of discussing, examining and formulating recommendations to improve coordination between the Federal, State and local problems and getting those governments on all three levels to work together.

Passing long-term comprehensive legislation like this, and securing funding in the meantime, has proven to be a long, hard fight. Those who are sick from 9/11 are fighting for their lives, and we cannot forget them.

I stand here tonight to promise that I will not rest until we have a system in place that medically monitors everyone exposed to the deadly toxins and treats who is sick. On 9/11, we had many, many people rush to save the lives of others, and many worked for days to help others.

One of my colleagues has a constituent who is suffering from his exposure. He has been treated with chemotherapy. He, I understand, is here in the gallery tonight, up here. We applaud him and thank him for his service. Our prayers, our thoughts, our hope, our work to pass this legislation is for you and for other workers like you who went to help others after the deadly attacks.

I now yield to my good friend and colleague from the great State of Pennsylvania that had over 1,000 of their residents now registered in the official registry of those who worked at Ground Zero and whom we need to monitor for the next 20 or 30 years.

Mr. DENT. I would like to thank the gentlelady from New York (Mrs. MALONEY) for arranging this opportunity to come to the floor to raise awareness of the ongoing effects of 9/11.

I am proud to say that so many from Pennsylvania answered the first call very, very quickly, among some of the first there after the New Yorkers, who helped deal with the aftermath of those horrible attacks.

As we all know, September 11, 2001, was one of the darkest days in American history. Nearly 3,000 innocent people were killed in separate incidents in

New York, Pennsylvania and Virginia. These attacks were intended to instill fear in our hearts and minds and to shake our American spirit.

They did not have that desired effect. Instead, they unified a Nation and strengthened the resolve of the American people. I neglected to mention that one of my own relatives was in the North Tower and, thankfully, made it out. He was on the 91st floor, made it out. All of his colleagues did, too, but nobody above them did. So this issue has touched us all in many ways.

September 11, and the long days that followed, bore witness to inspiring acts of heroism and self-sacrifice. As rescue and recovery efforts unfolded, we saw Americans reaching out to one another, united in a determination to make the country whole again.

Whether it was neighbor helping neighbor or stranger helping stranger, Americans from across the country simply gave of themselves, and operating at the front lines of this effort were local first responders. I would like to take this opportunity to talk about one of those first responders, a selfless and heroic individual by the name of Ryan McCormick.

Ryan, a native of Bethlehem Township in my district, has led a life of service that we should all try to emulate. An Eagle Scout of the Minsi Trails Council, Ryan committed himself to public service at a very young age. Whether he was volunteering at the Bethlehem Township Volunteer Fire Company, performing search and rescue operations with the Civil Air Patrol, or defending our Nation as an 8-year veteran of the United States Army Reserve, Ryan has always been concerned about the well-being of others.

Taking the Boy Scout motto of ''Be Prepared'' to heart, Ryan was, indeed, prepared and acted without hesitation on that fateful Tuesday, Tuesday morning of September 11. Ryan was working as a paramedic in Newark, New Jersey, when his unit was dispatched to the terrorist attacks. Relying on his years of preparation and experience and firmly committed to helping others, Ryan worked tirelessly from September 11 to September 13. The work was hard, dirty and dangerous and heartbreaking. But Ryan persisted. For him, duty came first.

□ 2145

But Ryan McCormick paid a terrible price for his determination and resolve. In late 2002, Ryan started to become sick. In the spring of 2003, he was diagnosed with Hodgkin's disease, a cancer of the lymphatic system. He has undergone consistent treatment for over 4 years, including a stem cell transplant. He is still fighting valiantly against his cancer and soon hopes to be well enough for another stem cell transplant.

But Ryan is not alone. Many of the first responders who worked to ease the suffering of the innocent are now suffering life-threatening illnesses. Fortunately, Ryan, like the rest of his first responder colleagues, is a fighter. And I am proud to let you know that Ryan has joined us tonight and is seated in the Gallery.

Ryan continues to battle this cancer while continuing his service to others. Ryan is the director of emergency management for New Jersey's largest health care system, serves as the Essex County emergency management deputy EMS coordinator and is a lieutenant for the Verona, New Jersey, rescue squad.

In addition, Ryan has started a nonprofit corporation that raises money to buy iPods for cancer patients undergoing cancer treatment. This organization is named Project Turtle Pods, and more information about this endeavor can be found at www.projectturtlepods.com.

Ryan, the House of Representatives welcomes you and thanks you for your courageous service on September 11th. You exemplify all that is great about the American spirit.

As ranking member of the Homeland Security Committee's Subcommittee on Emergency Communications, Preparedness and Response, I am very well aware of the sacrifices our country's first responders make to ensure the safety of others. In turn, we in Congress must take on the responsibility of protecting those who sacrifice to protect us. That is why I have agreed to cosponsor Representative MALONEY's bill, House Resolution 128, which urges the Department of Health and Human Services to prepare a long-term, comprehensive plan to medically monitor all individuals who were exposed to the toxins of Ground Zero.

Of all the lessons we learned from the terrorist attacks of 9/11, there is one first and foremost that stands out: We must not forget those individuals who continue to suffer in the aftermath of these events. The spirit found in Ryan McCormick is fundamentally American. It is this can-do attitude that assures us that we as a Nation can rise to meet any challenge that we encounter. Let us follow the example that Ryan has set for us and help those who are suffering from afflictions precipitated by their involvement in the 9/11 rescue, recovery and cleanup efforts. The people who gave so much to us at that site deserve nothing less.

Again, I want to thank the gentlelady from New York (Mrs. MALONEY) for tonight's opportunity to speak on this important issue and her commitment to our Nation's first responders. I want to thank her for her friendship and her leadership on this issue.

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

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for his statement. I thank him for working so hard not only for Ryan McCormick, his constituent, but all the men and women who came from every State in this Nation, including Alaska and Hawaii, to work at Ground Zero and to try to help save lives and to try to clean up the debris that was there.

As I mentioned earlier, the New York Daily News Editorial Board won the Pulitzer Prize for its groundbreaking series of editorials entitled, ''9/11, The Forgotten Victims.''

Now, I would like to share with you an excerpt from this award-winning series. It is called, ''Abandoned Heroes.''

''They cough. They wheeze. Their heads and faces pound with the pressure of swollen sinuses. They lose their breath with minor exertion. They suffer the suffocation of asthma and diseases that attack the very tissues of their lungs. They endure acid reflux, a painful indigestion that never goes away. They are haunted by the mental and emotional traumas of having witnessed horror. Many are too disabled to work, and some have died.''

Like Ryan McCormick, who is with us tonight in the Gallery, there were many other heroes. Another hero was Christopher Hynes, and I would like to discuss him, from this award-winning series:

''For Christopher Hynes, life as a forgotten victim of 9/11 is a battle of breath. Five years ago, Hynes was a 30-year-old, healthy, nonsmoking New York City police officer. Then, in September and October 2001, he was assigned to Ground Zero duty, spending more than 100 hours patrolling the area of the smoldering rubble of the Twin Towers. The air was thick with dust and smoky particles.

''Today, Hynes, married and the father of a 4-year-old son, has sarcoidosis, a disease that scars lung tissues, and asthma, a disease that inflames and obstructs the airways of the lungs. He coughs constantly and cannot exert himself without losing breath. He survives with the help of steroids and performs restricted duties for the police department.

'' 'I will probably have this for the rest of my life,' he says.''

We must not forget him. We must provide him with health care and monitoring and treatment for the rest of his life.

Mr. Speaker, I now would like to recognize my good friend and colleague, GERALD NADLER, who represents the Ground Zero area and has worked tirelessly on this issue. I grant the gentleman 7 minutes.

Mr. NADLER. I thank the gentlelady.

Mr. Speaker, when the World Trade Center collapsed on September 11, 2001, the towers sent up a plume of poisonous dust that blanketed Lower Manhattan, Brooklyn, and parts of Queens and into New Jersey. A toxic mixture of lead, dioxin, asbestos, mercury, benzene and other hazardous contaminants swirled around the site of the disaster and far afield as rescue workers labored furiously in the wreckage, many without adequate protective

gear. Thousands of first responders inhaled this poisonous dust before it settled onto and into countless homes, shops and office buildings.

Immediately after the collapse, and for the weeks after that, the Environmental Protection Agency had the responsibility of being the lead agency responsible for ensuring the safety of the hundreds and thousands of people who live and work and attend school in Lower Manhattan, Brooklyn and Jersey City, and of the first responders.

Instead, the EPA and the Federal Government betrayed the people who live in New York and betrayed all the first responders, the police officers and the fire officers, and the volunteers from all over who came to help us clean up. It betrayed them in two ways.

First, the EPA assured all that the environmental conditions in New York were not hazardous and that the health of those near the plume was not in danger. Former EPA administrator Christine Todd Whitman irresponsibly declared within a few days after 9/11 that the air was safe to breathe and the water was safe to drink, and EPA continued saying that when they had plenty of data to say it wasn't true. The EPA and the Federal Government lied, and because of these lies, people are sick and dying today. The air was not safe. There is no doubt the EPA initiated two separate cover-ups that go on to this day.

For years, the Federal Government, the State government, the city government insisted that there was no evidence, no proof that people who were getting sick, that fire officers and police officers who had annual exams and had been healthy all the time and who suddenly could not breathe and could not work, this had nothing to do with the World Trade Center. You couldn't prove it was because they were poisoned by the atmosphere.

It was only last September, in September 2006, 5 years after the World Trade Center collapsed, that this cover-up unraveled.

A study released last September by Mount Sinai Hospital found that of the more than 9,000 first responders examined in that study, 70 percent suffered health problems related to their work at Ground Zero.

The evidence continues to pile up. Yesterday, the New York Times reported a clear link between World Trade Center dust and life-threatening disease. And yet, until very recently, the Health Department and the City of New York continued to deny that this was the case.

The City of New York continues to contest every workers comp case filed because, obviously, these are all malingerers; nothing was true.

The article in yesterday's Time cites reports by doctors from the fire department of New York and the Albert Einstein Medical College which again confirm what we have known, that all honest people have known for years: that we are facing a major health crisis as a result of September 11th. And we know that these conditions are very often long-lasting, life-lasting and that they go on and on.

In the days and weeks after 9/11, New York City firefighters and police officers joined with workers and volunteers from all 50 States to aid in the colossal rescue and recovery effort. But more than 5 years later, the Federal Government has not begun to do its part.

To this day, there has been no comprehensive program by the Federal Government to monitor, as Mrs. MALONEY said, to monitor the health of all the victims, the firefighters, the cleanup workers. There has been no provision of medical services.

The President finally, in this year's budget that we are now debating, proposes supplying $25 million. And yet we know that the cost of caring for these people will be probably in the neighborhood of $300 million per year for the indefinite future.

For every day that goes by, more and more people become sick and are diagnosed with illnesses that their doctors attribute to the contamination of the World Trade Center. That is why a number of pieces of legislation have been introduced. For instance, Senators CLINTON, MENENDEZ, SCHUMER and KENNEDY, and in this House, Congressman TOWNS, ENGEL, WEINER, and I have introduced the 9/11 Heroes Health Improvement Act of 2007, which would provide more than $1.9 billion in Federal funding for medical and mental health screening, testing, monitoring and treatment grants for institutions that provide care to those whose health was affected in the 9/11 attacks, for the next 6 years, this would cover.

And that is just the first cover-up. The second cover-up is that we know that the World Trade Center contamination settled in Lower Manhattan, in Brooklyn, in Queens, probably in Jersey City, in many neighborhoods, buildings and onto streets. Nature cleans up the outdoor air, but it doesn't clean up the indoor air. The rain washes away dust in the outdoors; the wind blows it away. But nothing removes the indoors. People were told, don't worry, it is safe to move back to Lower Manhattan. In high school, students were told to go back after a week. And yet, we know that the indoor contamination was not dealt with properly. We know that, unless properly cleaned up, professionally cleaned up, indoor spaces are still contaminated; that even if you went in, as the New York City Department of Health urged, and said, ''If you see World Trade Center dust in your apartment, clean it up with a wet mop and a wet rag,'' and the EPA echoed this advice. This, too, was a betrayal, because not only is that advice illegal because we know that much of that dust had asbestos in it, and it is illegal to remove asbestos-laden material, to move it, to touch it, to deal with it unless you are properly licensed to, certified to do so and wearing equipment. But EPA and the City of New York Health Department told people to remove it with a wet mop and a wet rag.

We also know that, if you did that, besides being illegal, you probably inhaled some of it. And the very often immigrant workers hired by fly-by-night firms, who, not professionally, did this probably inhaled a lot of it. And we also know that, if you did it, you didn't thoroughly do it; that the dust settled into the porous wood surfaces and into the carpets and the drapes and behind the refrigerator and into the HVAC systems. And where the toddler crawls on the rug today and loosens that dust into the air, that toddler is being poisoned today. We probably have thousands or tens of thousands of people all over Manhattan and Brooklyn and Queens and Jersey City who are being poisoned today and who we will see come down with asbestosis and mesothelioma and lung cancer 15 years from now, because it has never been properly cleaned up because the EPA continues to deny its responsibility.

The EPA ombudsman's office was called in at my request in February and March of 2002, and held hearings to see what could be done about this. What happened? The EPA abolished the ombudsman's office.

The EPA set up, at Senator CLINTON's request, a scientific advisory body to look into this. They started saying, ''Hey, wait a minute. We have got a major problem here.'' What happened? They were disbanded by the EPA.

The EPA inspector general's office looked into this, and came out with a report in August of 2003, saying that thousands of people are endangered by this; that what we have to do is randomly inspect indoor spaces, apartments and work spaces in concentric circles going out from the World Trade Center so that we can find out where the contamination still exists, maybe 3 blocks in one direction, maybe 3 miles in another direction. But, wherever it is, map it, delineate it, and wherever it is, go in on a building-by-building basis, clean it up so that people are not continually poisoned indefinitely.

□ 2200

Clean it up, so that people are not continually poisoned indefinitely. What happened to that report? It was ignored by the EPA, and the people in the Inspector General's Office are no longer there.

And again, at Senator CLINTON's insistence and because CAROLYN MALONEY and I and others insisted, the EPA set up another scientific advisory body in 2005. What happened? They started saying, you know, the Inspector General is right and what the EPA has done is inadequate. What happened? They were disbanded before they could make official recommendations.

To this day, we know that we are poisoning large numbers of people continually and piling up unnecessary cases

of fatal diseases that will come out in 10 and 15 years because the Federal Government and the city government of New York has ignored this problem and covered it up.

So, in summary, we have two separate cover-ups, one of which unraveled only within the last year. We are trying to deal with it. We still don't have the funds to deal with it. The Federal Government, the Bush administration has ignored it, basically. They have not come out with proper recommendations.

Some of us, Congresswoman MALONEY, Congressman SHAYS, myself, Senator CLINTON, have made legislative proposals for long-term care and monitoring of the medical conditions caused that will be with us for the next 50 years. We don't have administration support. We haven't enacted that legislation. We must.

But at least, because that cover-up unraveled last year, we're talking about it. But that second cover-up, they're still denying it. The City of New York is still denying it. The Federal Government is still denying it. And until they admit it, until we do the proper investigation in the way that the Inspector General recommended and look at all the areas and find out where the contamination is and go in and clean it up, and it may cost a couple of billion dollars to do that, but until we do that we will continue poisoning people, we will continue making sure that 10 and 15 and 20 years from now we will have thousands perhaps of unnecessary cases of fatal diseases.

So I say to you, Mr. Speaker, I thank Ms. MALONEY for calling this special order tonight. But I say to you, we must enact a legislation such as CAROLYN has talked about, such as I have talked about, such as others have, to put into place systematic means of monitoring and providing medical services for the victims, the first responders. But we must also make sure that the EPA and the Federal Government step up to the plate, unravel that second cover-up, peel it away, see what the problem is, inspect the areas, find out where the contamination still is. And where it still is, go in and on a building by building basis clean it up so that we can know that people can live and work in areas without being poisoned and without coming down with additional diseases.

Without doing this, we are adding to the work of the terrorists. The Federal and city governments are becoming complicit in adding to the victims. It was bad enough the terrorists cost us 3,000 dead that day. The Federal and city government should not be adding to the victims as they still are.

Mrs. MALONEY of New York. I thank the gentleman for his hard work and for his statement and for being here tonight. I know that he has many constituents such as Congressman DENT, and we thank Ryan McCormick for being with us in the Chamber tonight.

I want to talk about another victim of 9/11, Winston Lodge. He was written about in ''The Making of a Health Disaster'' which was originally published July 25, 2006; and I quote from the Daily News.

''For Winston Lodge, life as a forgotten victim of 9/11 is the torment of chronically inflamed and bleeding sinuses.

''5 years ago, Lodge was a 44-year old iron worker who helped build things. Then, called on to help dismantle the pile, he pitched in at Ground Zero for 12 hours a day, 7 days a week for a month.

''Today, Lodge's nose runs constantly and often bleeds. He suffers headaches from sinus pressure, has shortness of breath from chronic bronchitis, and has acid reflux, a painful heartburn. He has undergone surgery to relieve sinus difficulties and is waiting for a second operation.

''Since 2004, Lodge, a divorced father of four, has not been able to work; and he says, and I quote, ''I am sick to my bones, and I need help.''

A number of people have worked very hard on this and held hearings to focus on this issue, including Mrs. CLINTON and, very recently, ED TOWNS had one in Brooklyn, New York, about the health impacts on his constituents in Brooklyn. He held another one here in Washington.

But the first person to call a series of hearings on the health impacts of 9/11 was my colleague from Connecticut, CHRISTOPHER SHAYS. Under the Government Reform and Oversight Committee, he held hearings in New York, many here in Washington, that helped focus the light on the need for everyone to be monitored who was exposed to those deadly toxins and everyone who is sick to be treated. We thank you for holding those hearings and for joining us tonight in this special order. Thank you, Mr. SHAYS.

Mr. SHAYS. Thank you, Representative MALONEY; and it is really a privilege to be with you and both JERRY NADLER. I know that both of you have been at the forefront of this issue and clearly have been championing it, both of you.

But I particularly want to thank Mrs. MALONEY. Because you were the one who, serving on my subcommittee at the time, said we needed to get at this issue. And you're the reason why we ended up having these hearings.

During the last 2 years, as chairman of the Subcommittee on National Security, Emerging Threats and International Relations, we held four oversight hearings on the federally funded medical monitoring and registry programs that were established following the September 11 terrorist attacks. And you, obviously, and Mr. NADLER, were major participants. The witnesses' testimony at the subcommittee clearly demonstrated the significant health challenges faced by the Ground Zero responders, as well as the need for their continued health monitoring.

You know, nearly 6 years after the cataclysmic attacks on the World Trade Centers, shock waves still emanate from Ground Zero. Diverse and delayed health problems continue to emerge in those exposed to the contaminants and psychological stressors unleashed on September 11, 2001.

Firefighters, police, emergency medical personnel, transit workers, construction crews and other first responders, as well as volunteers, came to Ground Zero knowing there would be risks but confident their community would sustain them. These individuals did not just go to work on that day. They went to war.

However, as we know, Federal, State and local health support has not provided the care and comfort they need and rightfully deserve.

After the 1991 war in the Persian Gulf, veterans suffering a variety of unfamiliar syndromes faced daunting official resistance to evidence linking multiple low-level toxic exposure to subsequent chronic ill health. In part due to our subcommittee, long-term registrants were improved and an aggressive research agenda was pursued and sick veterans now have some of the benefits, in law, of presumption that wartime exposures cause certain illnesses.

When the front line is not Baghdad but now lower Manhattan, occupational medicine and public health practitioners still have much to learn from that distant Middle East battlefield. Proper diagnosis, effective treatment and fair compensation for the delayed casualties of toxic attacks require vigilance, persistence and a willingness to admit what we do not yet know and might never know about toxic synergies and syndromes. Health surveillance has to be focused and sustained and new treatment approaches have to be tried to restore damaged lives before it is too late. And I fear it really is becoming almost too late.

Still today, it appears the public health approach to lingering environmental hazards remains unfocused and halting. The unquestionable need for long-term monitoring has been met with only short-term commitments. Screening and monitoring results have not been translated into timely protocols that could be used by a broader range of treating physicians. Valuable data sets compiled by competing programs may atrophy as money and vigilance wane.

Both the executive and legislative branches of our Federal Government are failing those who were on the front lines nearly 6 years ago. Many responders, workers, residents and schoolchildren are getting sick from the toxins that they were exposed to in the area around Ground Zero. We are not providing those affected with satisfactory treatments and care.

We need to know how many people are sick or how many become sick or how they may become sick and if they are receiving proper medical care. We

also need to talk to the doctors who are treating them to determine if they are aware of how best to care for these victims.

I just have two more points I want to make. We have spent billions of dollars improving our method to defend the United States against another terrorist attack, and we are certainly safer than we were in 2001. But we are still not completely safe. I believe we need to use oversight hearings to help prepare for a similar attack in another city, to determine how large an area the government should be monitoring for health effects, and what some of these of the best practices are to minimize the impact and treat future victims in these catastrophic situations.

It is our duty to care for the victims who continue to live with illnesses caused by the events of that fateful day, to monitor, track and treat their symptoms and to ensure they have knowledge of and access to services available to them. Congress and the administration also have a duty to make sure we as a Nation have learned from their experiences so we can effectively and expeditiously respond to a similar horrendous event in the future, and I think that's what both of you are trying to do and trying to highlight.

My constituents don't live in New York City. But I had a number who came and spent every day at Ground Zero, and I just know what they're dealing with. And we know so many others. There are thousands of others of individuals, and they need our attention.

I thank our colleague, and I hope we have a chance to have a little bit of a dialogue about this.

Mrs. MALONEY of New York. Well, I thank my colleague and good friend from Connecticut; and I thank him particularly for the public hearings that really focused the need and, I think, helped us achieve partial funding, the $25 million that we got in the President's budget. As we know, JERRY and the New York delegation, along with Senators CLINTON and SCHUMER, we have worked very hard to have $50 million added to the supplemental budget for the health needs of the 9/11 workers. This has been a delegation-wide priority on both sides of the aisle led by our two Senators and by the entire delegation.

I remember your hearings very vividly, the men and woman who came and testified who were sick. They came with their pills. They came with their coughs. Some could hardly breathe. They could hardly talk.

I want to share another story with my colleagues of Jeffrey Endean, who was highlighted in the Daily News articles as life as a forgotten victim of 9/11. And he says, 5 years ago, he was a 51-year old Division Commander for Morris County New Jersey's Sheriff Office. He was healthy, able to run several miles.

Then he was pressed into Ground Zero service because he had experience helping first responders cope at horrific scenes. He worked 12 hours a day, from September 11 to November 22, 2001.

Today, he has reactive airways dysfunction syndrome, RADS, a rare irritant-induced form of asthma. His sinuses often bleed. He is prone to headaches and upper respiratory infections.

Married, the father of three and grandfather of three, he retired in 2003; and he says, ''I start the day with four to five inhalers and a pill. Will I have cancer at 66? Will I live my life as long as I should?''

That is the question, and that is why JERRY and CHRIS and I have worked so hard to have monitoring. And we need to continue this monitoring treatment not just for the next 5 years but doctors say for the next 20 or 30 years. New diseases are coming up. Pulmonary fibrosis, where the fibers in the lungs, they can hardly breathe. It's like an iron lung.

And, JERRY, you were at those hearings. Can you comment and add to what CHRIS said about the hearings? And JERRY and I and CHRIS really represent many people who work there, the residents. We need to get the residents into the registry, too.

Mr. NADLER. Thank you, CAROLYN.

What struck me about the hearings was several things. We've had hearings for a number of years, and I remember the first hearing I attended was presided over by Senator LIEBERMAN, a U.S. Senate hearing back in February of 2002. But none of this has changed. It's 5 years later, and it hasn't changed.

Number one, you see the victims, the first responders, the people who dropped everything they were doing to help, to help victims that we thought people might be still alive under the debris. They weren't. Who then helped with the cleanup to get, who worked on the pile for 40 and 50 days. And we heard story after story of how healthy people were no longer healthy and they could no longer work and they could no longer breathe, how they now had to take 20 and 30 and 40 different pills and medications a day, how they couldn't pay for the medications, how they had lost their jobs, and because they lost their jobs they lost their health coverage and how the workers comp system didn't work for them.

□ 2215

How a hero who was given an award for heroism at the World Trade Center, when he went for workers' comp, they said, Prove you were there.

Mrs. MALONEY of New York. JERRY, I have his picture in my office. He found the flag, the flag that was flown around the world from Ground Zero, and they will not acknowledge that he worked there. He got awards. And what struck me about him and many others, JERRY and CHRIS, if you will remember, at that hearing they testified they would do it again even though they know they had lost their health.

Mr. NADLER. So the first thing we saw at those hearings were these people testifying about how they selflessly worked, and we know that they did, and how they had been betrayed by every level of government in treating them, by the workers' comp and the State, by the Federal Government.

The second thing was it was clear from the heroic work done by the people at Mount Sinai and the Fire Department of the City of New York, in trying to deal with these sick people and who had to put the funding together for private philanthropic sources, that until last year there was no government funding for any of this whatsoever. Finally we got a few million dollars.

Mrs. MALONEY of New York. It is a scandal. An absolute scandal. And at the hearing remember the Health Commissioner testified that Zadroga did not die from 9/11? I couldn't believe it.

Mr. NADLER. The Health Commissioner testified that. There has been a denial, a straightforward denial, by City and State people because they don't want to admit liability.

The third thing was that even now, even now, when Dr. Agwunobi testified, he said we will have a plan. Well, we haven't seen the plan. We know now that it is going to cost about $300 million a year just to deal with the health conditions of the people we know about. Never mind the cleaning up of the contaminated areas, but just for the first responders, it is going to cost about $300 million a year. The President proposed $25 million, but it was made very clear at the hearing, the last hearing, that the plan that the Federal Government was going to come up with, if they actually come up with a plan, would not deal with residents, would not deal with the health problems of people who are living there, who were beseeched by the City and Federal Government to come back and live and work in lower Manhattan and are suffering because they listened to that.

Mrs. MALONEY of New York. Our legislation calls for that all the residents should be covered. But remember, at the last hearing that Congressman TOWNS had, Agwunobi testified that we no longer needed a plan, that he wasn't going to give us a plan.

They said they would give us a plan in February. Where is it? That is why we have a resolution calling for a plan on how we are going to monitor and treat these heroes and heroines.

Mr. NADLER. And that is a scandal also. The other thing that was very clear, and it has been clear from the EPA right up to date, is that the registry has dealt with people who live or who work in lower Manhattan, below Canal Street, as if there was a 30,000-foot high wall along Canal Street or a Star Trek-type force field along Canal Street and across the East River because, after all, anyone who lives north of Canal Street has no problem. And anybody who lives in Brooklyn, where we saw the satellite photos showed the plume went and where Congressman

WEINER testified that at his office 10 miles away, debris was falling on the terrace at his office, and we know it was falling across all these neighborhoods across Brooklyn; we don't have to deal with that. We are going to be studiously ignorant of all the people in these other places outside of lower Manhattan. That was brought out very clearly in Congressman TOWNS' hearing. And the fact is, we have to look at all these hearings areas and do the job properly.

Mr. SHAYS. I would add to that but also make the point that this won't be the first city that will have to deal with this kind of issue. I mean, we want to be able to protect and prevent a terrorist attack, but there may be some other event. And what we also need is a protocol that makes sure that future first responders are never put in this condition and that residents around wherever an event takes place are notified and given good information. The bottom line is, no one was ever given good information from day one.

Mr. NADLER. That is a very good point.

Mrs. MALONEY of New York. That is very true. But I also want to build on what he said, that people are going to be watching how we treat these first responders. God forbid that we have another 9/11 attack or another terrorist attack, they are going to know that we weren't there to provide, at the very least, the health care and the monitoring that the heroes and heroines need, and that is a very important precedent. It is not only, do we need to take care of these men and women, Mr. McCormick, who is with us tonight in the Gallery, but we have to send a message that we are going to be there for our first responders.

Mr. NADLER. There are a couple of lessons that really should be learned here. One, Abraham Lincoln said, at the end of the Civil War, that you have to care for him who shall have borne the battle and for his widow and his orphan. We are failing in doing that, when he who shall have borne the battle here are heroes who came in to help, and we are abandoning them.

Second, the EPA had a duty to do the job here. They failed in that duty. And that is a danger for the future. The law provides that the EPA must come in and classify the area and make sure and protect people, and the OSHA laws were enforced in Washington so no one got sick. They weren't enforced in New York, and 50,000 people are sick.

Mrs. MALONEY of New York. I know. There were lots of terrible mistakes that are causing people their health now.

And in closing in this final minute, I just want to underscore that we as a Nation must not forget the firefighters, police officers, emergency medical technicians and all the other responders, volunteers and residents who bravely rushed down to save lives even as everyone else was running in the opposite direction. We must not forget the rescue, recovery and cleanup workers who stayed on for months at Ground Zero in service to our country. And we must not forget the residents, area workers and school children who lived, worked and studied through the toxins and have now become sick.

Once again, I stand on this floor of Congress and note that this was an attack against our Nation, and we know that the Nation responded. Every State has workers that were affected by the deadly toxins at Ground Zero. Every State had residents who rushed to our State and rushed down to Ground Zero to help. We will never forget them, and we will not stop. Both sides of the aisle, we are committed to making sure that everyone who was exposed to the deadly toxins is treated and everyone who is sick is going to get medical care. That is the least that we can do for these brave men and women.

I thank my colleagues and especially Ryan McCormick, who is here with us tonight, for coming. And I thank you for your work not only tonight on this Special Order tonight but throughout your year in Congress. Since 9/11, it has been a priority of yours. And my constituents, the thousands that were affected thank you for your efforts, and I thank you for having this opportunity of joining me in this Special Order.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ELLISON). The Chair would remind all Members that the rules prohibit referring to guests in the gallery.

RECESS

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

Accordingly (at 10 o'clock and 24 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2308

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ARCURI) at 11 o'clock and 8 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2237, PROVIDING FOR REDEPLOYMENT OF UNITED STATES ARMED FORCES AND DEFENSE CONTRACTORS FROM IRAQ; PROVIDING FOR CONSIDERATION OF H.R. 2206, U.S. TROOP READINESS, VETERANS' CARE, KATRINA RECOVERY, AND IRAQ ACCOUNTABILITY APPROPRIATIONS ACT, 2007; AND PROVIDING FOR CONSIDERATION OF H.R. 2207, AGRICULTURAL DISASTER ASSISTANCE AND WESTERN STATES EMERGENCY UNFINISHED BUSINESS APPROPRIATIONS ACT, 2007

Mr. MCGOVERN, from the Committee on Rules, submitted a privileged report (Rept. No. 110–143) on the resolution (H. Res. 387) providing for consideration of the bill (H.R. 2237) to provide for the redeployment of United States Armed Forces and defense contractors from Iraq; providing for consideration of the bill (H.R. 2206) making emergency supplemental appropriations for the fiscal year ending September 30, 2007, and for other purposes; and providing for consideration of the bill (H.R. 2207) making supplemental appropriations for agricultural and other emergency assistance for the fiscal year ending September 30, 2007, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2082, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2008

Mr. MCGOVERN, from the Committee on Rules, submitted a privileged report (Rept. No. 110–144) on the resolution (H. Res. 388) providing for consideration of the bill (H.R. 2082) to authorize appropriations for fiscal year 2008 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LARSON of Connecticut (at the request of Mr. HOYER) for today.

Mr. MORAN of Kansas (at the request of Mr. BOEHNER) for today on account of inspecting tornado damage.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and

extend their remarks and include extraneous material:)

Mr. MCDERMOTT, for 5 minutes, today.

Mr. ALTMIRE, for 5 minutes, today.

Mr. SESTAK, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mrs. MCCARTHY of New York, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

(The following Members (at the request of Mr. PRICE of George) to revise and extend their remarks and include extraneous material:)

Mr. POE, for 5 minutes, May 15 and 16.

Mr. JONES of North Carolina, for 5 minutes, May 14, 15, and 16.

Mr. SHAYS, for 5 minutes, today.

ADJOURNMENT

Mr. MCGOVERN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 11 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, May 10, 2007, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1600. A letter from the Administrator, Risk Management Agency, Department of Agriculture, transmitting the Department's final rule — Common Crop Insurance Regulations; Walnut Crop Insurance Provisions; Almond Crop Insurance Provisions (RIN: 0563-AC08) received April 10, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1601. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Mushroom Promotion, Research, and Consumer Information Order; Reallocation of Mushroom Council Membership [Docket No.: AMS-FV-07-0019; FV-06-704 IFR] received March 30, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1602. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2007-2008 Marketing Year [Docket Nos. AMS-FV-06-0188; FV07-985-1 FR] received March 30, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1603. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 2006-2007 Crop Year for Tart Cherries [Docket No. AMS-FV-06-0187; FV07-930-1 FR] received March 30, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1604. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Cranberries Grown in the States of Massachusetts, et al.; Increased Assessment Rate [Docket No. AMS-FV-06-0174; FV06-929-1 FR] received March 30, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1605. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Prohibition on Acquisition from Communist Chinese Military Companies (DFARS Case 2006-D007) received April 10, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1606. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; New Designated Countries (DFARS Case 2006-D062) (RIN: 0750-AF57) received April 10, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1607. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Free Trade Agreements — Guatemala and Bahrain (DFARS Case 2006-D028) (RIN: 0750-AF49) received April 10, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1608. A letter from the Director, Child Nutrition Programs, Department of Agriculture, transmitting the Department's final rule — Disclosure of Children's Free and Reduced Price Meals and Free Milk Eligibility Information in the Child Nutrition Programs (RIN: 0584-AC95) received April 10, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

1609. A letter from the Director, Regulations Policy and Mgmt. Staff, Department of Health and Human Services, transmitting the Department's final rule — Microbiology Devices; Reclassification of Herpes Simplex Virus Types 1 and 2 Serological Assays [Docket No. 2005N-0471] received May 2, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1610. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting the Department's final rule — Exemption of Chemical Mixtures [Docket No. DEA-137F3] (RIN: 1117-AA31) received April 17, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1611. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Revisions to the Export Administration Regulations based on the 2006 Missile Technology Control Regime Plenary Agreements [Docket No. 070411084-7087-02] (RIN: 0694-AD96) received May 4, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

1612. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Updated Office Names, Office Addresses, Statements of Legal Authority and Statute Name and Citation [Docket No. [070411085-7088-01]] (RIN: 0694-AE01) received May 4, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

1613. A letter from the Executive Director, Christopher Columbus Fellowship Foundation, transmitting pursuant to the Accountability of Tax Dollars Act, the Foundation's Form and Content Reports for the second quarter of FY 2007 as prepared by the U.S. General Services Administration; to the Committee on Oversight and Government Reform.

1614. A letter from the Deputy CHCO/Director, HCM, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

1615. A letter from the Acting General Counsel, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

1616. A letter from the Chair, Equal Employment Opportunity Commission, transmitting the Commission's annual reports for FY 2006 prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174; to the Committee on Oversight and Government Reform.

1617. A letter from the Equal Employment Opportunity Coordinator, Farm Credit Administration, transmitting the Administration's annual report pursuant to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 for Fiscal Year 2006; to the Committee on Oversight and Government Reform.

1618. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's annual report for Fiscal Year 2006 on the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Oversight and Government Reform.

1619. A letter from the Administrator, General Services Administration, transmitting the Administration's intent to adjust the dollar thresholds for submission of construction, alteration, lease, and lease alteration prospectuses, pursuant to 40 U.S.C. 3307(g); to the Committee on Oversight and Government Reform.

1620. A letter from the Chairman, International Trade Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2006 through March 31, 2007, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Oversight and Government Reform.

1621. A letter from the Acting Co-Executive Director, National Council on Disability, transmitting the Council's Annual Performance Report to the President and Congress Fiscal Year 2006, as required by the Government Performance and Results Act, pursuant to 31 U.S.C. 1116; to the Committee on Oversight and Government Reform.

1622. A letter from the Chairman, National Endowment for the Arts, transmitting in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108-199, the Endowment's report on competitive sourcing efforts for Fiscal Years 2003 through 2006; to the Committee on Oversight and Government Reform.

1623. A letter from the Director, National Science Foundation, transmitting in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108-199, the Foundation's report on competitive sourcing efforts for FY 2006; to the Committee on Oversight and Government Reform.

1624. A letter from the Administrator, Office of Management and Budget, transmitting the Office's report on competitive sourcing activities for FY 2006, in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, Fiscal Year 2004, Pub. L. 108-199; to the Committee on Oversight and Government Reform.

1625. A letter from the Director, Office of Personnel Management, transmitting the Office's Fiscal Year 2006 annual report on statistical data relating to Federal sector equal employment opportunity complaints filed with the Office; to the Committee on Oversight and Government Reform.

1626. A letter from the Chairman, Postal Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for calendar year 2006, pursuant to 5 U.S.C. 552b(j); to the Committee on Oversight and Government Reform.

1627. A letter from the Deputy Director, U.S. Trade and Development Agency, transmitting the Agency's Fiscal Year 2007 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, Pub. L. 107-174; to the Committee on Oversight and Government Reform.

1628. A letter from the Executive Director, United States Access Board, transmitting the Board's FY 2006 report, pursuant the requirements of section 203(a) of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No Fear Act); to the Committee on Oversight and Government Reform.

1629. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Pennsylvania Regulatory Program [PA-147-F0R] received April 25, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

1630. A letter from the Federal Liaison Officer, Department of Commerce, transmitting the Department's final rule — Revisions and Technical Corrections Affecting Requirements for Ex Parte and Inter Partes Reexamination [Docket No. PTO-P-2005-0016] (RIN: 0651-AB77) received April 17, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1631. A letter from the Chief, Regulations and Administrative Law, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Belle Chasse, LA [CGD08-06-036] (RIN: 1625-AA09) received April 1, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1632. A letter from the Chief, Regulations and Administrative Law, Department of Homeland Security, transmitting the Department's final rule — Anchorage Regulations; Mississippi River Below Baton Rouge, LA, Including South and Southwest Passes [CGD08-05-016] (RIN: 1625-AA01) received April 1, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1633. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — General Rule for Taxable Year of Inclusion (Rev. Rul. 2007-32) received May 4, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1634. A letter from the Branch Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Credit for Alternative Fuel Vehicle Refueling Property [Notice 2007-43] received May 4, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1635. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Certain exchanges of insurance policies. (Rev. Rul. [XXXX-XX]) received May 4, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1636. A letter from the Director, Regulations and Disclosure Law Division, Department of Homeland Security, transmitting the Department's final rule — Advance Electronic Presentation of Cargo Information for Truck Carriers Required to be Transmitted through ACE Truck Manifest at Ports in the States of Vermont, North Dakota and New Hampshire — received April 13, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Homeland Security.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LANTOS: Committee on Foreign Affairs. H.R. 1469. A bill to establish the Senator Paul Simon Study Abroad Foundation under the authorities of the Mutual Educational and Cultural Exchange Act of 1961 (Rept. 110–138). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on the Judiciary. H.R. 692. A bill to amend title 4, United States Code, to authorize the Governor of a State, territory, or possession of the United States to order that the National flag be flown at half-staff in that State, territory, or possession in the event of the death of a member of the Armed Forces from that State, territory, or possession who dies while serving on active duty; with an amendment (Rept. 110–139). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on the Judiciary. H.R. 1593. A bill to reauthorize the grant program for reentry of offenders into the community in the Omnibus Crime Control and Safe Streets Act of 1968, to improve reentry planning and implementation, and for other purposes (Rept. 110–140). Referred to the Committee of the Whole House on the State of the Union.

Mr. WAXMAN: Committee on Oversight and Government Reform. H.R. 401. A bill to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for maintaining and improving the transit system of the Washington Metropolitan Area Transit Authority, and for other purposes; with an amendment (Rept. 110–141). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRANK: Committee on Financial Services. H.R. 1427. A bill to reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes; with an amendment (Rept. 110–142). Referred to the Committee of the Whole House on the State of the Union.

Ms. SLAUGHTER: Committee on Rules. House Resolution 387. A resolution providing for consideration of the bill (H.R. 2237) to provide for the redeployment of United States Armed Forces and defense contractors from Iraq, providing for consideration of the bill (H.R. 2206) making emergency supplemental appropriations for the fiscal year ending September 30, 2007, and for other purposes, and providing for consideration of the bill (H.R. 2207) making supplemental appropriations for agricultural and other emergency assistance for the fiscal year ending September 30, 2007, and for other purposes (Rept. 110–143). Referred to the House Calendar.

Mr. HASTINGS of Florida: Committee on Rules. House Resolution 388. A resolution providing for the consideration of the bill (H.R. 2082) to authorize appropriations for fiscal year 2008 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 110–144). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of New Jersey (for himself, Mr. DANIEL E. LUNGREN of California, and Mr. ROHRABACHER):

H.R. 2228. A bill to encourage and facilitate the consolidation of security, human rights, democracy, and economic freedom in Ethiopia; to the Committee on Foreign Affairs.

By Mr. GORDON:

H.R. 2229. A bill to establish a joint energy cooperation program within the Department of Energy to fund eligible ventures between United States and Israeli businesses and academic persons in the national interest, and for other purposes; to the Committee on Science and Technology.

By Mr. CANNON (for himself, Mr. GENE GREEN of Texas, and Mr. GOHMERT):

H.R. 2230. A bill to prevent certain discriminatory taxation of natural gas pipeline property; to the Committee on the Judiciary.

By Mr. ALLEN (for himself and Mr. LEWIS of Kentucky):

H.R. 2231. A bill to amend title XVIII of the Social Security Act to exempt complex rehabilitation products and assistive technology products from the Medicare competitive acquisition program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WAXMAN (for himself, Mr. TOM DAVIS of Virginia, Mr. DAVIS of Illinois, Mr. SHAYS, Mr. VAN HOLLEN, Ms. NORTON, Ms. BALDWIN, Mr. BERMAN, Mr. ENGEL, Mr. FATTAH, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. HINCHEY, Mr. MCDERMOTT, Mr. MORAN of Virginia, Ms. SCHAKOWSKY, and Mr. WU):

H.R. 2232. A bill to affirm that Federal employees are protected from discrimination on the basis of sexual orientation and to repudiate any assertion to the contrary; to the Committee on Oversight and Government Reform.

By Mr. MCDERMOTT:

H.R. 2233. A bill to provide for special transfers of funds to States to promote certain improvements in State unemployment compensation laws; to the Committee on Ways and Means.

By Mr. FARR (for himself and Mr. FILNER):

H.R. 2234. A bill to amend the Internal Revenue Code of 1986 to provide for an extension of the period of limitation to file claims for refunds on account of disability determinations by the Department of Veterans Affairs; to the Committee on Ways and Means.

By Mr. SPACE:

H.R. 2235. A bill to amend the Agriculture and Food Act of 1981 to revise the Resource Conservation and Development Program of the Department of Agriculture to require a planning process under the program that is locally led, to guarantee funds for the program for fiscal years 2008 through 2012, and for other purposes; to the Committee on Agriculture.

By Mrs. MALONEY of New York (for herself, Mr. SHAYS, Ms. WOOLSEY, Ms. ROYBAL-ALLARD, Ms. LEE, Mr. RUSH, Mrs. MCCARTHY of New York, Mr. OLVER, Mr. ELLISON, Ms. JACKSON-LEE of Texas, and Mrs. JONES of Ohio):

H.R. 2236. A bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers; to provide for a performance standard for breast pumps; and to provide tax incentives to encourage breastfeeding; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and Labor, for a period

to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCGOVERN (for himself, Mr. WELCH of Vermont, and Ms. SUTTON):

H.R. 2237. A bill to provide for the redeployment of United States Armed Forces and defense contractors from Iraq; to the Committee on Agriculture, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BECERRA (for himself, Mr. WELLER, Mr. CROWLEY, and Mr. FORTUÑO):

H.R. 2238. A bill to amend the Internal Revenue Code of 1986 to provide for residents of Puerto Rico who participate in cafeteria plans under the Puerto Rican tax laws an exclusion from employment taxes which is comparable to the exclusion that applies to cafeteria plans under such Code; to the Committee on Ways and Means.

By Mr. BOOZMAN:

H.R. 2239. A bill to amend title 38, United States Code, to expand eligibility for vocational rehabilitation benefits administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. TOM DAVIS of Virginia (for himself, Mr. WYNN, Mr. MORAN of Virginia, Mr. WOLF, and Mr. VAN HOLLEN):

H.R. 2240. A bill to amend the Homeland Security Act of 2002 to restore the Office for National Capital Region Coordination to the administrative jurisdiction of the Office of the Secretary of Homeland Security, and for other purposes; to the Committee on Homeland Security.

By Mr. ENGEL (for himself, Mr. FOSSELLA, Mr. GENE GREEN of Texas, and Ms. DEGETTE):

H.R. 2241. A bill to amend the Public Health Service Act with respect to prevention and treatment of diabetes, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FRELINGHUYSEN:

H.R. 2242. A bill to prohibit a State from imposing a discriminatory commuter tax on nonresidents, and for other purposes; to the Committee on the Judiciary.

By Mr. GALLEGLY:

H.R. 2243. A bill to better provide for compensation for certain persons injured in the course of employment at the Santa Susana Field Laboratory in California; to the Committee on the Judiciary, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GENE GREEN of Texas:

H.R. 2244. A bill to amend title XVIII of the Social Security Act to provide Medicare beneficiaries with access to geriatric assessments and chronic care coordination services, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Washington:

H.R. 2245. A bill to designate the Department of Veterans Affairs outpatient clinic in Wenatchee, Washington, as the Elwood ''Bud'' Link Department of Veterans Affairs Outpatient Clinic; to the Committee on Veterans' Affairs.

By Mr. HELLER:

H.R. 2246. A bill to validate certain conveyances made by the Union Pacific Railroad Company of lands located in Reno, Nevada, that were originally conveyed by the United States to facilitate construction of transcontinental railroads, and for other purposes; to the Committee on Natural Resources.

By Mr. LARSEN of Washington:

H.R. 2247. A bill to amend titles 10 and 38, United States Code, to repeal the 10-year limit on use of Montgomery GI Bill educational assistance benefits, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ZOE LOFGREN of California (for herself, Mrs. CAPPS, Mr. COSTA, Mr. CARDOZA, Ms. ESHOO, Mr. FARR, Mr. FILNER, Ms. HARMAN, Mr. LANTOS, Mr. MCNERNEY, Ms. MATSUI, Mr. GEORGE MILLER of California, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SCHIFF, Mr. SHERMAN, Ms. SOLIS, Mr. STARK, Mrs. TAUSCHER, Mr. WAXMAN, Mr. HONDA, and Ms. MCCOLLUM of Minnesota):

H.R. 2248. A bill to prohibit States from carrying out more than one Congressional redistricting after a decennial census and apportionment, to require States to conduct such redistricting through independent commissions, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAUL of Texas (for himself, Mr. BRADY of Texas, and Mr. POE):

H.R. 2249. A bill to amend title 28, United States Code, to prevent administrative action with respect to, and the filing of, certain tort claims against the United States; to the Committee on the Judiciary.

By Mr. MCCAUL of Texas (for himself, Mr. BRADY of Texas, Mr. GOHMERT, and Mr. POE):

H.R. 2250. A bill to prevent inappropriate litigation against the United States; to the Committee on the Judiciary.

By Mr. MICHAUD (for himself and Mr. ALLEN):

H.R. 2251. A bill to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes; to the Committee on Natural Resources.

By Mr. ROYCE:

H.R. 2252. A bill to create a national commission, modeled after the successful Defense Base Closure and Realignment Commission, to establish a timely, independent, and fair process for realigning or closing outdated, ineffective, or inefficient executive agencies; to the Committee on Oversight and Government Reform.

By Mr. ROYCE (for himself and Mr. CANTOR):

H.R. 2253. A bill to amend the Internal Revenue Code of 1986 to reduce the rate of the tentative minimum tax for noncorporate taxpayers to 24 percent; to the Committee on Ways and Means.

By Mr. SCHIFF (for himself, Mr. THORNBERRY, and Mr. COHEN):

H.R. 2254. A bill to amend title 18, United States Code, to establish the transfer of any nuclear weapon, device, material, or technology to terrorists as a crime against humanity; to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of New Mexico (for himself, Mr. UDALL of Colorado, Ms. SLAUGHTER, Mr. WAMP, Mr. WHITFIELD, and Mr. HASTINGS of Washington):

H.R. 2255. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to extend and increase the authority for the ombudsman under the Energy Employees Occupational Illness Compensation Program; to the Committee on the Judiciary, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WALBERG:

H.R. 2256. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the use of ethanol in tetra ethyl ortho silicate (TEOS) production; to the Committee on Ways and Means.

By Mr. WELCH of Vermont:

H.R. 2257. A bill to direct the Secretary of Veterans Affairs to increase the number of benefits claims representatives employed by the Department of Veterans Affairs, and to ensure that there are not fewer than two such claims representatives located at each center for the provision of readjustment counseling and related mental health services established under section 1712A of title 38, United States Code (commonly referred to as a ''vet center''), to help reduce the backlog of claims pending with the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. WELCH of Vermont:

H.R. 2258. A bill to direct the Secretary of Defense to ensure that every member of the Armed Forces undergoes a medical examination prior to separation or discharge, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELCH of Vermont:

H.R. 2259. A bill to ensure that members of the National Guard and Reserves are able to fully participate in the benefits delivery at discharge program administered jointly by the Secretary of Defense and the Secretary of Veterans Affairs to provide information and assistance on available benefits and other transition assistance to members of the Armed Forces who are separating from the Armed Forces; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODE (for himself and Mr. JONES of North Carolina):

H. Con. Res. 146. Concurrent resolution expressing the sense of Congress that the Secretary of Transportation may not grant authority to Mexico-domiciled motor carriers to operate beyond the commercial zones of the United States-Mexico border; to the Committee on Transportation and Infrastructure.

By Mr. YARMUTH (for himself, Ms. MATSUI, Mrs. MCCARTHY of New York, Mr. SHAYS, Mr. PLATTS, and Mr. PRICE of North Carolina):

H. Res. 385. A resolution recognizing National AmeriCorps Week; to the Committee on Education and Labor.

By Mrs. DRAKE (for herself, Mr. MICA, Mr. LATOURETTE, and Mr. LOBIONDO):

H. Res. 386. A resolution recognizing the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating

Week; to the Committee on Transportation and Infrastructure.

By Mr. PAYNE (for himself, Mr. SMITH of New Jersey, and Ms. WATSON):

H. Res. 389. A resolution supporting the goals and ideals of Malaria Awareness Day; to the Committee on Oversight and Government Reform.

By Mr. ROSS (for himself, Mr. BERRY, Mr. SNYDER, and Mr. BOOZMAN):

H. Res. 390. A resolution recognizing the importance of the Ouachita National Forest on its 100th anniversary; to the Committee on Natural Resources.

By Mr. SESSIONS (for himself, Mr. SAM JOHNSON of Texas, Mr. HENSARLING, Mr. MARCHANT, Mr. BRADY of Texas, Ms. GRANGER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CONAWAY, Mr. POE, and Mr. BARTON of Texas):

H. Res. 391. A resolution recognizing the employees of Dallas-Fort Worth International Airport, the North Texas Commission, USO, and the people and businesses of North Texas for their dedication to the ''Welcome Home a Hero'' program; to the Committee on Armed Services.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

30. The SPEAKER presented a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 2 supporting the participation of Taiwan in a meaningful and appropriate way in the World Health Organization; to the Committee on Foreign Affairs.

31. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 5 urging the Congress of the United States to use all efforts, energies, and diligence to withdraw the United States from any further participation in the Security and Prosperity Partnership of North America, or any other bilateral or multilateral activity that seeks to advance, authorize, fund or in any way promote the creation of any structure to create any form of the North American Union; to the Committee on Foreign Affairs.

32. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 4 urging the legislatures to consider adoption of resolution working toward the development of a federal bipartisan, long-term solution that addresses sustainable management of federal forest lands to stabilize payments, which help support roads and schools, to forest communities throughout the western states; to the Committee on Natural Resources.

33. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 3 affirming the states support of the United States campaign to secure our country and urging member's of Idaho's congressional delegation to support measures to repeal the federal REAL ID Act of 2005; to the Committee on Homeland Security.

34. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 20 urging the Department of Homeland Security to complete an economic analysis of the costs of compliance with the requirements of the federal Real ID Act and the Western Hemisphere Travel Initiative; jointly to the Committees on the Judiciary and Homeland Security.

35. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 21 memorializing the United States Department of State and the Department of Homeland Security to develop a pilot program in Michigan for a dual purpose state drivers license/personal identification card to comply with the provisions of the Real ID Act and the Western Hemisphere Travel Initiative; jointly to the Committees on the Judiciary and Homeland Security.

ADDITIONAL SPONSORS TO PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. BOOZMAN.

H.R. 67: Mr. DELAHUNT, Mr. SCOTT of Virginia, Mr. BURTON of Indiana, Ms. SHEA-PORTER, Mr. PETERSON of Minnesota, and Mr. ETHERIDGE.

H.R. 154: Mr. FARR, Mr. MCDERMOTT, and Mr. KENNEDY.

H.R. 223: Mr. SMITH of New Jersey.

H.R. 237: Ms. HIRONO, MR. JOHNSON of Illinois, Mr. LEWIS of Kentucky, and Mr. POMEROY.

H.R. 241: Mr. LEWIS of Kentucky.

H.R. 253: Mrs. CHRISTENSEN and Mr. DAVIS of Illinois.

H.R. 260: Mr. DINGELL, and Mr. ABERCROMBIE.

H.R. 281: Mr. KAGEN.

H.R. 289: Ms. FOXX.

H.R. 321: Mr. GRAVES.

H.R. 358: Mr. KAGEN, Mr. MURTHA, Mr. DOYLE, and Ms. SUTTON.

H.R. 383: Mr. BARTLETT of Maryland.

H.R. 436: Mr. HASTERT.

H.R. 507: Mr. PICKERING, Mr. ALEXANDER, Mr. GERLACH, Mr. BISHOP of Georgia, Mr. MCNULTY, Mr. SKELTON, and Ms. KAPTUR.

H.R. 548: Mr. SPACE.

H.R. 551: Ms. LEE, Ms. SOLIS, and Mr. DANIEL E. LUNGREN of California.

H.R. 562: Mr. BOUSTANY.

H.R. 566: Mr. RANGEL and Mr. GONZALEZ.

H.R. 579: Mr. HONDA, Mr. SMITH of New Jersey, Mr. PEARCE, and Mr. RUPPERSBERGER.

H.R. 583: Mr. BISHOP of New York, Mr. WELCH of Vermont, Mr. MCNERNEY, Mr. ENGEL, Mr. KING of New York, Mr. MILLER of North Carolina, Mr. KIND, Ms. SHEA-PORTER, and Mr. TIM MURPHY of Pennsylvania.

H.R. 610: Mr. PLATTS.

H.R. 615: Mr. ENGLISH of Pennsylvania.

H.R. 616: Mr. ENGLISH of Pennsylvania.

H.R. 634: Mr. TIM MURPHY of Pennsylvania and Mr. BLUNT.

H.R. 642: Mr. HASTINGS of Florida.

H.R. 643: Mr. COBLE, Mr. SOUDER, Mr. PUTNAM, Mr. ALEXANDER, and Mr. GILLMOR.

H.R. 645: Mr. INSLEE.

H.R. 690: Mr. BRALEY of Iowa and Mr. BUTTERFIELD.

H.R. 698: Mr. HOEKSTRA.

H.R. 729: Ms. MCCOLLUM of Minnesota.

H.R. 768: Mr. SHAYS.

H.R. 782: Mr. MURPHY of Connecticut.

H.R. 784: Mr. PORTER.

H.R. 819: Mr. SMITH of Washington, Mr. SARBANES, and Mr. MCNERNEY.

H.R. 821: Mr. FRANK of Massachusetts, Mr. MATHESON, and Mr. CARDOZA.

H.R. 861: Mr. RAHALL, Ms. GINNY BROWN-WAITE of Florida, and Mr. HUNTER.

H.R. 882: Mrs. BONO, Mr. GERLACH, and Mr. KUHL of New York.

H.R. 890: Mr. PAYNE, Mr. HOLT, Mr. ALTMIRE, Mr. SCOTT of Virginia, Ms. SHEA-PORTER, Mr. SARBANES, Mr. KILDEE, and Ms. CLARKE.

H.R. 891: Mr. MURTHA.

H.R. 957: Mr. BILIRAKIS, Mr. BISHOP of Utah, Mrs. CUBIN, Mr. MARIO DIAZ-BALART of Florida, Mr. FORTENBERRY, Mr. GARRETT of New Jersey, Mr. ROGERS of Michigan, Mrs. JO ANN DAVIS of Virginia, and Mr. DINGELL.

H.R. 970: Mr. DAVIS of Illinois, Ms. JACKSON-LEE of Texas, Mr. GENE GREEN of Texas, and Mr. AL GREEN of Texas.

H.R. 989: Mr. GOODE and Mr. ROSKAM.

H.R. 1014: Mr. WELCH of Vermont, Mr. PAYNE, Mr. FRANK of Massachusetts, and Mr. JOHNSON of Georgia.

H.R. 1023: Mr. BOREN, Mr. CARNAHAN, Mr. TIBERI, Mr. PALLONE, Ms. HERSETH SANDLIN, Mr. WEXLER, and Ms. BERKLEY.

H.R. 1029: Mr. LATHAM and Mr. WALSH of New York.

H.R. 1032: Mr. PAYNE and Ms. CARSON.

H.R. 1088: Mr. FERGUSON.

H.R. 1093: Mr. STEARNS.

H.R. 1098: Mr. HALL of New York, Mr. LOBIONDO, and Mr. PLATTS.

H.R. 1103: Mr. PALLONE, Ms. SUTTON, Mr. RUSH, and Mr. BERMAN.

H.R. 1108: Mrs. LOWEY, Mr. GERLACH, Ms. HOOLEY, and Mr. WALSH of New York.

H.R. 1117: Mr. GRIJALVA and Mr. GONZALEZ.

H.R. 1147: Mr. HERGER.

H.R. 1157: Mr. CROWLEY, Mr. AL GREEN of Texas, Ms. CARSON, Ms. DELAURO, Ms. LEE, Mr. KLEIN of Florida, Mrs. BIGGERT, Mr. GORDON, Mr. WEXLER, Mr. ANDREWS, Mr. KILDEE, Ms. HERSETH SANDLIN, Mr. WALSH of New York, Mr. VISCLOSKY, Mr. SHULER, Mr. ALEXANDER, Mr. WYNN, Mr. WELDON of Florida, Mr. GEORGE MILLER of California, Mr. BOUSTANY, Ms. CASTOR, and Ms. WASSERMAN SCHULTZ.

H.R. 1165: Ms. ESHOO.

H.R. 1187: Mr. SCHIFF, Mr. HINCHEY, Mr. LANTOS, Mr. MCDERMOTT, Mr. OLVER, and Mr. HONDA.

H.R. 1201: Mr. DEFAZIO.

H.R. 1222: Mr. ISRAEL, Mr. FATTAH, and Mr. CARDOZA.

H.R. 1223: Mr. FATTAH.

H.R. 1230: Ms. NORTON, Mr. BUTTERFIELD, Mr. SCOTT of Georgia, Mr. CLEAVER, Mr. JOHNSON of Georgia, Mr. ELLISON, Ms. MOORE of Wisconsin, Mr. CLAY, and Ms. CARSON.

H.R. 1237: Mr. TIM MURPHY of Pennsylvania.

H.R. 1252: Mr. WELCH of Vermont, Mr. LARSON of Connecticut, Ms. CARSON, Ms. SOLIS, Mr. KLEIN of Florida, Mr. PALLONE, and Ms. ESHOO.

H.R. 1261: Mr. DREIER and Mr. WICKER.

H.R. 1264: Mr. GOODE.

H.R. 1279: Mr. ARCURI, Mr. BISHOP of New York, and Mr. TIM MURPHY of Pennsylvania.

H.R. 1282: Mr. HIGGINS.

H.R. 1303: Mrs. MALONEY of New York.

H.R. 1343: Mr. MANZULLO, Mr. TIM MURPHY of Pennsylvania, Mr. ALEXANDER, Mr. MCHUGH, Mr. LARSON of Connecticut, Mr. PAYNE, Mr. WAMP, Mr. HARE, Mr. HERGER, Mr. MARSHALL, Mr. WU, and Mr. KANJORSKI.

H.R. 1357: Mr. BILIRAKIS, Mrs. CUBIN, Mr. MARIO DIAZ-BALART of Florida, Mr. GARRETT of New Jersey, and Mr. KING of New York.

H.R. 1363: Mr. WAMP, Mr. LEWIS of Georgia, Mr. COHEN, and Ms. JACKSON-LEE of Texas.

H.R. 1365: Mr. ROYCE.

H.R. 1366: Mr. MCCOTTER, Mr. GOODE, Mr. ROSKAM, Mr. CAMPBELL of California, and Mr. ROYCE.

H.R. 1381: Ms. KAPTUR.

H.R. 1399: Mr. TIBERI, Mr. BARRETT of South Carolina, Mrs. JO ANN DAVIS of Virginia, Mr. LATHAM, and Mr. REHBERG.

H.R. 1407: Mr. WALBERG.

H.R. 1414: Mr. HARE.

H.R. 1415: Mr. KENNEDY.

H.R. 1416: Mr. PERLMUTTER and Mr. KENNEDY.

H.R. 1435: Mr. DOOLITTLE, Mr. ROHRABACHER, and Mr. MCINTYRE.

H.R. 1475: Mr. ROSKAM.

H.R. 1483: Mrs. JONES of Ohio.

H.R. 1497: Ms. SUTTON.

H.R. 1506: Mr. PATRICK MURPHY of Pennsylvania, Mr. SERRANO, Mr. COURTNEY, Mr. KAGEN, Ms. VELÁZQUEZ and Mr. WELCH of Vermont.

H.R. 1532: Mr. ALLEN and Mr. GEORGE MILLER of California.

H.R. 1534: Mr. WYNN.
H.R. 1535: Mr. JOHNSON of Georgia.
H.R. 1536: Ms. SHEA-PORTER and Mr. MARSHALL.
H.R. 1541: Mr. GONZALEZ.
H.R. 1551: Ms. GINNY BROWN-WAITE of Florida.
H.R. 1560: Mr. WELDON of Florida.
H.R. 1561: Ms. ESHOO.
H.R. 1567: Mr. BAIRD and Ms. HERSETH SANDLIN.
H.R. 1588: Ms. KAPTUR, and Mr. ALEXANDER.
H.R. 1589: Mr. PORTER and Mr. MCCOTTER.
H.R. 1600: Mr. HONDA, Mr. LARSON of Connecticut, Ms. WATSON, Ms. SOLIS, Mr. BECERRA, and Mr. SCHIFF.
H.R. 1606: Mr. CLAY.
H.R. 1628: Mr. GONZALEZ.
H.R. 1640: Mr. SMITH of New Jersey.
H.R. 1644: Mrs. MCCARTHY of New York, Mr. PALLONE, Mrs. NAPOLITANO, Mr. MCDERMOTT, Mr. RYAN of Wisconsin, and Mr. MURPHY of Connecticut.
H.R. 1650: Mr. WAMP, Mr. BOREN, Mr. SNYDER, Mr. ROSS, and Mr. RENZI.
H.R. 1670: Mr. GEORGE MILLER of California.
H.R. 1693: Mr. BISHOP of Georgia.
H.R. 1700: Mr. KLEIN of Florida, Mr. PERLMUTTER, and Mrs. BOYDA of Kansas.
H.R. 1702: Mr. CONYERS.
H.R. 1707: Mr. INSLEE, Ms. DEGETTE, and Mr. KENNEDY.
H.R. 1709: Ms. CARSON.
H.R. 1718: Mr. CHANDLER.
H.R. 1730: Ms. BALDWIN.
H.R. 1731: Mr. GERLACH.
H.R. 1738: Mr. PAYNE, Mr. WALSH of New York, and Mr. MARSHALL.
H.R. 1740: Mr. MURPHY of Connecticut.
H.R. 1745: Mr. FATTAH.
H.R. 1747: Mr. HASTINGS of Florida, Ms. LINDA T. SÁNCHEZ of California, Ms. HARMAN, Mr. GRIJALVA, Mr. LANTOS, Mr. HONDA, Mr. SCHIFF, and Mr. BERMAN.
H.R. 1754: Mr. KAGEN, Mr. HARE, Mr. SHULER, Mr. BERRY, Mr. COOPER, Mr. PETERSON of Minnesota, Mr. TANNER, and Mr. THOMPSON of California.
H.R. 1781: Mr. THOMPSON of Mississippi, Ms. KILPATRICK, Mr. ORTIZ, Ms. BALDWIN, Mr. KENNEDY, and Mr. BLUMENAUER.
H.R. 1783: Mr. RUSH.
H.R. 1794: Ms. ROS-LEHTINEN.
H.R. 1796: Ms. MCCOLLUM of Minnesota.
H.R. 1801: Ms. HERSETH SANDLIN.
H.R. 1809: Mr. WAXMAN and Mr. PAYNE.
H.R. 1818: Mr. TOWNS, Mr. MEEKS of New York, Mr. HASTINGS of Florida, and Ms. ESHOO.
H.R. 1823: Mr. POE and Ms. ROS-LEHTINEN.
H.R. 1881: Mr. ALTMIRE, Ms. ZOE LOFGREN of California, and Mr. FILNER.
H.R. 1884: Mr. ALEXANDER and Mr. ABERCROMBIE.
H.R. 1892: Mr. INGLIS of South Carolina and Mr. MANZULLO.
H.R. 1902: Ms. DEGETTE and Mr. STUPAK.
H.R. 1924: Mr. PORTER and Mr. BLUMENAUER.
H.R. 1926: Mr. BOUCHER, Mr. KAGEN, Mr. GERLACH, Mr. TERRY, Ms. GRANGER, Mr. HINOJOSA, Mr. RAHALL, Mr. PLATTS, Mr. MEEKS of New York, Mr. LEVIN, Mr. CUELLAR, Mr. ALEXANDER, Mr. GILLMOR, and Mr. WEXLER.
H.R. 1927: Mr. KAGEN.
H.R. 1940: Mr. SOUDER, Mr. COBLE, Mr. MCCOTTER, Mr. AKIN, Mr. LINDER, Mr. WELDON of Florida, Mr. SAM JOHNSON of Texas, Mr. BOOZMAN, Mr. FORBES, and Mr. ALEXANDER.
H.R. 1956: Mr. BUTTERFIELD.
H.R. 1965: Mr. HARE, Mrs. MUSGRAVE, Ms. KAPTUR, Mr. LATOURETTE, Mr. MILLER of Florida, Mr. CLAY, and Mr. GOODE.
H.R. 1968: Ms. LEE and Mr. GRIJALVA.
H.R. 1971: Mr. GENE GREEN of Texas.
H.R. 1980: Mr. ABERCROMBIE.
H.R. 1982: Mr. ABERCROMBIE.
H.R. 1992: Mr. ALLEN, Mr. SALAZAR, and Ms. SOLIS.
H.R. 2001: Mr. VAN HOLLEN.
H.R. 2005: Mr. HARE and Mr. SMITH of Nebraska.
H.R. 2015: Ms. MATSUI, Ms. CLARKE, Ms. WASSERMAN SCHULTZ, Mr. BLUMENAUER, Mr. JACKSON of Illinois, and Mrs. TAUSCHER.
H.R. 2019: Ms. SCHAKOWSKY.
H.R. 2030: Mr. CUMMINGS and Mr. TOWNS.
H.R. 2038: Mr. VAN HOLLEN and Mrs. EMERSON.
H.R. 2054: Mr. LATHAM and Mr. SMITH of Nebraska.
H.R. 2060: Mr. SMITH of Nebraska, Mr. WOLF, Mr. SPACE, Ms. LEE, Mr. MATHESON, Mr. MCNERNEY, Mr. MCNULTY, Mr. JOHNSON of Illinois, Mr. KAGEN, Mr. SHAYS, Mr. ABERCROMBIE, and Mr. PALLONE.
H.R. 2063: Mr. ANDREWS, Mr. KAGEN, and Mr. WALSH of New York.
H.R. 2064: Mr. LANGEVIN, Mr. VAN HOLLEN, Mr. ABERCROMBIE, and Mr. CROWLEY.
H.R. 2065: Ms. SUTTON.
H.R. 2066: Mr. BISHOP of Georgia, Mr. GRIJALVA, and Mr. PLATTS.
H.R. 2075: Mr. EMANUEL.
H.R. 2086: Mr. PERLMUTTER.
H.R. 2102: Mr. FLAKE, Mr. FORTUÑO, Mr. SHAYS, Mr. UDALL of New Mexico, Ms. JACKSON-LEE of Texas, Mr. COHEN, Mr. POE, Ms. BERKLEY, Mr. EMANUEL, and Mr. MACK.
H.R. 2104: Mr. DOOLITTLE, Mr. MCCOTTER, Mr. NEUGEBAUER, Mr. FEENEY, Mr. MCHENRY, and Mr. HENSARLING.
H.R. 2108: Mr. FRANK of Massachusetts and Mr. LARSON of Connecticut.
H.R. 2111: Mr. ETHERIDGE.
H.R. 2125: Mrs. CUBIN, Mr. UDALL of Colorado, Mr. MELANCON, Mr. RENZI, Mr. GRIJALVA, Ms. MCCOLLUM of Minnesota, Mr. HOLDEN, Ms. BALDWIN, Mr. JINDAL, Mr. BOREN, Mr. SNYDER, Mr. HARE, Mrs. MUSGRAVE, Mr. ROSS, and Mr. JEFFERSON.
H.R. 2144: Mr. WALSH of New York.
H.R. 2147: Mr. POE, Mr. MCGOVERN, Mr. HOLT, and Mr. ARCURI.
H.R. 2167: Mr. LIPINSKI.
H.R. 2183: Mr. GINGREY.
H.R. 2214: Ms. ROYBAL-ALLARD, Mr. BACA, Mr. RODRIGUEZ, Ms. VELÁZQUEZ, Mr. SIRES, Mr. GENE GREEN of Texas, Mr. DOGGETT, Ms. JACKSON-LEE of Texas, Mr. LAMPSON, and Mr. EDWARDS.
H.R. 2215: Mr. SHAYS.
H.R. 2221: Mr. HASTINGS of Florida, Mr. TOWNS, and Mr. HOLT.
H. J. Res. 12: Mr. PICKERING.
H. Con. Res. 4: Mr. SPACE.
H. Con. Res. 21: Mr. RENZI, Mr. BOSWELL, Mr. CULBERSON, Mrs. JONES of Ohio, and Mr. DENT.
H. Con. Res. 39: Ms. BALDWIN.
H. Con. Res. 40: Mr. GINGREY.
H. Con. Res. 48: Mr. BOREN.
H. Con. Res. 85: Mr. GOODLATTE, Mr. MCGOVERN, Mr. UPTON, and Mr. GRIJALVA.
H. Con. Res. 130: Mr. RUSH, Mr. ORTIZ, Mrs. MALONEY of New York, Mr. BERMAN, Mrs. MCCARTHY of New York, Mr. MCNULTY, Mr. RODRIGUEZ, Mr. SERRANO, Mrs. CHRISTENSEN, Ms. CORRINE BROWN of Florida, Mr. WAXMAN, Mr. WALSH of New York, Mr. MITCHELL, Mr. GRIJALVA, Mr. GEORGE MILLER of California, Mr. HONDA, Mr. TIERNEY, Mr. LANTOS, Ms. CARSON, Mr. REYES, Ms. NORTON, and Mr. BAIRD.
H. Con. Res. 133: Mrs. CUBIN and Mr. HALL of Texas.
H. Con. Res. 142: Mr. CASTLE and Mr. FARR.
H. Con. Res. 144: Mrs. MCCARTHY of New York, Mrs. MALONEY of New York, Ms. NORTON, Ms. WASSERMAN SCHULTZ, and Ms. BALDWIN.
H. Res. 95: Mr. PAYNE.
H. Res. 106: Mr. HODES.
H. Res. 137: Mr. SMITH of New Jersey.
H. Res. 146: Mr. BRALEY of Iowa and Ms. BORDALLO.
H. Res. 185: Ms. ESHOO.
H. Res. 194: Ms. EDDIE BERNICE JOHNSON of Texas and Ms. NORTON.
H. Res. 209: Mr. LEWIS of Georgia.
H. Res. 226: Mr. GONZALEZ.
H. Res. 232: Mr. ROSKAM, Mrs. MCMORRIS RODGERS, Mr. PAUL, Mr. SMITH of New Jersey, and Mr. BOOZMAN.
H. Res. 235: Mr. LINDER.
H. Res. 241: Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Ms. CARSON, Mr. RANGEL, Ms. MOORE of Wisconsin, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mrs. CHRISTENSEN, Mr. FATTAH, Mr. WATT, Mr. JOHNSON of Georgia, Mr. HONDA, Mr. CROWLEY, Mr. MORAN of Virginia, Mr. BERMAN, Mr. SERRANO, Ms. CLARKE, Mr. FARR, Ms. JACKSON-LEE of Texas, Mr. BLUMENAUER, Mr. OBERSTAR, Mr. WEXLER, and Mr. CLAY.
H. Res. 287: Mr. THOMPSON of California.
H. Res. 295: Mr. WOLF and Mr. ISSA.
H. Res. 296: Mr. ENGEL, Mrs. TAUSCHER, Mr. SAXTON, Mr. YOUNG of Florida, Mr. DAVIS of Illinois, Mr. FRANK of Massachusetts, Mr. LANTOS, and Mr. HELLER.
H. Res. 345: Mr. ACKERMAN.
H. Res. 351: Mr. CAMPBELL of California and Mr. ALEXANDER.
H. Res. 374: Mr. MCCOTTER.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

H.R. 2206, making emergency supplemental appropriations for the fiscal year ending September 30, 2007, and for other purposes, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

H.R. 2207, making supplemental appropriations for agricultural and other emergency assistance for fiscal year ending September 30, 2007, and for other purposes, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

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PROCEEDINGS AND DEBATES OF THE *110th* CONGRESS, FIRST SESSION

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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, before whose Eyes the ages pass, who knows our changing thoughts, help us to remember that You guide the planets and our times are in Your hands. Open our ears to hear Your voice as the heavens declare Your glory and the flowers speak of Your majesty. As You whisper in the wind, teach us to number our days and to seize the seasons You have given us to serve.

Strengthen our lawmakers for today's work. Give them priorities that honor You, patience to persevere, and humility to build new bridges of cooperation. Empower them, Lord, to do to others what they want done to themselves. Impart to them also the wisdom to live with gratitude to You, the author and finisher of our faith. We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 9, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARDIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, this morning, there will be 60 minutes for morning business, with the Republicans controlling the first half, and the Democrats controlling the second half.

Following morning business, the Senate will resume consideration of the FDA legislation. Last night, due to the hard work of Senator ENZI and the staffs of Senators KENNEDY and ENZI, they were able to come to an agreement to complete action on this legislation today. I compliment the hard work of the many individuals who worked to accomplish this, especially Senator BROWN who, in the absence of the chairman, was here throughout the day to assist in moving the process along. In addition, I would like to single out Senator ENZI, who has worked so hard on this legislation in the committee and, of course, with it being on the floor. He has worked very well with Senator KENNEDY in the entire process of getting this legislation through the committee to the floor and now toward completion.

Through the hard work of these I have mentioned, we have only three amendments that are in order to the bill, and we have 60 minutes of debate time. Votes on the remaining amendments and passage of the bill will occur around 11:30 this morning.

Following final action on the FDA bill, the Senate will consider, for up to 3 hours, the nomination of Debra Ann Livingston to be a circuit court judge. Upon the use or yielding back of that time, then a vote on confirmation will occur.

Once the judge has been confirmed, I have every belief that the Senate will begin and complete the process of going to conference on the budget resolution. I have spoken to Senator CONRAD earlier this morning. He and Senator JUDD GREGG get along extremely well, and they will work out the time on the number of motions to instruct and how many motions to instruct the minority will require. So Members should be prepared to work into the evening on this most important item.

Finally, the cloture vote on the motion to proceed to the water resources legislation will not occur before tomorrow morning. Today will be a busy day, with votes occurring throughout the day, so Members should plan accordingly.

ORDER OF PROCEDURE

Mr. REID. Mr. President, on the FDA legislation, it is my understanding there will be three votes, and then final passage.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. Mr. President, the votes occur all at one time?

The ACTING PRESIDENT pro tempore. There is 2 minutes between each vote.

Mr. REID. Mr. President, I ask unanimous consent that be the case, and I also ask consent that there be 10-minute votes after the first vote.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered as to each request.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, for up to 60 minutes, with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the Republicans, and the second half of the time under the control of the majority.

The Senator from Missouri.

IRAQ

Mr. BOND. Mr. President, I am pleased to report to my colleagues on a trip, an Intelligence Committee trip, that I led to Iraq this past weekend, with Senators SNOWE and CHAMBLISS and Congressman ISSA. We found some very amazing things. We visited Tikrit, Baghdad, Ramadi, Balad. We talked to the commanding officers, sat down and talked with our troops, our soldiers, marines, and airmen.

In Ramadi—which only a month or so ago had been a denied area, an area so hostile that heavily armed U.S. units could not even successfully go in. It was extremely dangerous. On Sunday, as a result of changes that have happened in Ramadi in the last several weeks, the four of us Members of Congress, with the general in charge of the area, General Gaskin, and a driver, and two marines with M–16s, went down to downtown Baghdad. We had no phalanx of troops around us, no helicopters flying overhead. We got out and walked in downtown Baghdad at ''Firecracker Corner,'' so named, as one might guess, because of the tremendous number of rounds that perpetually were going off in that area.

It was quiet at the time. We went from there into the former Anbar college, which has become the security force headquarters for the area. That building is manned by Iraqi police units, Iraqi army units, and U.S. marines. They were living together, conducting missions together, and apparently they have been extremely successful because Ramadi has changed significantly.

In the last 3 months, attacks in Ramadi have decreased by some 74 percent. I have a chart in the Chamber. You probably cannot see it too well. But the first part shows weekly attacks going from a high of 127, in February, down to 24 in the week of April 20 to 26.

Indirect fire attacks went from 129 per week down to about 10. Improvised explosive device attacks—this is per month—went from over 320 last July, down to, in March, 67 per month; and in April to 28 per month.

Now, what is going on here? Well, it is quite simply that the surge and clear-and-hold counterinsurgency strategy is beginning to work. The mistake we made previously is we would go in and take out al-Qaida and leave. Well, al-Qaida would come right back. And anybody who had cooperated with the coalition forces would be subjected to death or other severe penalties.

Now, with significant new numbers of Iraqi police and army, backed up by the U.S. military, we are able to go in and clear and hold. That is why the marines, the Iraqi police, and army are stationed in downtown Baghdad. This is becoming—it is not yet a denied zone for al-Qaida.

Now, one of the most important and amazing things that has happened is the tribal sheiks, the Sunnis in that area—if you have been following the Al Anbar progress, the Sunni sheiks run that country. They have concluded—having dealt with al-Qaida, and having had their family members killed, businesses disrupted—they have decided that the coalition forces—American, Australian, British—in cooperation with the Iraqi Army and police are far better hopes for security.

By our making a commitment to go in there, they have made a commitment as well. Now they are volunteering large numbers of men to serve in the Iraqi police and the Iraqi Army.

In just a couple weeks, 1,200 Iraqi young men signed up for the army. There are now over 10,000 Iraqi policemen. They are being trained, and they are taking over the area.

As you look at the entire scope of Ramadi, there are 23 tribal areas. Last year, in one or two of the tribal areas, the sheiks were working with us. Now all 23 have joined with us to fight al-Qaida. There are no uncooperative tribes left. They are joining the military and the police force to help keep the area clear.

In downtown Ramadi, the U.S. military has gone in and been able to repair and help reopen the largest, most important mosque in Ramadi, the mosque that is central for the Sunnis in Al Anbar. It had been closed since the start of the war. Now, this past Friday, hundreds of Iraqis were able to attend services. The U.S. military has supplied and set up mosque speakers in Ramadi to broadcast security messages in addition to messages from the local Imams.

This is just one example we saw. In Baghdad, we learned the clear-and-hold strategy is working. Areas which had been highly dangerous, with a high number of attacks daily, now, because of the presence of the joint security forces—Iraqi, U.S., and coalition forces—have seen the incidents decline by more than two-thirds.

What does this mean? Well, it means al-Qaida is being significantly degraded. Significant numbers of al-Qaida have been killed and detained, and others have been forced out of Baghdad and Al Anbar. Our coalition forces, with the help of the Iraqi military, are, I understand, doing a very good job tracking them down and eliminating them.

Now, this is not conclusive. This is only the first results of the surge and the effective counterinsurgency strategy. It was recommended by the Baker-Hamilton commission last year, and it is being implemented by General Petraeus, who is an expert on counterinsurgency.

I would say that Marine General Gaskin, who is running Al Anbar, is doing a magnificent job. I was impressed with what we heard from General Odierno and General McCrystal and others who are working to make sure they complete their job.

We also met with the most influential leader of the Shia in Iraq, Ayatollah Abdul Aziz al-Hakim. He is the influential leader of the Supreme Council for Islamic Revolution in Iraq. We talked with him about the need for the Iraqis to find political solutions and to bring together a unity government of Sunnis, Kurds, and Shias to ensure the safety and stability of their country so they would have an opportunity to go back to normal lives and prosper. We have given them that opportunity, and they need to take that opportunity. We need to do a better job of telling people the difference, and our military is doing that. But at the same time, when we met with our troops, they kept asking us why we aren't getting the money. They know they are doing the job, and they asked us a question which is rather difficult to answer: You sent us over here to do a military mission. We are accomplishing that mission. Why are we not getting the money we need? Where are the Mine Resistant Ambush Protection vehicles that can reduce injuries and deaths so significantly? There was no answer, other than it has been delayed.

Let me conclude by saying we are making great progress, and we cannot afford to tell our troops we are not going to support them by sending in a bifurcated budget, funding a month at a time, a month at a time, because they have a several months' long game plan. When they hear people say that the war is lost, they say: We are risking our lives every day, because the war is not lost. What are people in Congress thinking? We cannot tell the Iraqis and our troops that we are going to cut out of here in a couple of months because we will lose the cooperation of the tribal sheiks and the others who are helping us against al-Qaida if they think we are about ready to leave and leave them at the mercy of al-Qaida, which will come back in if we leave prior to establishing strength in the Iraqi security forces that will enable them to prevent al-Qaida from taking over their country.

Make no mistake about it, that is the goal of al-Qaida. Our intelligence community unanimously says it. Ayman al-Zawahiri has said it, Osama bin Laden has said it. If we don't believe them, at least we ought to believe our intelligence community.

We must pass this supplemental for the full rest of the year without timelines and provide the troops the support and the weapons systems they need.

I thank the Chair, and I yield the floor.

Mr. CORNYN. Mr. President, may I inquire how much time is remaining in morning business on this side?

The ACTING PRESIDENT pro tempore. There is 18½ minutes.

Mr. CORNYN. I thank the Chair. I will take 9 minutes of that and then Senator THOMAS will take the remainder.

RISING GAS PRICES

Mr. CORNYN. Mr. President, yesterday I came to the floor with the Senator from Arizona and the senior Senator from Texas to talk about rising gas prices. The sticker shock at the pump is something all Americans are noticing. We can talk in esoteric sorts of ways about national energy policy, but when people drive up and have to fill up their tank to be able to drive their kids to school or be able to drive to work, that is when they begin to understand the consequences of Congress's failure to act in a number of respects.

Last year about this time, our friends on the other side of the aisle held a press conference over on Massachusetts Avenue and were decrying the lack of action on the part of the then majority of Congress to bring down gasoline prices, but since that time, the average retail price of gasoline has gone up by 13 cents. I saw in today's day book for the Associated Press that the new majority, the Democratic majority is now going to have another press conference over at the same gas station talking about high gas prices.

I would suggest the responsibilities of being in the majority are to act, not just to hold press conferences. I think our friends haven't quite recognized the fact that they are in charge now. They have a responsibility to act instead of using the same old shop-worn tactics of holding a press conference and launching new investigations.

In fact, the Federal Trade Commission and the Department of Justice have held extensive investigations already and basically concluded the problem is we don't have adequate supply, and we don't have adequate refinery capacity to keep up with the demand. As I noted yesterday, Congress can pass a lot of laws. We could even repeal some laws, but we can't repeal the laws of supply and demand. We know that in a booming world economy, where there is competition in India and China, countries with more than a billion people each, as the economies of other countries become more developed, they are going to demand more and more of the same limited supply of oil, and that is why we have seen the price of oil and gasoline go up. Rather than hold press conferences, my hope is our colleagues on the other side of the aisle, the new majority who is in charge, would work with us to pass legislation which would actually have an impact and bring down gasoline prices, bring down oil prices, and enhance our national security at the same time.

It is no secret to any of us that most—or not most but a lot of the oil that we import comes from troubled regions of the world. It comes from Hugo Chavez and Venezuela, it comes from the Middle East, and I don't need to say more about that and how much that supply is threatened at times by the bellicose actions of countries such as Iran, a rising, they hope, nuclear power. I hope they do not acquire nuclear capacity because they are a State sponsor of international terrorism. But my point is we need to develop more of our domestic resources. We need to look for alternative forms of energy that are clean. We need to continue our scientific research into things such as clean coal-burning technology. We have about 300 years' supply of coal in this country, and we all know that coal can burn dirty, but the fact is that by using the technological advantages that we have in this country, we can conduct the kind of research that will allow us to use this coal in a way that does not pollute and does not endanger the environment. The fact is we simply can't turn a blind eye to any source of energy and remain competitive in the world economy. But the fact is also that we are simply not going to solve these problems by holding press conferences, as our colleagues are going to do, apparently, this afternoon, I think at 2:30 or 3:30. I can't remember when. They did that last year when they were in the minority. They have not quite yet, I guess, accepted the fact that on November 7 they won the election and they are now responsible. It means more than holding press conferences; it means action.

I tell my colleagues the Republicans are willing, ready, and able to work with them to try to solve the energy crisis, the gasoline price crisis in this country. It is not going to be easy, but for sure, none of us can do it in a partisan way. The only way we are going to be able to do it is by working together in the best interests of the American people. I think the American people are more than a little tired of some of the hollow rhetoric when people talk about problems, but when you are in a position to actually do something about it, that nothing gets done.

As our leader on this side of the aisle, Senator MCCONNELL, has noted, divided Government actually provides an opportunity for us to take on some of these big problems, some of these big challenges that are harder to tackle when there is a single party in charge, but it takes a spirit of cooperation. It takes a desire to actually work together to try to solve these problems the best we can. The energy problem is just one of them. I would say the spiraling debt being accumulated by growth and entitlement programs is another one of them.

I am very disappointed that this new budget that is going to come to the floor later this week does nothing about passing the buck on entitlement spending. As a matter of fact, it imposes additional debt and burden on our children and grandchildren when we have the responsibility to pay our own bills, not use Social Security to pay for the general debt, which we are doing now, and other bookkeeping tactics that if we were in the private sector would probably mean that somebody would end up in jail. But the Federal Government plays those sorts of budget gimmicks, and they need to end.

So let me end by saying that this is an opportunity for us to work together but not if we are going to have press conferences and do nothing, talk tough but fail to use the tools that are available to us in Congress as representatives of our respective States to work together in a bipartisan way to try to solve them. I think that is what the American people want. That is why I came to the Senate. I wanted to do something. I wanted to actually make a difference. I think all of us feel roughly the same way, but somehow we have fallen into these bad habits of partisanship and avoiding the solutions that are readily at hand.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I wish to join my friend from Texas in talking about the interest in energy. I don't think there is anything, frankly, when we look at it, that impacts our future and our jobs and our families anymore than energy and its availability. Think about it for a moment, what we actually use, each of us, every day. We drove here in our cars: energy; the lights up here: energy; air-conditioning or heat: energy; then, of course, in the whole economy. So I wanted to talk about some of it in the context of high gas prices and, of course, Americans are experiencing that right now.

I am on the Energy Committee, and we have passed good energy policy in the last couple years. We have already begun to see some of the benefits of that passage, there is no question about that, but there is much more that can be done. Unfortunately, we have gone along a good deal of the time this year and haven't done much about it, so we need to accomplish some things. The high price of gas, of course, touches all of us, but it is particularly important in a State such as mine, where people have to travel so far for school or work or other obligations.

Yesterday, the Energy Committee, of which I am a member, scheduled a hearing on short-term energy outlook for oil and gas. This hearing will be held next week, but that is not enough. Having hearings is not enough, as having press conferences is not enough. We need to move forward.

What is the answer to high gas prices? Of course, the simple economics of it is supply: Supply and demand. One option is to drive less, of course, and we can do some of this. We can have more efficient cars and those kinds of things. But we must drive to work. We must drive. We have to have energy. So there are some things we can do. But the other issue, and the one we can deal with, is increasing supply. My friend from Texas makes a good point. We get so wrapped up in bills and amendments sometimes, but we have to ask ourselves: What can we add? What can we regulate? What needs to be repealed? We cannot repeal the law of supply and demand. That is where the impact is on the price. That economic fact must inform this debate. We certainly can consume our energy in more efficient ways, and we should do that. I support those efforts. I am glad to be a cosponsor of a bill, S. 992, that does that. But we also have to pass alternative fuels, and I am for that. But I think we have to be honest on alternative fuels as to what kind of an impact that is going to have in a relatively short time. I am all for these kinds of things, whether it is wind or Sun or whatever, but it is years down the road before it will be able to do the kinds of volume that is necessary for energy.

So I think my real point is that in the meantime, as we look for alternatives, as we look for various things, there are things we can do now, and that is what we need to do to deal with our needs in the interim while these other things are being decided.

So I am hopeful the majority will bring legislation to the floor that allows us to provide Americans with secure, affordable, and responsible sources of energy. I am convinced that unless we move forward, the majority is not moving in this direction, and I think we must.

Last week, we marked up a biofuels bill in the Energy Committee. The bill focused on ethanol from corn and feed stuffs, and that is a good thing.

However, these fuels raise the cost of corn. They raise the cost of livestock feed and, subsequently, meat and other groceries. They cannot be transported in our existing system. You cannot put ethanol into pipelines and move it. The advanced technologies are not commercialized anywhere yet in the world.

Along with Senator BUNNING, I offered an amendment to add coal-to-liquids, and coal-to-liquids don't suffer from the same shortcomings as ethanol. It will have no impact on the affordability of food. It can be delivered through existing pipelines.

Coal is available as one of our most abundant resources, as a matter of fact. It is the most plentiful supply of fossil fuels we have in this country. Coal has the potential to be converted to liquids and fluids and to electricity on the spot. These are the things which need to be done.

We spent most of 2 hours talking about this amendment, and it received a great deal of support. However, when it came down to it, it was a party-line vote of 12 to 11, and it was defeated. So I will bring it to the floor when the Energy bill comes.

I think we need to look at the short-term impact. Here is one—conversion of coal to liquids—that can work. We are doing some of it now to a small degree. In Wyoming, we are developing a refinery that will take coal and turn it into diesel fuel. Interestingly enough, we had support from a number of agencies or organizations that you would not necessarily imagine in that, including the AFL–CIO building construction trades, AFL–CIO Industrial Union Council, Air Transportation Association. All these people know how important it is to have energy and to have it available. There is a list of about 15 groups of this kind that are supportive. They are not oil supporters necessarily; they are businesspeople who know that to meet our needs, we have to have energy.

Let me read from the letter they wrote:

> In this century, America cannot be secure unless its energy supplies are secure. Fostering greater reliance on domestic energy is a national security imperative. The Nation's abundant and affordable coal reserves, matched with the proven technology, can put America on the path to energy independence by dramatically reducing our growing dependence on imported oil and reducing our burgeoning trade deficit. Domestic production of coal-to-liquids fuels will see billions of dollars invested in new investments made in the United States and create thousands of new jobs.

That is not the end of the letter, but that is the message from groups that are not directly involved in energy but know the impacts of the shortage of energy. I could not agree more with the role these folks see in the future.

Senator BUNNING and I have been asked to refrain from offering our amendment, but we did not wait. We believe strongly in the purpose of the Energy Committee to develop the best possible approach we can in dealing with the energy problem and dealing with it not only in the long-term but in the shorter term until we reach the longer term goals that may be there. So we didn't achieve our goal there. That is why we want to move forward with this and see if we can't get coal-to-liquids in our energy policy and get some incentives to move forward. I want to work in a bipartisan way to address the current concerns our Members have. I hope we have the opportunity to revisit this issue.

Americans are suffering from high fuel prices. We should do everything we can to remedy that situation. We have to do more than just talk about it; we need to make a move to take our largest fossil fuel resource and make it available for domestic production.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. CANTWELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

Ms. CANTWELL. Madam President, I ask unanimous consent to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY INDEPENDENCE

Ms. CANTWELL. Madam President, I come to the floor this morning with a lot of enthusiasm for the progress we are making in various committees toward an energy policy we can discuss on the Senate floor which will eventually lead us to greater energy independence. I am very excited about this prospect; especially since I participated in the 2005 energy legislation, which was passed with great bipartisan support. We worked together to enact this groundbreaking energy bill in 2005, which greatly benefitted my State by giving tax credits to alternative energy technologies—wind and solar—and aided in the further development and broadened use of biodiesel and including the construction of a 100 million-gallon biodiesel facility in Washington State.

There were many great things about the 2005 Energy bill but the fact that stood out to me the most was that it was a bipartisan effort. I do wish that there had been a much more aggressive effort on energy independence then, but I think today we are on the cusp of achieving this important goal.

Senator REID has been very specific since the beginning of this legislative year that he wants energy independence to be a key priority. In fact, there are six different committees that are working on energy legislation today: the Agriculture, Nutrition, and Forestry Committee, the Finance Committee, the Commerce, Science, and Transportation Committee, the Environment and Public Works Committee, the Homeland Security and Governmental Affairs Committee, and the Energy and Natural Resources Committee. All of these committees are working hard on legislation, and more importantly, they are working on legislation in a bipartisan fashion. In fact, two of these committees have reported out significant energy legislation, working across the aisle ensure that we are getting the best ideas onto the Senate floor and continuing to discuss those ideas on which we have not yet been able to reach consensus.

Yesterday was undoubtedly a historic day because it marked the first time in 20 years, that we have been able to, in a very bipartisan way, put a CAFE bill on the Senate floor—which I hope we will be discussing soon—that actually increases the fuel efficiency standards of automobiles and hopefully lowers our consumption of foreign oil. If we can move from the current miles-per-

gallon standard of 25 miles today to 35 miles in a 10-year period, this would unquestionably be a great accomplishment.

Attached to this legislation is also very important consumer protection legislation that provides the Federal Trade Commission the tools it needs to protect consumers against price gouging. With our current statutes, the FTC has the ability to investigate certain cases on the basis of antitrust laws, which are based on whether we think oil companies are colluding to set prices. What we really have to question is whether the companies may be conducting activities that actually take supply offline and thereby decrease the supply, leading to shortages at the pump. Therefore we need to give the FTC the authority it needs through this legislation and make sure consumers are protected.

This legislation, as part of a package, was passed unanimously out of the Commerce, Science, and Transportation Committee yesterday. It was the result of a bipartisan effort, led by the work of the chairman, Senator INOUYE, and the ranking member, Senator STEVENS. Unfortunately certain provision did not make it into the final version of this bill, however I firmly believe that it is a historic and important piece of bipartisan legislation that will come to the Senate floor for all of us to discuss.

Just recently, the Energy and Natural Resources Committee passed another very positive landmark legislation which relates to setting a higher mandate on biofuels. In the last Energy bill we were able to pass, we stipulated that we should have a goal of producing 7½ billion gallons of biofuel a year by 2012. Both the President and the Congress are trying to achieve a higher goal. In this legislation, that sets the goal that by 2022, we would actually have a mandate of having 36 billion gallons of alternative fuel produced in this country. I firmly believe that this is a realistic goal and an achievable mandate for us, and that it will aid in starting mass-production of alternative fuels in this country.

In addition, that legislation had money for what we call a biofuels infrastructure—how we do actually get this product out to the consumer and to the corridors of transportation so the public does not have to worry about where they can fill up their cars. Thanks in part to this legislation we will have the infrastructure to do that.

In the Commerce Committee, we also produced legislation focusing on flex-fuel cars so that, by 2015, 80 percent of the cars being driven on our roads will be flex-fueled. These are vehicles that could either use gasoline or an alternative fuel.

We have also passed legislation now for studying plug-in hybrids and making sure the plug-in hybrid research continues to move ahead.

In the Energy bill, we also included language about carbon sequestration, making sure we move ahead so carbon sequestration becomes a reality. Again, this is an important issue and it is a very important bill to my colleagues in various parts of the country in which we have an ample supply of coal. I commend Senators DOMENICI and BINGAMAN for working so closely together. That legislation also was passed in a bipartisan effort. It is a great compliment to those two distinguished Senators who worked so closely on the last Energy bill to yet produce another Energy bill.

We are in a position to make a very positive impact on what I think is one of the biggest challenges we face, getting off our overdependence on foreign oil and providing sources of cleaner energy. We are well poised to take up that debate here on the Senate floor with this landmark bipartisan legislation out of two different committees.

We will have a lot of work to do across the aisle. We still have great opportunities to see legislation out of those other four committees I mentioned that will contribute to this energy package. But we should embrace the opportunity the President laid out in his State of the Union Address when he said that he wanted to make sure we had a higher fuel efficiency standard and that we also set a higher renewable fuel standard, and that is exactly what we are doing now.

I personally think we should also set a renewable standard for the amount of electricity we use from our electricity grid to further reduce our dependence on fossil fuel. These are topics that will be debated. I am sure later in the year we will have an important debate about climate change. But for now we are making great progress. I hope my colleagues will focus on the fact that this energy bill gives us another opportunity to work together here on the Senate floor and put real energy solutions before the American public.

Right now, with gas prices reaching $4, Americans want to know we are going to have an aggressive policy, not only giving them consumer protections but better planning for the future so our economy can benefit from alternative sources of fuel.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PRESCRIPTION DRUG USER FEE AMENDMENTS OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1082, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1082) to amend the Federal Food, Drug, and Cosmetic Act to reauthorize and amend the prescription drug user fee provisions, and for other purposes.

Pending:

Brown (for Grassley) amendment No. 1039, to clarify the authority of the Office of Surveillance and Epidemiology with respect to postmarket drug safety pursuant to recommendations by the Institute of Medicine.

Brown (for Grassley) amendment No. 998, to provide for the application of stronger civil penalties for violations of approved risk evaluation and mitigation strategies.

Brown (for Durbin/Bingaman) amendment No. 1034, to reduce financial conflict of interest in FDA Advisory Panels.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes for debate currently on the bill and remaining amendments, with 10 minutes under the control of the Senator from Iowa, Mr. GRASSLEY or his designee, 5 minutes under the control of the Senator from Illinois, Mr. DURBIN or his designee, and the remaining time equally divided between the chairman and ranking member or their designees.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I yield myself 6 minutes of our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, we will see later this morning the successful conclusion of this legislation. We have some important matters to consider, which we will do in a very short period of time. But as we are coming into the closing time for this amendment, I think it is appropriate that we review very quickly what this legislation does and what it does not do.

I am a strong believer in this legislation, which has strong bipartisan support. I am enormously grateful to Senator ENZI and Members on our side of the aisle as well as those on the other side for all of their help and assistance in getting us to the point where we are ready to take final action on something that makes a major difference to families in America. We ensure the safety of our prescription drug system and also are making very important progress in the safety of our food supply.

This is, in an important way, breakthrough legislation. I will review quickly what this does and then come back to the amendments that are before the Senate and how we think the Senate should dispose of them; why this legislation is urgent, why it is extremely important, and why the American people deserve the best.

Very quickly, again, there is strong emphasis on safer food and safer medicines for families in this country. We spelled out at the earlier part of our presentations the effective systems we have supported to make sure we are going to have the safest prescription drug program in the world, using different kinds of modern technologies and also modern surveillance systems for monitoring postmarketing safety. This will ensure in the future we are going to have the safest prescription drug program in the world. We will have safer medicines.

We will also have safer food for families and pets. I think all Americans have been alarmed, as they should have

been, by what has been reported in the news in the last few weeks. Many families have lost their pets because the agency lacked the authorities provided in this bill.

We will have earlier warnings on drug safety problems using extremely elaborate systems of postmarketing surveillance. These systems will use both public and private centers to collect information that the FDA will use to find early warnings of possible harm. In these cases, the agency will be able to take expeditious action. That has never been done before.

We are going to have better medicines for children. We are enormously appreciative of the excellent work that has been done by Senator DODD and Senator CLINTON. This was done in a bipartisan way with Senator DeWine, who is not here. We all realize that children are not little people; children are children, and therefore their bodies react differently to various kinds of prescription drugs. This legislation provides mechanisms to get information on safe and effective use of medications in children as well as to promote studies of drugs in pediatric populations. In the past few years, we have made enormous progress and we believe this legislation will help to an even greater extent.

We are going to have more transparency and stronger science at the FDA because of the wonderful work done by Senator MIKULSKI. She and others worked to assure that we have greater awareness by the public of what is happening at the agency.

There is greater focus and attention on making sure the agency is going to have the best in terms of the new sciences. We are in the life science century at the present time. This has been impressed on the country with the extraordinary convention on biosciences that took place in Boston in the last few days. There I listened and read about the potential the life sciences have, not only in terms of energy and agriculture but also in terms of medicines. The United States is absolutely poised to continue to be the world leader in these fields, with all of its implications of healthier families here and around the world.

We need to make sure we are going to have the best kind of science at the FDA. We do that in the way we have given greater authority over the development of the science function at FDA. We also provided a rather unique foundation that will be able to use public and private funding. This foundation will seek out the best and the newest modalities to help speed the review of various prescription drugs. That is going to be enormously important because time means cost. If we are able to resolve these issues more quickly the costs will be more understandable and reasonable to consumers and we will get them faster.

Briefly to comment on some of the amendments, we have taken a position in our proposal that both the safety and efficacy of particular prescription drugs is a function that ought to be considered in tandem. I know there are those who think we ought to separate those functions. We can imagine a circumstance, for example, where the side reaction of a particular drug is that individuals lose all of their hair and they become nauseated. Clearly I am describing the impact of methotrexate. That can happen to an individual on many anticancer drugs. You wouldn't prescribe that for athlete's foot because the side effects are so dramatic, but you would approve that for another kind of regime to try to treat cancer.

We also have items on civil penalties for the first time. There is a question of what those civil penalties should be. I want them to be higher, but I am mindful as well that this is the first time we are going to have those civil penalties. We are going to be working on those matters with the House. I basically think they should be a little higher, but I listened to my colleague on this issue and we are going to try to make sure we get something that is going to be fair and can do the job.

I am also mindful of the concern we have in terms of the potential of conflicts of interest. I will reserve my time to be able to deal with this issue.

This is a very important issue. We want to make sure, on the one hand, as we have these breakthroughs in science, that we are going to have the best experts participating in these review groups. We also have to be sensitive to the issues of conflicts of interests. I know the Senator from Illinois has a proposal on this.

I will reserve the rest of my time to be able to discuss that later.

ELEMENTS TO ASSURE SAFE USE

Ms. MURKOWSKI. Madam President I rise to engage in a colloquy with the Senator from Wyoming and ranking member of the Senate Health, Education, Labor, and Pensions Committee, Senator ENZI.

First, I would like to thank the chairman and the ranking member of the HELP Committee for their efforts to address the issue of access to health care in frontier areas. Much of Alaska is a frontier area and it is not an easy task to access health care in general, let alone find a specialist to obtain needed medications.

Toward that end, I am pleased that the bill before us today recognizes the problem of access and provides a willing provider in a frontier area with the ability to receive the training and certification necessary to prescribe a drug that has potential serious risks. For clarification purposes, I would like to ask the Senator from Wyoming if it is the intent of Congress that section 202 of S. 1082, the FDA Revitalization Act, allows all physician and nonphysician health care providers in frontier areas to be able to receive ''training or certification'' so that the provider can prescribe or dispense a particular drug without the need for an additional degree or medical specialty?

Mr. ENZI. Yes. This is the intent.

Ms. MURKOWSKI. And under the provisions of section 202, would the willing health care provider be able to receive this training or certification through remote learning methods so that a provider would not need to travel vast distances in order to get the requisite training?

Mr. ENZI. Yes. The language in the bill recognizes that travel in frontier areas, particularly in remote places such as Alaska, can be time-consuming and expensive, so it specifically notes that the training or certification should be available in a widely available training or certification method, such as an online course or through the mail. This is intended to reduce the amount of travel and expense a willing provider in a frontier area must undertake in order to be able to prescribe or dispense needed medicines to their

Ms. MURKOWSKI. I thank the Senator. And since the provider would not be required to obtain an additional degree or medical specialty, and the training or certification would hopefully be through an online course or through the mail, is there any indication of how long such training would take for the provider to be deemed sufficiently trained to prescribe a specific drug?

Mr. ENZI. While I cannot give the Senator a guaranteed time frame, I would point out that the training and certification is specifically for the drug the provider is seeking to prescribe or dispense—not for a range of drugs. Thus, the time frame should not be a lengthy one, particularly if the training can be conducted online.

Ms. MURKOWSKI. Now, I understand that many physicians around the country are invited to attend conferences or training seminars in order to be certified to prescribe certain drugs. Given the low volume of the high risk drugs we are talking about that are likely to be dispensed in frontier areas, how can we ensure that a willing provider will be able to access this training? What is the incentive for a drug manufacturer or the FDA to include frontier area among the areas where training and certification would be available?

Mr. ENZI. I thank the Senator for that question. The language in the bill specifically says that the training or certification shall be available to any willing provider from a frontier area. Shall be available—not may be available, but shall. It is the intent of Congress in this section to direct the FDA to guarantee that a willing provider will have access to the training and certification needed to prescribe a particular drug. And again, the language that encourages the availability of an online course or course through the mail is one way to provide for that training or certification at minimal cost.

Ms. MURKOWSKI. I thank the Senator for that clarification. I bring this colloquy to the Senate floor today because I want to ensure that every

American has access to prescription drugs regardless of whether they live in a large urban city like New York, or a frontier community like Bethel, AK. I believe that with the modifications that have been made to this bill, we will be able to achieve that.

Mr. FEINGOLD. Madam President, I am pleased to support S. 1082, the Food and Drug Administration Revitalization Act of 2007. This much-needed legislation improves our country's prescription drug and medical device safety, and responds to problems that Congress is long overdue in addressing. This legislation strengthens the Food and Drug Administration, a body that has been continually underfunded and weakened by political and corporate interests. While I would like to see an even stronger bill passed, this legislation drastically improves our current policies that regulate the FDA.

My constituents in Wisconsin largely trust that their food, medications, and medical devices are safe. I generally trust that they are as well. We all depend on the FDA to ensure that our lives are not jeopardized by faulty products or contaminated food. However, recently a steady stream of dangerous drugs, food, and devices have made their way into Americans' homes. Vioxx, antidepressant drugs for children, salmonella poisoning in food, pet food contaminations—these are just a few of the most publicized instances that have harmed and even killed people in our country.

Numerous investigations have been conducted in order to better understand why these events have occurred. The conclusions to these studies have found that we need a better FDA. We need to provide the agency with the legal authority necessary to ensure our safety, and we need to provide the FDA with the necessary funding to do its job. It is clear that the agency's authority has been watered down over the years as a result of corporate influence, and our citizens have suffered the consequences. This bill takes important steps to put safety over profit margins, and it has been long awaited.

I commend the immense bipartisan effort that has been put into crafting this legislation. This is not an easy topic to tackle. It is a complex topic rife with political infighting, but today we have legislation that both parties and even many companies are fine with. Granted, the bill may be too far-reaching for some, and for others like me, it doesn't necessarily go far enough, but this is something that will pass that is a vast improvement from current law.

I was glad to support Senator DURBIN's amendment to improve the FDA's oversight and ability to respond to contaminated pet food. Like the bill as a whole, I think we need to do more to ensure that the ingredients used in both pet and human food are free from contamination, but this amendment was an important step in the right direction. The amendment strengthens the standards for pet food processing and ingredients and at the same time improves the FDA's ability to react to a problem through better detection, an adulterated food registry, and improved communication with the public. I hope this will be a platform for improving Federal oversight of the human food supply, which has been shown many times over the last year to be at risk.

In my home State of Wisconsin, the outbreak of E.coli last summer, later linked to bagged spinach, killed an elderly woman and sickened at least fifty others. The spinach was traced back to four fields on four ranches in California. The FDA itself admits that ''There has been a long history of E. coli O157:H7 outbreaks involving leafy greens from the central California region'', and yet mostly depends on the industry to self-regulate. In fact, on the FDA Web site about this particular outbreak, it says, ''[the] FDA and the State of California expect the industry to develop a comprehensive plan which is designed to minimize the risk of another outbreak.'' I am concerned that all too often the FDA is allowing the food industry to dictate the rules and whether to implement food safety protections. This bill is a step in the right direction, but more steps are likely needed and I look forward to working with my colleagues on these.

Along these lines, I was glad to offer an amendment and have it accepted in the bill that would require the FDA to resume annual reports on the level of pesticide residues in domestic and imported food and agricultural products. Moreover, my amendment requires the FDA to make the report more useful for Congress and the public. Specifically the amendment requires the FDA to work with other agencies to include similar data collected by other government agencies, conduct more advanced statistical analysis, report on efforts to prevent smuggling through mislabeling one product as another, and target future testing on products or countries, in the case of exports, that show relatively more prohibited pesticides. The recent headlines about contaminated Chinese wheat gluten clearly show a need to get a better handle on food safety. So it clearly wasn't the time for the FDA to end reporting on pesticide residues and this amendment follows the larger theme of the bill in improving our food safety oversight.

While this pesticide residue amendment is important to improve consumers' confidence in the food they eat, it also can be important for U.S. farmers. For example, Wisconsin's ginseng growers have suffered a double insult over the past few years—facing unfair competition from imported ginseng that was treated with chemicals illegal in the U.S. and then often having that ginseng misbranded as the superior quality Wisconsin ginseng. My amendment and the improved pesticide residue data and ability to focus on certain products should help FDA identify and seize unsafe products such as contaminated ginseng imports.

On another note, I am disappointed that the bill does not actually allow importing lower cost prescription drugs. While the Dorgan-Snowe amendment was accepted in the bill, it was modified and effectively nullified by the Cochran amendment, which I strongly opposed

A competitive marketplace for prescription drugs will help in containing the skyrocketing costs of prescription drugs. Over the past 4 years, I have worked in a bipartisan fashion to allow the safe importation of prescription drugs from abroad. I am a proud cosponsor of the Pharmaceutical Market Access and Drug Safety Act, which the provisions in the Dorgan-Snowe amendment were based on. This legislation would have allowed the importation of FDA-approved drugs from countries with FDA-comparable regulations, such as Canada. This legislation will finally allow the importation of safe and affordable prescriptions drugs to the United States.

As I travel around Wisconsin listening to people's concerns, the high cost of health care continues to be at the top of the list, and this includes prescription drugs. The strong bipartisan support for reimportation makes clear that Americans of all political backgrounds want the Federal Government to support consumers, rather than the interests of drug companies, and make safe and affordable prescription drugs available to those who need them. The failure to include strong reimportation legislation in this bill is unfortunate, but we are getting closer to enacting reimportation with each vote. I fully expect this to pass in the near future, and I urge my colleagues to join me in supporting efforts to legalize reimportation. As I stated earlier, I will support the final FDA Revitalization Act, but I am disappointed that strong reimportation language is not included.

Mr. COBURN. Madam President, I appreciate the attention to drug safety on the part of Senators KENNEDY and ENZI. The drug safety problems our nation experienced surrounding Vioxx and the SSRIs demanded that we take a serious look at the FDA.

I appreciate the hundreds and hundreds of staff hours that have gone into working on this legislation both before and after the HELP Committee markup.

When the Health, Education, Labor, and Pensions Committee marked up this legislation, I strongly opposed it. I appreciate the willingness of Senators KENNEDY and ENZI to listen to my concerns and take action to address them. Many of the changes I requested are included in the final product that we vote on today.

This bill has come a very long ways since its consideration in the HELP Committee. Instead of requiring a risk evaluation and mitigation strategy, REMS, for every drug, a REMS may

only be requested when there is a scientific reason for one. In giving new regulatory authority to the FDA, we must be extremely cautious that we do not hurt access to new and innovative prescription drugs.

I appreciate that the concept, introduced by Senators GREGG, BURR, and myself, to establish a surveillance system for adverse prescription drug events has been included in this legislation. This will now allow cooperation with academic institutions that have the expertise to evaluate the signals from that surveillance system and ensure that both patients and doctors have the information they need to make decisions about the risks and benefits of medical drugs.

As a practicing physician, I know that it is impossible to ever completely eliminate drug risks. The right approach is to provide accurate risk information and preserve the doctor-patient relationship. I appreciate the progress made in the bill towards this end.

I appreciate the willingness of Senators KENNEDY and ENZI to work with me on preserving the doctor-patient relationship. The FDA's job is to approve drugs as safe and effective—not to dictate which doctors can prescribe which drugs to which patients. Medicine is not just a science; it is also an art.

This legislation will ensure that patients have access to potentially lifesaving drugs that might not otherwise be approved because of known adverse events caused by the drug. This legislation establishes that the agency will not limit or restrict distribution or use unless a drug has been shown to actually cause an adverse event.

I also appreciate the efforts of my colleague Senator ROBERTS in preserving the right to commercial free speech, as intended by the Constitution, in direct-to-consumer, DTC, advertising. While I am not a big fan of DTC, I am a big fan of the Constitution. I am pleased that a compromise was reached to remove the ban on DTC from this bill and instead ensure that drug companies are held accountable if their advertisements are false or misleading.

I appreciate the willingness of Senators KENNEDY and ENZI to accept an amendment that will provide a date certain for a safety evaluation of the drug RU–486.

The two user fee agreements for prescription drugs and medical devices, PDUFA and MDUFMA, have been negotiated between industry representatives and the FDA. The industry indicates what it will pay for faster drug approvals and the FDA commits to achievable performance goals.

I appreciate the work of FDA Commissioner Dr. Andrew von Eschenbach in crafting fair and reasonable proposals for both prescription drug and medical device companies. It is critical that we focus on public health and safety, and also hold the FDA accountable for improved agency performance goals. Maintaining timely and efficient patient access to lifesaving and life-enhancing medical drugs and devices is a win for the industry, doctors, and patients. I look forward to seeing how the new performance goals in both the PDUFA and MDUFMA agreements will both help keep the pipeline of innovation moving forward and improve communication and understanding between agency staff and manufacturers.

I can vote in favor of this legislation today because of the enormous progress made. However, there are some workability issues with both the Best Pharmaceuticals for Children Act and the Pediatric Research Improvement Act. These issues need to be resolved so that the FDA has the authority to do its job quickly and effectively.

The Best Pharmaceuticals for Children Act, BPCA, has generated more clinical information for the pediatric population than any other legislative or regulatory effort to date. I am concerned about this reauthorization of the Best Pharmaceuticals for Children Act because chips away at incentives that have been getting real results for kids.

I am also concerned that part of the bill, pediatric medical devices, would authorize $30 million in demonstration grants for improving the availability of pediatric devices. While this has a worthy goal, more accountability is needed for this program to ensure that such grants are used for helping save the lives of children. Additionally, the bill's sponsors failed to do their homework in examining existing Federal programs. The fact is, the National Institutes of Health already has a program for this purpose. In order to preserve a heritage for our grandchildren, Congress needs to do the hard work of taking an inventory of existing programs before we authorize new ones.

Again, I appreciate the enormous amount of work that has gone into improving this legislation. It is critical that in addressing drug safety that we do not harm access to new and lifesaving medical technologies.

Mr. DODD. Madam President, I rise to support passage of the committee substitute to S. 1082, the Food and Drug Administration Revitalization Act, FDARA. This legislation contains tremendous advances for children and their families through the reauthorization of the Best Pharmaceuticals for Children Act, BPCA, and the Pediatric Medical Device Safety and Improvement Act, which I authored, as well as the reauthorization of the Pediatric Research Equity Act, PREA, which was introduced by my colleague, Senator CLINTON.

I congratulate Chairman KENNEDY and Ranking Member ENZI for their efforts in putting this complex bill together and thank them both for working with me to ensure these vital programs for children can thrive well into the future.

We have had good debate on this legislation. I want to thank my friend from Colorado, Senator ALLARD, for the floor debate we had on BPCA. I want to assure him and those that voted for his amendment that this bill is about increasing pediatric clinical trials and improving our knowledge about products being used in children where previously we have had no information. BPCA is and has always been about striking an appropriate balance between the cost to consumers and benefits to children.

Ten years ago when Senator Mike DeWine and I undertook this effort, only 11 drugs on the market that were being used in children had actually been tested and studied for their use. Prior to the enactment of BPCA 10 years ago, pediatricians were essentially flying blind because they lacked information regarding the safety and effectiveness of drugs they were prescribing for children. But it was children who suffered the most from taking drugs where so little was known about their effects.

What we have learned over the past 10 years of experience is that children have been exposed to ineffective drugs, ineffective dosing, overdosing, or side effects from drugs that were previously unknown. In 10 years, nearly 800 studies involving more than 45,000 children in clinical trials have been completed. Useful new pediatric information is now part of product labeling for more than 119 drugs. In sum, there has been a twentyfold increase in the number of drugs studied in infants, children, and adolescents as a result of BPCA since its enactment.

Children with a wide range of diseases such as HIV/AIDS, cancer, allergies, asthma, neurological and psychiatric disorders, and obesity can now lead healthier, more productive lives as a result of new information about the safety and efficacy of drugs they use to treat and manage their diseases where previously there was none.

This successful program for children will expire on September 30 unless we act to reauthorize it.

The reauthorization of BPCA contained within S. 1082, makes several important improvements to this program which I have spent many months developing. It is my belief that these improvements will help ensure that this program continues to thrive well into the future. I strongly support the 5-year authorization of this program so that we can closely monitor how the program is working and make improvements as they are needed in the future.

S. 1082 will increase the amount and quality of pediatric information by streamlining BPCA and PREA at the Food and Drug Administration, FDA, and ensuring that labeling changes as a result of BPCA are communicated to physicians. S. 1082 will improve transparency and accountability by making market exclusivity determinations and written requests for pediatric studies public within 30 days of exclusivity being awarded. It also will improve the accuracy and speed of labeling changes

by requiring such changes to be made within the FDA's timeline and ensuring that labeling reflects the results of the BPCA study that was conducted.

S. 1082 will ensure that BPCA continues to yield more and better drug studies in children, while addressing the minority of cases where the incentive of 6 months additional market exclusivity has far exceeded the ''carrot'' it was intended to provide to drug sponsors. It improves market certainty by not allowing pediatric exclusivity to be granted within nine months of the end of the drug's patent and increases data about the use and applicability of BPCA through reports conducted by the Institute of Medicine, IOM, and the Government Accountability Office to review the program and assess the impact of the changes made within the legislation.

BPCA has shown us that it is unsafe to simply treat children as smaller versions of adults. Children face a similar inequity with respect to medical devices. Far too few medical devices are specifically designed for children's small and growing bodies. Experts say that the development of children's medical devices lags 5 to 10 years behind that of adults. That is largely due to the limited size of the market for pediatric devices.

When a medical device suitable for a child is needed to save that child's life but it does not exist, doctors are often forced to ''jury-rig'' adult versions of the device or, in some cases, perform a riskier surgery on the child. Ventilator masks, for instance, are far too large to fit over a baby's mouth. Often, the only alternative is to run an invasive tube down the baby's throat.

Because of what we witnessed over the past ten years with the market incentives provided under BPCA, I introduced an initiative called the Pediatric Medical Device Safety and Improvement Act to create similar incentives for device manufacturers. This legislation also streamlines the approval process for cutting-edge technology and establishes grants for matchmaking between inventors and manufacturers and the Federal Government.

Balancing incentives with safety, the legislation closely mirrors recommendations made by the IOM in its 2005 report on pediatric medical device safety to improve the serious flaws in the current postmarket safety surveillance of these devices. Specifically, the IOM called for and the legislation allows the FDA to require postmarket studies as a condition of clearance or approval for certain categories of devices and it gives the FDA the ability to require studies longer than 3 years with respect to a device that is to have significant use in pediatric populations if such studies would be necessary to address longer term pediatric questions, such as the impact on growth and development.

Some in the medical device industry continue to offer proposals to chip away at the authorities in the legislation intended to ensure the FDA can request manufacturers to conduct postmarket safety surveillances and ensure devices used in children are safe. I am disheartened by anyone who would attempt to deprive children and physicians of information that pertains to device safety and I will strongly oppose attempts to weaken the postmarket safety standards contained within the legislation as the bill heads to conference.

The faster we can get new, safe pediatric devices to market, the fewer parents have to stake their children's lives on improvisation and guesswork.

I have previously mentioned the broad-ranging support for these important initiatives for children but it is worth restating that the level of support from pediatricians, patient advocacy organizations, drug and device companies, and many others indicates that this important legislation will greatly benefit children and their families.

I want to thank the tremendous work of the staff on this bill. They have devoted countless hours and many weekends to working on this legislation. Specifically, I want to thank David Bowen and David Dorsey with Senator KENNEDY and Shana Christrup, Keith Flanagan and Amy Muhlberg with Senator ENZI who worked so closely with my office on the pediatrics initiatives in title IV of this legislation. I also want to thank Kate Leone with Senator HARRY REID whose terrific leadership helped guide this legislation to passage.

I also want to acknowledge the leadership of the American Academy of Pediatrics and the Elizabeth Glaser Pediatric AIDS Foundation whose staff, Mark Del Monte, Jeanne Ireland and Elaine Vining, have provided tremendous technical assistance on the pediatrics initiatives in S. 1082.

Before I close I want to address the other provision in this legislation which reauthorizes vital user fee programs at the FDA for drugs and devices and addresses the important issue of drug safety at the FDA, an agency that regulates 25 percent of the products consumed by Americans. In recent years, we have witnessed a public crisis of confidence in the FDA's ability to ensure that the drugs taken by millions of Americans are safe and effective once they are on the market. My colleagues and I on the Health, Education, Labor and Pensions, HELP, Committee heard testimony about the internal crisis within the scientific community at the FDA about inappropriate influences on decisionmaking.

I was deeply troubled by the recent Union of Concerned Scientists study showing that of nearly 1,000 FDA scientists questioned, 420 reported that they knew of cases in which the Department of Health and Human Services or FDA political appointees have inappropriately injected themselves into FDA determinations or actions. The same study also found that 378 FDA scientists disagreed or strongly disagreed that the FDA is acting effectively to protect public health. With Vioxx, antidepressants in children, and now Ketek, the FDA has repeatedly been accused of suppressing internal safety concerns and ignoring repeated warnings of safety concerns from the FDA's own scientists.

We need to restore the public trust in this vital agency, rid it of undue influences that benefit a political, rather than a public health, agenda, and, above all, we need to adequately fund the FDA through the appropriations process so that the agency is less reliant on user fees collected from private industry. Congress must act swiftly to give the FDA more resources. That, I believe, is how we maintain the FDA as the world's gold standard in drug and device safety.

Senator GRASSLEY and I authored one of the first drug safety and clinical trials bills in the Senate in the wake of the Vioxx scandal that would have given FDA's office of postmarket drug surveillance the independence, stature and funding to take action when a safety problem arises. We reintroduced the bill this congress with several colleagues on the HELP Committee including Senators MIKULSKI and BINGAMAN and I thank them for their support. While I do not agree with some of my colleagues who have argued that this authority would create a bigger bureaucracy at the FDA, our experience showed us that the support to move such a proposal simply wasn't there.

However, I believe that my colleagues and I were able to make significant improvements to S. 1082 with respect to drug safety. I believe those improvements will strengthen science at the FDA, improve transparency of decisionmaking so that dissenting views can be heard, and improve safety of drugs once they are on the market.

The drug safety and clinical trials components of S. 1082 are by no means perfect. In fact, I have serious concerns about what I view as inadequate enforcement authority in the bill and am particularly concerned about whether the bill will prevent companies from withholding information about clinical trials which were negative or were trials that companies abandoned because initial results were negative. As demonstrated by Ketek, I am also concerned about whether this bill does enough to capture clinical trials conducted overseas. I hope we can improve on these provisions when this bill goes to conference with the House.

Today the Senate voted on an important issue dealing with conflicts of interest on FDA advisory committees. As demonstrated by the FDA advisory committee considering Vioxx, it is clear that the FDA's policy with respect to financial conflicts of interest wasn't working. The FDA has made modifications to its policy and the underlying legislation makes several additional improvements. I believe the

amendment offered by Senators DURBIN and BINGAMAN would have made great improvements to the recruitment of qualified advisory committee members. The amendment would have required the FDA to conduct aggressive outreach to professional medical and scientific societies to help with recruitment for advisory committees, especially ones with the greatest number of vacancies. Those are important policy goals and ones that I fully support.

However, I voted against the amendment because I was concerned about the impact a hard and fast limit of one waiver per committee meeting would have on timely access to drugs and new drug information. Specifically, the Pediatric Advisory Committee, a standing FDA advisory committee which relies on experts with specific expertise in pediatric issues, is an important component of the Best Pharmaceuticals for Children Act program. I was concerned that setting an arbitrary limit on the number of waivers per committee meeting would further complicate an already small pool of qualified individuals in fields such as pediatrics.

I am disappointed that an agreement on the amendment was not reached between the bill managers and sponsors of the amendment so that the Senate bill could contain the important provisions dealing with recruitment and outreach. It is my hope that we can find a way to address these issues in the conference with the House.

Taken as a whole, the underlying legislation is vital to our nation's children as well as consumers needing timely access to safe and effective drugs. Therefore, it is essential that the House act quickly so that we can send a conference report to the President in the coming months. I urge the House to pass all of the major provisions contained in S. 1082. I support this legislation and look forward to continuing to work with my colleagues on both sides of the aisle and in both Chambers so that we can send this legislation to the President for his signature.

Mr. KENNEDY. Madam President, I would like to take some time to talk about some issues that I haven't spent a great deal of time describing to the Senate about S. 1082, the Food and Drug Administration Revitalization Act.

First, I thank Senator ROBERTS and Senator HARKIN for working with Senator ENZI and me and with many members of the committee on the important issue of direct-to-consumer, or DTC, advertising.

We have worked together to accomplish our common goal—a constitutionally sound, effective, workable way to see that DTC ads provide accurate information to patients about the drugs they are taking.

Some have advocated a ban on such advertising altogether, but Senator ENZI and I rejected that approach since it failed to meet the constitutional test. Instead, we included a more measured provision in our legislation that allows FDA to impose a moratorium in extraordinary circumstances where needed to protect public health.

During our committee's consideration of this issue, Senator ROBERTS brought up his concerns that even this limited provision fell afoul of recent Supreme Court decisions on free speech. Senator HARKIN raised his strong interest in seeing that these DTC ads include strong, effective safety information that is clearly and prominently presented to consumers in a way that does not gloss over important information. Senator ENZI and I committed to work with Senator ROBERTS to see that any provision on DTC met the constitutional threshold, and we agreed to work with Senator HARKIN to make certain that it provided strong safety information to consumers. The result of our discussions is an amendment that our two colleagues offered. It is a true bipartisan compromise, worked out by two Senators committed to making real progress on an important issue, and I am pleased to support the amendment.

Instead of the moratorium included in our original bill, the Roberts-Harkin amendment puts in place strong safety disclosures for DTC ads, coupled with effective enforcement. Under current law, safety disclosures can be an afterthought—a rushed disclaimer read by an announcer at the conclusion of a TV ad while distracting images help gloss over the important information provided. Our proposal requires safety announcements to be presented in a manner that is clear and conspicuous without distracting imagery.

We also give FDA the authority to require safety disclosures in DTC ads if the risk profile of the drug requires them. Senator ROBERTS had a concern that this authority not be used indiscriminately, so we have made clear that the required disclosure must pertain to a specific identified risk.

We have made important improvements in FDA's ability to enforce the requirement to provide clear and accurate information to consumers.

For advertisements, as in so many other areas, FDA's enforcement tools are now limited. Although FDA does have the capacity under current law to remove a drug from the market for misleading ads, that authority is not often used and rightly so, since it punishes patients for the transgressions of the manufacturers. Since removing a drug from the market is an empty threat, FDA is often left with little option but to make polite requests to companies to change their ads. Under the Roberts-Harkin amendment, FDA will have the ability to levy fines of up to $150,000 for false or misleading ads.

It is unacceptable for patients to be put at risk by inaccurate ads. The Roberts-Harkin amendment makes certain that FDA will have the ability to see that this does not occur, in a way that is clearly consistent with the Constitution.

The amendment is a victory for bipartisan common sense on a difficult issue.

I would also like to address the affect of title II of this bill. Generally speaking, title II grants the FDA new authority to conduct postapproval safety surveillance activity in order to improve drug safety.

In enacting title II, we do not intend to alter existing State law duties imposed on the holder of an approved drug application to obtain and disclose information regarding drug safety hazards either before or after the drug receives FDA approval or labeling. Nor are we expressing a belief that the regulatory scheme embodied in the bill is comprehensive enough to preempt the field or every aspect of State law. FDA's approved label has always been understood to be the minimum requirement necessary for approval. In providing the FDA with new tools and enhanced authority to determine drug safety, we do not intend to convert this minimum requirement into a maximum.

As the Institute of Medicine and others have found, the FDA's past performance has been inadequate. While we fully expect substantial improvement as a result of the enactment of this bill, we cannot and do not expect the FDA or this new process to identify every drug-specific safety concern before a drug manufacturer becomes aware or should have become aware of such concerns. Nor are the bill's requirements that holders disclose certain safety information to the Government intended to substitute for the disclosure requirements that may be required under State law.

I would also like to focus on another aspect of our legislation, the Reagan-Udall Foundation.

During the discussions that led to consideration of this bill, we heard time and again that there was a major need for better research tools to aid FDA in evaluating the safety of drugs and help researchers move through the long process of developing drugs more effectively. Every day that a new medicine is needlessly delayed is another day that a patient does not receive a treatment that could well mean the difference between health and continued illness. If new research tools and better ways to evaluate the safety and effectiveness of drugs could be developed, patients will benefit from quicker drug development. If current procedures can be made more effective, then the cost of developing new drugs will drop.

One area where scientists can make real progress is developing new cell lines and new genetic techniques for testing drugs that reduce the need for costly forms of testing.

The Reagan-Udall Foundation sets up a way to develop these new tools—not so they can help just one researcher or one company, but so they can help the entire research enterprise. New ways to test drugs for effectiveness and safety

will bring new advances to patients quicker and more smoothly. Through the Reagan-Udall Foundation, they will be available to the FDA and to the entire research enterprise. This new foundation is not many pages in a long bill, but it is an important component to help get needed medicines to patients as quickly as safety will allow.

I also wish to mention another critical aspect of our legislation—its registry of clinical trials.

This provision serves two essential purposes. First, it allows patients who want to enroll in those trials an accessible and central Internet site to find out which trials are being conducted and whether they might be eligible.

This provision builds on an existing provision of law to create a clinical trials site, but report after report has shown that the requirement to list trials has not been complied with. Our legislation puts more force in the requirement to list trials so that patients will benefit.

Listing trials is important for patient access—but reporting results is critical for safety. Our legislation requires that the results of trials be reported. No longer will companies be able to hide the outcome of a trial that did not turn out the way they hoped.

Examples of this kind of abuse are shocking. The manufacturer of the antidepressant drug Paxil conducted five clinical trials of the drug in adolescents and children, yet published only one study whose mixed results it deemed positive. The company sat on two major studies for up to 4 years, although the results of one were divulged by a whistleblower and all of the studies were submitted to the FDA when the company sought approval for new uses of Paxil. At that time it became apparent that Paxil was no more effective than a placebo in treating adolescent depression.

Under the bill, these kinds of abuses will not be permitted, since clinical trials will have to be reported—no matter what the result.

Senator ENZI, Senator DODD and many others in the committee worked hard to get this provision right. We require immediate listing of all publicly available data and require a negotiated rulemaking, backed by the full authority of statute to develop the precise requirements for other results information to be included.

I would like to thank my colleagues for considering these comments as they relate to S. 1082, and I urge my colleagues to support the bill.

Mr. COBURN. Madam President, as we debate the important issue of drug safety, I want to address the safety of one drug in particular: RU–486 or mifepristone. This drug was approved in 2000 under a special pathway, subpart H drug approval that is reserved for drugs that treat severe or life-threatening illnesses. Subpart H approvals generally require a special ''restricted distribution'' approval process. Unfortunately some drugs, RU–486 for example, approved under subpart H have caused serious adverse health events in women.

Every drug approved under Subpart H is listed on the Food and Drug Administration's Web site. The vast majority of drugs listed combat HIV or specific types of cancer. One governs the use of thalidomide in treating leprosy. These drugs are supposed to relate to the treatment of life-threatening illnesses.

One example of a subpart H approval makes a mockery of the regulatory process by an expedited approval of two extremely risky drugs for abortions. Pregnancy is not an illness and certainly not one that is life-threatening in the first 7 weeks, unless it is a tubal or ectopic pregnancy in which case RU–486 abortions are absolutely contraindicated.

RU–486 was inappropriately approved in 2000. RU–486 was approved using special ''subpart H'' regulations to address problems for ''certain new drug products that have been studied for their safety and effectiveness in treating serious or life-threatening illnesses . . .'' and under restricted distribution conditions due to serious hazards presented by the drug; for example, severe hemorrhage and ectopic pregnancies. This was an inappropriate approval of RU–486 as pregnancy is not normally a life-threatening condition. Today many health care providers do not follow the limited distribution requirements of RU–486's approval.

RU–486 has put women's lives at risk. To date there have been six North American deaths related to the use of the RU–486 abortion regimen: five Americans and one Canadian have died from septic shock stemming from infection by the anaerobic bacteria Clostridium sordellii. Five other international deaths have been related to RU–486.

RU–486 causes serious safety issues. More than 1,000 adverse event reports—232 hospitalizations, 116 blood transfusions, and 88 cases of infection—have been submitted regarding RU–486 and are significant because they confirm that large numbers of mifepristone patients require surgical intervention for infection, hemorrhage, complications from ectopic pregnancy, and incomplete abortions. While lives have been lost from the use of RU–486, not a single case has been documented where RU–486 has been used to save a woman's life.

RU–486 is not always effective and when it is not the consequences are dire. I recently learned of a woman who was given RU–486 after she had a seizure. Her physicians assumed that the seizure was life-threatening to the baby she was carrying and gave her RU–486 for a therapeutic abortion.

RU–486 was not effective in her case and the woman carried the baby to term. When the baby was born at a low birth weight, it also suffered from failure to thrive. That baby has had three subsequent brain surgeries due to hydrocephalus. The baby also suffers from idiopathic lymphocytocholitis—an inflammatory disease of the colon, which is extremely rare in children. It is clear that RU–486 not only is unsafe in women, but it is also not completely effective. And when it is not effective, the results are devastating.

I appreciate the desire to effect safer drugs through this bill. Senator KENNEDY and Senator ENZI have done a great deal of work in designing the REMS scheme for certain drugs to ensure that they can be safely and effectively used.

Under the risk evaluation and mitigation system, REMS, provisions of this drug safety bill, a drug that has previously been approved under subpart H is deemed to have a REMS. Every REMS is subject to a periodic review. Therefore, RU–486 is deemed to have a REMS and is subject to periodic review.

I am pleased that the amendment offered by Senator DEMINT was accepted by the full Senate. Senator DEMINT's amendment sets a ''date certain'' REMS assessment for RU–486 to properly evaluate its drug safety risks in women. Women in this country deserve to know the safety risks associated with RU–486.

The PRESIDING OFFICER. Who yields time? The Senator from Illinois.

AMENDMENT NO. 1034

Mr. DURBIN. Madam President, I have an amendment pending and scheduled for a vote this morning on the conflict of interest provision. I believe I have 5 minutes to speak to it.

The PRESIDING OFFICER. The Senator does have 5 minutes.

Mr. DURBIN. I ask the chairman and ranking member if this a convenient time to raise the issue?

Thank you very much.

Yesterday I proposed this amendment with Senator BINGAMAN. The Food and Drug Administration Advisory Committees make important decisions, life-and-death decisions. They decide whether the drugs and medical devices which are going to be used in America are safe and effective. In other words, if a person in America has a prescription from a doctor and takes this drug, is it going to be good for their health, or bad?

This is a critical situation. If they make the wrong decision, if the advisory committee turns a dangerous drug loose on the market, it can have terrible consequences, so these committees literally have life-and-death decisions in their hands on approving drugs, on deciding what the warning labels say, deciding what you have to say in advertising. There might be a danger in these drugs. These advisory committees are the juries of scientific experts who have to make these calls. That is one of the most important decisions of our Government.

They are not just life-and-death decisions, they are decisions involving millions and millions of dollars. Drug companies spend a fortune over a long period of time trying to bring a drug to

market. They would hope this will be a drug very popular and profitable for them and their shareholders. That is a natural inclination of a business. So the advisory committee not only decides the safety and efficacy of the product, it makes a decision which has a direct impact worth millions of dollars to the drug companies involved.

Do you know what we found out? We found out over the last 10 years many people sitting on these advisory committees, those who are actually sitting on the so-called juries and deciding the fate of these drugs, have a conflict of interest. Some of them were already receiving, from the companies that make the drugs, tens of thousands of dollars in consulting fees and speaking fees. It turns out they are on the payroll, some of them, of the very companies on which they are being asked to stand in judgment. That is a conflict of interest which people cannot accept and I cannot accept.

The Food and Drug Administration argues that there are so few experts that we have to sometimes turn to those who have a conflict of interest; there is no place else to go. So occasionally we have to put a waiver in and allow someone to sit on an advisory committee panel who frankly has a financial interest in the company they are making a decision about.

That worries me. Because if you are going to have truly objective jurisdictions, that are right for the consumers of America, that approve drugs or disapprove them on the merits, not because of some inclination or prejudice which you might bring to the table, you don't need these conflicts of interest.

So basically what Senator BINGAMAN and I have said is: Let's strengthen the conflict-of-interest provisions on advisory committees. Let's make certain that there is confidence in the process. We know what happened with Vioxx. There were 10 people sitting on the advisory committee who had a financial conflict of interest. Had they been removed from the deliberation, the panel would not have recommended they go back on the market, endangering the health of thousands of Americans.

How can you ever justify that kind of conflict of interest? Our language tightens it. What we are trying to do is to make sure the Food and Drug Administration, with this amendment, limits the number of waivers to one per each advisory committee meeting, allows advisory committees to receive information from guest experts who have a financial conflict but prevents those experts from participating in the deliberations.

They can come in and express their point of view and then leave the room before the deliberation and the vote take place. And also strengthen the provisions to increase the outreach for new experts. The Food and Drug Administration has to do a better job of cultivating this new cadre of trustworthy experts who can serve on these advisory committees.

We have 125 medical schools in this country, 90 schools of pharmacy, 40 schools of public health. If the FDA is more aggressive in filling the slots on the advisory committees, we can remove this shadow of doubt which is over this process.

Now, some will argue: Well, the FDA has come forward with draft guidance to improve this. This is draft guidance. They are suggestions. This is law. This tells them they will have to follow the law to avoid these conflicts of interest. This is not an idea that Senator BINGAMAN and I bring to the table without support.

I ask unanimous consent, Madam President, to have printed in the RECORD with my remarks letters from the Consumers Union, the Union of Concerned Scientists, and a broader letter from 11 different organization that support this amendment, that would reduce and eliminate the conflicts of interest when it comes to approving new drugs and medical devices. What is at stake is the integrity of the Food and Drug Administration, the integrity of the process, and making certain we can say, with a straight face to American consumers, the products that are coming to the market, the life-and-death decisions that are being made that bring them to the market are being made by people who do not have a financial conflict of interest with these devices. I urge my colleagues to support the Durbin-Bingaman amendment.

I ask unanimous consent these letters be printed in the RECORD after my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONSUMERS UNION,
May 8, 2007.

DEAR SENATOR, Consumers Union, the nonprofit, independent publisher of Consumer Reports, urges you to support the Durbin-Bingaman amendment to S. 1082, the Food and Drug Administration Revitalization Act. This amendment will help ensure that FDA advisory committees responsible for assessing a drug's safety are not inappropriately influenced by scientists or others with financial ties to the affected drug company.

A recent national survey by Consumer Reports National Research Center found that Americans are extremely concerned about the pharmaceutical industry's influence on the drug safety process, as well as financial conflicts on FDA advisory boards.

Sixty percent of those surveyed disapproved of allowing doctors and scientists with a conflicting financial interest to participate on advisory boards. And 84 percent of consumers agree that drug companies have too much influence over the government officials who regulate them.

This amendment would make it more difficult for the FDA to issue financial conflicts of interest waivers to the scientific experts who serve on its advisory committees. The Durbin-Bingaman amendment would: limit the number of waivers to one per advisory committee meeting; establish a specific process to allow experts with a financial conflict to present information to an advisory committee, while not permitting them to deliberate or vote with the committee; and enhance the FDA's outreach activities for identifying non-conflicted experts to participate in advisory committees.

The integrity of the FDA advisory process is vital to ensuring that decisions by federal policymakers benefit the public, and not the agendas of any special interest.

Please support the Durbin-Bingaman amendment to S. 1082. If you have any questions, please contact Bill Vaughan.

Sincerely,

BILL VAUGHAN,
Senior Policy Analyst.

MAY 8, 2007.

DEAR SENATOR: The Union of Concerned Scientists strongly urges you to support the Durbin-Bingaman amendment to the FDA Revitalization Act, S. 1082. This amendment will help ensure that the Food and Drug Agency's assessment of the safety and efficacy of drugs is not inappropriately influenced by scientists with ties to the drug companies affected by an FDA approval decision.

This amendment would make it more difficult for the FDA to issue financial conflicts of interest waivers to the scientific experts who serve on its 30-plus advisory committees.

Conflicts of interest can have serious consequences for drug safety. For example, ten of the 32 scientists on the February 2005 advisory committee that considered the safety of Cox-2 inhibitors, including Vioxx, had ties to the drug companies that made the products. The scientists voted to permit the companies to continue marketing the drugs, even though Vioxx had already been withdrawn from the market and had been implicated in tens of thousands of deaths.

The Durbin-Bingaman amendment would: limit the number of waivers to one per advisory committee meeting; establish a specific process to allow experts with a financial conflict to present information to an advisory committee, while not permitting them to deliberate or vote with the committee; and enhance the FDA's outreach activities for identifying non-conflicted experts to participate in advisory committees.

The integrity of science is vital to ensuring that decisions by federal policymakers benefit the public, and not the agendas of any special interest. We at the Union of Concerned Scientists are working to ensure that federal scientists, and those who advise federal agencies, are free to do their work without interference. This amendment will be a constructive step in addressing the pervasive problem of political interference in government science.

For all these reasons, we believe that the Durbin-Bingaman amendment merits your support. Please call our Washington Representative Celia Wexler if you'd like more information on either S. 1082 or the amendment.

Sincerely,

DR. FRANCESCA GRIFO,
Director, Scientific Integrity Program,
Union of Concerned Scientists.

APRIL 30, 2007.

Senator JEFF BINGAMAN,
Washington, DC.

DEAR SENATOR BINGAMAN: We, the undersigned organizations, give our wholehearted support to the amendment to S. 1082 that you plan to offer next week that would limit the number of conflict of interest waivers allowed on Food and Drug Administration advisory committees. This amendment would end the vast majority of conflicts of interest while insuring that the FDA has access to the best advice that this nation has to offer.

The amendment would: require the FDA to engage in greater efforts to find experts without conflicts of interest to serve on its

advisory committees; limit the number of waivers that can be granted to one per committee per year; and authorize the FDA to hire experts who have conflicts of interest to make presentations and answer questions at an advisory committee meeting if the FDA believes their expertise is crucial. However, these experts will not be allowed to vote or otherwise participate in the discussions leading up to committee vote.

The FDA advisory committee process has been severely compromised in recent years. According to the agency's most recent report, one in four experts advising the FDA received waivers because they have financial ties to companies with a stake in the outcome of advisory committee meetings. At the February 2005 meeting which voted to allow continued marketing of Vioxx and Bextra, nearly a third of the advisers had ties to Cox-2 manufacturers and had their votes not been counted, the vote would have been reversed.

The status quo is undermining the public's faith in the ability of the FDA to protect it from unsafe or ineffective drugs. We believe passing this amendment will help rebuild the public's confidence in the integrity of the scientific process at the FDA. Please circulate this letter among your colleagues and encourage them to vote yes on the Bingaman amendment.

Sincerely,

Center for Medical Consumers, Center for Science in the Public Interest, Consumers Union, Government Accountability Project, National Research Center for Women & Families, National Women's Health Network, Reproductive Health Technologies Project, Title II Community AIDS National Network, Union of Concerned Scientists, U.S. PIRG, Woody Matters.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Madam President, I wish to thank the Senator from Massachusetts, Mr. KENNEDY, for the statement he made a little bit earlier but mostly for the 2½ years' worth of effort he and I have put into this bill. It has been a very cooperative process between he and I and between the Members on both sides of the aisle on the committee.

There have been a lot of points raised about food and drug safety, particularly drug safety. It has been a cooperative process, as I mentioned. We have had a lot of questions. We have had some disagreements. But what that has resulted in is going back and getting more information and finding a way that we can come up with a solution that will provide more assurance to Americans that their drugs will be safe.

I also wish to thank the people at the Food and Drug Administration for their participation in this lengthy process and providing answers. It has been a long road for this bill. I do strongly urge my colleagues to vote ''yes'' on final passage and endorse the most comprehensive drug safety overhaul in more than a decade.

Completion of this bill marks yet another significant step in the process, but there is more work to be done. The House needs to pass their version of the legislation, and then the two bodies need to work out differences in the conference committee. My hope and expectation is that the House will act in a reasonable manner and soon because this is widely considered to be must-pass legislation.

This key FDA package includes four reauthorizations that must be done this year, along with the essential new authorities for the FDA to be able to react in a timely way to safety problems that arise after a drug has been brought to the market.

I would like to take a couple minutes to recap for my colleagues the path this legislation has taken thus far. The Senate Committee on Health, Education, Labor, and Pensions conducted a top-to-bottom review of the FDA's drug safety and approval processes over 2 years ago. We did that at the same time the Finance Committee was doing a review of the FDA's safety approval processes.

We used this information plus information from other Senators to do this bill. The bill is a culmination of that review and our continued evaluation and analysis of the FDA. The changes made in the drug safety components of this legislation are critical to restoring peace of mind to Americans who want to be assured the drugs they purchase to treat illnesses and chronic medical conditions can be relied upon and trusted.

Given the limitations we identified during our review of the FDA, I felt strongly it was necessary to correct those problems and ensure that the FDA has the right tools in the toolbox to address drug safety after the drug is on the market. That is why this bill creates the Risk Evaluation and Mitigation Strategy or REMS. The REMS give the FDA the full toolbox of options for dealing with potential safety problems, even if they are discovered after the drug is first marketed.

Our goal is to get the drugs to the market quicker and to discover problems faster and get them corrected. With this new toolbox, the FDA has the ability to identify side effects after the drug is marketed through active surveillance. FDA has the authority to request a separate study or clinical trial to learn more about a particular potential safety problem.

FDA can also obtain timely label changes for the first time under this Risk Evaluation and Mitigation Strategy System. Through the REMS process, the bill also makes several key improvements to how patients get their information through advertising and labeling.

I wish to thank my colleague, Senator ROBERTS, for his tireless efforts to provide an appropriate balance for direct-to-consumer advertising. It was not an easy task to reconcile some very different opinions. I am so pleased we were able to reach a resolution on this issue that we can all support.

I also thank my colleagues, Senator HARKIN and Senator KENNEDY, for their hard work on this issue. Senator ROBERTS had planned to vote for S. 1082 but cannot be here today because he is in Kansas showing the President the damage from the tornadoes. I wish him all the best in helping his State recover from that tragedy.

The FDA currently has very little authority to require labeling changes after a drug is brought to market. We have included provisions that ensure discussions between FDA and a drug manufacturer regarding the labeling changes come to a close quickly and effectively, rather than relying on FDA's nuclear option, which is pulling the drug completely off the market.

This legislation gives FDA the tools needed to get drugs to the market quickly and efficiently and to respond to potential problems the same way, especially when lives are on the line and people need new drugs and therapies.

FDA currently has no mechanism from active, routine surveillance of potential safety problems. It cannot easily detect safety problems after a drug has been put on the market. This legislation fixes that challenge and ensures that FDA has the right tools to address drug safety after the drug is on the market.

The legislation allows for routine, active safe monitoring using large linked databases, what I call health IT for drug safety. I wish to thank Senator GREGG for being the champion of this provision and ensuring that we crafted this provision properly.

Not every drug will need a REMS. However, every drug will need a very active FDA, an FDA with all the necessary tools to identify and quickly manage additional risks.

Title IV of the bill before us contains a number of critical provisions to improve children's health. Up to 75 percent of drugs used by kids have not been tested in kids. Without information from pediatric studies, kids are often overdosed, underdosed or receive ineffective treatment. They may suffer needlessly or even die. The Best Pharmaceuticals for Children Act makes drugs safer for kids by creating incentives to perform pediatric drug studies. The incentives have produced astonishing results. In the 7 years before BPCA incentives, a total of 11 pediatric studies were performed; 7 years, 11 studies.

In the 10 years since incentives were authorized, at least 132 studies have been completed and more are underway. As a grandfather, I am very happy that the law is in place. If my grandson Trey is sick, I want the drugs he needs to have been tested for kids. All of us want that for our children and grandchildren.

The bill also reauthorizes a companion study, the Pediatric Research Improvement Act, which enables FDA to require a pediatric study if it is not done under the incentive program or through the National Institutes of Health. These two laws work together as a carrot and a stick. I strongly support their reauthorization and continuing to keep them together.

Now, so far I have only talked about drugs for kids. The bill will also make medical devices safer for kids. Devices designed for adults might not fit in kids. A scaled-down device might fit at first, but a child can grow out of it, so doctors have to jury-rig adult devices, improvise or use more invasive treatments. In addition, the market for kids' devices is small, and the development costs are very high, so few kids' devices get made.

The bill before us creates new incentives to grow the market for kid's medical devices. I am hopeful these new incentives will be as helpful as the kids' drug incentive. I would like to thank Senator ALEXANDER, Senator ALLARD, Senator BOND, Senator DODD, Senator CLINTON, and others for their leadership on behalf of kids.

A number of other FDA issues were also addressed during debate of this legislation. The legislation was improved when the Senate adopted a food safety amendment by a vote of 94 to 0. This amendment adds additional food safety provisions to better protect our pet food supply and track when food is adulterated. My colleagues and I also reached consensus that the issue of follow-on biologics will be addressed in the Help Committee early this summer.

As my colleagues know, I have some concerns with the Dorgan amendment on drug importation that was adopted last week. I supported the Cochran safety amendment that was also adopted. I did not support the Dorgan approach to foreign drug importation because I do not believe it adequately ensures the safety of the prescription drug supply.

I was pleased to work with my colleague, Senator DORGAN, to add some very significant anticounterfeiting language to the bill in the managers' amendment. But a lot of work still remains. I support the process moving forward, and I will continue to work with my colleagues and Senator DORGAN and Senator SNOWE to improve this language during the conference process.

Finally, I would like to thank Senator HATCH for his work on the antibiotics and other Hatch-Waxman issues and the follow-on biologics. Senator HATCH was responsible for the first FDA Revitalization Act in 1990, before I was even elected a Member of the Senate. I would like to thank him for helping me to bring that full circle and for the mentoring he has done as a former chairman of the committee.

I will have a lot more thank-yous to deliver after the votes, but right now we have a bit of business left to conduct.

I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, how much time remains?

The PRESIDING OFFICER. The managers have 14 minutes.

Mr. KENNEDY. Madam President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 4 minutes.

Mr. KENNEDY. Madam President, I commend my colleague from Illinois and my colleague from New Mexico for their amendment on the conflicts of interest and for working with us to address these issues in appropriations bills during the past year.

Their amendment includes many thoughtful proposals I support: including the right to call for the FDA to improve its outreach to experts who have no conflicts of interest and their right to call for greater transparency in the process of waivers.

But where I disagree with my friend from Illinois and New Mexico is that there should be an inflexible cap on the number of waivers for conflicts of interests an advisory committee can grant, no matter what the expertise of the scientists involved.

The amendment would impose a one-size-fits all, one waiver per conflict, per committee, relegating any additional members with conflicts to a secondary guest status on the committee.

The FDA has recently issued a policy not to grant a waiver for a financial interest that exceeds $50,000 and will allow those who receive a waiver for a lesser conflict to serve only as members who can participate in committee discussions but not vote.

The hallmark of this proposal is the flexibility it gives to ensure the committees will have the adequate expertise. If one or more experts with financial conflicts in excess of $50,000 have expertise that is essential to a committee, the Commissioner can grant the needed waivers. This is expected to be rare, but it can happen if needed.

Under the Durbin amendment, by contrast, the FDA can grant only one waiver per meeting. There is no flexibility on this point.

The FDA is already experiencing difficulty in filling vacancies on advisory committees. The Durbin amendment, no matter how well-intentioned, would worsen the problems, making it harder to fill critical vacancies and slowing the process of reviewing new medicines.

Let's look at the problem FDA is facing now. The Antiviral Drugs Advisory Committee needs six experts with specialized knowledge in the fields of clinical pharmacology, internal medicine, infectious diseases, microbiology, virology, immunology, pediatrics, and other specialties. These experts are needed to review the safety and effectiveness of new medicines for pandemic flu, HIV/AIDS, and other serious infections. The Anesthesiology and Respiratory Therapy Devices Panel has nine vacancies. The Ophthalmology Panel is in need of nine experts. The Advisory Committee on Peripheral and Central Nervous System Drugs needs six members—on and on down the list, the story is the same, critical vacancies, missed opportunities, and missed expertise. I am not for conflicts of interest. I am against them. But they are a fact of life.

We need policies that reflect the current reality of research in the life sciences. We have increased transparency in this legislation so there will be wide understanding of exactly how decisions are made. This is the most important. In the time of life sciences, we are talking about cross-fertilization of different ideas. Visit the Institute of Medicine. They are talking about the life sciences and work that is taking place. Flip a molecule and it could be relevant to alternative fuels. Flip it again and it can be relevant to agriculture. Flip it again and it can be relevant to the health sciences. We need all of these disciplines working together. To take one particular requirement and exclude the possibility of getting the best in terms of future scientists, we need integrity in the FDA, integrity in decisionmaking, integrity when they grant waivers. The public ought to have the right to know. We have a balance in here. Hopefully, we will retain it.

I withhold the remainder of my time.

AMENDMENT NO. 1039

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I yield myself 5 minutes out of the 10 allotted to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I am going to speak about amendment No. 1039. I ask unanimous consent that Senators MIKULSKI, BROWN, SNOWE, and BINGAMAN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. This amendment is important because S. 1082 does not sufficiently address the underlying problems I have found existing at the Food and Drug Administration during my tenure as chairman of the Senate Finance Committee looking into the problems of the Food and Drug Administration, with the goal in mind that the Federal Government should only be paying for drugs that are safe. That problem is the lack of equality between the Office of New Drugs, which reviews drug applications and decides whether to approve a drug for marketing, and the Office of Surveillance and Epidemiology, the office which monitors and assesses the safety of drugs postmarketing.

Many times I quote the Institute of Medicine as justification for my amendment. They recognize this problem. The Institute of Medicine recognizes joint authority between these two offices for postapproval regulatory action related to safety. Even the Consumers Union supports this amendment.

Having equality between preapproval and postapproval offices at the FDA is fundamental to real reform. Concentrating on the entire life cycle of drugs

is critical. After all, the vast majority of a drug's life cycle is spent post-approval. In essence, the bill before us promotes the status quo when it comes to the specific role played by the Office of Surveillance. That means the Office of Surveillance and Epidemiology will remain nothing more than a mere consultant to the Office of New Drugs. This is not acceptable.

Amendment 1039 gives the Office of Surveillance sign-off authority. They are experts in postmarketing safety. Even the Institute of Medicine recognized that through their recommendations. Let me be clear: This is not the amendment Senator DODD and I originally proposed. I still believe an independent postmarketing safety center would be best to solve the problem. But under the process, that is not going to happen. Through this amendment, at least joint postmarketing decisionmaking between the Office of Surveillance and the Office of New Drugs will allow the office with the postmarketing safety expertise to have a say in what drug safety action will be taken by the FDA.

The problem is not only the FDA having enough tools—this bill gives additional tools—it is about FDA managers disregarding concerns raised by its own scientists in the Office of Surveillance and not taking prompt action. This amendment makes common sense when you weigh the evidence I presented over the last 3 years about these problems at the FDA.

Opponents of this amendment say it is unnecessary because the bill includes a dispute resolution process with strict deadlines. But that process is for disputes between the FDA and the drug company, not internal disagreements between FDA offices.

Getting down to brass tacks, when the office that looks at postmarketing surveillance is under the thumb of the Office of New Drugs, and the Office of New Drugs says: This drug is safe, they aren't going to want to get egg on their faces by listening to the advice of the Office of Postmarketing Surveillance. If that had been the case, Dr. Graham, in the case of Vioxx, and Dr. Mosholder, in the case of antidepressant drugs, when kids were committing suicide, would have been listened to, but they weren't until they came as whistleblowers to the Congress.

We have to have it so that we have enough independent decisionmaking within the FDA to make sure these drugs are safe.

This amendment provides an approach with checks and balances between the office that approves a drug for marketing and the office that watches a drug once it is on the market.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Who yields time?

The Senator from Wyoming.

Mr. ENZI. Madam President, I yield myself such time as I need.

I rise in opposition to the amendment offered by my colleague from Iowa, Senator GRASSLEY, No. 1039, regarding the joint signing authority under the Office of New Drugs and the Office of Surveillance and Epidemiology. This amendment would add an unnecessary layer of bureaucracy into an agency that we have designed to be nimble and responsive in their process to deal with emerging drug safety issues.

Before the bill is passed, the option after market is to suggest changes or pull the drug off the market, kind of a nuclear option. The underlying bill has surveillance and techniques to notice problems quicker. That is why we will be able to get drugs on to the market faster. The underlying bill does have a dispute resolution process with firm and tight deadlines. There is both one with companies and with staff disputes. It requires by its very nature close collaboration between the two offices. This amendment only serves to separate what should be a together process and delay what should be a rapid process.

I urge my colleagues to oppose the amendment. The tools we have put in the toolbox will do what the Senator from Iowa wants to have done, which is quick response when there is a problem. I hope we don't add this extra layer of bureaucracy. We looked at this problem through a number of hearings and a number of concerns by members on the committee from both sides and came up with this third way for being able to do it that had not been polarized and that had some agreement. I hope people will stick with what is in the bill.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 998

Mr. GRASSLEY. Madam President, I yield myself such time as I consume on amendment No. 998. I ask unanimous consent that Senators DODD, SNOWE, and BINGAMAN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. This amendment provides for the application of stronger civil monetary penalties for violations of approved risk evaluation and mitigation strategies. Currently, the bill before us contains penalties, but those penalties won't mean much to large global corporations. In fact, the penalties amount to the cost of doing business. This amendment is intended, then, to give the Food and Drug Administration, the watchdog, some bite along with its bark.

There is opposition to having strong civil monetary penalties, but that does not make sense to this Senator. Even the Consumers Union supports this amendment. The reality is, drug companies provide lifesaving pharmaceuticals throughout the world. The pharmaceutical companies make miracles happen. Before a drug is approved, a drug company has an incentive to provide evidence of a drug's effectiveness to the Food and Drug Administration. Without it, they can't sell drugs in this country. However, once a drug is already being sold in the marketplace, drug companies have almost no incentive to look for and evaluate safety issues. The bottom line is, sometimes market forces guide businesses in a way that may be contrary to the public interest.

We have seen this happen many times. For the Food and Drug Administration's new authorities to be meaningful in this legislation, there must be stronger civil monetary penalties in the underlying bill; hence, my amendment. Fines are nothing more than the cost of doing business, and we can't change behavior. More importantly, we can't even deter bad behavior. If a company does what it is supposed to do, a drug company doesn't need to fear any penalties. It is that simple.

I ask Members of the Senate to support this amendment because it adds real teeth to the FDA's bite.

I thank Senators KENNEDY and ENZI for the tremendous efforts they went to in bringing this bill to the Senate floor. Again, I want to make this bill even better. They have already included several ideas Senator DODD and I have shared with them.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ENZI. Madam President, I yield myself such time as I need.

I thank the Senator from Iowa, Mr. GRASSLEY, for his participation in this bill. It has been tremendous. I mentioned the hearings he held, as we were holding hearings, as there were some crises with food and drugs. The valuable information he shared with us, as well as amendments, as he has correctly stated, are already a part of the bill.

With respect to amendment No. 998, I also have to oppose this amendment regarding the level of civil monetary penalties that can be assessed for violations of the drug safety plan.

I appreciate Senator KENNEDY's earlier comments. The level of civil penalties in the underlying bill was carefully crafted to reflect existing FDA policies for other regulated products. This is the first time we have had civil penalties in this portion covering the area of food and drugs. It was no small feat to get a consensus position so that we could have civil penalties in the bill, and I think that is necessary.

There is a precedent for the levels that we have selected, the current levels. Medical devices has the same levels. I reiterate that has never before been available to the FDA as a tool on drug safety issues, but we are providing it as a tool. Furthermore, I believe the very threat of a civil penalty is sufficient to deter bad behavior. This is the name-and-shame principle. The fine may be affordable to the company, but the loss of reputation is not.

I urge my colleagues to oppose this amendment as well. This is not the end of the process. I suspect the House will have something to say on it, as I have mentioned to the Senator from Iowa before. There will be additional negotiations, I am certain, on civil penalties. I hope we will stick with the civil penalties that have a basis in the medical devices as some basis from which to negotiate and would hope that the Senate position will be the one that is in the bill. I ask people to oppose the amendment.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

I support the comments Senator ENZI has made about the fines. We are going to have to look at this in conference, and it is clear the House is going to raise the fines, it seems to me, as Senator ENZI pointed out. So we will have a chance to look at it in conference. I think that is probably the best way to do it.

Let me point out two other items—something I think most Americans have been concerned about in recent times. It was reported today that China has detained managers from two companies linked to contaminated foods. As a first step, we need to determine the extent of the contamination and see how far into the food supply this internal adulteration has gone.

Yesterday's report from the FDA that contaminated wheat flour from China was fed to fish raised for human consumption is another example of the need for a comprehensive examination of our food safety system. We also found out yesterday that what we thought was contaminated highly processed wheat gluten was actually unprocessed wheat flour spiked with melamine to make it appear to be higher quality.

A month ago, the FDA warned that certain types of pet food were suspected of being contaminated. Then, there were more kinds of pet food. Then it was hogs being fed the contaminated food, but those had been caught before human consumption. Then we found out that tens of millions of chickens eaten by people had been fed the tainted food. Yesterday, we were informed that fish raised for human consumption had been fed contaminated food.

The incremental expansion of this crisis raises serious concerns about the FDA's ability to rapidly identify the source of food-related problems and bring to bear the effective tools. We know the issue of food safety is divided into different kinds of committees, but it has to be of concern to American families.

We have included strong new protections to allow FDA to better ensure the safety of human and pet foods, but this is a first step. Senator ENZI and Senator DURBIN have joined with me and others and we are committed to taking a comprehensive look at the safety of our food supply and we are committed to taking the actions, with our colleagues, needed to ensure that the foods our families and pets eat are as safe as possible.

As part of the managers' package adopted last night, we included important new provisions to allow the FDA to oversee the safety of farm-raised fish. We owe this—this is a story in the paper today—to Senators LINCOLN and PRYOR and SESSIONS on this important proposal.

This morning's newspaper talks about doctors reaping millions for the use of anemia drugs. People are going to wonder what we are doing in this bill, if anything, on this issue. Well, this is not what the FDA does exactly. It is safety and efficacy. But there are different agencies in what they call health research and quality. AHRQ has responsibility for this. We will be in touch with them to examine this issue and provide better guidance and recommendations to doctors and patients.

The FDA does not practice medicine. But this kind of action has to be of concern because it reflects itself in increased costs to the American consumer, and it does raise health issues as well.

So this is illustrative of the range of different areas of concerns the American families have. We believe we have made very important and substantial progress in trying to address those questions.

Mr. President, at this time I will withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

AMENDMENT NO. 1034

Mr. ENZI. Mr. President, I have to make some comments in regard to the other amendment we will be voting on this morning, which I also hope people will oppose, and that is amendment No. 1034, offered by my colleague from Illinois, Senator DURBIN.

The FDA relies on 30 advisory committees to provide independent expert advice, which lends credibility to the product review process and informs consumers of trends and product development. Given the complex issues that are considered by the FDA, outside help is needed and beneficial, and it is advisory. The decisions are not made by the committees. They advise. But any scientist who is expert enough to merit interest by the FDA has almost certainly merited interest by other entities, such as granting agencies and companies involved in the field.

This amendment would seriously limit the FDA's ability to access the best experts in the field to assist the Agency with its decisionmaking process. It would restrict FDA to granting only one waiver per committee meeting.

How would the FDA decide who gets that one waiver? Who is more worthy, the toxicologist, the drug safety expert, the specialist in women's health? These are not easy answers.

The FDA, in March, released a guidance document outlining strict new limits on evaluating advisory personnel committee members for service. The comment period on this guidance has not even closed. It is premature to void that guidance before we even know whether and how it will work.

Let's take a step back and think about what might happen if we do not allow people who have worked with or for industry to be involved in an advisory committee meeting.

Louis Pasteur was a brilliant microbiologist who revolutionized human food and health safety. Every time you buy milk in the grocery store, you are benefiting from his contributions to society. But under the Durbin amendment, Pasteur would probably not have been able to serve on any advisory committee. You see, Pasteur's research was funded by the wine industry.

Now, do you want to prevent the FDA from benefiting from the advice of the best and the brightest they have to offer? We do want to move so there are not conflicts of interest. I think the guidelines that are out there, if finalized, will do that. The amendment almost gets into a position of not conflicts of interest but biases—much harder to determine. If we are going to do that, we will never be able to have anybody on any of the committees, particularly with the expertise we need.

So I ask we oppose that amendment as well.

I yield time to the Republican leader.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I thank my friend from Wyoming.

I wish to take a moment to congratulate Senator ENZI on this wonderful, bipartisan effort he has been engaged in with our friend from Massachusetts, Senator KENNEDY. They have worked tirelessly for the past 3 weeks, through markup and floor consideration.

I also wish to commend Senator GREGG, who worked very hard with Senator ENZI to reach a bipartisan compromise on this important measure.

I particularly wish to note Senator ROBERTS was instrumental in working out the problems with direct-to-consumer advertising provisions. I know he would have liked to have been here today to support this bill, but he is out in Kansas with the President touring hurricane damage in his State.

Also, I wish to commend Senator COCHRAN. We appreciate his efforts to ensure that any proposal to bring drugs in from other countries must be certified by the Secretary of Health and Human Services as safe for the American people.

So again, I thank the Senator from Wyoming for his extraordinary accomplishment in moving this important, bipartisan legislation forward.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think we are about—I see my friend from Iowa on his feet so I will withhold. I will make a very brief comment at the very end, so I withhold.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume. I only have 2½ minutes.

AMENDMENT NO. 1039

On the very important amendment about making sure there is adequate cooperation and dialog between the Office of New Drugs and the Office of Postmarket Surveillance, I wish to make clear this amendment is not, as some have characterized it, about process. It seems to me this is the ultimate of insurance to do the right thing to protect the American people on the safety of drugs. It is based on so many examples I found over the last 3 years, where there was not the respect for the Office of Postmarketing Surveillance there ought to be from the Office of New Drugs.

A lot of safety issues would not have gotten out if we had not had a lot of red-blooded, patriotic whistleblowers who would come to Congress, such as Dr. Graham, for instance, in the case of Vioxx, such as Dr. Mosholder, in the case of depressants for children who were committing suicide. This ended up with Vioxx coming off the market. This ended up with black-box safety measures in the case of the antidepressants.

The Institute of Medicine has recognized the importance of these two groups within the FDA working very closely together on making a determination on postmarketing surveillance. That is what my amendment does. It makes sure this process works the way the Institute of Medicine indicated it should.

So as you consider voting on this amendment, I ask my colleagues—himself or herself—one basic question before voting: Since the Institute of Medicine recommends equality between the preapproval process—in other words, before a drug is marketed—and the postapproval process at the FDA, why not vote for this amendment and improve postmarketing safety for the American people?

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in a few minutes, we will be prepared to vote. I yield myself 3 or 4 minutes.

I will include in the RECORD, at the conclusion of this debate, the names of the staff on our committee who have done superb work. It has been extraordinary and on both sides of the aisle. We are enormously appreciative and grateful.

I am also personally appreciative of the work of my friend and colleague, the Senator from Ohio, Mr. BROWN, who was here yesterday and filled in. I had the opportunity to travel to Ireland, where they signed and put in place, after 400 years of struggle, the democratic institutions over there, in a very moving ceremony, which President Bush had supported—a very special day.

This legislation is a reflection of 2½ years of hearings under the leadership of Senator ENZI, when he was chair of the committee, and myself. It incorporates the Institute of Medicine's recommendations, by and large, after they had months and months of hearings. The American people ought to understand the legislation, which reflects bipartisan support in the Senate, is a reflection of the best judgments we could have as a result of months and years of working on this issue and of the membership on it. We are enormously grateful.

This legislation is going to make the prescription drugs our families take safer and our food safer. That is very important. It is going to ensure that the Agency has resources to do follow-on reviews to continue its important function to be the world leader, the gold standard, for safety for our people and the example for the rest of the world. So this is very important legislation.

We are reminded every day of the additional kinds of challenges we are facing in terms of safety for our families. We are very aware of it. Senator ENZI and I and the members of our committee are going to continue our study, our review, and continue our activity to ensure we are going to have the best in terms of a safe and secure food supply, pharmaceutical supply, and take advantage of this life science century so every American is going to have the best and, hopefully, at the most reasonable price, so they can have healthier and stronger families.

Mr. President, I yield back my remaining time.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I have a number of people I need to thank for their efforts on this bill, and I will do that following the vote so that we don't hold up the vote.

There has been tremendous cooperation, effort, knowledge, and capability that has been involved, not just of the Senators but also of the staffs. The staffs on both sides of the aisle have spent countless hours on this, even on weekends. In fact, I know of one day on one weekend they worked about 20 hours together to pull this thing together and get some of the final issues worked out. But they worked the entire weekend for at least the last three weekends. They will look forward to a little time to rest, and we will probably give them a day. That is because we have so many things happening in the committee, and Senator KENNEDY and I are determined to get a lot of that done to help the American people with their health and with their education and in the area of workplace safety and training and pensions.

But on this bill, I hope people will join us in supporting it. Of course I hope they will join us in maintaining a balance to take it to conference committee and to defeat the three amendments that are before us this morning.

I yield back the remainder of my time.

AMENDMENT NO. 1039

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes for debate equally divided prior to a vote in relation to amendment No. 1039.

Who yields time?

Mr. GRASSLEY. Mr. President, I will speak in favor of 1039. I have 30 seconds, did you say, or 1 minute?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. GRASSLEY. Mr. President, one of the issues that has been very much a shortcoming within the FDA besides lack of respect for the scientific process, but it is involved in the issue of this amendment as well, is whether scientists in the FDA who have the responsibility of postmarketing surveillance get the respect they ought to from the Office of New Drugs that previously had approved the drug. We have found in the case of Vioxx, in the case of antidepressants for children, and in a lot of other areas as well that this has just not been the case.

My amendment will follow the Institute of Medicine recommendation and make sure there is adequate time and consideration given to postmarketing surveillance, the same as there is to the approval of the drug in the first place. So I ask for approval of this amendment. It is backed by the Institute of Medicine.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I oppose the amendment. I appreciate the thought that went into it, and I know that before we did this bill and put into place some of the processes we have in the toolbox for postapproval—which, nevertheless, existed before for the FDA—this amendment would have been necessary. But in light of the toolbox we provide and the dispute resolution we have, it would add an unnecessary layer of bureaucracy.

We have designed the bill to be a nimble and responsive process to deal with emerging drug safety issues. We want drugs on the market faster, we want to know about anything that goes wrong faster, and we think that is built into it. We do have a dispute resolution in the bill with tight guidelines that will result in rapid approvals. We don't need the additional process.

The amendment separates what should be together and delays what

should be rapid. So I urge my colleagues to oppose the amendment.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

Mr. KENNEDY. Mr. President, parliamentary inquiry: Could we ask unanimous consent that we have the yeas and nays on the other two amendments? I ask unanimous consent that it be in order now for the yeas and nays on the other two amendments and then on final passage.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. Is there a sufficient second on the remaining amendments? There appears to be a sufficient second. The yeas and nays are ordered on the remaining amendments as well.

The question is on agreeing to amendment No. 1039.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 47, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—46

Baucus	Feingold	Nelson (FL)
Biden	Feinstein	Obama
Bingaman	Grassley	Pryor
Boxer	Harkin	Reed
Brown	Hutchison	Reid
Byrd	Klobuchar	Rockefeller
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Snowe
Casey	Leahy	Stabenow
Clinton	Levin	Tester
Conrad	Lieberman	Webb
Corker	Lincoln	Whitehouse
Dodd	Lugar	Wyden
Dorgan	Menendez	
Durbin	Mikulski	

NAYS—47

Akaka	Domenici	McConnell
Alexander	Ensign	Murkowski
Allard	Enzi	Murray
Bennett	Graham	Nelson (NE)
Bond	Gregg	Salazar
Bunning	Hagel	Sessions
Burr	Hatch	Shelby
Chambliss	Inhofe	Smith
Coburn	Inouye	Specter
Cochran	Isakson	Stevens
Coleman	Kennedy	Sununu
Collins	Kerry	Thomas
Cornyn	Kyl	Thune
Craig	Lott	Voinovich
DeMint	Martinez	Warner
Dole	McCaskill	

NOT VOTING—7

Bayh	Johnson	Vitter
Brownback	McCain	
Crapo	Roberts	

The amendment (No. 1039) was rejected.

Mr. ENZI. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 998

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes for debate equally divided prior to a vote in relation to amendment No. 998.

The Senator from Iowa.

Mr. GRASSLEY. I have 1 minute?

The PRESIDING OFFICER. One minute.

Mr. GRASSLEY. Mr. President, the issue is the level of civil and monetary penalties. If the fines are nothing more than the cost of doing business, you can't change behavior and you can't deter bad behavior. My feeling is the levels in this underlying bill are not high enough to get the attention of the drug companies. After all, if a company does what it is supposed to do, a drug company doesn't need to fear any penalties. It is that simple.

I ask my colleagues to support my amendment so it has real teeth.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I have to oppose this amendment in keeping with having a balance in the bill that we have agreed on. This is the first time civil monetary penalties have been assessed for violations of the drug safety plan. That is what is in our bill. We do have civil penalties in the bill. The civil penalties are the same as the medical devices. That is how we decided at what level to do it.

We added civil penalties, and there will be more work done on this issue probably as we get to conference. I want to establish the fact that civil penalties are in the bill. I want to arrive at the level that the civil penalties are assessed with more consideration and with debate with the House. This amendment could burden small businesses and create problems there.

Civil penalties are part of the bill we put together with a compromise. I ask that my colleagues vote against the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 998. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER (Mr. MENENDEZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 30, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—64

Akaka	Feinstein	Obama
Baucus	Graham	Pryor
Biden	Grassley	Reed
Bingaman	Harkin	Reid
Boxer	Hutchison	Rockefeller
Brown	Klobuchar	Salazar
Byrd	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Sessions
Carper	Leahy	Smith
Casey	Levin	Snowe
Clinton	Lieberman	Specter
Coleman	Lincoln	Stabenow
Collins	Lott	Sununu
Conrad	Lugar	Tester
Corker	Martinez	Thune
Cornyn	McCaskill	Warner
Dodd	Menendez	Webb
Dorgan	Mikulski	Whitehouse
Durbin	Murray	Wyden
Ensign	Nelson (FL)	
Feingold	Nelson (NE)	

NAYS—30

Alexander	Craig	Isakson
Allard	DeMint	Kennedy
Bayh	Dole	Kerry
Bennett	Domenici	Kyl
Bond	Enzi	McConnell
Bunning	Gregg	Murkowski
Burr	Hagel	Shelby
Chambliss	Hatch	Stevens
Coburn	Inhofe	Thomas
Cochran	Inouye	Voinovich

NOT VOTING—6

Brownback	Johnson	Roberts
Crapo	McCain	Vitter

The amendment (No. 998) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1034

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 1034.

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, 2 years ago, an advisory committee of the FDA sat down to judge painkiller drugs and whether they were safe to sell to America. They made the recommendation that selling Vioxx to America was safe. Ten of the members of that advisory committee had a financial conflict of interest when they made the decision. Had those 10 members with the conflict not been there, the panel would not have recommended keeping those drugs on the market.

This amendment Senator BINGAMAN and I offer will take the conflict of interest out of the advisory committees. We will allow one waiver for someone with a conflict of interest, and we will say that others who participate as guest experts have to leave the room before any deliberation or vote.

We will hear from the other side that the Food and Drug Administration has an idea of how they are going to change this rule at some future time.

This is not an idea we are proposing, it is a law—a law to protect the integrity of the advisory committees and the drugs and medical devices which are sold across America.

I urge my colleagues to support this amendment.

Mr. KENNEDY. Mr. President, the FDA has a new policy, a new procedure out there.

Basically, what the Durbin amendment says is, one size fits all. That concept has been rejected by the Europeans, rejected by the Canadians, and basically rejected by the Institute of Medicine. In this life science century, researchers who are looking at cancer drugs may be examining 15 different components. Are we going to say that if a conflict exists with one of those components that they meet the Durbin amendment standard. This would exclude some of the most knowledgeable people in this country from participating in the review of breakthrough drugs.

The FDA says they have adopted transparency. Everyone in the Senate is going to know who sits on the advisory committees. There is a financial limitation of $50,000 at the FDA now. Everyone is going to know the existence of any conflicts. It is a new day out there. We have now have transparency, but virtually everyone who understands that we are in the life science century says we have to have the best scientific minds at the table, and so the Institute of Medicine said: Don't go with a one-size-fits-all, which the Durbin amendment does.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 1034. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 47, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—47

Akaka	Collins	Lautenberg
Baucus	Conrad	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Lieberman
Bingaman	Feingold	Lincoln
Boxer	Feinstein	McCaskill
Brown	Grassley	Menendez
Cantwell	Harkin	Mikulski
Cardin	Inouye	Murray
Carper	Klobuchar	Nelson (FL)
Casey	Kohl	Obama
Clinton	Landrieu	Pryor
Reed	Schumer	Webb
Reid	Snowe	Whitehouse
Salazar	Stabenow	Wyden
Sanders	Tester	

NAYS—47

Alexander	Dole	Martinez
Allard	Domenici	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Nelson (NE)
Bunning	Graham	Rockefeller
Burr	Gregg	Sessions
Byrd	Hagel	Shelby
Chambliss	Hatch	Smith
Coburn	Hutchison	Specter
Cochran	Inhofe	Stevens
Coleman	Isakson	Sununu
Corker	Kennedy	Thomas
Cornyn	Kerry	Thune
Craig	Kyl	Voinovich
DeMint	Lott	Warner
Dodd	Lugar	

NOT VOTING—6

Brownback	Johnson	Roberts
Crapo	McCain	Vitter

The amendment (No. 1034) was rejected.

The PRESIDING OFFICER. Under the previous order, the committee substitute amendment, as modified and amended, is agreed to, the motion to reconsider is considered made and laid upon the table, and the cloture motion on the bill is withdrawn.

Under the previous order, the clerk will read the bill for the third time.

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 modified and amended, pass?

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 1, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—93

Akaka	Casey	Ensign
Alexander	Chambliss	Enzi
Allard	Clinton	Feingold
Baucus	Coburn	Feinstein
Bayh	Cochran	Graham
Bennett	Coleman	Grassley
Biden	Collins	Gregg
Bingaman	Conrad	Hagel
Bond	Corker	Harkin
Boxer	Cornyn	Hatch
Brown	Craig	Hutchison
Bunning	DeMint	Inhofe
Burr	Dodd	Inouye
Byrd	Dole	Isakson
Cantwell	Domenici	Kennedy
Cardin	Dorgan	Kerry
Carper	Durbin	Klobuchar
Kohl	Mikulski	Smith
Kyl	Murkowski	Snowe
Landrieu	Murray	Specter
Lautenberg	Nelson (FL)	Stabenow
Leahy	Nelson (NE)	Stevens
Levin	Obama	Sununu
Lieberman	Pryor	Tester
Lincoln	Reed	Thomas
Lott	Reid	Thune
Lugar	Rockefeller	Voinovich
Martinez	Salazar	Warner
McCaskill	Schumer	Webb
McConnell	Sessions	Whitehouse
Menendez	Shelby	Wyden

NAYS—1

Sanders

NOT VOTING—6

Brownback	Johnson	Roberts
Crapo	McCain	Vitter

The bill (S. 1082) as modified and amended, was passed, as follows:

S. 1082

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 ''Food and Drug Administration Revitalization Act''.

TITLE I—PRESCRIPTION DRUG USER FEES

SEC. 101. SHORT TITLE; REFERENCES IN TITLE.

(a) SHORT TITLE.—This title may be cited as the ''Prescription Drug User Fee Amendments of 2007''.

(b) REFERENCES IN TITLE.—Except as otherwise specified, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 102. DRUG FEES.

Section 735 (21 U.S.C. 379g) is amended—

(1) by striking the section designation and all that follows through ''For purposes of this subchapter:'' and inserting the following:

''SEC. 735. DRUG FEES.

''(a) PURPOSE.—It is the purpose of this part that the fees authorized under this part be dedicated toward expediting the drug development process, the process for the review of human drug applications, and postmarket drug safety, as set forth in the goals identified for purposes of this part in the letters from the Secretary to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record.

''(b) REPORTS.—

''(1) PERFORMANCE REPORT.—For fiscal years 2008 through 2012, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in subsection (a) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals. The report for a fiscal year shall include information on all previous cohorts for which the Secretary has not given a complete response on all human drug applications and supplements in the cohort.

''(2) FISCAL REPORT.—For fiscal years 2008 through 2012, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary

shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

''(3) PUBLIC AVAILABILITY.—The Secretary shall make the reports required under paragraphs (1) and (2) available to the public on the Internet website of the Food and Drug Administration.

''(c) REAUTHORIZATION.—

''(1) CONSULTATION.—In developing recommendations to present to Congress with respect to the goals, and plans for meeting the goals, for the process for the review of human drug applications for the first 5 fiscal years after fiscal year 2012, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

''(A) the Committee on Energy and Commerce of the House of Representatives;

''(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

''(C) scientific and academic experts;

''(D) health care professionals;

''(E) representatives of patient and consumer advocacy groups; and

''(F) the regulated industry.

''(2) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the regulated industry, the Secretary shall—

''(A) present the recommendations developed under paragraph (1) to the Congressional committees specified in such paragraph;

''(B) publish such recommendations in the Federal Register;

''(C) provide for a period of 30 days for the public to provide written comments on such recommendations;

''(D) hold a meeting at which the public may present its views on such recommendations; and

''(E) after consideration of such public views and comments, revise such recommendations as necessary.

''(3) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2012, the Secretary shall transmit to Congress the revised recommendations under paragraph (2), a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments.

''(d) DEFINITIONS.—For purposes of this part:'';

(2) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''505(b)(1),'' and inserting ''505(b), or'';

(ii) by striking subparagraph (B);

(iii) by redesignating subparagraph (C) as subparagraph (B); and

(iv) in the matter following subparagraph (B), as so redesignated, by striking ''subparagraph (C)'' and inserting ''subparagraph (B)'';

(B) in paragraph (3)(C), by—

(i) striking ''the list'' and inserting ''the list (not including the discontinued section of such list)''; and

(ii) striking ''a list'' and inserting ''a list (not including the discontinued section of such a list)'';

(C) in paragraph (4), by inserting before the period at the end the following: ''(such as capsules, tablets, and lyophilized products before reconstitution)'';

(D) by amending paragraph (6)(F) to read as follows:

''(F) In the case of drugs approved under human drug applications or supplements, postmarket safety activities, including—

''(i) collecting, developing, and reviewing safety information on approved drugs (including adverse event reports);

''(ii) developing and using improved adverse event data collection systems (including information technology systems); and

''(iii) developing and using improved analytical tools to assess potential safety problems (including by accessing external data bases).'';

(E) in paragraph (8)—

(i) by striking ''April of the preceding fiscal year'' and inserting ''October of the preceding fiscal year''; and

(ii) by striking ''April 1997'' and inserting ''October 1996'';

(F) by redesignating paragraph (9) as paragraph (10); and

(G) by inserting after paragraph (8) the following:

''(9) The term 'person' includes an affiliate of such person.''.

SEC. 103. AUTHORITY TO ASSESS AND USE DRUG FEES.

(a) TYPES OF FEES.—Section 736(a) (21 U.S.C. 379h(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''2003'' and inserting ''2008'';

(2) in paragraph (1)—

(A) in subparagraph (D)—

(i) in the heading, by inserting ''OR WITHDRAWN BEFORE FILING'' after ''REFUND OF FEE IF APPLICATION REFUSED FOR FILING''; and

(ii) by inserting before the period at the end the following: ''or withdrawn without a waiver before filing'';

(B) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(C) by inserting after subparagraph (D) the following:

''(E) FEE FOR APPLICATION PREVIOUSLY REFUSED FOR FILING OR WITHDRAWN BEFORE FILING.—An application or supplement that has been refused for filing or that was withdrawn before filing, if filed under protest or resubmitted, shall be subject to the fee under subparagraph (A) (unless an exception under subparagraph (C) or (F) applies or the fee is waived or reduced under subsection (d)), without regard to previous payment of such a fee and the refund of 75 percent of that fee under subparagraph (D).''; and

(3) in paragraph (2)—

(A) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''; and

(B) by adding at the end the following:

''(C) SPECIAL RULES FOR COMPOUNDED POSITRON EMISSION TOMOGRAPHY DRUGS.—

''(i) IN GENERAL.—Except as provided in clause (ii), each person who is named as the applicant in an approved human drug application for a compounded positron emission tomography drug shall be subject under subparagraph (A) to one-fifth of an annual establishment fee with respect to each such establishment identified in the application as producing compounded positron emission tomography drugs under the approved application.

''(ii) EXCEPTION FROM ANNUAL ESTABLISHMENT FEE.—Each person who is named as the applicant in an application described in clause (i) shall not be assessed an annual establishment fee for a fiscal year if the person certifies to the Secretary, at a time specified by the Secretary and using procedures specified by the Secretary, that—

''(I) the person is a not-for-profit medical center that has only 1 establishment for the production of compounded positron emission tomography drugs; and

''(II) at least 95 percent of the total number of doses of each compounded positron emission tomography drug produced by such establishment during such fiscal year will be used within the medical center.''.

(b) FEE REVENUE AMOUNTS.—Section 736(b) (21 U.S.C. 379h(b)) is amended to read as follows:

''(b) FEE REVENUE AMOUNTS.—Except as provided in subsections (c), (d), (f), and (g), fees under subsection (a) shall be established to generate the following revenue amounts, in each fiscal year beginning with fiscal year 2008 and continuing through fiscal year 2012: $392,783,000, plus an adjustment for workload on $354,893,000 of this amount. Such adjustment shall be made in accordance with the workload adjustment provisions in effect for fiscal year 2007, except that instead of commercial investigational new drug applications submitted to the Secretary, all commercial investigational new drug applications with a submission during the previous 12-month period shall be used in the determination. One-third of the revenue amount shall be derived from application fees, one-third from establishment fees, and one-third from product fees.''.

(c) ADJUSTMENTS TO FEES.—

(1) INFLATION ADJUSTMENT.—Section 736(c)(1) (21 U.S.C. 379h(c)(1)) is amended—

(A) in the matter preceding subparagraph (A) by striking ''The revenues established in subsection (b)'' and inserting ''Beginning with fiscal year 2009, the revenues established in subsection (b)'';

(B) in subparagraph (A) by striking ''or'' at the end;

(C) in subparagraph (B) by striking the period at the end and inserting '', or,'';

(D) by inserting after subparagraph (B) the following:

''(C) the average annual change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions, for the first 5 fiscal years of the previous 6 fiscal years.''; and

(E) in the matter following subparagraph (C) (as added by this paragraph), by striking ''fiscal year 2003'' and inserting ''fiscal year 2008''.

(2) WORKLOAD ADJUSTMENT.—Section 736(c)(2) (21 U.S.C. 379h(c)(2)) is amended—

(A) in the matter preceding subparagraph (A,) by striking ''2004'' and inserting ''2009'';

(B) in the first sentence of subparagraph (A)—

(i) by striking '', commercial investigational new drug applications'' and inserting ''(adjusted for changes in review activities)''; and

(ii) by inserting before the period at the end '', and the change in the number of commercial investigational new drug applications with a submission during the previous 12-month period (adjusted for changes in review activities)'';

(C) in subparagraph (B), by adding at the end the following new sentence: ''Further, any adjustment for changes in review activities made in setting fees and fee revenue amounts for fiscal year 2009 may not result in the total workload adjustment being more than 2 percentage points higher than it would be absent the adjustment for changes in review activities.''; and

(D) by adding at the end the following:

''(C) The Secretary shall contract with an independent accounting firm to study the adjustment for changes in review activities applied in setting fees for fiscal year 2009 and to make recommendations, if warranted, on future changes in the methodology for calculating the adjustment for changes in review activity. After review of the recommendations by the independent accounting firm, the Secretary shall make appropriate changes to the workload adjustment methodology in setting fees for fiscal years 2010 through 2012. If the study is not conducted, no adjustment for changes in review activities shall be made after fiscal year 2009.''.

(3) RENT AND RENT-RELATED COST ADJUSTMENT.—Section 736(c) (21 U.S.C. 379h(c)) is amended—

(A) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

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

''(3) RENT AND RENT-RELATED COST ADJUSTMENT.—Beginning with fiscal year 2010, the Secretary shall, before making the adjustments under paragraphs (1) and (2), reduce the fee amounts established in subsection (b), if actual costs paid for rent and rent-related expenses are less than $11,721,000. The reductions made under this paragraph, if any, shall not exceed the amounts by which costs fell below $11,721,000, and shall not exceed $11,721,000 in any fiscal year.''.

(4) FINAL YEAR ADJUSTMENT.—Section 736(c) (21 U.S.C. 379h(c)) is amended—

(A) in paragraph (4), as redesignated by this subsection—

(i) by striking ''2007'' each place it appears and inserting ''2012''; and

(ii) by striking ''2008'' and inserting ''2013''; and

(B) in paragraph (5), as redesignated by this subsection, by striking ''2002'' and inserting ''2007''.

(d) FEE WAIVER OR REDUCTION.—Section 736(d) (21 U.S.C. 379h(d)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by—

(A) inserting ''to a person who is named as the applicant'' after ''The Secretary shall grant'';

(B) inserting ''to that person'' after ''a waiver from or a reduction of one or more fees assessed''; and

(C) striking ''finds'' and inserting ''determines'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following:

''(2) EVALUATION.—For the purpose of determining whether to grant a waiver or reduction of a fee under paragraph (1), the Secretary shall consider only the circumstances and assets of the applicant and any affiliate of the applicant.''; and

(4) in paragraph (4), as redesignated by this subsection, in subparagraph (A), by inserting before the period at the end '', and that does not have a drug product that has been approved under a human drug application and introduced or delivered for introduction into interstate commerce''.

(e) CREDITING AND AVAILABILITY OF FEES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 736(g)(3) (21 U.S.C. 379h(g)(3)) is amended to read as follows:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section such sums as are authorized to be assessed and collected under this section in each of fiscal years 2008 through 2012.''.

(2) OFFSET.—Section 736(g)(4) (21 U.S.C. 379h(g)(4)) is amended to read as follows:

''(4) OFFSET.—If the cumulative amount of fees collected during fiscal years 2008, 2009, and 2010, plus the amount estimated to be collected for fiscal year 2011, exceeds the amount of fees specified in aggregate in appropriation Acts for such fiscal years, the aggregate amount in excess shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for fiscal year 2012.''.

(f) CONFORMING AMENDMENTS.—

(1) Section 736(a) (21 U.S.C. 379h(a)), as amended by this section, is amended—

(A) in paragraph (1)(A), by striking ''subsection (c)(4)'' each place it appears and inserting ''subsection (c)(5)'';

(B) in paragraph (2), by striking ''subsection (c)(4)'' and inserting ''subsection (c)(5)''; and

(C) in paragraph (3), by striking ''subsection (c)(4)'' and inserting ''subsection (c)(5)''.

(2) Section 736A(h)(3), as added by section 104 of this title, is amended by striking ''735(3)'' and inserting ''735(d)(3)''.

SEC. 104. AUTHORITY TO ASSESS AND USE PRESCRIPTION DRUG ADVERTISING FEES.

Chapter VII, subchapter C, part 2 (21 U.S.C. 379g et seq.) is amended by adding after section 736 the following new section:

''SEC. 736A. PROGRAM TO ASSESS AND USE FEES FOR THE ADVISORY REVIEW OF PRESCRIPTION DRUG ADVERTISING.

''(a) TYPES OF DIRECT-TO-CONSUMER TELEVISION ADVERTISEMENT REVIEW FEES.—Beginning with fiscal year 2008, the Secretary shall assess and collect fees in accordance with this section as follows:

''(1) ADVISORY REVIEW FEE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), each person that on or after October 1, 2007, submits a proposed direct-to-consumer television advertisement for advisory review by the Secretary prior to its initial public dissemination shall be subject to a fee established under subsection (c)(3).

''(B) EXCEPTION FOR REQUIRED SUBMISSIONS.—A direct-to-consumer television advertisement that is required to be submitted to the Secretary prior to initial public dissemination shall not be assessed a fee unless the sponsor designates it as a submission for advisory review.

''(C) PAYMENT.—The fee required by subparagraph (A) shall be due not later than October 1 of the fiscal year in which the direct-to-consumer television advertisement shall be submitted to the Secretary for advisory review.

''(D) MODIFICATION OF ADVISORY REVIEW FEE.—

''(i) LATE PAYMENT.—If, on or before November 1 of the fiscal year in which the fees are due, a person has not paid all fees that were due and payable for advisory reviews identified in response to the Federal Register notice described in subsection (c)(3)(A), the fees shall be regarded as late. Such fees shall be due and payable 20 days before any direct-to-consumer television advertisement is submitted by such person to the Secretary for advisory review. Notwithstanding any other provision of this section, such fees shall be due and payable for each of those advisory reviews in the amount of 150 percent of the advisory review fee established for that fiscal year pursuant to subsection (c)(3).

''(ii) LATE NOTICE OF SUBMISSION.—If any person submits any direct-to-consumer television advertisements for advisory review that are in excess of the number identified by that person in response to the Federal Register notice described in subsection (c)(3)(A), that person must pay a fee for each of those advisory reviews in the amount of 150 percent of the advisory review fee established for that fiscal year pursuant to subsection (c)(3). Fees under this subparagraph shall be due 20 days before the direct-to-consumer television advertisement is submitted by such person to the Secretary for advisory review.

''(E) LIMITS.—

''(i) IN GENERAL.—The payment of a fee under this paragraph for a fiscal year entitles the person that pays the fee to acceptance for advisory review by the Secretary of 1 direct-to-consumer television advertisement and acceptance of 1 resubmission for advisory review of the same advertisement. The advertisement shall be submitted for review in the fiscal year for which the fee was assessed, except that a person may carry over no more than 1 paid advisory review submission to the next fiscal year. Resubmissions may be submitted without regard to the fiscal year of the initial advisory review submission.

''(ii) NO REFUND.—Except as provided by subsection (f), fees paid under this paragraph shall not be refunded.

''(iii) NO WAIVER, EXEMPTION, OR REDUCTION.—The Secretary shall not grant a waiver, exemption, or reduction of any fees due or payable under this section.

''(iv) NON-TRANSFERABILITY.—The right to an advisory review is not transferable, except to a successor in interest.

''(2) OPERATING RESERVE FEE.—

''(A) IN GENERAL.—Each person that, on or after October 1, 2007, is assessed an advisory review fee under paragraph (1) shall be subject to an operating reserve fee established under subsection (d)(2) only in the first fiscal year in which an advisory review fee is assessed.

''(B) PAYMENT.—Except as provided in subparagraph (C), the fee required by subparagraph (A) shall be due not later than October 1 of the first fiscal year in which the person is required to pay an advisory review fee under paragraph (1).

''(C) LATE NOTICE OF SUBMISSION.—If, in the first fiscal year of a person's participation in the Program, that person submits any direct-to-consumer television advertisements for advisory review that are in excess of the number identified by that person in response to the Federal Register notice described in subsection (c)(3)(A), that person must pay an operating reserve fee for each of those advisory reviews equal to the advisory review fee for each submission established under paragraph (1)(D)(ii). Fees required by this subparagraph shall be in addition to the fees required under subparagraph (B), if any. Fees under this subparagraph shall be due 20 days before any direct-to-consumer television advertisement is submitted by such person to the Secretary for advisory review.

''(b) ADVISORY REVIEW FEE REVENUE AMOUNTS.—Fees under subsection (a)(1) shall be established to generate revenue amounts of $6,250,000 for each of fiscal years 2008 through 2012, as adjusted pursuant to subsection (c).

''(c) ADJUSTMENTS.—

''(1) INFLATION ADJUSTMENT.—Beginning with fiscal year 2009, the revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

''(A) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average), for the 12-month period ending June 30 preceding the fiscal year for which fees are being established;

''(B) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia; or

''(C) the average annual change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions, for the first 5 fiscal years of the previous 6 fiscal years.

The adjustment made each fiscal year by this paragraph shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2008 under this subsection.

''(2) WORKLOAD ADJUSTMENT.—

''(A) IN GENERAL.—Beginning with fiscal year 2009, after the fee revenues established in subsection (b) of this section are adjusted for a fiscal year for inflation in accordance with paragraph (1), the fee revenues shall be adjusted further for such fiscal year to reflect changes in the workload of the Secretary with respect to the submission of proposed direct-to-consumer television advertisements for advisory review prior to initial broadcast.

''(B) DETERMINATION OF WORKLOAD ADJUSTMENT.—

''(i) IN GENERAL.—The workload adjustment under this paragraph for a fiscal year shall be determined by the Secretary—

''(I) based upon the number of direct-to-consumer television advertisements identified pursuant to paragraph (3)(A) for that fiscal year, excluding allowable previously paid carry over submissions; and

''(II) by multiplying the number of such advertisements projected for that fiscal year that exceeds 150 by $27,600 (adjusted each year beginning with fiscal year 2009 for inflation in accordance with paragraph (1)).

''(ii) PUBLICATION IN FEDERAL REGISTER.—The Secretary shall publish in the Federal Register, as part of the notice described in paragraph (1), the fee revenues and fees resulting from the adjustment made under this paragraph and the supporting methodologies.

''(C) LIMITATION.—Under no circumstances shall the adjustment made under this paragraph result in fee revenues for a fiscal year that are less than the fee revenues established for the prior fiscal year.

''(3) ANNUAL FEE SETTING.—

''(A) NUMBER OF ADVERTISEMENTS.—The Secretary shall, 120 days before the start of each fiscal year, publish a notice in the Federal Register requesting any person to notify the Secretary within 30 days of the number of direct-to-consumer television advertisements the person intends to submit for advisory review by the Secretary in the next fiscal year. Notification to the Secretary of the number of advertisements a person intends to submit for advisory review prior to initial broadcast shall be a legally binding commitment by that person to pay the annual advisory review fee for that number of submissions on or before October 1 of the fiscal year in which the advertisement is intended to be submitted. A person shall at the same time also notify the Secretary if such person intends to use a paid submission from the previous fiscal year under subsection (a)(1)(E)(i). If such person does not so notify the Secretary, all submissions for advisory review shall be subject to advisory review fees.

''(B) ANNUAL FEE.—The Secretary shall, 60 days before the start of each fiscal year, establish, for the next fiscal year, the direct-to-consumer television advertisement advisory review fee under subsection (a)(1), based on the revenue amounts established under subsection (b), the adjustments provided under this subsection and the number of direct-to-consumer television advertisements identified pursuant to subparagraph (A), excluding allowable previously paid carry over submissions. The annual advisory review fee shall be established by dividing the fee revenue for a fiscal year (as adjusted pursuant to this subsection) by the number of direct-to-consumer television advertisements identified pursuant to subparagraph (A), excluding allowable previously paid carry over submissions.

''(C) FISCAL YEAR 2008 FEE LIMIT.—Notwithstanding subsection (b), the fee established under subparagraph (B) for fiscal year 2008 may not be more than $83,000 per submission for advisory review.

''(D) ANNUAL FEE LIMIT.—Notwithstanding subsection (b), the fee established under subparagraph (B) for a fiscal year after fiscal year 2008 may not be more than 50 percent more than the fee established for the prior fiscal year.

''(E) LIMIT.—The total amount of fees obligated for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the advisory review of prescription drug advertising.

''(d) OPERATING RESERVES.—

''(1) IN GENERAL.—The Secretary shall establish in the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation a Direct-to-Consumer Advisory Review Operating Reserve, of at least $6,250,000 in fiscal year 2008, to continue the Program in the event the fees collected in any subsequent fiscal year pursuant to subsection (c)(3) do not generate the fee revenue amount established for that fiscal year.

''(2) FEE SETTING.—The Secretary shall establish the operating reserve fee under subsection (a)(2)(A) for each person required to pay the fee by multiplying the number of direct-to-consumer television advertisements identified by that person pursuant to subsection (c)(3)(A) by the advisory review fee established pursuant to subsection (c)(3) for that fiscal year. In no case shall the operating reserve fee assessed be less than the operating reserve fee assessed if the person had first participated in the Program in fiscal year 2008.

''(3) USE OF OPERATING RESERVE.—The Secretary may use funds from the reserves under this subsection only to the extent necessary in any fiscal year to make up the difference between the fee revenue amount established for that fiscal year under subsection (b) and the amount of fees collected for that fiscal year pursuant to subsection (a), or to pay costs of ending the Program if it is terminated pursuant to subsection (f) or if it is not reauthorized after fiscal year 2012.

''(4) REFUND OF OPERATING RESERVES.—Within 120 days of the end of fiscal year 2012, or if the Program is terminated pursuant to subsection (f), the Secretary, after setting aside sufficient operating reserve amounts to terminate the Program, shall refund all amounts remaining in the operating reserve on a pro rata basis to each person that paid an operating reserve fee assessment. In no event shall the refund to any person exceed the total amount of operating reserve fees paid by such person pursuant to subsection (a)(2).

''(e) EFFECT OF FAILURE TO PAY FEES.—Notwithstanding any other law or regulation of the Secretary, a submission for advisory review of a direct-to-consumer television advertisement submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person under this section have been paid.

''(f) EFFECT OF INADEQUATE FUNDING OF PROGRAM.—

''(1) FIRST FISCAL YEAR.—If on November 1, 2007, or 120 days after enactment of the Prescription Drug User Fee Amendments of 2007, whichever is later, the Secretary has received less than $11,250,000 in advisory review fees and operating reserve fees combined, the Program shall be terminated and all collected fees shall be refunded.

''(2) SUBSEQUENT FISCAL YEARS.—Beginning in fiscal year 2009, if, on November 1 of a fiscal year, the combination of the operating reserves, annual fee revenues from that fiscal year, and unobligated fee revenues from prior fiscal years is less than $9,000,000, adjusted for inflation (in accordance with subsection (c)(1)), the Program shall be terminated, and the Secretary shall notify all participants, retain any money from the unused advisory review fees and the operating reserves needed to terminate the Program, and refund the remainder of the unused fees and operating reserves. To the extent required to terminate the Program, the Secretary shall first use unobligated advisory review fee revenues from prior fiscal years, then the operating reserves, and then unused advisory review fees from the relevant fiscal year.

''(g) CREDITING AND AVAILABILITY OF FEES.—

''(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the advisory review of prescription drug advertising.

''(2) COLLECTIONS AND APPROPRIATION ACTS.—The fees authorized by this section—

''(A) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year; and

''(B) shall be available for obligation only if appropriated budget authority continues to support at least the total combined number of full-time equivalent employees in the Food and Drug Administration, Center for Drug Evaluation and Research, Division of Drug Marketing, Advertising, and Communications, and the Center for Biologics Evaluation and Research, Advertising and Promotional Labeling Branch supported in fiscal year 2007.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section not less than $6,250,000 for each of fiscal years 2008, 2009, 2010, 2011, and 2012, as adjusted to reflect adjustments in the total fee revenues made under this section, plus amounts collected for the reserve fund under subsection (d).

''(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriation Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

''(h) DEFINITIONS.—For purposes of this section:

''(1) The term 'advisory review' means reviewing and providing advisory comments regarding compliance of a proposed advertisement with the requirements of this Act prior to its initial public dissemination.

''(2) The term 'carry over submission' means a submission for an advisory review for which a fee was paid in a fiscal year that is submitted for review in the following fiscal year.

''(3) The term 'direct-to-consumer television advertisement' means an advertisement for a prescription drug product as defined in section 735(3) intended to be displayed on any television channel for less than 2 minutes.

''(4) The term 'person' includes an individual, a partnership, a corporation, and an association, and any affiliate thereof or successor in interest.

''(5) The term 'process for the advisory review of prescription drug advertising' means the activities necessary to review and provide advisory comments on proposed direct-to-consumer television advertisements prior to public dissemination and, to the extent the Secretary has additional staff resources available under the Program that are not necessary for the advisory review of direct-to-consumer television advertisements, the activities necessary to review and provide advisory comments on other proposed advertisements and promotional material prior to public dissemination.

''(6) The term 'Program' means the Program to assess, collect, and use fees for the advisory review of prescription drug advertising established by this section.

''(7) The term 'resources allocated for the process for the advisory review of prescription drug advertising' means the expenses incurred in connection with the process for the advisory review of prescription drug advertising for—

''(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees, and to contracts with such contractors;

''(B) management of information, and the acquisition, maintenance, and repair of computer resources;

''(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies;

''(D) collection of fees under this section and accounting for resources allocated for the advisory review of prescription drug advertising; and

''(E) terminating the Program under subsection (f)(2), if necessary.

''(8) The term 'resubmission' means a subsequent submission for advisory review of a direct-to-consumer television advertisement that has been revised in response to the Secretary's comments on an original submission. A resubmission may not introduce significant new concepts or creative themes into the television advertisement.

''(9) The term 'submission for advisory review' means an original submission of a direct-to-consumer television advertisement for which the sponsor voluntarily requests advisory comments before the advertisement is publicly disseminated.

''SEC. 736B. SUNSET.

''This part shall cease to be effective on October 1, 2012, except that subsection (b) of section 736 with respect to reports shall cease to be effective on January 31, 2013.''.

SEC. 105. SAVINGS CLAUSE.

Notwithstanding section 509 of the Prescription Drug User Fee Amendments of 2002 (21 U.S.C. 379g note), and notwithstanding the amendments made by this title, part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as in effect on the day before the date of enactment of this title, shall continue to be in effect with respect to human drug applications and supplements (as defined in such part as of such day) that on or after October 1, 2002, but before October 1, 2007, were accepted by the Food and Drug Administration for filing with respect to assessing and collecting any fee required by such part for a fiscal year prior to fiscal year 2008.

SEC. 106. TECHNICAL AMENDMENT.

Section 739 (21 U.S.C. 379j–11) is amended in the matter preceding paragraph (1), by striking ''subchapter'' and inserting ''part''.

SEC. 107. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall take effect October 1, 2007.

(b) EXCEPTION.—The amendment made by section 104 of this title shall take effect on the date of enactment of this title.

TITLE II—DRUG SAFETY

SEC. 200. SHORT TITLE.

This title may be cited as the ''Enhancing Drug Safety and Innovation Act of 2007''.

Subtitle A—Risk Evaluation and Mitigation Strategies

SEC. 201. ROUTINE ACTIVE SURVEILLANCE AND ASSESSMENT.

(a) IN GENERAL.—Subsection (k) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

''(3) ROUTINE ACTIVE SURVEILLANCE AND ASSESSMENT.—

''(A) DEVELOPMENT OF THE POSTMARKET RISK IDENTIFICATION AND ANALYSIS SYSTEM.—The Secretary shall, not later than 2 years after the date of enactment of the Enhancing Drug Safety and Innovation Act of 2007, act in collaboration with academic institutions and private entities to—

''(i) establish minimum standards for collection and transmission of postmarketing data elements from electronic health data systems; and

''(ii) establish, through partnerships, a validated and integrated postmarket risk identification and analysis system to integrate and analyze safety data from multiple sources, with the goals of including, in aggregate—

''(I) at least 25,000,000 patients by July 1, 2010; and

''(II) at least 100,000,000 patients by July 1, 2012.

''(B) DATA COLLECTION ACTIVITIES.—

''(i) IN GENERAL.—The Secretary shall, not later than 1 year after the establishment of the minimum standards and the identification and analysis system under subparagraph (A), establish and maintain an active surveillance infrastructure—

''(I) to collect and report data for pharmaceutical postmarket risk identification and analysis, in compliance with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996; and

''(II) that includes, in addition to the collection and monitoring (in a standardized form) of data on all serious adverse drug experiences (as defined in subsection (o)(2)(C)) required to be submitted to the Secretary under paragraph (1), and those events voluntarily submitted from patients, providers, and drug, when appropriate, procedures to—

''(aa) provide for adverse event surveillance by collecting and monitoring Federal health-related electronic data (such as data from the Medicare program and the health systems of the Department of Veterans Affairs);

''(bb) provide for adverse event surveillance by collecting and monitoring private sector health-related electronic data (such as pharmaceutical purchase data and health insurance claims data);

''(cc) provide for adverse event surveillance by monitoring standardized electronic health records, as available;

''(dd) provide for adverse event surveillance by collecting and monitoring other information as the Secretary deems necessary to create a robust system to identify adverse events and potential drug safety signals;

''(ee) enable the program to identify certain trends and patterns with respect to data reported to the program;

''(ff) enable the program to provide regular reports to the Secretary concerning adverse event trends, adverse event patterns, incidence and prevalence of adverse events, laboratory data, and other information determined appropriate, which may include data on comparative national adverse event trends; and

''(gg) enable the program to export data in a form appropriate for further aggregation, statistical analysis, and reporting.

''(ii) TIMELINESS OF REPORTING.—The procedures developed under clause (i) shall ensure that such data are collected, monitored, and reported in a timely, routine, and automatic manner, taking into consideration the need for data completeness, coding, cleansing, and transmission.

''(iii) PRIVATE SECTOR RESOURCES.—To ensure the establishment of the active surveillance infrastructure by the date described under clause (i), the Secretary may, on a temporary or permanent basis, implement systems or products developed by private entities.

''(iv) COMPLEMENTARY APPROACHES.—To the extent the active surveillance infrastructure established under clause (i) is not sufficient to gather data and information relevant to priority drug safety questions, the Secretary shall develop, support, and participate in complementary approaches to gather and analyze such data and information, including—

''(I) approaches that are complementary with respect to assessing the safety of use of a drug in domestic populations not included in the trials used to approve the drug (such as older people, people with comorbidities, pregnant women, or children); and

''(II) existing approaches such as the Vaccine Adverse Event Reporting System and the Vaccine Safety Datalink or successor databases.

''(v) AUTHORITY FOR CONTRACTS.—The Secretary may enter into contracts with public and private entities to fulfill the requirements of this subparagraph.

''(C) RISK IDENTIFICATION AND ANALYSIS.—

''(i) PURPOSE.—To carry out this paragraph, the Secretary shall establish collaborations with other Government, academic, and private entities, including the Centers for Education and Research on Therapeutics under section 912 of the Public Health Service Act, to provide for the risk identification and analysis of the data collected under subparagraph (B) and data that is publicly available or is provided by the Secretary, in order to—

''(I) improve the quality and efficiency of postmarket drug safety risk-benefit analysis;

''(II) provide the Secretary with routine access to expertise to study advanced drug safety data; and

''(III) enhance the ability of the Secretary to make timely assessments based on drug safety data.

''(ii) PUBLIC PROCESS FOR PRIORITY QUESTIONS.—At least biannually, the Secretary shall seek recommendations from the Drug Safety and Risk Management Advisory Committee (or successor committee) and from other advisory committees, as appropriate, to the Food and Drug Administration on—

''(I) priority drug safety questions; and

''(II) mechanisms for answering such questions, including through—

''(aa) routine active surveillance under subparagraph (B); and

''(bb) when such surveillance is not sufficient, postmarket studies under subsection (o)(4)(B) and postapproval clinical trials under subsection (o)(4)(C).

''(iii) PROCEDURES FOR THE DEVELOPMENT OF DRUG SAFETY COLLABORATIONS.—

''(I) IN GENERAL.—Not later than 180 days after the date of the establishment of the active surveillance infrastructure under subparagraph (B), the Secretary shall establish and implement procedures under which the Secretary may routinely collaborate with a qualified entity to—

''(aa) clean, classify, or aggregate data collected under subparagraph (B) and data that is publicly available or is provided by the Secretary;

''(bb) allow for prompt investigation of priority drug safety questions, including—

''(AA) unresolved safety questions for drugs or classes of drugs; and

''(BB) for a newly-approved drug: safety signals from clinical trials used to approve the drug and other preapproval trials; rare, serious drug side effects; and the safety of use in domestic populations not included in the trials used to approve the drug (such as older people, people with comorbidities, pregnant women, or children);

''(cc) perform advanced research and analysis on identified drug safety risks;

''(dd) convene an expert advisory committee to oversee the establishment of standards for the ethical and scientific uses for, and communication of, postmarketing data collected under subparagraph (B), including advising on the development of effective research methods for the study of drug safety questions;

''(ee) focus postmarket studies under subsection (o)(4)(B) and postapproval clinical trials under subsection (o)(4)(C) more effectively on cases for which reports under paragraph (1) and other safety signal detection is not sufficient to resolve whether there is an elevated risk of a serious adverse event associated with the use of a drug; and

''(ff) carry out other activities as the Secretary deems necessary to carry out the purposes of this paragraph.

''(II) REQUEST FOR SPECIFIC METHODOLOGY.—The procedures described in subclause (I) shall permit the Secretary to request that a specific methodology be used by the qualified entity. The qualified entity shall work with the Secretary to finalize the methodology to be used.

''(iv) USE OF ANALYSES.—The Secretary shall provide the analyses described under this subparagraph, including the methods and results of such analyses, about a drug to the sponsor or sponsors of such drug.

''(v) QUALIFIED ENTITIES.—

''(I) IN GENERAL.—The Secretary shall enter into contracts with a sufficient number of qualified entities to develop and provide information to the Secretary in a timely manner.

''(II) QUALIFICATION.—The Secretary shall enter into a contract with an entity under subclause (I) only if the Secretary determines that the entity—

''(aa) has the research capability and expertise to conduct and complete the activities under this paragraph;

''(bb) has in place an information technology infrastructure to support adverse event surveillance data and operational standards to provide security for such data;

''(cc) has experience with, and expertise on, the development of drug safety and effectiveness research using electronic population data;

''(dd) has an understanding of drug development and risk/benefit balancing in a clinical setting; and

''(ee) has a significant business presence in the United States.

''(vi) CONTRACT REQUIREMENTS.—Each contract with a qualified entity shall contain the following requirements:

''(I) ENSURING PRIVACY.—The qualified entity shall provide assurances that the entity will not use the data provided by the Secretary in a manner that violates—

''(aa) the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996; or

''(bb) sections 552 or 552a of title 5, United States Code, with regard to the privacy of individually-identifiable beneficiary health information.

''(II) COMPONENT OF ANOTHER ORGANIZATION.—If a qualified entity is a component of another organization—

''(aa) the qualified entity shall maintain the data related to the activities carried out under this paragraph separate from the other components of the organization and establish appropriate security measures to maintain the confidentiality and privacy of such data; and

''(bb) the entity shall not make an unauthorized disclosure of such data to the other components of the organization in breach of such confidentiality and privacy requirement.

''(III) TERMINATION OR NONRENEWAL.—If a contract with a qualified entity under this subparagraph is terminated or not renewed, the following requirements shall apply:

''(aa) CONFIDENTIALITY AND PRIVACY PROTECTIONS.—The entity shall continue to comply with the confidentiality and privacy requirements under this paragraph with respect to all data disclosed to the entity.

''(bb) DISPOSITION OF DATA.—The entity shall return to the Secretary all data disclosed to the entity or, if returning the data is not practicable, destroy the data.

''(vii) COMPETITIVE PROCEDURES.—The Secretary shall use competitive procedures (as defined in section 4(5) of the Federal Procurement Policy Act) to enter into contracts under clause (v).

''(viii) REVIEW OF CONTRACT IN THE EVEN OF A MERGER OR ACQUISITION.—The Secretary shall review the contract with a qualified entity under this paragraph in the event of a merger or acquisition of the entity in order to ensure that the requirements under this subparagraph will continue to be met.

''(D) COORDINATION.—In carrying out this paragraph, the Secretary shall provide for appropriate communications to the public, scientific, public health, and medical communities, and other key stakeholders, and provide for the coordination of the activities of private entities, professional associations, or other entities that may have sources of surveillance data.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out activities under the amendment made by this section for which funds are made available under section 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h), there are authorized to be appropriated to carry out the amendment made by this section, in addition to such funds, $25,000,000 for each of fiscal years 2008 through 2012.

SEC. 202. RISK EVALUATION AND MITIGATION STRATEGIES.

Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

''(o) RISK EVALUATION AND MITIGATION STRATEGY.—

''(1) IN GENERAL.—In the case of any drug subject to subsection (b) or to section 351 of the Public Health Service Act for which a risk evaluation and mitigation strategy is approved as provided for in this subsection, the applicant shall comply with the requirements of such strategy.

''(2) DEFINITIONS.—In this subsection:

''(A) ADVERSE DRUG EXPERIENCE.—The term 'adverse drug experience' means any adverse event associated with the use of a drug in humans, whether or not considered drug related, including—

''(i) an adverse event occurring in the course of the use of the drug in professional practice;

''(ii) an adverse event occurring from an overdose of the drug, whether accidental or intentional;

''(iii) an adverse event occurring from abuse of the drug;

''(iv) an adverse event occurring from withdrawal of the drug; and

''(v) any failure of expected pharmacological action of the drug.

''(B) NEW SAFETY INFORMATION.—The term 'new safety information' with respect to a drug means information about—

''(i) a serious risk or an unexpected serious risk with use of the drug that the Secretary has become aware of since the later of—

''(I) the date of initial approval of the drug under this section or initial licensure of the drug under section 351 of the Public Health Service Act; or

''(II) if applicable, the last assessment of the approved risk evaluation and mitigation strategy for the drug; or

''(ii) the effectiveness of the approved risk evaluation and mitigation strategy for the drug obtained since the later of—

''(I) the approval of such strategy; or

''(II) the last assessment of such strategy.

''(C) SERIOUS ADVERSE DRUG EXPERIENCE.—The term 'serious adverse drug experience' is an adverse drug experience that—

''(i) results in—

''(I) death;

''(II) the placement of the patient at immediate risk of death from the adverse drug experience as it occurred (not including an adverse drug experience that might have caused death had it occurred in a more severe form);

''(III) inpatient hospitalization or prolongation of existing hospitalization;

''(IV) a persistent or significant incapacity or substantial disruption of the ability to conduct normal life functions; or

''(V) a congenital anomaly or birth defect; or

''(ii) based on appropriate medical judgment, may jeopardize the patient and may require a medical or surgical intervention to prevent an outcome described under clause (i).

''(D) SERIOUS RISK.—The term 'serious risk' means a risk of a serious adverse drug experience.

''(E) SIGNAL OF A SERIOUS RISK.—The term 'signal of a serious risk' means information related to a serious adverse drug experience derived from—

''(i) a clinical trial;

''(ii) adverse event reports under subsection (k)(1);

''(iii) routine active surveillance under subsection (k)(3);

''(iv) a postapproval study, including a study under paragraph (4)(B); or

''(v) peer-reviewed biomedical literature.

''(F) UNEXPECTED SERIOUS RISK.—The term 'unexpected serious risk' means a serious adverse drug experience that—

''(i) is not listed in the labeling of a drug; or

''(ii) is symptomatically and pathophysiologically related to an adverse drug experience listed in the labeling of the drug, but differs from such adverse drug experience because of greater severity, specificity, or prevalence.

''(3) REQUIRED ELEMENTS OF A RISK EVALUATION AND MITIGATION STRATEGY.—If a risk evaluation and mitigation strategy for a drug is required, such strategy shall include—

''(A) the labeling for the drug for use by health care providers as approved under subsection (c);

''(B) a timetable for submission of assessments of the strategy, that—

''(i) for a drug no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under this section or section 351 of the Public Health Service Act—

''(I) shall be no less frequently than 18 months and 3 years after the drug is initially approved and at a frequency specified in the strategy for subsequent years; and

''(II) may be eliminated after the first 3 years if the Secretary determines that serious risks of the drug have been adequately identified and assessed and are being adequately managed;

''(ii) for a drug other than a drug described under clause (i), shall occur at a frequency determined by the Secretary; and

''(iii) may be increased or reduced in frequency as necessary as provided for in paragraph (7)(B)(v)(VI).

''(4) ADDITIONAL POTENTIAL EVALUATION ELEMENTS OF A RISK EVALUATION AND MITIGATION STRATEGY.—

''(A) RISK EVALUATION.—If a risk evaluation and mitigation strategy for a drug is required, such strategy may include 1 or more of the additional evaluation elements described in this paragraph, so long as the Secretary makes the determination required with respect to each additional included element.

''(B) POSTAPPROVAL STUDIES.—If the Secretary determines that the reports under subsection (k)(1) and routine active surveillance as available under subsection (k)(3) (including available complementary approaches under subsection (k)(3)(B)(iv)) will not be sufficient to—

''(i) assess a signal of a serious risk with use of a drug; or

''(ii) identify, based on a review of a demonstrated pattern of use of the drug, unexpected serious risks in a domestic population, including older people, people with comorbidities, pregnant women, or children,

the risk evaluation and mitigation strategy for the drug may require that the applicant conduct an appropriate postapproval study, such as a prospective or retrospective observational study, of the drug (which shall include a timeframe specified by the Secretary for completing the study and reporting the results to the Secretary).

''(C) POSTAPPROVAL CLINICAL TRIALS.—If the Secretary determines that the reports under subsection (k)(1), routine active surveillance as available under subsection (k)(3) (including available complementary approaches under subsection (k)(3)(B)(iv)), and a study or studies under subparagraph (B) will likely be inadequate to assess a signal of a serious risk with use of a drug, and there is no effective approved application for the drug under subsection (j) as of the date that the requirement is first imposed, the risk evaluation and mitigation strategy for the drug may require that the applicant conduct an appropriate postapproval clinical trial of the drug (which shall include a timeframe specified by the Secretary for completing the clinical trial and reporting the results to the Secretary) to be included in the clinical trial registry data bank provided for under subsections (i) and (j) of section 402 of the Public Health Service Act.

''(5) ADDITIONAL POTENTIAL COMMUNICATION ELEMENTS OF A RISK EVALUATION AND MITIGATION STRATEGY.—

''(A) RISK COMMUNICATION.—If a risk evaluation and mitigation strategy for a drug is required, such strategy may include 1 or more of the additional communication elements described in this paragraph, so long as the Secretary makes the determination required with respect to each additional included element.

''(B) MEDGUIDE; PATIENT PACKAGE INSERT.—The risk evaluation and mitigation strategy for a drug may require that the applicant develop for distribution to each patient when the drug is dispensed either or both of the following:

''(i) A Medication Guide, as provided for under part 208 of title 21, Code of Federal Regulations (or any successor regulations).

''(ii) A patient package insert, if the Secretary determines that such insert may help mitigate a serious risk listed in the labeling of the drug.

''(C) COMMUNICATION PLAN.—If the Secretary determines that a communication plan to health care providers may support implementation of an element of the risk evaluation and mitigation strategy for a drug, such as a labeling change, the strategy may require that the applicant conduct such a plan, which may include—

''(i) sending letters to health care providers;

''(ii) disseminating information about the elements of the strategy to encourage implementation by health care providers of components that apply to such health care providers, or to explain certain safety protocols (such as medical monitoring by periodic laboratory tests); or

''(iii) disseminating information to health care providers through professional societies about any serious risks of the drug and any protocol to assure safe use.

''(D) PREREVIEW.—

''(i) IN GENERAL.—If the Secretary determines that prereview of advertisements is necessary to ensure the inclusion of a true statement in such advertisements of information in brief summary relating to a serious risk listed in the labeling of a drug, or relating to a protocol to ensure the safe use described in the labeling of the drug, the risk evaluation and mitigation strategy for the drug may require that the applicant submit to the Secretary advertisements of the drug for prereview not later than 45 days before dissemination of the advertisement

''(ii) SPECIFICATION OF ADVERTISEMENTS.—The Secretary may specify the advertisements required to be submitted under clause (i).

''(E) SPECIFIC DISCLOSURES.—

''(i) SERIOUS RISK; SAFETY PROTOCOL.—If the Secretary determines that advertisements lacking a specific disclosure about a serious risk listed in the labeling of a drug or about a protocol to ensure safe use described in the labeling of the drug would be false or misleading, the risk evaluation and mitigation strategy for the drug may require that the applicant include in advertisements of the drug such disclosure.

''(ii) DATE OF APPROVAL.—If the Secretary determines that advertisements lacking a specific disclosure of the date a drug was approved and disclosure of a serious risk would be false or misleading, the risk evaluation and mitigation strategy for the drug may require that the applicant include in advertisements of the drug such disclosure.

''(iii) SPECIFICATION OF ADVERTISEMENTS.—The Secretary may specify the advertisements required to include a specific disclosure under clause (i) or (ii).

''(iv) REQUIRED SAFETY SURVEILLANCE.—If the approved risk evaluation and mitigation strategy for a drug requires the specific disclosure under clause (ii), the Secretary shall—

''(I) consider identifying and assessing all serious risks of using the drug to be a priority safety question under subsection (k)(3)(B);

''(II) not less frequently than every 3 months, evaluate the reports under subsection (k)(1) and the routine active surveillance as available under subsection (k)(3) with respect to such priority drug safety question to determine whether serious risks that might occur among patients expected to be treated with the drug have been adequately identified and assessed;

''(III) remove such specific disclosure requirement as an element of such strategy if such serious risks have been adequately identified and assessed; and

''(IV) consider whether a specific disclosure under clause (i) should be required.

''(6) PROVIDING SAFE ACCESS FOR PATIENTS TO DRUGS WITH KNOWN SERIOUS RISKS THAT WOULD OTHERWISE BE UNAVAILABLE.—

''(A) ALLOWING SAFE ACCESS TO DRUGS WITH KNOWN SERIOUS RISKS.—The Secretary may require that the risk evaluation and mitigation strategy for a drug include such elements as are necessary to assure safe use of the drug, because of its inherent toxicity or potential harmfulness, if the Secretary determines that—

''(i) the drug, which has been shown to be effective, but is associated with a serious adverse drug experience, can be approved only if, or would be withdrawn unless, such elements are required as part of such strategy to mitigate a specific serious risk listed in the labeling of the drug; and

''(ii) for a drug initially approved without elements to assure safe use, other elements under paragraphs (3), (4), and (5) are not sufficient to mitigate such serious risk.

''(B) ASSURING ACCESS AND MINIMIZING BURDEN.—Such elements to assure safe use under subparagraph (A) shall—

''(i) be commensurate with the specific serious risk listed in the labeling of the drug;

''(ii) within 30 days of the date on which any element under subparagraph (A) is imposed, be posted publicly by the Secretary with an explanation of how such elements will mitigate the observed safety risk;

''(iii) considering such risk, not be unduly burdensome on patient access to the drug, considering in particular—

''(I) patients with serious or life-threatening diseases or conditions; and

''(II) patients who have difficulty accessing health care (such as patients in rural or medically underserved areas); and

''(iv) to the extent practicable, so as to minimize the burden on the health care delivery system—

''(I) conform with elements to assure safe use for other drugs with similar, serious risks; and

''(II) be designed to be compatible with established distribution, procurement, and dispensing systems for drugs.

''(C) ELEMENTS TO ASSURE SAFE USE.—The elements to assure safe use under subparagraph (A) shall include 1 or more goals to mitigate a specific serious risk listed in the labeling of the drug and, to mitigate such risk, may require that—

''(i) health care providers who prescribe the drug have particular training or experience, or are specially certified (which training or certification with respect to the drug shall be available to any willing provider from a frontier area in a widely available training or certification method (including an on-line course or via mail) as approved by the Secretary at minimal cost to the provider);

''(ii) pharmacies, practitioners, or health care settings that dispense the drug are specially certified (which certification shall be available to any willing provider from a frontier area);

''(iii) the drug be dispensed to patients only in certain health care settings, such as hospitals;

''(iv) the drug be dispensed to patients with evidence or other documentation of safe-use conditions, such as laboratory test results;

''(v) each patient using the drug be subject to certain monitoring; or

''(vi) each patient using the drug be enrolled in a registry.

''(D) IMPLEMENTATION SYSTEM.—The elements to assure safe use under subparagraph

(A) that are described in clauses (ii), (iii), or (iv) of subparagraph (C) may include a system through which the applicant is able to take reasonable steps to—

''(i) monitor and evaluate implementation of such elements by health care providers, pharmacists, and other parties in the health care system who are responsible for implementing such elements; and

''(ii) work to improve implementation of such elements by such persons.

''(E) EVALUATION OF ELEMENTS TO ASSURE SAFE USE.—The Secretary, through the Drug Safety and Risk Management Advisory Committee (or successor committee) of the Food and Drug Administration, shall—

''(i) seek input from patients, physicians, pharmacists, and other health care providers about how elements to assure safe use under this paragraph for 1 or more drugs may be standardized so as not to be—

''(I) unduly burdensome on patient access to the drug; and

''(II) to the extent practicable, minimize the burden on the health care delivery system;

''(ii) at least annually, evaluate, for 1 or more drugs, the elements to assure safe use of such drug to assess whether the elements—

''(I) assure safe use of the drug;

''(II) are not unduly burdensome on patient access to the drug; and

''(III) to the extent practicable, minimize the burden on the health care delivery system; and

''(iii) considering such input and evaluations—

''(I) issue or modify agency guidance about how to implement the requirements of this paragraph; and

''(II) modify elements under this paragraph for 1 or more drugs as appropriate.

''(F) ADDITIONAL MECHANISMS TO ASSURE ACCESS.—The mechanisms under section 561 to provide for expanded access for patients with serious or life-threatening diseases or conditions may be used to provide access for patients with a serious or life-threatening disease or condition, the treatment of which is not an approved use for the drug, to a drug that is subject to elements to assure safe use under this paragraph. The Secretary shall promulgate regulations for how a physician may provide the drug under the mechanisms of section 561.

''(G) WAIVER IN PUBLIC HEALTH EMERGENCIES.—The Secretary may waive any requirement of this paragraph during the period described in section 319(a) of the Public Health Service Act with respect to a qualified countermeasure described under section 319F–1(a)(2) of such Act, to which a requirement under this paragraph has been applied, if the Secretary has—

''(i) declared a public health emergency under such section 319; and

''(ii) determined that such waiver is required to mitigate the effects of, or reduce the severity of, such public health emergency.

''(7) SUBMISSION AND REVIEW OF RISK EVALUATION AND MITIGATION STRATEGY.—

''(A) PROPOSED RISK EVALUATION AND MITIGATION STRATEGY.—

''(i) VOLUNTARY PROPOSAL.—If there is a signal of a serious risk with a drug, an applicant may include a proposed risk evaluation and mitigation strategy for the drug in an application, including in a supplemental application, for the drug under subsection (b) or section 351 of the Public Health Service Act.

''(ii) REQUIRED PROPOSAL.—

''(I) DETERMINATION NECESSARY TO REQUIRE A PROPOSAL.—

''(aa) IN GENERAL.—The Secretary may require that the applicant for a drug submit a proposed risk evaluation and mitigation strategy for a drug if the Secretary (acting through the office responsible for reviewing the drug and the office responsible for postapproval safety with respect to the drug) determines that, based on a signal of a serious risk with the drug, a risk evaluation and mitigation strategy is necessary to assess such signal or mitigate such serious risk.

''(bb) NON-DELEGATION.—A determination under item (aa) for a drug shall be made by individuals at or above the level of individuals empowered to approve a drug (such as division directors within the Center for Drug Evaluation and Research).

''(II) CIRCUMSTANCES IN WHICH A PROPOSAL MAY BE REQUIRED.—The applicant shall submit a proposed risk evaluation and mitigation strategy for a drug—

''(aa) in response to a letter from the Secretary (acting through the office responsible for reviewing the drug and the office responsible for postapproval safety with respect to the drug) sent regarding an application, including a supplemental application, for the drug, if the Secretary determines that data or information in the application indicates that an element under paragraph (4), (5), or (6) should be included in a strategy for the drug;

''(bb) within a timeframe specified by the Secretary, not to be less than 45 days, when ordered by the Secretary (acting through such offices), if the Secretary determines that new safety information indicates that—

''(AA) the labeling of the drug should be changed; or

''(BB) an element under paragraph (4) or (5) should be included in a strategy for the drug; or

''(cc) within 90 days when ordered by the Secretary (acting through such offices), if the Secretary determines that new safety information indicates that an element under paragraph (6) should be included in a strategy for the drug.

''(iii) CONTENT OF LETTER.—A letter under clause (ii)(II)(aa) shall describe—

''(I) the data or information in the application that warrants the proposal of a risk evaluation and mitigation strategy for the drug; and

''(II) what elements under paragraphs (4), (5), or (6) should be included in a strategy for the drug.

''(iv) CONTENT OF ORDER.—An order under item (aa) or (bb) of clause (ii)(II) shall describe—

''(I) the new safety information with respect to the drug that warrants the proposal of a risk evaluation and mitigation strategy for the drug; and

''(II) whether and how the labeling of the drug should be changed and what elements under paragraphs (4), (5), or (6) should be included in a strategy for the drug.

''(v) CONTENT OF PROPOSAL.—A proposed risk evaluation and mitigation strategy—

''(I) shall include a timetable as described under paragraph (3)(B); and

''(II) may also include additional elements as provided for under paragraphs (4), (5), and (6).

''(B) ASSESSMENT AND MODIFICATION OF A RISK EVALUATION AND MITIGATION STRATEGY.—

''(i) VOLUNTARY ASSESSMENTS.—If a risk evaluation and mitigation strategy for a drug is required, the applicant may submit to the Secretary an assessment of, and propose a modification to, such approved strategy for the drug at any time.

''(ii) REQUIRED ASSESSMENTS.—If a risk evaluation and mitigation strategy for a drug is required, the applicant shall submit an assessment of, and may propose a modification to, such approved strategy for the drug—

''(I) when submitting an application, including a supplemental application, for a new indication under subsection (b) or section 351 of the Public Health Service Act;

''(II) when required by the strategy, as provided for in the timetable under paragraph (3)(B);

''(III) within a timeframe specified by the Secretary, not to be less than 45 days, when ordered by the Secretary (acting through the offices described in subparagraph (A)(ii)(I)), if the Secretary determines that new safety information indicates that an element under paragraph (3) or (4) should be modified or added to the strategy;

''(IV) within 90 days when ordered by the Secretary (acting through such offices), if the Secretary determines that new safety information indicates that an element under paragraph (6) should be modified or added to the strategy; or

''(V) within 15 days when ordered by the Secretary (acting through such offices), if the Secretary determines that there may be a cause for action by the Secretary under subsection (e).

''(iii) CONTENT OF ORDER.—An order under subclauses (III), (IV), or (V) of clause (ii) shall describe—

''(I) the new safety information with respect to the drug that warrants an assessment of the approved risk evaluation and mitigation strategy for the drug; and

''(II) whether and how such strategy should be modified because of such information.

''(iv) ASSESSMENT.—An assessment of the approved risk evaluation and mitigation strategy for a drug shall include—

''(I) a description of new safety information, if any, with respect to the drug;

''(II) whether and how to modify such strategy because of such information;

''(III) with respect to any postapproval study required under paragraph (4)(B) or otherwise undertaken by the applicant to investigate a safety issue, the status of such study, including whether any difficulties completing the study have been encountered;

''(IV) with respect to any postapproval clinical trial required under paragraph (4)(C) or otherwise undertaken by the applicant to investigate a safety issue, the status of such clinical trial, including whether enrollment has begun, the number of participants enrolled, the expected completion date, whether any difficulties completing the clinical trial have been encountered, and registration information with respect to requirements under subsections (i) and (j) of section 402 of the Public Health Service Act; and

''(V) with respect to any goal under paragraph (6) and considering input and evaluations, if applicable, under paragraph (6)(E), an assessment of how well the elements to assure safe use are meeting the goal of increasing safe access to drugs with known serious risks or whether the goal or such elements should be modified.

''(v) MODIFICATION.—A modification (whether an enhancement or a reduction) to the approved risk evaluation and mitigation strategy for a drug may include the addition or modification of any element under subparagraph (A) or (B) of paragraph (3) or the addition, modification, or removal of any element under paragraph (4), (5), or (6), such as—

''(I) a labeling change, including the addition of a boxed warning;

''(II) adding a postapproval study or clinical trial requirement;

''(III) modifying a postapproval study or clinical trial requirement (such as a change in trial design due to legitimate difficulties recruiting participants);

''(IV) adding, modifying, or removing an element on advertising under subparagraph (D), (E), or (F) of paragraph (5);

''(V) adding, modifying, or removing an element to assure safe use under paragraph (6); or

''(VI) modifying the timetable for assessments of the strategy under paragraph (3)(B), including to eliminate assessments.

''(C) REVIEW.—The Secretary (acting through the offices described in subparagraph (A)(ii)(I)) shall promptly review the proposed risk evaluation and mitigation strategy for a drug submitted under subparagraph (A), or an assessment of the approved risk evaluation and mitigation strategy for a drug submitted under subparagraph (B).

''(D) DISCUSSION.—The Secretary (acting through the offices described in subparagraph (A)(ii)(I)) shall initiate discussions of the proposed risk evaluation and mitigation strategy for a drug submitted under subparagraph (A), or of an assessment of the approved risk evaluation and mitigation strategy for a drug submitted under subparagraph (B), with the applicant to determine a strategy—

''(i) if the proposed strategy or assessment is submitted as part of an application (including a supplemental application) under subparagraph (A)(i), (A)(ii)(II)(aa), or (B)(ii)(I), by the target date for communication of feedback from the review team to the applicant regarding proposed labeling and postmarketing study commitments, as set forth in the letters described in section 735(a);

''(ii) if the proposed strategy is submitted under subparagraph (A)(ii)(II)(bb) or the assessment is submitted under subclause (II) or (III) of subparagraph (B)(ii), not later than 20 days after such submission;

''(iii) if the proposed strategy is submitted under subparagraph (A)(ii)(II)(cc) or the assessment is submitted under subparagraph (B)(i) or under subparagraph (B)(ii)(IV), not later than 30 days after such submission; or

''(iv) if the assessment is submitted under subparagraph (B)(ii)(V), not later than 10 days after such submission.

''(E) ACTION.—

''(i) IN GENERAL.—Unless the applicant requests the dispute resolution process as described under subparagraph (F) or (G), the Secretary (acting through the offices described in subparagraph (A)(ii)(I)) shall approve and include the risk evaluation and mitigation strategy for a drug, or any modification to the strategy (including a timeframe for implementing such modification), with—

''(I) the action letter on the application, if a proposed strategy is submitted under subparagraph (A)(i) or (A)(ii)(II)(aa) or an assessment of the strategy is submitted under subparagraph (B)(ii)(I); or

''(II) an order, which shall be made public, issued not later than 50 days after the date discussions of such proposed strategy or modification begin under subparagraph (D), if a proposed strategy is submitted under item (bb) or (cc) of subparagraph (A)(ii)(II) or an assessment of the strategy is submitted under subparagraph (B)(i) or under subclause (II), (III), (IV), or (V) of subparagraph (B)(ii).

''(ii) INACTION.—An approved risk evaluation and mitigation strategy shall remain in effect until the Secretary acts, if the Secretary fails to act as provided under clause (i).

''(F) DISPUTE RESOLUTION AT INITIAL APPROVAL.—If a proposed risk evaluation and mitigation strategy is submitted under subparagraph (A)(i) or (A)(ii)(II)(aa) in an application for initial approval of a drug and there is a dispute about the strategy, the applicant shall use the major dispute resolution procedures as set forth in the letters described in section 735(a).

''(G) DISPUTE RESOLUTION IN ALL OTHER CASES.—

''(i) REQUEST FOR REVIEW.—In any case other than a submission under subparagraph (A)(i) or (A)(ii)(II)(aa) in an application for initial approval of a drug if there is a dispute about the strategy, not earlier than 15 days, and not later than 35 days, after discussions under subparagraph (D) have begun, the applicant shall request in writing that the dispute be reviewed by the Drug Safety Oversight Board.

''(ii) SCHEDULING REVIEW.—If the applicant requests review under clause (i), the Secretary—

''(I)(aa) shall schedule the dispute for review at 1 of the next 2 regular meetings of the Drug Safety Oversight Board, whichever meeting date is more practicable; or

''(bb) may convene a special meeting of the Drug Safety Oversight Board to review the matter more promptly, including to meet an action deadline on an application (including a supplemental application);

''(II) shall give advance notice to the public through the Federal Register and on the Internet website of the Food and Drug Administration—

''(aa) that the drug is to be discussed by the Drug Safety Oversight Board; and

''(bb) of the date on which the Drug Safety Oversight Board shall discuss such drug; and

''(III) shall apply section 301(j), section 552 of title 5, and section 1905 of title 18, United States Code, to any request for information about such review.

''(iii) AGREEMENT AFTER DISCUSSION OR ADMINISTRATIVE APPEALS.—

''(I) FURTHER DISCUSSION OR ADMINISTRATIVE APPEALS.—A request for review under clause (i) shall not preclude—

''(aa) further discussions to reach agreement on the risk evaluation and mitigation strategy; or

''(bb) the use of administrative appeals within the Food and Drug Administration to reach agreement on the strategy, including the major dispute resolution procedures as set forth in the letters described in section 735(a).

''(II) AGREEMENT TERMINATES DISPUTE RESOLUTION.—At any time before a decision and order is issued under clause (vi), the Secretary (acting through the offices described in subparagraph (A)(ii)(I)) and the applicant may reach an agreement on the risk evaluation and mitigation strategy through further discussion or administrative appeals, terminating the dispute resolution process, and the Secretary shall issue an action letter or order, as appropriate, that describes the strategy.

''(iv) MEETING OF THE BOARD.—At the meeting of the Drug Safety Oversight Board described in clause (ii), the Board shall—

''(I) hear from both parties; and

''(II) review the dispute.

''(v) RECOMMENDATION OF THE BOARD.—Not later than 5 days after such meeting of the Drug Safety Oversight Board, the Board shall provide a written recommendation on resolving the dispute to the Secretary.

''(vi) ACTION BY THE SECRETARY.—

''(I) ACTION LETTER.—With respect to a proposed risk evaluation and mitigation strategy submitted under subparagraph (A)(i) or (A)(ii)(II)(aa) or to an assessment of the strategy submitted under subparagraph (B)(ii)(I), the Secretary shall issue an action letter that resolves the dispute not later than the later of—

''(aa) the action deadline for the action letter on the application; or

''(bb) 7 days after receiving the recommendation of the Drug Safety Oversight Board.

''(II) ORDER.—With respect to a proposed risk evaluation and mitigation strategy submitted under item (bb) or (cc) of subparagraph (A)(ii)(II) or an assessment of the risk evaluation and mitigation strategy under subparagraph (B)(i) or under subclause (II), (III), (IV), or (V) of subparagraph (B)(ii), the Secretary shall issue an order, which (with the recommendation of the Drug Safety Oversight Board) shall be made public, that resolves the dispute not later than 7 days after receiving the recommendation of the Drug Safety Oversight Board.

''(vii) INACTION.—An approved risk evaluation and mitigation strategy shall remain in effect until the Secretary acts, if the Secretary fails to act as provided for under clause (vi).

''(viii) EFFECT ON ACTION DEADLINE.—With respect to the application or supplemental application in which a proposed risk evaluation and mitigation strategy is submitted under subparagraph (A)(i) or (A)(ii)(II)(aa) or in which an assessment of the strategy is submitted under subparagraph (B)(ii)(I), the Secretary shall be considered to have met the action deadline for the action letter on such application if the applicant requests the dispute resolution process described in this subparagraph and if the Secretary—

''(I) has initiated the discussions described under subparagraph (D) by the target date referred to in subparagraph (D)(i); and

''(II) has complied with the timing requirements of scheduling review by the Drug Safety Oversight Board, providing a written recommendation, and issuing an action letter under clauses (ii), (v), and (vi), respectively.

''(ix) DISQUALIFICATION.—No individual who is an employee of the Food and Drug Administration and who reviews a drug or who participated in an administrative appeal under clause (iii)(I) with respect to such drug may serve on the Drug Safety Oversight Board at a meeting under clause (iv) to review a dispute about the risk evaluation and mitigation strategy for such drug.

''(x) ADDITIONAL EXPERTISE.—The Drug Safety Oversight Board may add members with relevant expertise from the Food and Drug Administration, including the Office of Pediatrics, the Office of Women's Health, or the Office of Rare Diseases, or from other Federal public health or health care agencies, for a meeting under clause (iv) of the Drug Safety Oversight Board.

''(H) USE OF ADVISORY COMMITTEES.—The Secretary (acting through the offices described in subparagraph (A)(ii)(I)) may convene a meeting of 1 or more advisory committees of the Food and Drug Administration to—

''(i) review a concern about the safety of a drug or class of drugs, including before an assessment of the risk evaluation and mitigation strategy or strategies of such drug or drugs is required to be submitted under subclause (II), (III), (IV), or (V) of subparagraph (B)(ii);

''(ii) review the risk evaluation and mitigation strategy or strategies of a drug or group of drugs; or

''(iii) with the consent of the applicant, review a dispute under subparagraph (G).

''(I) PROCESS FOR ADDRESSING DRUG CLASS EFFECTS.—

''(i) IN GENERAL.—When a concern about a serious risk of a drug may be related to the pharmacological class of the drug, the Secretary (acting through the offices described in subparagraph (A)(ii)(I)) may defer assessments of the approved risk evaluation and mitigation strategies for such drugs until the Secretary has—

''(I) convened, after appropriate public notice, 1 or more public meetings to consider possible responses to such concern; or

''(II) gathered additional information or data about such concern.

''(ii) PUBLIC MEETINGS.—Such public meetings may include—

''(I) 1 or more meetings of the applicants for such drugs;

''(II) 1 or more meetings of 1 or more advisory committees of the Food and Drug Administration, as provided for under subparagraph (H); or

''(III) 1 or more workshops of scientific experts and other stakeholders.

''(iii) ACTION.—After considering the discussions from any meetings under clause (ii), the Secretary may—

''(I) announce in the Federal Register a planned regulatory action, including a modification to each risk evaluation and mitigation strategy, for drugs in the pharmacological class;

''(II) seek public comment about such action; and

''(III) after seeking such comment, issue an order addressing such regulatory action.

''(J) INTERNATIONAL COORDINATION.—The Secretary (acting through the offices described in subparagraph (A)(ii)(I)) may coordinate the timetable for submission of assessments under paragraph (3)(B), a study under paragraph (4)(B), or a clinical trial under paragraph (4)(C), with efforts to identify and assess the serious risks of such drug by the marketing authorities of other countries whose drug approval and risk management processes the Secretary deems comparable to the drug approval and risk management processes of the United States.

''(K) EFFECT.—Use of the processes described in subparagraphs (I) and (J) shall not delay action on an application or a supplement to an application for a drug.

''(L) NO EFFECT ON LABELING CHANGES THAT DO NOT REQUIRE PREAPPROVAL.—In the case of a labeling change to which section 314.70 of title 21, Code of Federal Regulations (or any successor regulation), applies for which the submission of a supplemental application is not required or for which distribution of the drug involved may commence upon the receipt by the Secretary of a supplemental application for the change, the submission of an assessment of the approved risk evaluation and mitigation strategy for the drug under this subsection is not required.

''(8) DRUG SAFETY OVERSIGHT BOARD.—

''(A) IN GENERAL.—There is established a Drug Safety Oversight Board.

''(B) COMPOSITION; MEETINGS.—The Drug Safety Oversight Board shall—

''(i) be composed of scientists and health care practitioners appointed by the Secretary, each of whom is an employee of the Federal Government;

''(ii) include representatives from offices throughout the Food and Drug Administration (including the offices responsible for postapproval safety of drugs);

''(iii) include at least 1 representative each from the National Institutes of Health, the Department of Health and Human Services (other than the Food and Drug Administration), and the Veterans Health Administration; and

''(iv) meet at least monthly to provide oversight and advice to the Secretary on the management of important drug safety issues.

''(9) CIVIL MONETARY PENALTY.—Notwithstanding any other provision of this Act, an applicant (as such term is defined for purposes of this section) that knowingly fails to comply with a requirement of an approved risk evaluation and mitigation strategy under this subsection shall be subject to a civil money penalty of $250,000 for the first 30-day period that the applicant is in noncompliance, and such amount shall double for every 30-day period thereafter that the requirement is not complied with, not to exceed $2,000,000.''.

SEC. 203. ENFORCEMENT.

(a) MISBRANDING.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end the following:

''(x) If it is a drug subject to an approved risk evaluation and mitigation strategy under section 505(o) and the applicant for such drug fails to—

''(1) make a labeling change required by such strategy after the Secretary has approved such strategy or completed review of, and acted on, an assessment of such strategy under paragraph (7) of such section; or

''(2) comply with a requirement of such strategy with respect to advertising as provided for under subparagraph (D), (E), or (F) of paragraph (5) of such section.''.

(b) CIVIL PENALTIES.—Section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively;

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

''(3) An applicant (as such term is used in section 505(o)) who knowingly fails to comply with a requirement of an approved risk evaluation and mitigation strategy under such section 505(o) shall be subject to a civil money penalty of not less than $15,000 and not more than $250,000 per violation, and not to exceed $1,000,000 for all such violations adjudicated in a single proceeding.'';

(3) in paragraph (2)(C), by striking ''paragraph (3)(A)'' and inserting ''paragraph (4)(A)'';

(4) in paragraph (4), as so redesignated, by striking ''paragraph (1) or (2)'' each place it appears and inserting ''paragraph (1), (2), or (3)''; and

(5) in paragraph (6), as so redesignated, by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (5)''.

SEC. 204. REGULATION OF DRUGS THAT ARE BIOLOGICAL PRODUCTS.

Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended—

(1) in subsection (a)(2), by adding at the end the following:

''(D) RISK EVALUATION AND MITIGATION STRATEGY.—A person that submits an application for a license for a drug under this paragraph may submit to the Secretary as part of the application a proposed risk evaluation and mitigation strategy as described under section 505(o) of the Federal Food, Drug, and Cosmetic Act.''; and

(2) in subsection (j), by inserting '', including the requirements under section 505(o) of such Act,'' after '', and Cosmetic Act''.

SEC. 205. NO EFFECT ON WITHDRAWAL OR SUSPENSION OF APPROVAL.

Section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) is amended by adding at the end the following: ''The Secretary may withdraw the approval of an application submitted under this section, or suspend the approval of such an application, as provided under this subsection, without first ordering the applicant to submit an assessment of the approved risk evaluation and mitigation strategy for the drug under subsection (o)(7)(B)(ii)(V).''.

SEC. 206. DRUGS SUBJECT TO AN ABBREVIATED NEW DRUG APPLICATION.

Section 505(j)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(2)) is amended by adding at the end the following:

''(E) RISK EVALUATION AND MITIGATION STRATEGY REQUIREMENT.—

''(i) IN GENERAL.—A drug that is the subject of an abbreviated new drug application under this subsection shall be subject to only the following elements of the approved risk evaluation and mitigation strategy if required under subsection (o) for the applicable listed drug:

''(I) Labeling, as required under subsection (o)(3)(A) for the applicable listed drug.

''(II) A Medication Guide or patient package insert, if required under subsection (o)(5)(B) for the applicable listed drug.

''(III) Prereview of advertising, if required under subsection (o)(5)(D) for the applicable listed drug.

''(IV) Specific disclosures in advertising, if required under subsection (o)(5)(E) for the applicable listed drug.

''(V) Elements to assure safe use, if required under subsection (o)(6) for the applicable listed drug, except that such drug may use a different, comparable aspect of such elements as are necessary to assure safe use of such drug if—

''(aa) the corresponding aspect of the elements to assure safe use for the applicable listed drug is claimed by a patent that has not expired or is a method or process that as a trade secret is entitled to protection; and

''(bb) the applicant certifies that it has sought a license for use of such aspect of the elements to assure safe use for the applicable listed drug.

''(ii) ACTION BY SECRETARY.—For an applicable listed drug for which a drug is approved under this subsection, the Secretary—

''(I) shall undertake any communication plan to health care providers required under section (o)(5)(C) for the applicable listed drug;

''(II) shall conduct, or contract for, any postapproval study required under subsection (o)(4)(B) for the applicable listed drug;

''(III) shall inform the applicant for a drug approved under this subsection if the approved risk evaluation and mitigation strategy for the applicable listed drug is modified; and

''(IV) in order to minimize the burden on the health care delivery system of different elements to assure safe use for the drug approved under this subsection and the applicable listed drug, may seek to negotiate a voluntary agreement with the owner of the patent, method, or process for a license under which the applicant for such drug may use an aspect of the elements to assure safe use, if required under subsection (o)(6) for the applicable listed drug, that is claimed by a patent that has not expired or is a method or process that as a trade secret is entitled to protection.''.

SEC. 207. RESOURCES.

(a) USER FEES.—Subparagraph (F) of section 735(d)(6) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g(d)(6)), as amended by section 103, is amended—

(1) in clause (ii), by striking ''systems); and'' and inserting ''systems);''

(2) in clause (iii), by striking ''bases).'' and inserting ''bases); and''; and

(3) by adding at the end the following:

''(iv) reviewing, implementing, and ensuring compliance with risk evaluation and mitigation strategies.''.

(b) ADDITIONAL FEE REVENUES FOR DRUG SAFETY.—Section 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h), as amended by section 103, is amended by—

(1) striking the subsection designation and all that follows through ''.—Except'' and inserting the following:

''(b) FEE REVENUE AMOUNTS.—

''(1) IN GENERAL.—Except''; and

(2) adding at the end the following:

''(2) ADDITIONAL FEE REVENUES FOR DRUG SAFETY.—

''(A) IN GENERAL.—Subject to subparagraph (C), in each of fiscal years 2008 through 2012, paragraph (1) shall be applied by substituting the amount determined under subparagraph (B) for '$392,783,000'.

''(B) AMOUNT DETERMINED.—For any fiscal year 2008 through 2012, the amount determined under this subparagraph is the sum of—

''(i) $392,783,000; plus

''(ii) the amount equal to—

''(I)(aa) for fiscal year 2008, $25,000,000;

''(bb) for fiscal year 2009, $35,000,000;

''(cc) for fiscal year 2010, $45,000,000;

''(dd) for fiscal year 2011, $55,000,000; and

''(ee) for fiscal year 2012, $65,000,000; minus

''(II) the amount equal to one-fifth of the excess amount in item (bb), provided that—

''(aa) the amount of the total appropriation for the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) exceeds the amount of the total appropriation for the Food and Drug Administration for fiscal year 2007 (excluding the amount of fees appropriated for such fiscal year), adjusted as provided under subsection (c)(1); and

''(bb) the amount of the total appropriations for the process of human drug review at the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) exceeds the amount of appropriations for the process of human drug review at the Food and Drug Administration for fiscal year 2007 (excluding the amount of fees appropriated for such fiscal year), adjusted as provided under subsection (c)(1).

In making the adjustment under subclause (II) for any fiscal year 2008 through 2012, subsection (c)(1) shall be applied by substituting '2007' for '2008.'

''(C) LIMITATION.—This paragraph shall not apply for any fiscal year if the amount described under subparagraph (B)(ii) is less than 0.''.

(c) STRATEGIC PLAN FOR INFORMATION TECHNOLOGY.—Not later than 1 year after the date of enactment of this title, the Secretary of Health and Human Services (referred to in this title as the ''Secretary'') shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives, a strategic plan on information technology that includes—

(1) an assessment of the information technology infrastructure, including systems for data collection, access to data in external health care databases, data mining capabilities, personnel, and personnel training programs, needed by the Food and Drug Administration to—

(A) comply with the requirements of this subtitle (and the amendments made by this subtitle);

(B) achieve interoperability within and among the centers of the Food and Drug Administration and between the Food and Drug Administration and product application sponsors;

(C) utilize electronic health records;

(D) implement routine active surveillance under section 505(k)(3) (including complementary approaches under subsection (c) of such section) of the Federal Food, Drug, and Cosmetic Act, as added by section 201 of this Act; and

(E) communicate drug safety information to physicians and other health care providers;

(2) an assessment of the extent to which the current information technology assets of the Food and Drug Administration are sufficient to meet the needs assessments under paragraph (1);

(3) a plan for enhancing the information technology assets of the Food and Drug Administration toward meeting the needs assessments under paragraph (1); and

(4) an assessment of additional resources needed to so enhance the information technology assets of the Food and Drug Administration.

SEC. 208. SAFETY LABELING CHANGES.

(a) IN GENERAL.—Subchapter A of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 506C the following:

''SEC. 506D. SAFETY LABELING CHANGES.

''(a) NEW SAFETY INFORMATION.—

''(1) NOTIFICATION.—The holder of an approved application under section 505 of this Act or a license under section 351 of the Public Health Service Act (referred to in this section as a 'holder') shall promptly notify the Secretary if the holder becomes aware of new safety information that the holder believes should be included in the labeling of the drug. The Secretary shall promptly notify the holder if the Secretary becomes aware of new safety information that the Secretary believes should be included in the labeling of the drug.

''(2) DISCUSSION REGARDING LABELING CHANGES.—Following notification pursuant to paragraph (1), the Secretary and holder shall initiate discussions of the new safety information in order to reach agreement on whether the labeling for the drug should be modified to reflect the new safety information and, if so, on the contents of such labeling changes.

''(3) SUPPLEMENT.—If the Secretary determines that there is reasonable scientific evidence that an adverse event is associated with use of the drug, the Secretary may request the holder to submit a supplement to an application under section 505 of this Act or to a license under section 351 of the Public Health Service Act (referred to in this section as a 'supplement') proposing changes to the approved labeling to reflect the new safety information, including changes to boxed warnings, contraindications, warnings, precautions, or adverse reactions (referred to in this section as a 'safety labeling change'). If the Secretary determines that no safety labeling change is necessary or appropriate based upon the new safety information, the Secretary shall notify the holder of this determination in writing.

''(b) LABELING SUPPLEMENTS.—

''(1) IN GENERAL.—The holder shall submit a supplement whenever the holder seeks, either at the holder's own initiative or at the request of the Secretary, to make a safety labeling change.

''(2) NONACCELERATED PROCESS.—Unless the accelerated labeling review process described in subsection (c) is initiated, any supplement proposing a safety labeling change shall be reviewed and acted upon by the Secretary not later than 30 days after the date the Secretary receives the supplement. Until the Secretary acts on such a supplement proposing a safety labeling change, the existing approved labeling shall remain in effect and be distributed by the holder without change.

''(3) NEW SAFETY INFORMATION.—Nothing in this section shall prohibit the Secretary from informing health care professionals or the public about new safety information prior to approval of a supplement proposing a safety labeling change.

''(c) ACCELERATED LABELING REVIEW PROCESS.—An accelerated labeling review process shall be available to resolve disagreements in a timely manner between the Secretary and a holder about the need for, or content of, a safety labeling change, as follows:

''(1) REQUEST TO INITIATE ACCELERATED PROCESS.—The accelerated labeling review process shall be initiated upon the written request of either the Secretary or the holder. Such request may be made at any time after the notification described in subsection (a)(1), including during the Secretary's review of a supplement proposing a safety labeling change.

''(2) SCIENTIFIC DISCUSSION AND MEETINGS.—

''(A) IN GENERAL.—Following initiation of the accelerated labeling review process, the Secretary and holder shall immediately initiate discussions to review and assess the new safety information and to reach agreement on whether safety labeling changes are necessary and appropriate and, if so, the content of such safety labeling changes.

''(B) TIME PERIOD.—The discussions under this paragraph shall not extend for more than 45 calendar days after the initiation of the accelerated labeling review process.

''(C) DISPUTE PROCEEDINGS.—If the Secretary and holder do not reach an agreement regarding the safety labeling changes by not later than 25 calendar days after the initiation of the accelerated labeling review process, the dispute automatically shall be referred to the director of the drug evaluation office responsible for the drug under consideration, who shall be required to take an active role in such discussions.

''(3) REQUEST FOR SAFETY LABELING CHANGE AND FAILURE TO AGREE.—If the Secretary and holder fail to reach an agreement on appropriate safety labeling changes by not later than 45 calendar days after the initiation of the accelerated labeling review process—

''(A) on the next calendar day (other than a weekend or Federal holiday) after such period, the Secretary shall—

''(i) request in writing that the holder make any safety labeling change that the Secretary determines to be necessary and appropriate based upon the new safety information; or

''(ii) notify the holder in writing that the Secretary has determined that no safety labeling change is necessary or appropriate; and

''(B) if the Secretary fails to act within the specified time, or if the holder does not agree to make a safety labeling change requested by the Secretary or does not agree with the Secretary's determination that no labeling change is necessary or appropriate, the Secretary (on his own initiative or upon request by the holder) shall refer the matter for expedited review to the Drug Safety Oversight Board.

''(4) ACTION BY THE DRUG SAFETY OVERSIGHT BOARD.—Not later than 45 days after receiving a referral under paragraph (3)(B), the Drug Safety Oversight Board shall—

''(A) review the new safety information;

''(B) review all written material submitted by the Secretary and the holder;

''(C) convene a meeting to hear oral presentations and arguments from the Secretary and holder; and

''(D) make a written recommendation to the Secretary—

''(i) concerning appropriate safety labeling changes, if any; or

''(ii) stating that no safety labeling changes are necessary or appropriate based upon the new safety information.

''(5) CONSIDERATION OF RECOMMENDATIONS.—

''(A) ACTION BY THE SECRETARY.—The Secretary shall consider the recommendation of the Drug Safety Oversight Board made under paragraph (4)(D) and, not later than 20 days after receiving the recommendation—

''(i) issue an order requiring the holder to make any safety labeling change that the Secretary determines to be necessary and appropriate; or

''(ii) if the Secretary determines that no safety labeling change is necessary or appropriate, the Secretary shall notify the holder of this determination in writing.

''(B) FAILURE TO ACT.—If the Secretary fails to act by not later than 20 days after receiving the recommendation of the Drug

Safety Oversight Board, the written recommendation of the Drug Safety Oversight Board shall be considered the order of the Secretary under this paragraph.

''(C) NONDELEGATION.—The Secretary's authority under this paragraph shall not be redelegated to an individual below the level of the Director of the Center for Drug Evaluation and Research, or the Director of the Center for Biologics Evaluation and Research, of the Food and Drug Administration.

''(6) MISBRANDING.—If the holder, not later than 10 days after receiving an order under subparagraph (A) or (B) of paragraph (5), does not agree to make a safety labeling change ordered by the Secretary, the Secretary may deem the drug that is the subject of the request to be misbranded.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to change the standards in existence on the date of enactment of this section for determining whether safety labeling changes are necessary or appropriate.''.

(b) CONFORMING AMENDMENT.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352 et seq.), as amended by section 203, is further amended by adding at the end the following:

''(y) If it is a drug and the holder does not agree to make a safety labeling change ordered by the Secretary under section 506D(c) within 10 days after issuance of such an order.''.

SEC. 209. POSTMARKET DRUG SAFETY INFORMATION FOR PATIENTS AND PROVIDERS.

Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by section 251, is amended by adding at the end the following:

''(r) POSTMARKET DRUG SAFETY INFORMATION FOR PATIENTS AND PROVIDERS.—

''(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Enhancing Drug Safety and Innovation Act of 2007, the Secretary shall improve the transparency of pharmaceutical data and allow patients and health care providers better access to pharmaceutical data by developing and maintaining an Internet website that—

''(A) provides comprehensive drug safety information for prescription drugs that are approved by the Secretary under this section or licensed under section 351 of the Public Health Service Act; and

''(B) improves communication of drug safety information to patients and providers.

''(2) INTERNET WEBSITE.—The Secretary shall carry out paragraph (1) by—

''(A) developing and maintaining an accessible, consolidated Internet website with easily searchable drug safety information, including the information found on United States Government Internet websites, such as the United States National Library of Medicine's Daily Med and Medline Plus websites, in addition to other such websites maintained by the Secretary;

''(B) ensuring that the information provided on the Internet website is comprehensive and includes, when available and appropriate—

''(i) patient labeling and patient packaging inserts;

''(ii) a link to a list of each drug, whether approved under this section or licensed under such section 351, for which a Medication Guide, as provided for under part 208 of title 21, Code of Federal Regulations (or any successor regulations), is required;

''(iii) a link to the clinical trial registry data bank provided for under subsections (i) and (j) of section 402 of the Public Health Service Act;

''(iv) the most recent safety information and alerts issued by the Food and Drug Administration for drugs approved by the Secretary under this section, such as product recalls, warning letters, and import alerts;

''(v) publicly available information about implemented RiskMAPs and risk evaluation and mitigation strategies under subsection (o);

''(vi) guidance documents and regulations related to drug safety; and

''(vii) other material determined appropriate by the Secretary;

''(C) including links to non-Food and Drug Administration Internet resources that provide access to relevant drug safety information, such as medical journals and studies;

''(D) providing access to summaries of the assessed and aggregated data collected from the active surveillance infrastructure under subsection (k)(3) to provide information of known and serious side-effects for drugs approved by the Secretary under this section or licensed under such section 351;

''(E) enabling patients, providers, and drug sponsors to submit adverse event reports through the Internet website;

''(F) providing educational materials for patients and providers about the appropriate means of disposing of expired, damaged, or unusable medications; and

''(G) supporting initiatives that the Secretary determines to be useful to fulfill the purposes of the Internet website.

''(3) POSTING OF DRUG LABELING.—The Secretary shall post on the Internet website established under paragraph (1) the approved professional labeling and any required patient labeling of a drug approved under this section or licensed under such section 351 not later than 21 days after the date the drug is approved or licensed, including in a supplemental application with respect to a labeling change.

''(4) PRIVATE SECTOR RESOURCES.—To ensure development of the Internet website by the date described in paragraph (1), the Secretary may, on a temporary or permanent basis, implement systems or products developed by private entities.

''(5) AUTHORITY FOR CONTRACTS.—The Secretary may enter into contracts with public and private entities to fulfill the requirements of this subsection.

''(6) REVIEW.—The Advisory Committee on Risk Communication under section 566 shall, on a regular basis, perform a comprehensive review and evaluation of the types of risk communication information provided on the Internet website established under paragraph (1) and, through other means, shall identify, clarify, and define the purposes and types of information available to facilitate the efficient flow of information to patients and providers, and shall recommend ways for the Food and Drug Administration to work with outside entities to help facilitate the dispensing of risk communication information to patients and providers.''.

SEC. 210. ACTION PACKAGE FOR APPROVAL.

Section 505(l) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(l)) is amended by—

(1) redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E), respectively;

(2) striking ''(l) Safety and'' and inserting ''(l)(1) Safety and''; and

(3) adding at the end the following:

''(2) ACTION PACKAGE FOR APPROVAL.—

''(A) ACTION PACKAGE.—The Secretary shall publish the action package for approval of an application under subsection (b) or section 351 of the Public Health Service Act on the Internet website of the Food and Drug Administration—

''(i) not later than 30 days after the date of approval of such application for a drug no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under this section or section 351 of the Public Health Service Act; and

''(ii) not later than 30 days after the third request for such action package for approval received under section 552 of title 5, United States Code, for any other drug.

''(B) IMMEDIATE PUBLICATION OF SUMMARY REVIEW.—Notwithstanding subparagraph (A), the Secretary shall publish, on the Internet website of the Food and Drug Administration, the materials described in subparagraph (C)(iv) not later than 48 hours after the date of approval of the drug, except where such materials require redaction by the Secretary.

''(C) CONTENTS.—An action package for approval of an application under subparagraph (A) shall be dated and shall include the following:

''(i) Documents generated by the Food and Drug Administration related to review of the application.

''(ii) Documents pertaining to the format and content of the application generated during drug development.

''(iii) Labeling submitted by the applicant.

''(iv) A summary review that documents conclusions from all reviewing disciplines about the drug, noting any critical issues and disagreements with the applicant and how they were resolved, recommendation for action, and an explanation of any nonconcurrence with review conclusions.

''(v) If applicable, a separate review from a supervisor who does not concur with the summary review.

''(vi) Identification by name of each officer or employee of the Food and Drug Administration who—

''(I) participated in the decision to approve the application; and

''(II) consents to have his or her name included in the package.

''(D) DISAGREEMENTS.—A scientific review of an application is considered the work of the reviewer and shall not be altered by management or the reviewer once final. Disagreements by team leaders, division directors, or office directors with any or all of the major conclusions of a reviewer shall be document in a separate review or in an addendum to the review.

''(E) CONFIDENTIAL INFORMATION.—This paragraph does not authorize the disclosure of any trade secret or confidential commercial or financial information described in section 552(b)(4) of title 5, United States Code, unless the Secretary declares an emergency under section 319 of the Public Health Service Act and such disclosure is necessary to mitigate the effects of such emergency.''.

SEC. 211. RISK COMMUNICATION.

Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is amended by adding at the end the following:

''SEC. 566. RISK COMMUNICATION.

''(a) ADVISORY COMMITTEE ON RISK COMMUNICATION.—

''(1) IN GENERAL.—The Secretary shall establish an advisory committee to be known as the 'Advisory Committee on Risk Communication' (referred to in this section as the 'Committee').

''(2) DUTIES OF COMMITTEE.—The Committee shall advise the Commissioner on methods to effectively communicate risks associated with the products regulated by the Food and Drug Administration.

''(3) MEMBERS.—The Secretary shall ensure that the Committee is composed of experts on risk communication, experts on the risks described in subsection (b), and representatives of patient, consumer, and health professional organizations.

''(4) PERMANENCE OF COMMITTEE.—Section 14 of the Federal Advisory Committee Act shall not apply to the Committee established under this subsection.

''(b) PARTNERSHIPS FOR RISK COMMUNICATION.—

''(1) IN GENERAL.—The Secretary shall partner with professional medical societies, medical schools, academic medical centers, and other stakeholders to develop robust and multi-faceted systems for communication to health care providers about emerging postmarket drug risks.

''(2) PARTNERSHIPS.—The systems developed under paragraph (1) shall—

''(A) account for the diversity among physicians in terms of practice, affinity for technology, and focus; and

''(B) include the use of existing communication channels, including electronic communications, in place at the Food and Drug Administration.''.

SEC. 212. REFERRAL TO ADVISORY COMMITTEE.

Section 505 of the Federal Food, Drug, and Cosmetic Act, as amended by section 202, is further amended by adding at the end the following:

''(p) REFERRAL TO ADVISORY COMMITTEE.—

''(1) IN GENERAL.—Prior to the approval of a drug no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under this section or section 351 of the Public Health Service Act, the Secretary shall refer such drug to a Food and Drug Administration advisory committee for review at a meeting of such advisory committee.

''(2) EXCEPTION.—Notwithstanding paragraph (1), an advisory committee review of a drug described under such paragraph may occur within 1 year after approval of such a drug if—

''(A) the clinical trial that formed the primary basis of the safety and efficacy determination was halted by a drug safety monitoring board or an Institutional Review Board before its scheduled completion due to early unanticipated therapeutic results; or

''(B) the Secretary determines that it would be beneficial to the public health.''.

SEC. 213. RESPONSE TO THE INSTITUTE OF MEDICINE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Secretary shall issue a report responding to the 2006 report of the Institute of Medicine entitled ''The Future of Drug Safety—Promoting and Protecting the Health of the Public''.

(b) CONTENT OF REPORT.—The report issued by the Secretary under subsection (a) shall include—

(1) an update on the implementation by the Food and Drug Administration of its plan to respond to the Institute of Medicine report described under such subsection; and

(2) an assessment of how the Food and Drug Administration has implemented—

(A) the recommendations described in such Institute of Medicine report; and

(B) the requirement under paragraph (7) of section 505(o) of the Federal Food, Drug, and Cosmetic Act (as added by this title), that the appropriate office responsible for reviewing a drug and the office responsible for postapproval safety with respect to the drug act together to assess, implement, and ensure compliance with the requirements of such section 505(o).

SEC. 214. EFFECTIVE DATE AND APPLICABILITY.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this subtitle shall take effect 180 days after the date of enactment of this title.

(2) USER FEES.—The amendments made by subsections (a) through (c) of section 207 shall take effect on October 1, 2007.

(b) DRUGS DEEMED TO HAVE RISK EVALUATION AND MITIGATION STRATEGIES.—

(1) IN GENERAL.—A drug that was approved before the effective date of this subtitle shall be deemed to have an approved risk evaluation and mitigation strategy under section 505(o) of the Federal Food, Drug, and Cosmetic Act (as added by this subtitle) if there are in effect on the effective date of this subtitle restrictions on distribution or use—

(A) required under section 314.520 or section 601.42 of title 21, Code of Federal Regulations; or

(B) otherwise agreed to by the applicant and the Secretary for such drug.

(2) RISK EVALUATION AND MITIGATION STRATEGY.—The approved risk evaluation and mitigation strategy deemed in effect for a drug under paragraph (1) shall consist of the elements described in subparagraphs (A) and (B) of paragraph (3) of such section 505(o) and any other additional elements under paragraphs (4), (5), and (6) in effect for such drug on the effective date of this subtitle.

(3) NOTIFICATION.—Not later than 30 days after the effective date of this subtitle, the Secretary shall notify the applicant for each drug described in paragraph (1)—

(A) that such drug is deemed to have an approved risk evaluation and mitigation strategy pursuant to such paragraph; and

(B) of the date, which, unless a safety issue with the drug arises, shall be no earlier than 6 months after the applicant is so notified, by which the applicant shall submit to the Secretary an assessment of such approved strategy under paragraph (7)(B) of such section 505(o), except with respect to the drug Mifeprex (mifepristone), such assessment shall be submitted 6 months after the applicant is so notified.

(4) ENFORCEMENT ONLY AFTER ASSESSMENT AND REVIEW.—Neither the Secretary nor the Attorney General may seek to enforce a requirement of a risk evaluation and mitigation strategy deemed in effect under paragraph (1) before the Secretary has completed review of, and acted on, the first assessment of such strategy under such section 505(o).

(c) NO EFFECT ON VETERINARY MEDICINE.—This subtitle, and the amendments made by this subtitle, shall have no effect on the use of drugs approved under section 505 of the Federal Food, Drug, and Cosmetic Act by, or on the lawful written or oral order of, a licensed veterinarian within the context of a veterinarian-client-patient relationship, as provided for under section 512(a)(5) of such Act.

Subtitle B—Reagan-Udall Foundation for the Food and Drug Administration

SEC. 221. THE REAGAN-UDALL FOUNDATION FOR THE FOOD AND DRUG ADMINISTRATION.

(a) IN GENERAL.—Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

''Subchapter I—Reagan-Udall Foundation for the Food and Drug Administration

''SEC. 770. ESTABLISHMENT AND FUNCTIONS OF THE FOUNDATION.

''(a) IN GENERAL.—A nonprofit corporation to be known as the Reagan-Udall Foundation for the Food and Drug Administration (referred to in this subchapter as the 'Foundation') shall be established in accordance with this section. The Foundation shall be headed by an Executive Director, appointed by the members of the Board of Directors under subsection (e). The Foundation shall not be an agency or instrumentality of the United States Government.

''(b) PURPOSE OF FOUNDATION.—The purpose of the Foundation is to advance the mission of the Food and Drug Administration to modernize medical, veterinary, food, food ingredient, and cosmetic product development, accelerate innovation, and enhance product safety.

''(c) DUTIES OF THE FOUNDATION.—The Foundation shall—

''(1) taking into consideration the Critical Path reports and priorities published by the Food and Drug Administration, identify unmet needs in the development, manufacture, and evaluation of the safety and effectiveness, including postapproval, of devices, including diagnostics, biologics, and drugs, and the safety of food, food ingredients, and cosmetics;

''(2) establish goals and priorities in order to meet the unmet needs identified in paragraph (1);

''(3) in consultation with the Secretary, identify existing and proposed Federal intramural and extramural research and development programs relating to the goals and priorities established under paragraph (2), coordinate Foundation activities with such programs, and minimize Foundation duplication of existing efforts;

''(4) award grants to, or enter into contracts, memoranda of understanding, or cooperative agreements with, scientists and entities, which may include the Food and Drug Administration, university consortia, public-private partnerships, institutions of higher education, entities described in section 501(c)(3) of the Internal Revenue Code (and exempt from tax under section 501(a) of such Code), and industry, to efficiently and effectively advance the goals and priorities established under paragraph (2);

''(5) recruit meeting participants and hold or sponsor (in whole or in part) meetings as appropriate to further the goals and priorities established under paragraph (2);

''(6) release and publish information and data and, to the extent practicable, license, distribute, and release material, reagents, and techniques to maximize, promote, and coordinate the availability of such material, reagents, and techniques for use by the Food and Drug Administration, nonprofit organizations, and academic and industrial researchers to further the goals and priorities established under paragraph (2);

''(7) ensure that—

''(A) action is taken as necessary to obtain patents for inventions developed by the Foundation or with funds from the Foundation;

''(B) action is taken as necessary to enable the licensing of inventions developed by the Foundation or with funds from the Foundation; and

''(C) executed licenses, memoranda of understanding, material transfer agreements, contracts, and other such instruments, promote, to the maximum extent practicable, the broadest conversion to commercial and noncommercial applications of licensed and patented inventions of the Foundation to further the goals and priorities established under paragraph (2);

''(8) provide objective clinical and scientific information to the Food and Drug Administration and, upon request, to other Federal agencies to assist in agency determinations of how to ensure that regulatory policy accommodates scientific advances and meets the agency's public health mission;

''(9) conduct annual assessments of the unmet needs identified in paragraph (1); and

''(10) carry out such other activities consistent with the purposes of the Foundation as the Board determines appropriate.

''(d) BOARD OF DIRECTORS.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Foundation shall have a Board of Directors (referred to in this subchapter as the 'Board'), which shall be composed of ex officio and appointed members in accordance with this subsection. All

appointed members of the Board shall be voting members.

''(B) EX OFFICIO MEMBERS.—The ex officio members of the Board shall be the following individuals or their designees:

''(i) The Commissioner.

''(ii) The Director of the National Institutes of Health.

''(iii) The Director of the Centers for Disease Control and Prevention.

''(iv) The Director of the Agency for Healthcare Research and Quality.

''(C) APPOINTED MEMBERS.—

''(i) IN GENERAL.—The ex officio members of the Board under subparagraph (B) shall, by majority vote, appoint to the Board 12 individuals, from a list of candidates to be provided by the National Academy of Sciences. Of such appointed members—

''(I) 4 shall be representatives of the general pharmaceutical, device, food, cosmetic, and biotechnology industries;

''(II) 3 shall be representatives of academic research organizations;

''(III) 2 shall be representatives of Government agencies, including the Food and Drug Administration and the National Institutes of Health;

''(IV) 2 shall be representatives of patient or consumer advocacy organizations; and

''(V) 1 shall be a representative of health care providers.

''(ii) REQUIREMENT.—The ex officio members shall ensure the Board membership includes individuals with expertise in areas including the sciences of developing, manufacturing, and evaluating the safety and effectiveness of devices, including diagnostics, biologics, and drugs, and the safety of food, food ingredients, and cosmetics.

''(D) INITIAL MEETING.—

''(i) IN GENERAL.—Not later than 30 days after the date of the enactment of the Enhancing Drug Safety and Innovation Act of 2007, the Secretary shall convene a meeting of the ex officio members of the Board to—

''(I) incorporate the Foundation; and

''(II) appoint the members of the Board in accordance with subparagraph (C).

''(ii) SERVICE OF EX OFFICIO MEMBERS.—Upon the appointment of the members of the Board under clause (i)(II), the terms of service of the ex officio members of the Board as members of the Board shall terminate.

''(iii) CHAIR.—The ex officio members of the Board under subparagraph (B) shall designate an appointed member of the Board to serve as the Chair of the Board.

''(2) DUTIES OF BOARD.—The Board shall—

''(A) establish bylaws for the Foundation that—

''(i) are published in the Federal Register and available for public comment;

''(ii) establish policies for the selection of the officers, employees, agents, and contractors of the Foundation;

''(iii) establish policies, including ethical standards, for the acceptance, solicitation, and disposition of donations and grants to the Foundation and for the disposition of the assets of the Foundation, including appropriate limits on the ability of donors to designate, by stipulation or restriction, the use or recipient of donated funds;

''(iv) establish policies that would subject all employees, fellows, and trainees of the Foundation to the conflict of interest standards under section 208 of title 18, United States Code;

''(v) establish licensing, distribution, and publication policies that support the widest and least restrictive use by the public of information and inventions developed by the Foundation or with Foundation funds to carry out the duties described in paragraphs (6) and (7) of subsection (c), and may include charging cost-based fees for published material produced by the Foundation;

''(vi) specify principles for the review of proposals and awarding of grants and contracts that include peer review and that are consistent with those of the Foundation for the National Institutes of Health, to the extent determined practicable and appropriate by the Board;

''(vii) specify a cap on administrative expenses for recipients of a grant, contract, or cooperative agreement from the Foundation;

''(viii) establish policies for the execution of memoranda of understanding and cooperative agreements between the Foundation and other entities, including the Food and Drug Administration;

''(ix) establish policies for funding training fellowships, whether at the Foundation, academic or scientific institutions, or the Food and Drug Administration, for scientists, doctors, and other professionals who are not employees of regulated industry, to foster greater understanding of and expertise in new scientific tools, diagnostics, manufacturing techniques, and potential barriers to translating basic research into clinical and regulatory practice;

''(x) specify a process for annual Board review of the operations of the Foundation; and

''(xi) establish specific duties of the Executive Director;

''(B) prioritize and provide overall direction to the activities of the Foundation;

''(C) evaluate the performance of the Executive Director; and

''(D) carry out any other necessary activities regarding the functioning of the Foundation.

''(3) TERMS AND VACANCIES.—

''(A) TERM.—The term of office of each member of the Board appointed under paragraph (1)(C) shall be 4 years, except that the terms of offices for the initial appointed members of the Board shall expire on a staggered basis as determined by the ex officio members.

''(B) VACANCY.—Any vacancy in the membership of the Board—

''(i) shall not affect the power of the remaining members to execute the duties of the Board; and

''(ii) shall be filled by appointment by the appointed members described in paragraph (1)(C) by majority vote.

''(C) PARTIAL TERM.—If a member of the Board does not serve the full term applicable under subparagraph (A), the individual appointed under subparagraph (B) to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

''(D) SERVING PAST TERM.—A member of the Board may continue to serve after the expiration of the term of the member until a successor is appointed.

''(4) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. Such members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board, as set forth in the bylaws issued by the Board.

''(e) INCORPORATION.—The ex officio members of the Board shall serve as incorporators and shall take whatever actions necessary to incorporate the Foundation.

''(f) NONPROFIT STATUS.—The Foundation shall be considered to be a corporation under section 501(c) of the Internal Revenue Code of 1986, and shall be subject to the provisions of such section.

''(g) EXECUTIVE DIRECTOR.—

''(1) IN GENERAL.—The Board shall appoint an Executive Director who shall serve at the pleasure of the Board. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Board shall prescribe.

''(2) COMPENSATION.—The compensation of the Executive Director shall be fixed by the Board but shall not be greater than the compensation of the Commissioner.

''(h) ADMINISTRATIVE POWERS.—In carrying out this subchapter, the Board, acting through the Executive Director, may—

''(1) adopt, alter, and use a corporate seal, which shall be judicially noticed;

''(2) hire, promote, compensate, and discharge 1 or more officers, employees, and agents, as may be necessary, and define their duties;

''(3) prescribe the manner in which—

''(A) real or personal property of the Foundation is acquired, held, and transferred;

''(B) general operations of the Foundation are to be conducted; and

''(C) the privileges granted to the Board by law are exercised and enjoyed;

''(4) with the consent of the applicable executive department or independent agency, use the information, services, and facilities of such department or agencies in carrying out this section;

''(5) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

''(6) hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation under subsection (i);

''(7) enter into such other contracts, leases, cooperative agreements, and other transactions as the Board considers appropriate to conduct the activities of the Foundation;

''(8) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subchapter;

''(9) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

''(10) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

''(11) appoint other groups of advisors as may be determined necessary to carry out the functions of the Foundation; and

''(12) exercise other powers as set forth in this section, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this subchapter.

''(i) ACCEPTANCE OF FUNDS FROM OTHER SOURCES.—The Executive Director may solicit and accept on behalf of the Foundation, any funds, gifts, grants, devises, or bequests of real or personal property made to the Foundation, including from private entities, for the purposes of carrying out the duties of the Foundation.

''(j) SERVICE OF FEDERAL EMPLOYEES.—Federal Government employees may serve on committees advisory to the Foundation and otherwise cooperate with and assist the Foundation in carrying out its functions, so long as such employees do not direct or control Foundation activities.

''(k) DETAIL OF GOVERNMENT EMPLOYEES; FELLOWSHIPS.—

''(1) DETAIL FROM FEDERAL AGENCIES.—Federal Government employees may be detailed from Federal agencies with or without reimbursement to those agencies to the Foundation at any time, and such detail shall be without interruption or loss of civil service status or privilege. Each such employee shall abide by the statutory, regulatory, ethical, and procedural standards applicable to the employees of the agency from which such employee is detailed and those of the Foundation.

''(2) VOLUNTARY SERVICE; ACCEPTANCE OF FEDERAL EMPLOYEES.—

''(A) FOUNDATION.—The Executive Director of the Foundation may accept the services of employees detailed from Federal agencies with or without reimbursement to those agencies.

''(B) FOOD AND DRUG ADMINISTRATION.—The Commissioner may accept the uncompensated services of Foundation fellows or trainees. Such services shall be considered to be undertaking an activity under contract with the Secretary as described in section 708.

''(l) ANNUAL REPORTS.—

''(1) REPORTS TO FOUNDATION.—Any recipient of a grant, contract, fellowship, memorandum of understanding, or cooperative agreement from the Foundation under this section shall submit to the Foundation a report on an annual basis for the duration of such grant, contract, fellowship, memorandum of understanding, or cooperative agreement, that describes the activities carried out under such grant, contract, fellowship, memorandum of understanding, or cooperative agreement.

''(2) REPORT TO CONGRESS AND THE FDA.—Beginning with fiscal year 2009, the Executive Director shall submit to Congress and the Commissioner an annual report that—

''(A) describes the activities of the Foundation and the progress of the Foundation in furthering the goals and priorities established under subsection (c)(2), including the practical impact of the Foundation on regulated product development;

''(B) provides a specific accounting of the source and use of all funds used by the Foundation to carry out such activities; and

''(C) provides information on how the results of Foundation activities could be incorporated into the regulatory and product review activities of the Food and Drug Administration.

''(m) SEPARATION OF FUNDS.—The Executive Director shall ensure that the funds received from the Treasury are held in separate accounts from funds received from entities under subsection (i).

''(n) FUNDING.—From amounts appropriated to the Food and Drug Administration for each fiscal year, the Commissioner shall transfer not less than $500,000 and not more than $1,250,000, to the Foundation to carry out subsections (a), (b), and (d) through (m).''.

(b) OTHER FOUNDATION PROVISIONS.—Chapter VII (21 U.S.C. 371 et seq.) (as amended by subsection (a)) is amended by adding at the end the following:

''SEC. 771. LOCATION OF FOUNDATION.

''The Foundation shall, if practicable, be located not more than 20 miles from the District of Columbia.

''SEC. 772. ACTIVITIES OF THE FOOD AND DRUG ADMINISTRATION.

''(a) IN GENERAL.—The Commissioner shall receive and assess the report submitted to the Commissioner by the Executive Director of the Foundation under section 770(l)(2).

''(b) REPORT TO CONGRESS.—Beginning with fiscal year 2009, the Commissioner shall submit to Congress an annual report summarizing the incorporation of the information provided by the Foundation in the report described under section 770(l)(2) and by other recipients of grants, contracts, memoranda of understanding, or cooperative agreements into regulatory and product review activities of the Food and Drug Administration.

''(c) EXTRAMURAL GRANTS.—The provisions of this subchapter shall have no effect on any grant, contract, memorandum of understanding, or cooperative agreement between the Food and Drug Administration and any other entity entered into before, on, or after the date of enactment of the Enhancing Drug Safety and Innovation Act of 2007.''.

(c) CONFORMING AMENDMENT.—Section 742(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379l(b)) is amended by adding at the end the following: ''Any such fellowships and training programs under this section or under section 770(d)(2)(A)(ix) may include provision by such scientists and physicians of services on a voluntary and uncompensated basis, as the Secretary determines appropriate. Such scientists and physicians shall be subject to all legal and ethical requirements otherwise applicable to officers or employees of the Department of Health and Human Services.''.

SEC. 222. OFFICE OF THE CHIEF SCIENTIST.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

''SEC. 910. OFFICE OF THE CHIEF SCIENTIST.

''(a) ESTABLISHMENT; APPOINTMENT.—The Secretary shall establish within the Office of the Commissioner an office to be known as the Office of the Chief Scientist. The Secretary shall appoint a Chief Scientist to lead such Office.

''(b) DUTIES OF THE OFFICE.—The Office of the Chief Scientist shall—

''(1) oversee, coordinate, and ensure quality and regulatory focus of the intramural research programs of the Food and Drug Administration;

''(2) track and, to the extent necessary, coordinate intramural research awards made by each center of the Administration or science-based office within the Office of the Commissioner, and ensure that there is no duplication of research efforts supported by the Reagan-Udall Foundation for the Food and Drug Administration;

''(3) develop and advocate for a budget to support intramural research;

''(4) develop a peer review process by which intramural research can be evaluated; and

''(5) identify and solicit intramural research proposals from across the Food and Drug Administration through an advisory board composed of employees of the Administration that shall include—

''(A) representatives of each of the centers and the science-based offices within the Office of the Commissioner; and

''(B) experts on trial design, epidemiology, demographics, pharmacovigilance, basic science, and public health.''.

Subtitle C—Clinical Trials

SEC. 231. EXPANDED CLINICAL TRIAL REGISTRY DATA BANK.

(a) IN GENERAL.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended by—

(1) redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

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

''(j) EXPANDED CLINICAL TRIAL REGISTRY DATA BANK.—

''(1) DEFINITIONS; REQUIREMENT.—

''(A) DEFINITIONS.—In this subsection:

''(i) APPLICABLE DEVICE CLINICAL TRIAL.—The term 'applicable device clinical trial' means—

''(I) a prospective study of health outcomes comparing an intervention against a control in human subjects intended to support an application under section 515 or 520(m), or a report under section 510(k), of the Federal Food, Drug, and Cosmetic Act (other than a limited study to gather essential information used to refine the device or design a pivotal trial and that is not intended to determine safety and effectiveness of a device); and

''(II) a pediatric postmarket surveillance as required under section 522 of the Federal Food, Drug, and Cosmetic Act.

''(ii) APPLICABLE DRUG CLINICAL TRIAL.—

''(I) IN GENERAL.—The term 'applicable drug clinical trial' means a controlled clinical investigation, other than a phase I clinical investigation, of a product subject to section 505 of the Federal Food, Drug, and Cosmetic Act or to section 351 of this Act.

''(II) CLINICAL INVESTIGATION.—For purposes of subclause (I), the term 'clinical investigation' has the meaning given that term in section 312.3 of title 21, Code of Federal Regulations.

''(III) PHASE I.—The term 'phase I' has the meaning given that term in section 312.21 of title 21, Code of Federal Regulations.

''(iii) CLINICAL TRIAL INFORMATION.—The term 'clinical trial information' means those data elements that are necessary to complete an entry in the clinical trial registry data bank under paragraph (2).

''(iv) COMPLETION DATE.—The term 'completion date' means, with respect to an applicable drug clinical trial or an applicable device clinical trial, the date on which the last patient enrolled in the clinical trial has completed his or her last medical visit of the clinical trial, whether the clinical trial concluded according to the prespecified protocol plan or was terminated.

''(v) DEVICE.—The term 'device' means a device as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act.

''(vi) DRUG.—The term 'drug' means a drug as defined in section 201(g) of the Federal Food, Drug, and Cosmetic Act or a biological product as defined in section 351 of this Act.

''(vii) RESPONSIBLE PARTY.—The term 'responsible party', with respect to a clinical trial of a drug or device, means—

''(I) the sponsor of the clinical trial (as defined in section 50.3 of title 21, Code of Federal Regulations (or any successor regulations)) or the principal investigator of such clinical trial if so designated by such sponsor; or

''(II) if no sponsor exists, the grantee, contractor, or awardee for a trial funded by a Federal agency or the principal investigator of such clinical trial if so designated by such grantee, contractor, or awardee.

''(B) REQUIREMENT.—The Secretary shall develop a mechanism by which—

''(i) the responsible party for each applicable drug clinical trial and applicable device clinical trial shall submit the identity and contact information of such responsible party to the Secretary at the time of submission of clinical trial information under paragraph (2); and

''(ii) other Federal agencies may identify the responsible party for an applicable drug clinical trial or applicable device clinical trial.

''(2) EXPANSION OF CLINICAL TRIAL REGISTRY DATA BANK WITH RESPECT TO CLINICAL TRIAL INFORMATION.—

''(A) IN GENERAL.—

''(i) EXPANSION OF DATA BANK.—To enhance patient enrollment and provide a mechanism to track subsequent progress of clinical trials, the Secretary, acting through the Director of NIH, shall expand, in accordance with this subsection, the clinical trials registry of the data bank described under subsection (i)(3)(A) (referred to in this subsection as the 'registry data bank'). The Director of NIH shall ensure that the registry data bank is made publicly available through the Internet.

''(ii) CONTENT.—Not later than 18 months after the date of enactment of the Enhancing Drug Safety and Innovation Act of 2007, and after notice and comment, the Secretary shall promulgate regulations to expand the registry data bank to require the submission to the registry data bank of clinical trial information for applicable drug clinical trials and applicable device clinical trials that—

''(I) conforms to the International Clinical Trials Registry Platform trial registration data set of the World Health Organization;

''(II) includes the city, State, and zip code for each clinical trial location, or a toll-free number through which such location information may be accessed;

''(III) if the drug is not approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act, specifies whether or not there is expanded access to the drug under section 561 of the Federal Food, Drug, and Cosmetic Act for those who do not qualify for enrollment in the clinical trial and how to obtain information about such access;

''(IV) requires the inclusion of such other data elements to the registry data bank as appropriate; and

''(V) becomes effective 90 days after issuance of the final rule.

''(B) FORMAT AND STRUCTURE.—

''(i) SEARCHABLE CATEGORIES.—The Director of NIH shall ensure that the public may search the entries in the registry data bank by 1 or more of the following criteria:

''(I) The disease or condition being studied in the clinical trial, using Medical Subject Headers (MeSH) descriptors.

''(II) The treatment being studied in the clinical trial.

''(III) The location of the clinical trial.

''(IV) The age group studied in the clinical trial, including pediatric subpopulations.

''(V) The study phase of the clinical trial.

''(VI) The source of support for the clinical trial, which may be the National Institutes of Health or other Federal agency, a private industry source, or a university or other organization.

''(VII) The recruitment status of the clinical trial.

''(VIII) The National Clinical Trial number or other study identification for the clinical trial.

''(ii) FORMAT.—The Director of the NIH shall ensure that the registry data bank is easily used by the public, and that entries are easily compared.

''(C) DATA SUBMISSION.—The responsible party for an applicable drug clinical trial shall submit to the Director of NIH for inclusion in the registry data bank the clinical trial information described in subparagraph (A)(ii).

''(D) TRUTHFUL CLINICAL TRIAL INFORMATION.—

''(i) IN GENERAL.—The clinical trial information submitted by a responsible party under this paragraph shall not be false or misleading in any particular.

''(ii) EFFECT.—Clause (i) shall not have the effect of requiring clinical trial information with respect to an applicable drug clinical trial or an applicable device clinical trial to include information from any source other than such clinical trial involved.

''(E) CHANGES IN CLINICAL TRIAL STATUS.—

''(i) ENROLLMENT.—The responsible party for an applicable drug clinical trial or an applicable device clinical trial shall update the enrollment status not later than 30 days after the enrollment status of such clinical trial changes.

''(ii) COMPLETION.—The responsible party for an applicable drug clinical trial or applicable device clinical trial shall report to the Director of NIH that such clinical trial is complete not later than 30 days after the completion date of the clinical trial.

''(F) TIMING OF SUBMISSION.—The clinical trial information for an applicable drug clinical trial or an applicable device clinical trial required to be submitted under this paragraph shall be submitted not later than 21 days after the first patient is enrolled in such clinical trial.

''(G) POSTING OF DATA.—

''(i) APPLICABLE DRUG CLINICAL TRIAL.—The Director of NIH shall ensure that clinical trial information for an applicable drug clinical trial submitted in accordance with this paragraph is posted publicly within 30 days of such submission.

''(ii) APPLICABLE DEVICE CLINICAL TRIAL.—The Director of NIH shall ensure that clinical trial information for an applicable device clinical trial submitted in accordance with this paragraph is posted publicly within 30 days of clearance under section 510(k) of the Federal Food, Drug, and Cosmetic Act, or approval under section 515 or section 520(m) of such Act, as applicable.

''(H) VOLUNTARY SUBMISSIONS.—A responsible party for a clinical trial that is not an applicable drug clinical trial or an applicable device clinical trial may submit clinical trial information to the registry data bank in accordance with this subsection.

''(3) EXPANSION OF REGISTRY DATA BANK TO INCLUDE RESULTS OF CLINICAL TRIALS.—

''(A) LINKING REGISTRY DATA BANK TO EXISTING RESULTS.—

''(i) IN GENERAL.—Beginning not later than 90 days after the date of enactment of the Enhancing Drug Safety and Innovation Act of 2007, for those clinical trials that form the primary basis of an efficacy claim or are conducted after the drug involved is approved or after the device involved is cleared or approved, the Secretary shall ensure that the registry data bank includes links to results information for such clinical trial—

''(I) not earlier than 30 days after the date of the approval of the drug involved or clearance or approval of the device involved; or

''(II) not later than 30 days after such information becomes publicly available, as applicable.

''(ii) REQUIRED INFORMATION.—

''(I) FDA INFORMATION.—The Secretary shall ensure that the registry data bank includes links to the following information:

''(aa) If an advisory committee considered at a meeting an applicable drug clinical trial or an applicable device clinical trial, any posted Food and Drug Administration summary document regarding such applicable drug clinical trial or applicable clinical device trial.

''(bb) If an applicable drug clinical trial was conducted under section 505A or 505B of the Federal Food, Drug, and Cosmetic Act, a link to the posted Food and Drug Administration assessment of the results of such trial.

''(cc) Food and Drug Administration public health advisories regarding the drug or device that is the subject of the applicable drug clinical trial or applicable device clinical trial, respectively, if any.

''(dd) For an applicable drug clinical trial, the Food and Drug Administration action package for approval document required under section 505(l)(2) of the Food Drug and Cosmetic Act.

''(ee) For an applicable device clinical trial, in the case of a premarket application, the detailed summary of information respecting the safety and effectiveness of the device required under section 520(h)(1) of the Federal Food, Drug, and Cosmetic Act, or, in the case of a report under section 510(k) of such Act, the section 510(k) summary of the safety and effectiveness data required under section 807.95(d) of title 21, Code of Federal Regulations (or any successor regulations).

''(II) NIH INFORMATION.—The Secretary shall ensure that the registry data bank includes links to the following information:

''(aa) Medline citations to any publications regarding each applicable drug clinical trial and applicable device clinical trial.

''(bb) The entry for the drug that is the subject of an applicable drug clinical trial in the National Library of Medicine database of structured product labels, if available.

''(iii) RESULTS FOR EXISTING DATA BANK ENTRIES.—The Secretary may include the links described in clause (ii) for data bank entries for clinical trials submitted to the data bank prior to enactment of the Enhancing Drug Safety and Innovation Act of 2007, as available.

''(B) FEASIBILITY STUDY.—The Director of NIH shall—

''(i) conduct a study to determine the best, validated methods of making the results of clinical trials publicly available after the approval of the drug that is the subject of an applicable drug clinical trial; and

''(ii) not later than 18 months after initiating such study, submit to the Secretary any findings and recommendations of such study.

''(C) NEGOTIATED RULEMAKING.—

''(i) IN GENERAL.—The Secretary shall establish a negotiated rulemaking process pursuant to subchapter IV of chapter 5 of title 5, United States Code, to determine, for applicable drug clinical trials—

''(I) how to ensure quality and validate methods of expanding the registry data bank to include clinical trial results information for trials not within the scope of this Act;

''(II) the clinical trials of which the results information is appropriate for adding to the expanded registry data bank; and

''(III) the appropriate timing of the posting of such results information.

''(ii) TIME REQUIREMENT.—The process described in paragraph (1) shall be conducted in a timely manner to ensure that—

''(I) any recommendation for a proposed rule—

''(aa) is provided to the Secretary not later than 21 months after the date of the enactment of the Enhancing Drug Safety and Innovation Act of 2007; and

''(bb) includes an assessment of the benefits and costs of the recommendation; and

''(II) a final rule is promulgated not later than 30 months after the date of the enactment of the Enhancing Drug Safety and Innovation Act of 2007, taking into account the recommendations under subclause (I) and the results of the feasibility study conducted under subparagraph (B).

''(iii) REPRESENTATION ON NEGOTIATED RULEMAKING COMMITTEE.—The negotiated rulemaking committee established by the Secretary pursuant to clause (i) shall include members representing—

''(I) the Food and Drug Administration;

''(II) the National Institutes of Health;

''(III) other Federal agencies as the Secretary determines appropriate;

''(IV) patient advocacy and health care provider groups;

''(V) the pharmaceutical industry;

''(VI) contract clinical research organizations;

''(VII) the International Committee of Medical Journal Editors; and

''(VIII) other interested parties, including experts in privacy protection, pediatrics, health information technology, health literacy, communication, clinical trial design and implementation, and health care ethics.

''(iv) CONTENT OF REGULATIONS.—The regulations promulgated pursuant to clause (i) shall establish—

''(I) procedures to determine which clinical trials results information data elements shall be included in the registry data bank, taking into account the needs of different populations of users of the registry data bank;

''(II) a standard format for the submission of clinical trials results to the registry data bank;

''(III) a standard procedure for the submission of clinical trial results information, including the timing of submission and the timing of posting of results information, to the registry data bank, taking into account

the possible impacts on publication of manuscripts based on the clinical trial;

''(IV) a standard procedure for the verification of clinical trial results information, including ensuring that free text data elements are non-promotional; and

''(V) an implementation plan for the prompt inclusion of clinical trials results information in the registry data bank.

''(D) CONSIDERATION OF WORLD HEALTH ORGANIZATION DATA SET.—The Secretary shall consider the status of the consensus data elements set for reporting clinical trial results of the World Health Organization when promulgating the regulations under subparagraph (C).

''(E) TRUTHFUL CLINICAL TRIAL INFORMATION.—

''(i) IN GENERAL.—The clinical trial information submitted by a responsible party under this paragraph shall not be false or misleading in any particular.

''(ii) EFFECT.—Clause (i) shall not have the effect of requiring clinical trial information with respect to an applicable drug clinical trial or an applicable device clinical trial to include information from any source other than such clinical trial involved.

''(F) WAIVERS REGARDING CERTAIN CLINICAL TRIAL RESULTS.—The Secretary may waive any applicable requirements of this paragraph for an applicable drug clinical trial or an applicable device clinical trial, upon a written request from the responsible person, if the Secretary determines that extraordinary circumstances justify the waiver and that providing the waiver is in the public interest, consistent with the protection of public health, or in the interest of national security. Not later than 30 days after any part of a waiver is granted, the Secretary shall notify, in writing, the appropriate committees of Congress of the waiver and provide an explanation for why the waiver was granted.

''(4) COORDINATION AND COMPLIANCE.—

''(A) CLINICAL TRIALS SUPPORTED BY GRANTS FROM FEDERAL AGENCIES.—

''(i) IN GENERAL.—No Federal agency may release funds under a research grant to an awardee who has not complied with paragraph (2) for any applicable drug clinical trial or applicable device clinical trial for which such person is the responsible party.

''(ii) GRANTS FROM CERTAIN FEDERAL AGENCIES.—If an applicable drug clinical trial or applicable device clinical trial is funded in whole or in part by a grant from the Food and Drug Administration, National Institutes of Health, the Agency for Healthcare Research and Quality, or the Department of Veterans Affairs, any grant or progress report forms required under such grant shall include a certification that the responsible party has made all required submissions to the Director of NIH under paragraph (2).

''(iii) VERIFICATION BY FEDERAL AGENCIES.—The heads of the agencies referred to in clause (ii), as applicable, shall verify that the clinical trial information for each applicable drug clinical trial or applicable device clinical trial for which a grantee is the responsible party has been submitted under paragraph (2) before releasing any remaining funding for a grant or funding for a future grant to such grantee.

''(iv) NOTICE AND OPPORTUNITY TO REMEDY.—If the head of an agency referred to in clause (ii), as applicable, verifies that a grantee has not submitted clinical trial information as described in clause (iii), such agency head shall provide notice to such grantee of such non-compliance and allow such grantee 30 days to correct such non-compliance and submit the required clinical trial information.

''(v) CONSULTATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall—

''(I) consult with other agencies that conduct research involving human subjects in accordance with any section of part 46 of title 45, Code of Federal Regulations (or any successor regulations), to determine if any such research is an applicable drug clinical trial or an applicable device clinical trial under paragraph (1); and

''(II) develop with such agencies procedures comparable to those described in clauses (ii), (iii), and (iv) to ensure that clinical trial information for such applicable drug clinical trials and applicable device clinical trial is submitted under paragraph (2).

''(B) CERTIFICATION TO ACCOMPANY DRUG, BIOLOGICAL PRODUCT, AND DEVICE SUBMISSIONS.—At the time of submission of an application under section 505 of the Federal Food, Drug, and Cosmetic Act, section 515 of such Act, section 520(m) of such Act, or section 351 of this Act, or submission of a report under section 510(k) of such Act, such application or submission shall be accompanied by a certification that all applicable requirements of this subsection have been met. Where available, such certification shall include the appropriate National Clinical Trial control numbers.

''(C) VERIFICATION OF SUBMISSION PRIOR TO POSTING.—In the case of clinical trial information that is submitted under paragraph (2), but is not made publicly available pending regulatory approval or clearance, as applicable, the Director of NIH shall respond to inquiries from other Federal agencies and peer-reviewed scientific journals to confirm that such clinical trial information has been submitted but has not yet been posted.

''(5) LIMITATION ON DISCLOSURE OF CLINICAL TRIAL INFORMATION.—

''(A) IN GENERAL.—Nothing in this subsection (or under section 552 of title 5, United States Code) shall require the Secretary to publicly disclose, from any record or source other than the registry data bank expanded under this subsection, information described in subparagraph (B).

''(B) INFORMATION DESCRIBED.—Information described in this subparagraph is—

''(i) information submitted to the Director of NIH under this subsection, or information of the same general nature as (or integrally associated with) the information so submitted; and

''(ii) not otherwise publicly available, including because it is protected from disclosure under section 552 of title 5, United States Code.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $10,000,000 for each fiscal year.''.

(b) CONFORMING AMENDMENTS.—

(1) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

''(jj)(1) The failure to submit the certification required by section 402(j)(4)(B) of the Public Health Service Act, or knowingly submitting a false certification under such section.

''(2) The submission of clinical trial information under subsection (i) or (j) of section 402 of the Public Health Service Act that is promotional or false or misleading in any particular under paragraph (2) or (3) of such subsection (j).''.

(2) CIVIL MONEY PENALTIES.—Section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)), as amended by section 203, is further amended by—

(A) redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(B) inserting after paragraph (3) the following:

''(4) Any person who violates section 301(jj) shall be subject to a civil monetary penalty of not more than $10,000 for the first violation, and not more than $20,000 for each subsequent violation.'';

(C) in paragraph (2)(C), by striking ''paragraph (4)(A)'' and inserting ''paragraph (5)(A)'';

(D) in paragraph (5), as so redesignated, by striking ''paragraph (1), (2), or (3)'' each place it appears and inserting ''paragraph (1), (2), (3), or (4)''; and

(E) in paragraph (7), as so redesignated, by striking ''paragraph (5)'' each place it appears and inserting ''paragraph (6)''.

(3) NEW DRUGS AND DEVICES.—

(A) INVESTIGATIONAL NEW DRUGS.—Section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) is amended in paragraph (4), by adding at the end the following: ''The Secretary shall update such regulations to require inclusion in the informed consent form a statement that clinical trial information for such clinical investigation has been or will be submitted for inclusion in the registry data bank pursuant to subsections (i) and (j) of section 402 of the Public Health Service Act.''.

(B) NEW DRUG APPLICATIONS.—Section 505(b) of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) is amended by adding at the end the following:

''(6) An application submitted under this subsection shall be accompanied by the certification required under section 402(j)(4)(B) of the Public Health Service Act. Such certification shall not be considered an element of such application.''.

(C) DEVICE REPORTS UNDER SECTION 510(k).—Section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) is amended by adding at the end the following:

''A notification submitted under this subsection that contains clinical trial data for an applicable device clinical trial (as defined in section 402(j)(1) of the Public Health Service Act) shall be accompanied by the certification required under section 402(j)(4)(B) of such Act. Such certification shall not be considered an element of such notification.''.

(D) DEVICE PREMARKET APPROVAL APPLICATION.—Section 515(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)) is amended—

(i) in subparagraph (F), by striking ''; and'' and inserting a semicolon;

(ii) by redesignating subparagraph (G) as subparagraph (H); and

(iii) by inserting after subparagraph (F) the following:

''(G) the certification required under section 402(j)(4)(B) of the Public Health Service Act (which shall not be considered an element of such application); and''.

(E) HUMANITARIAN DEVICE EXEMPTION.—Section 520(m)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)) is amended in the first sentence in the matter following subparagraph (C), by inserting at the end before the period ''and such application shall include the certification required under section 402(j)(4)(B) of the Public Health Service Act (which shall not be considered an element of such application)''.

(c) PREEMPTION.—

(1) IN GENERAL.—No State or political subdivision of a State may establish or continue in effect any requirement for the registration of clinical trials or for the inclusion of information relating to the results of clinical trials in a database.

(2) RULE OF CONSTRUCTION.—The fact of submission of clinical trial information, if submitted in compliance with subsection (i) and (j) of section 402 of the Public Health Service Act (as amended by this section), that relates to a use of a drug or device not

included in the official labeling of the approved drug or device shall not be construed by the Secretary or in any administrative or judicial proceeding, as evidence of a new intended use of the drug or device that is different from the intended use of the drug or device set forth in the official labeling of the drug or device. The availability of clinical trial information through the data bank under such subsections (i) and (j), if submitted in compliance with such subsections, shall not be considered as labeling, adulteration, or misbranding of the drug or device under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(d) TRANSITION RULE; EFFECTIVE DATE OF FUNDING RESTRICTIONS.—

(1) TRANSITION RULE FOR CLINICAL TRIALS INITIATED PRIOR TO EXPANSION OF REGISTRY DATA BANK.—The responsible party (as defined in paragraph (1) of section 402(j) of the Public Health Service Act (as added by this section)) for an applicable drug clinical trial or applicable device clinical trial (as defined under such paragraph (1)) that is initiated after the date of enactment of this subtitle and before the effective date of the regulations promulgated under paragraph (2) of such section 402(j), shall submit required clinical trial information under such section not later than 120 days after such effective date.

(2) FUNDING RESTRICTIONS.—Subparagraph (A) of paragraph (4) of such section 402(j) shall take effect 210 days after the effective date of the regulations promulgated under paragraph (2) of such section 402(j).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Beginning 90 days after the date of enactment of this title, the responsible party for an applicable drug clinical trial or an applicable device clinical trial (as that term is defined in such section 402(j)) that is initiated after the date of enactment of this title and before the effective date of the regulations issued under subparagraph (A) of paragraph (2) of such subsection, shall submit clinical trial information under such paragraph (2).

(2) RULEMAKING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (c)(1) shall become effective on the date on which the regulation promulgated pursuant to section 402(j)(3)(C)(i) of the Public Health Service Act, as added by this section, becomes effective.

(B) EXCEPTION.—Subsection (c)(1) shall apply with respect to any clinical trial for which the registry data bank includes links to results information, as provided for under section 402(j)(3)(A) of such Act, as added by this section.

Subtitle D—Conflicts of Interest

SEC. 241. CONFLICTS OF INTEREST.

(a) IN GENERAL.—Subchapter A of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by inserting at the end the following:

"SEC. 712. CONFLICTS OF INTEREST.

''(a) DEFINITIONS.—For purposes of this section:

''(1) ADVISORY COMMITTEE.—The term 'advisory committee' means an advisory committee under the Federal Advisory Committee Act that provides advice or recommendations to the Secretary regarding activities of the Food and Drug Administration.

''(2) FINANCIAL INTEREST.—The term 'financial interest' means a financial interest under section 208(a) of title 18, United States Code.

''(b) APPOINTMENTS TO ADVISORY COMMITTEES.—

''(1) RECRUITMENT.—

''(A) IN GENERAL.—Given the importance of advisory committees to the review process at the Food and Drug Administration, the Secretary shall carry out informational and recruitment activities for purposes of recruiting individuals to serve as advisory committee members. The Secretary shall seek input from professional medical and scientific societies to determine the most effective informational and recruitment activities. The Secretary shall also take into account the advisory committees with the greatest number of vacancies.

''(B) RECRUITMENT ACTIVITIES.—The recruitment activities under subparagraph (A) may include—

''(i) advertising the process for becoming an advisory committee member at medical and scientific society conferences;

''(ii) making widely available, including by using existing electronic communications channels, the contact information for the Food and Drug Administration point of contact regarding advisory committee nominations; and

''(iii) developing a method through which an entity receiving National Institutes of Health funding can identify a person who the Food and Drug Administration can contact regarding the nomination of individuals to serve on advisory committees.

''(2) EVALUATION AND CRITERIA.—When considering a term appointment to an advisory committee, the Secretary shall review the expertise of the individual and the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978 for each individual under consideration for the appointment, so as to reduce the likelihood that an appointed individual will later require a written determination as referred to in section 208(b)(1) of title 18, United States Code, a written certification as referred to in section 208(b)(3) of title 18, United States Code, or a waiver as referred to in subsection (c)(3) of this section for service on the committee at a meeting of the committee.

''(c) GRANTING AND DISCLOSURE OF WAIVERS.—

''(1) IN GENERAL.—Prior to a meeting of an advisory committee regarding a 'particular matter' (as that term is used in section 208 of title 18, United States Code), each member of the committee who is a full-time Government employee or special Government employee shall disclose to the Secretary financial interests in accordance with subsection (b) of such section 208.

''(2) FINANCIAL INTEREST OF ADVISORY COMMITTEE MEMBER OR FAMILY MEMBER.—No member of an advisory committee may vote with respect to any matter considered by the advisory committee if such member (or an immediate family member of such member) has a financial interest that could be affected by the advice given to the Secretary with respect to such matter, excluding interests exempted in regulations issued by the Director of the Office of Government Ethics as too remote or inconsequential to affect the integrity of the services of the Government officers or employees to which such regulations apply.

''(3) WAIVER.—The Secretary may grant a waiver of the prohibition in paragraph (2) if such waiver is necessary to afford the advisory committee essential expertise.

''(4) LIMITATION.—The Secretary may not grant a waiver under paragraph (3) for a member of an advisory committee when the member's own scientific work is involved.

''(5) DISCLOSURE OF WAIVER.—Notwithstanding section 107(a)(2) of the Ethics in Government Act (5 U.S.C. App.), the following shall apply:

''(A) 15 OR MORE DAYS IN ADVANCE.—As soon as practicable, but in no case later than 15 days prior to a meeting of an advisory committee to which a written determination as referred to in section 208(b)(1) of title 18, United States Code, a written certification as referred to in section 208(b)(3) of title 18, United States Code, or a waiver as referred to in paragraph (3) applies, the Secretary shall disclose (other than information exempted from disclosure under section 552 of title 5, United States Code, and section 552a of title 5, United States Code (popularly known as the Freedom of Information Act and the Privacy Act of 1974, respectively)) on the Internet website of the Food and Drug Administration—

''(i) the type, nature, and magnitude of the financial interests of the advisory committee member to which such determination, certification, or waiver applies; and

''(ii) the reasons of the Secretary for such determination, certification, or waiver.

''(B) LESS THAN 30 DAYS IN ADVANCE.—In the case of a financial interest that becomes known to the Secretary less than 30 days prior to a meeting of an advisory committee to which a written determination as referred to in section 208(b)(1) of title 18, United States Code, a written certification as referred to in section 208(b)(3) of title 18, United States Code, or a waiver as referred to in paragraph (3) applies, the Secretary shall disclose (other than information exempted from disclosure under section 552 of title 5, United States Code, and section 552a of title 5, United States Code) on the Internet website of the Food and Drug Administration, the information described in clauses (i) and (ii) of subparagraph (A) as soon as practicable after the Secretary makes such determination, certification, or waiver, but in no case later than the date of such meeting.

''(d) PUBLIC RECORD.—The Secretary shall ensure that the public record and transcript of each meeting of an advisory committee includes the disclosure required under subsection (c)(5) (other than information exempted from disclosure under section 552 of title 5, United States Code, and section 552a of title 5, United States Code).

''(e) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary shall submit to the Inspector General of the Department of Health and Human Services, the Committee on Appropriations and the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives, a report that describes—

''(1) with respect to the fiscal year that ended on September 30 of the previous year, the number of vacancies on each advisory committee, the number of nominees received for each committee, and the number of such nominees willing to serve;

''(2) with respect to such year, the aggregate number of disclosures required under subsection (c)(5) for each meeting of each advisory committee and the percentage of individuals to whom such disclosures did not apply who served on such committee for each such meeting;

''(3) with respect to such year, the number of times the disclosures required under subsection (c)(5) occurred under subparagraph (B) of such subsection; and

''(4) how the Secretary plans to reduce the number of vacancies reported under paragraph (1) during the fiscal year following such year, and mechanisms to encourage the nomination of individuals for service on an advisory committee, including those who are classified by the Food and Drug Administration as academicians or practitioners.

''(f) PERIODIC REVIEW OF GUIDANCE.—Not less than once every 5 years, the Secretary shall review guidance of the Food and Drug Administration regarding conflict of interest

waiver determinations with respect to advisory committees and update such guidance as necessary.''.

(b) CONFORMING AMENDMENT.—Section 505(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(n)) is amended by—

(1) striking paragraph (4); and

(2) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (4), (5), (6), and (7), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007.

Subtitle E—Other Drug Safety Provisions

SEC. 251. DATABASE FOR AUTHORIZED GENERIC DRUGS.

Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by this title, is further amended by adding at the end the following:

''(q) DATABASE FOR AUTHORIZED GENERIC DRUGS.—

''(1) IN GENERAL.—

''(A) PUBLICATION.—The Commissioner shall—

''(i) not later than 9 months after the date of enactment of the Enhancing Drug Safety and Innovation Act of 2007, publish a complete list on the Internet website of the Food and Drug Administration of all authorized generic drugs (including drug trade name, brand company manufacturer, and the date the authorized generic drug entered the market); and

''(ii) update the list quarterly to include each authorized generic drug included in an annual report submitted to the Secretary by the sponsor of a listed drug during the preceding 3-month period.

''(B) NOTIFICATION.—The Commissioner shall notify relevant Federal agencies, including the Centers for Medicare & Medicaid Services and the Federal Trade Commission, any time the Commissioner updates the information described in subparagraph (A).

''(2) INCLUSION.—The Commissioner shall include in the list described in paragraph (1) each authorized generic drug included in an annual report submitted to the Secretary by the sponsor of a listed drug after January 1, 1999.

''(3) AUTHORIZED GENERIC DRUG.—In this section, the term 'authorized generic drug' means a listed drug (as that term is used in subsection (j)) that—

''(A) has been approved under subsection (c); and

''(B) is marketed, sold, or distributed directly or indirectly to retail class of trade under a different labeling, packaging (other than repackaging as the listed drug in blister packs, unit doses, or similar packaging for use in institutions), product code, labeler code, trade name, or trade mark than the listed drug.''.

SEC. 252. MEDICAL MARIJUANA.

The Secretary shall require that State-legalized medical marijuana be subject to the full regulatory requirements of the Food and Drug Administration, including a risk evaluation and mitigation strategy and all other requirements and penalties of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) regarding safe and effective reviews, approval, sale, marketing, and use of pharmaceuticals.

Subtitle F—Antibiotic Access and Innovation

SEC. 261. INCENTIVES FOR THE DEVELOPMENT OF, AND ACCESS TO, CERTAIN ANTIBIOTICS.

(a) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by this Act, is further amended by adding at the end the following:

''(s) ANTIBIOTIC DRUGS SUBMITTED BEFORE NOVEMBER 21, 1997.—

''(1) ANTIBIOTIC DRUGS APPROVED BEFORE NOVEMBER 21, 1997.—

''(A) IN GENERAL.—Notwithstanding any provision of the Food and Drug Administration Modernization Act of 1997 or any other provision of law, a sponsor of a drug that is the subject of an application described in subparagraph (B)(i) shall be eligible for, with respect to the drug, the 3-year exclusivity period referred to under clauses (iii) and (iv) of subsection (c)(3)(E) and under clauses (iii) and (iv) of subsection (j)(5)(F), subject to the requirements of such clauses, as applicable.

''(B) APPLICATION; ANTIBIOTIC DRUG DESCRIBED.—

''(i) APPLICATION.—An application described in this clause is an application for marketing submitted under this section after the date of enactment of this subsection in which the drug that is the subject of the application contains an antibiotic drug described in clause (ii).

''(ii) ANTIBIOTIC DRUG.—An antibiotic drug described in this clause is an antibiotic drug that was the subject of an application approved by the Secretary under section 507 of this Act (as in effect before November 21, 1997).

''(2) ANTIBIOTIC DRUGS SUBMITTED BEFORE NOVEMBER 21, 1997, BUT NOT APPROVED.—

''(A) IN GENERAL.—Notwithstanding any provision of the Food and Drug Administration Modernization Act of 1997 or any other provision of law, a sponsor of a drug that is the subject of an application described in subparagraph (B)(i) may elect to be eligible for, with respect to the drug—

''(i)(I) the 3-year exclusivity period referred to under clauses (iii) and (iv) of subsection (c)(3)(E) and under clauses (iii) and (iv) of subsection (j)(5)(F), subject to the requirements of such clauses, as applicable; and

''(II) the 5-year exclusivity period referred to under clause (ii) of subsection (c)(3)(E) and under clause (ii) of subsection (j)(5)(F), subject to the requirements of such clauses, as applicable; or

''(ii) a patent term extension under section 156 of title 35, United States Code, subject to the requirements of such section.

''(B) APPLICATION; ANTIBIOTIC DRUG DESCRIBED.—

''(i) APPLICATION.—An application described in this clause is an application for marketing submitted under this section after the date of enactment of this subsection in which the drug that is the subject of the application contains an antibiotic drug described in clause (ii).

''(ii) ANTIBIOTIC DRUG.—An antibiotic drug described in this clause is an antibiotic drug that was the subject of 1 or more applications received by the Secretary under section 507 of this Act (as in effect before November 21, 1997), none of which was approved by the Secretary under such section.

''(3) LIMITATIONS.—

''(A) EXCLUSIVITIES AND EXTENSIONS.—Paragraphs (1)(A) and (2)(A) shall not be construed to entitle a drug that is the subject of an approved application described in subparagraphs (1)(B)(i) or (2)(B)(i), as applicable, to any market exclusivities or patent extensions other than those exclusivities or extensions described in paragraph (1)(A) or (2)(A).

''(B) CONDITIONS OF USE.—Paragraphs (1)(A) and (2)(A)(i) shall not apply to any condition of use for which the drug referred to in subparagraph (1)(B)(i) or (2)(B)(i), as applicable, was approved before the date of enactment of this subsection.

''(4) APPLICATION OF CERTAIN PROVISIONS.—Notwithstanding section 125, or any other provision, of the Food and Drug Administration Modernization Act of 1997, or any other provision of law, and subject to the limitations in paragraphs (1), (2), and (3), the provisions of the Drug Price Competition and Patent Term Restoration Act of 1984 shall apply to any drug subject to paragraph (1) or any drug with respect to which an election is made under paragraph (2)(A).''.

(b) TRANSITION RULE.—With respect to a patent issued on or before the date of enactment of this Act, any patent information required to be filed with the Secretary under subsection (b)(1) or (c)(2) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to be listed on a drug to which subsection (s)(1) of such section 505 (as added by this section) applies shall be filed with such Secretary not later than 60 days after the date of enactment of this Act.

SEC. 262. ANTIBIOTICS AS ORPHAN PRODUCTS.

(a) PUBLIC MEETING.—The Commissioner of Food and Drugs shall convene a public meeting and, if appropriate, issue guidance, regarding which serious and life-threatening infectious diseases, such as diseases due to gram-negative bacteria and other diseases due to antibiotic-resistant bacteria, potentially qualify for available grants and contracts under subsection (a) of section 5 of the Orphan Drug Act (21 U.S.C. 360ee(a)) or other incentives for development.

(b) GRANTS AND CONTRACTS FOR THE DEVELOPMENT OF ORPHAN DRUGS.—Subsection (c) of section 5 of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended to read as follows:

''(c) For grants and contracts under subsection (a) there are authorized to be appropriated—

''(1) such sums as already have been appropriated for fiscal year 2007; and

''(2) $35,000,000 for each of fiscal years 2008 through 2012.''.

SEC. 263. IDENTIFICATION OF CLINICALLY SUSCEPTIBLE CONCENTRATIONS OF ANTIMICROBIALS.

(a) DEFINITION.—In this section, the term ''clinically susceptible concentrations'' means specific values which characterize bacteria as clinically susceptible, intermediate, or resistant to the drug (or drugs) tested.

(b) IDENTIFICATION.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), through the Commissioner of Food and Drugs, shall identify and periodically update clinically susceptible concentrations.

(c) PUBLIC AVAILABILITY.—The Secretary, through the Commissioner of Food and Drugs, shall make such clinically susceptible concentrations publicly available within 30 days of the date of identification and any update under this section.

(d) EFFECT.—Nothing in this section shall be construed to restrict, in any manner, the prescribing of antibiotics by physicians, or to limit the practice of medicine, including for diseases such as Lyme and tick-borne diseases.

SEC. 264. EXCLUSIVITY OF CERTAIN DRUGS CONTAINING SINGLE ENANTIOMERS.

Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S. C. 355), as amended by this subtitle, is amended by adding at the end the following:

''(t) CERTAIN DRUGS CONTAINING SINGLE ENANTIOMERS.—

''(1) IN GENERAL.—For purposes of subsections (c)(3)(E)(ii) and (j)(5)(F)(ii), if an application is submitted under subsection (b) for a non-racemic drug containing as an active ingredient a single enantiomer that is contained in a racemic drug approved in another application under subsection (b), the applicant may, in the application for such non-racemic drug, elect to have the single enantiomer not be considered the same active ingredient as that contained in the approved racemic drug, if—

''(A)(i) the single enantiomer has not been previously approved except in the approved racemic drug; and

''(ii) the application submitted under subsection (b) for such non-racemic drug—

''(I) includes full reports of new clinical investigations (other than bioavailability studies)—

''(aa) necessary for the approval of the application under subsections (c) and (d); and

''(bb) conducted or sponsored by the applicant; and

''(II) does not rely on any investigations that are part of an application submitted under subsection (b) for approval of the approved racemic drug; and

''(B) the application submitted under subsection (b) for such non-racemic drug is not submitted for approval of a condition of use—

''(i) in a therapeutic category in which the approved racemic drug has been approved; or

''(ii) for which any other enantiomer of the racemic drug has been approved.

''(2) LIMITATION.—

''(A) NO APPROVAL IN CERTAIN THERAPEUTIC CATEGORIES.—Until the date that is 10 years after the date of approval of a non-racemic drug described in paragraph (1) and with respect to which the applicant has made the election provided for by such paragraph, the Secretary shall not approve such non-racemic drug for any condition of use in the therapeutic category in which the racemic drug has been approved.

''(B) LABELING.—If applicable, the labeling of a non-racemic drug described in paragraph (1) and with respect to which the applicant has made the election provided for by such paragraph shall include a statement that the non-racemic drug is not approved, and has not been shown to be safe and effective, for any condition of use of the racemic drug.

''(3) DEFINITION.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'therapeutic category' means a therapeutic category identified in the list developed by the United States Pharmacopeia pursuant to section 1860D–4(b)(3)(C)(ii) of the Social Security Act and as in effect on the date of enactment of this subsection.

''(B) PUBLICATION BY SECRETARY.—The Secretary shall publish the list described in subparagraph (A) and may amend such list by regulation.

''(4) AVAILABILITY.—The election referred to in paragraph (1) may be made only in an application that is submitted to the Secretary after the date of enactment of this subsection and before October 1, 2012.''.

SEC. 265. REPORT.

Not later than January 1, 2012, the Comptroller General of the United States shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives that examines whether and how this subtitle has—

(1) encouraged the development of new antibiotics and other drugs; and

(2) prevented or delayed timely generic drug entry into the market.

TITLE III—MEDICAL DEVICES

SEC. 300. REFERENCES.

Except as otherwise specified, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Subtitle A—Device User Fees

SEC. 301. SHORT TITLE.

This subtitle may be cited as the ''Medical Device User Fee Amendments of 2007''.

SEC. 302. DEVICE FEES.

Section 737 (21 U.S.C. 379i) is amended—

(1) by striking the section designation and all that follows through ''For purposes of this subchapter'' and inserting the following:

''SEC. 737. DEVICE FEES.

''(a) PURPOSE.—It is the purpose of this part that the fees authorized under this part be dedicated toward expediting the process for the review of device applications and for assuring the safety and effectiveness of devices, as set forth in the goals identified for purposes of this part in the letters from the Secretary to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record.

''(b) REPORTS.—

''(1) PERFORMANCE REPORT.—For fiscal years 2008 through 2012, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in subsection (a) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals. The report for a fiscal year shall include information on all previous cohorts for which the Secretary has not given a complete response on all device premarket applications, supplements, and premarket notifications in the cohort.

''(2) FISCAL REPORT.—For fiscal years 2008 through 2012, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

''(3) PUBLIC AVAILABILITY.—The Secretary shall make the reports required under paragraphs (1) and (2) available to the public on the Internet website of the Food and Drug Administration.

''(c) REAUTHORIZATION.—

''(1) CONSULTATION.—In developing recommendations to present to Congress with respect to the goals, and plans for meeting the goals, for the process for the review of device applications for the first 5 fiscal years after fiscal year 2012, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

''(A) the Committee on Energy and Commerce of the House of Representatives;

''(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

''(C) scientific and academic experts;

''(D) health care professionals;

''(E) representatives of patient and consumer advocacy groups; and

''(F) the regulated industry.

''(2) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the regulated industry, the Secretary shall—

''(A) present the recommendations developed under paragraph (1) to the Congressional committees specified in such paragraph;

''(B) publish such recommendations in the Federal Register;

''(C) provide for a period of 30 days for the public to provide written comments on such recommendations;

''(D) hold a meeting at which the public may present its views on such recommendations; and

''(E) after consideration of such public views and comments, revise such recommendations as necessary.

''(3) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2012, the Secretary shall transmit to Congress the revised recommendations under paragraph (2), a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments.

''(d) DEFINITIONS.—For purposes of this part:'';

(2) by redesignating paragraphs (5), (6), (7), and (8), as paragraphs (7), (8), (9), and (11), respectively;

(3) in paragraph (4)—

(A) in subparagraph (A), by striking ''or an efficacy supplement,'' and inserting ''an efficacy supplement, or a 30-day notice,''; and

(B) by adding at the end the following:

''(F) The term '30-day notice' means a supplement to an approved premarket application or premarket report under section 515 that is limited to a request to make modifications to manufacturing procedures or methods of manufacture affecting the safety and effectiveness of the device.'';

(4) by inserting after paragraph (4) the following:

''(5) The term 'request for classification information' means a request made under section 513(g) for information respecting the class in which a device has been classified or the requirements applicable to a device.

''(6) The term 'annual fee for periodic reporting concerning a class III device' means the fee associated with reports imposed by a premarket application approval order (as described in section 814.82(a)(7) of title 21, Code of Federal Regulations), usually referred to as 'annual reports.' '';

(5) in paragraph (9), as redesignated by paragraph (2)—

(A) by striking ''April of'' and inserting ''October of''; and

(B) by striking ''April 2002'' and inserting ''October 2001'';

(6) by inserting after paragraph (9), as redesignated by paragraph (2), the following:

''(10) The term 'person' includes an affiliate of such person.''; and

(7) by adding at the end the following:

''(12) The term 'establishment subject to a registration fee' means an establishment required to register with the Secretary under section 510 at which any of the following types of activities are conducted:

''(A) MANUFACTURER.—An establishment that makes by any means any article that is a device including an establishment that sterilizes or otherwise makes such article for or on behalf of a specification developer or any other person.

''(B) SINGLE-USE DEVICE REPROCESSOR.—An establishment that performs manufacturing operations on a single-use device that has previously been used on a patient.

''(C) SPECIFICATION DEVELOPER.—An establishment that develops specifications for a device that is distributed under the establishment's name but that performs no manufacturing, including establishments that, in addition to developing specifications, arrange for the manufacturing of devices labeled with another establishment's name by a contract manufacturer.

''(13) The term 'establishment registration fee' means a fee assessed under section 738(a)(3) for the registration of an establishment subject to a registration fee.

''(e) SUNSET.—This part shall cease to be effective on October 1, 2012, except that subsection (b) with respect to reports shall cease to be effective January 31, 2013.''.

SEC. 303. AUTHORITY TO ASSESS AND USE DEVICE FEES.

Section 738 (21 U.S.C. 379j) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in the header, by inserting '', AND ANNUAL FEE FOR PERIODIC REPORTING CONCERNING A CLASS III DEVICE'' after ''FEE'';

(ii) in subparagraph (A)—

(I) in clause (iii), by inserting ''75 percent of'' after ''a fee equal to'';

(II) in clause (iv), by striking ''21.5'' and inserting ''15'';

(III) in clause (v), by striking ''7.2'' and inserting ''7'';

(IV) by redesignating clauses (vi) and (vii) as clauses (vii) and (viii), respectively;

(V) by inserting after clause (v) the following:

''(vi) For a 30-day notice, a fee equal to 1.6 percent of the fee that applies under clause (i).'';

(VI) in clause (viii), as redesignated by subclause (IV)—

(aa) by striking ''1.42'' and inserting ''1.84''; and

(bb) by striking '', subject to any adjustment under subsection (e)(2)(C)(ii)''; and

(VII) by adding at the end the following:

''(ix) For a request for classification information, a fee equal to 1.35 percent of the fee that applies under clause (i).

''(x) For periodic reporting concerning a class III device, the annual fee shall be equal to 3.5 percent of the fee that applies under clause (i).'';

(iii) in subparagraph (C)—

(I) in the first sentence—

(aa) by striking ''or''; and

(bb) by striking ''except that'' and all that follows through the period and inserting '', 30-day notice, request for classification information, or periodic report concerning a class III device.''; and

(II) by striking the third sentence; and

(iv) in subparagraph (D)—

(I) in clause (iii), by striking the last two sentences; and

(II) by adding at the end the following:

''(iv) MODULAR APPLICATION WITHDRAWN BEFORE FIRST ACTION.—The Secretary shall refund 75 percent of the application fee paid for a modular application submitted under section 515(c)(4) that is withdrawn before a second module is submitted and before a first action on the first module. If the modular application is withdrawn after a second or subsequent module is submitted but before any first action, the Secretary may return a portion of the fee. The amount of refund, if any, shall be based on the level of effort already expended on the review of the modules submitted.

''(v) SOLE DISCRETION TO REFUND.—The Secretary shall have sole discretion to refund a fee or portion of the fee under this subparagraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.''; and

(B) by adding at the end the following:

''(3) ANNUAL ESTABLISHMENT REGISTRATION FEE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), each establishment subject to a registration fee shall be subject to a fee for each initial or annual registration beginning with its registration for fiscal year 2008.

''(B) EXCEPTION FOR FEDERAL OR STATE GOVERNMENT ESTABLISHMENT.—No fee shall be required under subparagraph (A) for an establishment operated by a Federal or State government entity unless a device manufactured by the establishment is to be distributed commercially.

''(C) PAYMENT.—The annual establishment registration fee shall be due once each fiscal year, upon the initial registration of the establishment or upon the annual registration under section 510.'';

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

''(b) FEE AMOUNTS.—Except as provided in subsections (c), (d), and (e), the fees under subsection (a) shall be based on the following fee amounts:

Fee Type	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012
Premarket Application	$185,000	$200,725	$217,787	$236,298	$256,384 .....
Establishment Registration Fee	$1,706	$1,851	$2,008	$2,179	$2,364'';

(3) in subsection (c)—

(A) in the heading, by striking ''Annual Fee Setting.—'' and inserting ''ANNUAL FEE SETTING.—'';

(B) in paragraph (1), by striking the second sentence;

(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(D) by inserting after paragraph (1) the following:

''(2) ADJUSTMENT OF ANNUAL ESTABLISHMENT REGISTRATION FEE.—

''(A) IN GENERAL.—When setting the fees for fiscal year 2010, the Secretary may increase the establishment registration fee specified in subsection (b) only if the Secretary estimates that the number of establishments submitting fees for fiscal year 2009 is less than 12,250. The percent increase shall be the percent by which the estimate of establishments submitting fees in fiscal year 2009 is less than 12,750, but in no case shall the percent increase be more than 8.5 percent over the amount for such fee specified in subsection (b) for fiscal year 2010. If the Secretary makes any adjustment to the establishment registration fee for fiscal year 2010, then the establishment registration fee for fiscal years 2011 and 2012 under subsection (b) shall be adjusted as follows: the fee for fiscal year 2011 shall be equal to the adjusted fee for fiscal year 2010, increased by 8.5 percent, and the fee for fiscal year 2012 shall be equal to the adjusted fee for fiscal year 2011, increased by 8.5 percent.

''(B) PUBLICATION IN THE FEDERAL REGISTER.—The Secretary shall publish any determination with respect to any establishment registration fee adjustment made under subparagraph (A), and the rationale for such determination, in the Federal Register.''; and

(E) in paragraph (4)(A), as so redesignated—

(i) by striking ''For fiscal years 2006 and 2007, the'' and inserting ''The''; and

(ii) by striking ''of fiscal year 2008'' and inserting ''of the next fiscal year'';

(4) in subsection (d)—

(A) in paragraph (1), by striking '', partners, and parent firms'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking '', partners, and parent firms'';

(ii) in subparagraph (B)—

(I) by striking ''An applicant shall'' and inserting the following:

''(i) IN GENERAL.—An applicant shall'';

(II) by striking ''The applicant shall support'' and inserting the following:

''(ii) FIRMS SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—The applicant shall support'';

(III) by striking '', partners, and parent firms'' both places the term appears;

(IV) by striking ''partners, or parent firms, the'' and inserting ''the'';

(V) by striking '', partners, or parent firms, respectively''; and

(VI) by adding at the end the following:

''(iii) FIRMS NOT SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—The applicant shall support its claim that it meets the definition under subparagraph (A) by submission of the following:

''(I) A signed certification, in such form as the Secretary may direct through a notice published in the Federal Register, that the applicant meets the criteria for a small business.

''(II) A certification, in English, from the national taxing authority of the country in which it is headquartered. Such certification shall provide the applicant's gross receipts and sales for the most recent year, in both the local currency and in United States dollars, the exchange rate used in making this conversion to dollars, and the dates during which these receipts and sales were collected, and it shall bear the official seal of the national taxing authority.

''(III) Identical certifications shall be provided for each of the applicant's affiliates.

''(IV) A statement signed by the head of the applicant or its chief financial officer that it has submitted certifications for all of its affiliates, or that it had no affiliates, whichever is applicable.''; and

(iii) in subparagraph (C)—

(I) by striking ''reduced rate of'' and inserting ''reduced rate of—''; and

(II) by striking ''38 percent'' and all that follows through the period and inserting the following:

''(i) 25 percent of the fee established under such subsection for a premarket application, a premarket report, a supplement, or a periodic report concerning a class III device; and

''(ii) 50 percent of the fee established under such subsection for a 30-day notice or a request for classification information.'';

(5) in subsection (e)—

(A) in paragraph (1), by striking ''2004'' and inserting ''2008''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking '', partners, and parent firms'';

(ii) by striking subparagraph (B) and inserting the following:

''(B) EVIDENCE OF QUALIFICATION.—

''(i) IN GENERAL.—An applicant shall pay the higher fees established by the Secretary each year unless the applicant submits evidence that it qualifies for the lower fee rate.

''(ii) FIRMS SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—The applicant shall support its claim that it meets the definition under subparagraph (A) by submission of a copy of its most recent Federal income tax return for a taxable year, and a copy of such returns of its

affiliates, which show an amount of gross sales or receipts that is less than the maximum established in subparagraph (A). The applicant, and each of such affiliates, shall certify that the information provided is a true and accurate copy of the actual tax forms they submitted to the Internal Revenue Service. If no tax forms are submitted for affiliates, the applicant shall certify that the applicant has no affiliates.

''(iii) FIRMS NOT SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—The applicant shall support its claim that it meets the definition under subparagraph (A) by submission of the following:

''(I) A signed certification, in such form as the Secretary may direct through a notice published in the Federal Register, that the applicant meets the criteria for a small business.

''(II) A certification, in English, from the national taxing authority of the country in which it is headquartered. Such certification shall provide the applicant's gross receipts and sales for the most recent year, in both the local currency and in United States dollars, and the exchange rate used in making such conversion to dollars, and the dates during which such receipts and sales were collected, and it shall bear the official seal of the national taxing authority.

''(III) Identical certifications shall be provided for each of the applicant's affiliates.

''(IV) A statement signed by the head of the applicant or its chief financial officer that it has submitted certifications for all of its affiliates, or that it had no affiliates, whichever is applicable.''; and

(iii) by striking subparagraph (C) and inserting the following:

''(C) REDUCED FEES.—For fiscal year 2008 and each subsequent fiscal year, where the Secretary finds that the applicant involved meets the definition under subparagraph (A), the fee for a premarket notification submission may be paid at 50 percent of the fee that applies under subsection (a)(2)(A)(viii) and as established under subsection (c)(1).'';

(6) by striking subsection (f) and inserting the following:

''(f) EFFECT OF FAILURE TO PAY FEES.—

''(1) IN GENERAL.—A premarket application, premarket report, supplement, or premarket notification submission, 30-day notice, request for classification information, or periodic report concerning a class III device submitted by a person subject to fees under paragraphs (2) and (3) of subsection (a) shall be considered incomplete and shall not be accepted by the Secretary until all fees owed by such person have been paid.

''(2) REGISTRATION INFORMATION.—Registration information submitted by an establishment subject to a registration fee under subsection (a)(3) shall be considered incomplete and shall not be accepted by the Secretary until the registration fee owed for the establishment has been paid. Until the fee is paid and the registration is complete, the establishment shall be deemed to have failed to register in accordance with section 510.'';

(7) in subsection (g)—

(A) by striking paragraph (1) and inserting the following:

''(1) PERFORMANCE GOALS; TERMINATION OF PROGRAM.—With respect to the amount that, under the salaries and expenses account of the Food and Drug Administration, is appropriated for a fiscal year for devices and radiological products, fees may not be assessed under subsection (a) for the fiscal year, and the Secretary is not expected to meet any performance goals identified for the fiscal year, if—

''(A) the amount so appropriated for the fiscal year, excluding the amount of fees appropriated for the fiscal year, is more than 1 percent less than $205,720,000 multiplied by the adjustment factor applicable to such fiscal year; or

''(B) fees were not assessed under subsection (a) for the previous fiscal year.''; and

(B) in paragraph (2), by striking ''and premarket notification submissions, and'' and inserting ''premarket notification submissions, 30-day notices, requests for classification information, periodic reports concerning a class III device, and establishment registrations''; and

(8) in subsection (h), by striking paragraphs (3) and (4) and inserting the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

''(A) $48,431,000 for fiscal year 2008;

''(B) $52,547,000 for fiscal year 2009;

''(C) $57,014,000 for fiscal year 2010;

''(D) $61,860,000 for fiscal year 2011; and

''(E) $67,118,000 for fiscal year 2012.

''(4) OFFSET.—If the cumulative amount of fees collected during fiscal years 2008, 2009, and 2010, added to the amount estimated to be collected for fiscal year 2011 (which estimate shall be based upon the amount of fees received by the Secretary through June 30, 2011), exceeds the amount of fees specified in aggregate in paragraph (3) for such 4 fiscal years, the aggregate amount in excess shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for fiscal year 2012.''.

SEC. 304. SAVINGS CLAUSE.

Notwithstanding section 107 of the Medical Device User Fee and Modernization Act of 2002 (Public Law 107–250), and notwithstanding the amendments made by this subtitle, part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as in effect on the day before the date of enactment of this subtitle, shall continue to be in effect with respect to premarket applications, premarket reports, premarket notification submissions, and supplements (as defined in such part as of such day) that on or after October 1, 2002, but before October 1, 2007, were accepted by the Food and Drug Administration for filing with respect to assessing and collecting any fee required by such part for a fiscal year prior to fiscal year 2008.

SEC. 305. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on October 1, 2007.

Subtitle B—Amendments Regarding Regulation of Medical Devices

SEC. 311. INSPECTIONS BY ACCREDITED PERSONS.

Section 704(g) (21 U.S.C. 374(g)) is amended—

(1) in paragraph (1), by striking ''Not later than one year after the date of enactment of this subsection, the Secretary'' and inserting ''The Secretary'';

(2) in paragraph (2), by—

(A) striking ''Not later than 180 days after the date of enactment of this subsection, the'' and inserting ''The Secretary''; and

(B) striking the fifth sentence;

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

''(F) Such person shall notify the Secretary of any withdrawal, suspension, restriction, or expiration of certificate of conformance with the quality systems standard referred to in paragraph (7) for any device establishment that such person inspects under this subsection not later than 30 days after such withdrawal, suspension, restriction, or expiration.

''(G) Such person may conduct audits to establish conformance with the quality systems standard referred to in paragraph (7).'';

(4) by amending paragraph (6) to read as follows:

''(6)(A) Subject to subparagraphs (B) and (C), a device establishment is eligible for inspection by persons accredited under paragraph (2) if the following conditions are met:

''(i) The Secretary classified the results of the most recent inspection of the establishment as 'no action indicated' or 'voluntary action indicated'.

''(ii) With respect to inspections of the establishment to be conducted by an accredited person, the owner or operator of the establishment submits to the Secretary a notice that—

''(I) provides the date of the last inspection of the establishment by the Secretary and the classification of that inspection;

''(II) states the intention of the owner or operator to use an accredited person to conduct inspections of the establishment;

''(III) identifies the particular accredited person the owner or operator intends to select to conduct such inspections; and

''(IV) includes a certification that, with respect to the devices that are manufactured, prepared, propagated, compounded, or processed in the establishment—

''(aa) at least 1 of such devices is marketed in the United States; and

''(bb) at least 1 of such devices is marketed, or is intended to be marketed, in 1 or more foreign countries, 1 of which countries certifies, accredits, or otherwise recognizes the person accredited under paragraph (2) and identified under subclause (III) as a person authorized to conduct inspections of device establishments.

''(B)(i) Except with respect to the requirement of subparagraph (A)(i), a device establishment is deemed to have clearance to participate in the program and to use the accredited person identified in the notice under subparagraph (A)(ii) for inspections of the establishment unless the Secretary, not later than 30 days after receiving such notice, issues a response that—

''(I) denies clearance to participate as provided under subparagraph (C); or

''(II) makes a request under clause (ii).

''(ii) The Secretary may request from the owner or operator of a device establishment in response to the notice under subparagraph (A)(ii) with respect to the establishment, or from the particular accredited person identified in such notice—

''(I) compliance data for the establishment in accordance with clause (iii)(I); or

''(II) information concerning the relationship between the owner or operator of the establishment and the accredited person identified in such notice in accordance with clause (iii)(II).

The owner or operator of the establishment, or such accredited person, as the case may be, shall respond to such a request not later than 60 days after receiving such request.

''(iii)(I) The compliance data to be submitted by the owner or operation of a device establishment in response to a request under clause (ii)(I) are data describing whether the quality controls of the establishment have been sufficient for ensuring consistent compliance with current good manufacturing practice within the meaning of section 501(h) and with other applicable provisions of this Act. Such data shall include complete reports of inspectional findings regarding good manufacturing practice or other quality control audits that, during the preceding 2-year period, were conducted at the establishment by persons other than the owner or operator of the establishment, together with all other compliance data the Secretary deems necessary. Data under the preceding sentence shall demonstrate to the Secretary whether the establishment has facilitated consistent

compliance by promptly correcting any compliance problems identified in such inspections.

''(II) A request to an accredited person under clause (ii)(II) may not seek any information that is not required to be maintained by such person in records under subsection (f)(1).

''(iv) A device establishment is deemed to have clearance to participate in the program and to use the accredited person identified in the notice under subparagraph (A)(ii) for inspections of the establishment unless the Secretary, not later than 60 days after receiving the information requested under clause (ii), issues a response that denies clearance to participate as provided under subparagraph (C).

''(C)(i) The Secretary may deny clearance to a device establishment if the Secretary has evidence that the certification under subparagraph (A)(ii)(IV) is untrue and the Secretary provides to the owner or operator of the establishment a statement summarizing such evidence.

''(ii) The Secretary may deny clearance to a device establishment if the Secretary determines that the establishment has failed to demonstrate consistent compliance for purposes of subparagraph (B)(iii)(I) and the Secretary provides to the owner or operator of the establishment a statement of the reasons for such determination.

''(iii)(I) The Secretary may reject the selection of the accredited person identified in the notice under subparagraph (A)(ii) if the Secretary provides to the owner or operator of the establishment a statement of the reasons for such rejection. Reasons for the rejection may include that the establishment or the accredited person, as the case may be, has failed to fully respond to the request, or that the Secretary has concerns regarding the relationship between the establishment and such accredited person.

''(II) If the Secretary rejects the selection of an accredited person by the owner or operator of a device establishment, the owner or operator may make an additional selection of an accredited person by submitting to the Secretary a notice that identifies the additional selection. Clauses (i) and (ii) of subparagraph (B), and subclause (I) of this clause, apply to the selection of an accredited person through a notice under the preceding sentence in the same manner and to the same extent as such provisions apply to a selection of an accredited person through a notice under subparagraph (A)(ii).

''(iv) In the case of a device establishment that is denied clearance under clause (i) or (ii) or with respect to which the selection of the accredited person is rejected under clause (iii), the Secretary shall designate a person to review the statement of reasons, or statement summarizing such evidence, as the case may be, of the Secretary under such clause if, during the 30-day period beginning on the date on which the owner or operator of the establishment receives such statement, the owner or operator requests the review. The review shall commence not later than 30 days after the owner or operator requests the review, unless the Secretary and the owner or operator otherwise agree.'';

(5) in paragraph (7)—

(A) by amending subparagraph (A) to read as follows:

''(A) Persons accredited under paragraph (2) to conduct inspections shall record in writing their inspection observations and shall present the observations to the device establishment's designated representative and describe each observation. Additionally, such accredited person shall prepare an inspection report in a form and manner designated by the Secretary to conduct inspections, taking into consideration the goals of international harmonization of quality systems standards. Any official classification of the inspection shall be determined by the Secretary.''; and

(B) by adding at the end the following:

''(F) For the purpose of setting risk-based inspectional priorities, the Secretary shall accept voluntary submissions of reports of audits assessing conformance with appropriate quality systems standards set by the International Organization for Standardization (ISO) and identified by the Secretary in public notice. If the owner or operator of an establishment elects to submit audit reports under this subparagraph, the owner or operator shall submit all such audit reports with respect to the establishment during the preceding 2-year periods.''; and

(6) in paragraphs (10)(C)(iii), by striking ''based'' and inserting ''base''.

SEC. 312. EXTENSION OF AUTHORITY FOR THIRD PARTY REVIEW OF PREMARKET NOTIFICATION.

Section 523(c) (21 U.S.C. 360m(c)) is amended by striking ''2007'' and inserting ''2012''.

SEC. 313. REGISTRATION.

(a) ANNUAL REGISTRATION OF PRODUCERS OF DRUGS AND DEVICES.—Section 510(b) (21 U.S.C. 359(b)) is amended—

(1) by redesignating the existing text as paragraph (1), and indenting and relocating it appropriately;

(2) in paragraph (1), as so redesignated, by striking ''or a device or devices''; and

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

''(2) Between October 1 and December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, propagation, compounding, or processing of a device or devices shall register with the Secretary his name, places of business, and all such establishments.''.

(b) REGISTRATION OF FOREIGN ESTABLISHMENTS.—Section 510(i)(1) (21 U.S.C. 359(i)(1)) is amended—

(1) by redesignating the existing text as subparagraph (A), and indenting and relocating it appropriately;

(2) in subparagraph (A), as so redesignated—

(A) by striking ''processing of a drug or a device that is imported'' and inserting ''processing of a drug that is imported''; and

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

(3) by adding after such subparagraph (A) the following new subparagraph:

''(B) Between October 1 and December 31 of each year, any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a device that is imported or offered for import into the United States shall, through electronic means in accordance with the criteria of the Secretary, register with the Secretary the name and place of business of the establishment, the name of the United States agent for the establishment, the name of each importer of such device in the United States that is known to the establishment, and the name of each person who imports or offers for import such device to the United States for purposes of importation.''.

SEC. 314. FILING OF LISTS OF DRUGS AND DEVICES MANUFACTURED PREPARED, PROPAGATED AND COMPOUNDED BY REGISTRANTS; STATEMENTS; ACCOMPANYING DISCLOSURES.

Section 510(j)(2) (21 U.S.C. 360(j)(2) is amended, in the matter preceding subparagraph (A), to read as follows:

''(2) Each person who registers with the Secretary under this section shall report to the Secretary (i) with regard to drugs, once during the month of June of each year and once during the month of December of each year, and (ii) with regard to devices, once each year between October 1 and December 31, the following information:''.

SEC. 315. ELECTRONIC REGISTRATION AND LISTING.

Section 510(p) (21 U.S.C. 360(p)) is amended to read as follows:

''(p)(1) With regard to any establishment engaged in the manufacture, preparation, propagation, compounding, or processing of a drug, registrations under subsections (b), (c), (d), and (i) of this section (including the submission of updated information) shall be submitted to the Secretary by electronic means, upon a finding by the Secretary that the electronic receipt of such registrations is feasible, unless the Secretary grants a request for waiver of such requirement because use of electronic means is not reasonable for the person requesting such waiver.

''(2) With regard to any establishment engaged in the manufacture, preparation, propagation, compounding, or processing of a device, the registration and listing information required by this section shall be submitted to the Secretary by electronic means, unless the Secretary grants a waiver because electronic registration and listing is not reasonable for the person requesting such waiver.''.

TITLE IV—PEDIATRIC MEDICAL PRODUCTS

Subtitle A—Best Pharmaceuticals for Children

SEC. 401. SHORT TITLE.

This subtitle may be cited as the ''Best Pharmaceuticals for Children Amendments of 2007''.

SEC. 402. PEDIATRIC STUDIES OF DRUGS.

(a) IN GENERAL.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) in subsection (a), by inserting before the period at the end the following: '', and, at the discretion of the Secretary, may include preclinical studies'';

(2) in subsection (b)—

(A) in paragraph (1)(A)(i), by striking ''(D)'' both places it appears and inserting ''(E)'';

(B) in paragraph (1)(A)(ii), by striking ''(D)'' and inserting ''(E)'';

(C) by striking ''(1)(A)(i)'' and inserting ''(A)(i)(I)'';

(D) by striking ''(ii) the'' and inserting ''(II) the'';

(E) by striking ''(B) if the drug is designated'' and inserting ''(ii) if the drug is designated'';

(F) by striking ''(2)(A)'' and inserting ''(B)(i)'';

(G) by striking ''(i) a listed patent'' and inserting ''(I) a listed patent'';

(H) by striking ''(ii) a listed patent'' and inserting ''(II) a listed patent'';

(I) by striking ''(B) if the drug is the subject'' and inserting ''(ii) if the drug is the subject'';

(J) by striking ''If'' and all that follows through ''subsection (d)(3)'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), if, prior to approval of an application that is submitted under section 505(b)(1), the Secretary determines that information relating to the use of a new drug in the pediatric population may produce health benefits in that population, the Secretary makes a written request for pediatric studies (which shall include a timeframe for completing such studies), the applicant agrees to the request, such studies are completed using appropriate formulations for each age group for which the study is requested within any such timeframe, and the reports thereof are submitted and accepted in accordance with subsection (d)(3), and if the Secretary determines that labeling

changes are appropriate, such changes are made within the timeframe requested by the Secretary—''; and

(K) by adding at the end the following:

''(2) EXCEPTION.—The Secretary shall not extend a period referred to in paragraph (1)(A) or in paragraph (1)(B) if the determination made under subsection (d)(3) is made less than 9 months prior to the expiration of such period.'';

(3) in subsection (c)—

(A) in paragraph (1)(A)(i), by striking ''(D)'' both places it appears and inserting ''(E)'';

(B) in paragraph (1)(A)(ii), by striking ''(D)'' and inserting ''(E)'';

(C) by striking ''(1)(A)(i)'' and inserting ''(A)(i)(I)'';

(D) by striking ''(ii) the'' and inserting ''(II) the'';

(E) by striking ''(B) if the drug is designated'' and inserting ''(ii) if the drug is designated'';

(F) by striking ''(2)(A)'' and inserting ''(B)(i)'';

(G) by striking ''(i) a listed patent'' and inserting ''(I) a listed patent'';

(H) by striking ''(ii) a listed patent'' and inserting ''(II) a listed patent'';

(I) by striking ''(B) if the drug is the subject'' and inserting ''(ii) if the drug is the subject'';

(J) by striking ''If'' and all that follows through ''subsection (d)(3)'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), if the Secretary determines that information relating to the use of an approved drug in the pediatric population may produce health benefits in that population and makes a written request to the holder of an approved application under section 505(b)(1) for pediatric studies (which shall include a timeframe for completing such studies), the holder agrees to the request, such studies are completed using appropriate formulations for each age group for which the study is requested within any such timeframe, and the reports thereof are submitted and accepted in accordance with subsection (d)(3), and if the Secretary determines that labeling changes are appropriate, such changes are made within the timeframe requested by the Secretary—''; and

(K) by adding at the end the following:

''(2) EXCEPTION.—The Secretary shall not extend a period referred to in paragraph (1)(A) or in paragraph (1)(B) if the determination made under subsection (d)(3) is made less than 9 months prior to the expiration of such period.'';

(4) by striking subsection (d) and inserting the following:

''(d) CONDUCT OF PEDIATRIC STUDIES.—

''(1) REQUEST FOR STUDIES.—

''(A) IN GENERAL.—The Secretary may, after consultation with the sponsor of an application for an investigational new drug under section 505(i), the sponsor of an application for a new drug under section 505(b)(1), or the holder of an approved application for a drug under section 505(b)(1), issue to the sponsor or holder a written request for the conduct of pediatric studies for such drug. In issuing such request, the Secretary shall take into account adequate representation of children of ethnic and racial minorities. Such request to conduct pediatric studies shall be in writing and shall include a timeframe for such studies and a request to the sponsor or holder to propose pediatric labeling resulting from such studies.

''(B) SINGLE WRITTEN REQUEST.—A single written request—

''(i) may relate to more than 1 use of a drug; and

''(ii) may include uses that are both approved and unapproved.

''(2) WRITTEN REQUEST FOR PEDIATRIC STUDIES.—

''(A) REQUEST AND RESPONSE.—

''(i) IN GENERAL.—If the Secretary makes a written request for pediatric studies (including neonates, as appropriate) under subsection (b) or (c), the applicant or holder, not later than 180 days after receiving the written request, shall respond to the Secretary as to the intention of the applicant or holder to act on the request by—

''(I) indicating when the pediatric studies will be initiated, if the applicant or holder agrees to the request; or

''(II) indicating that the applicant or holder does not agree to the request and the reasons for declining the request.

''(ii) DISAGREE WITH REQUEST.—If, on or after the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, the applicant or holder does not agree to the request on the grounds that it is not possible to develop the appropriate pediatric formulation, the applicant or holder shall submit to the Secretary the reasons such pediatric formulation cannot be developed.

''(B) ADVERSE EVENT REPORTS.—An applicant or holder that, on or after the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, agrees to the request for such studies shall provide the Secretary, at the same time as submission of the reports of such studies, with all postmarket adverse event reports regarding the drug that is the subject of such studies and are available prior to submission of such reports.

''(3) MEETING THE STUDIES REQUIREMENT.—Not later than 180 days after the submission of the reports of the studies, the Secretary shall accept or reject such reports and so notify the sponsor or holder. The Secretary's only responsibility in accepting or rejecting the reports shall be to determine, within the 180 days, whether the studies fairly respond to the written request, have been conducted in accordance with commonly accepted scientific principles and protocols, and have been reported in accordance with the requirements of the Secretary for filing.

''(4) EFFECT OF SUBSECTION.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.'';

(5) by striking subsections (e) and (f) and inserting the following:

''(e) NOTICE OF DETERMINATIONS ON STUDIES REQUIREMENT.—

''(1) IN GENERAL.—The Secretary shall publish a notice of any determination, made on or after the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, that the requirements of subsection (d) have been met and that submissions and approvals under subsection (b)(2) or (j) of section 505 for a drug will be subject to the provisions of this section. Such notice shall be published not later than 30 days after the date of the Secretary's determination regarding market exclusivity and shall include a copy of the written request made under subsection (b) or (c).

''(2) IDENTIFICATION OF CERTAIN DRUGS.—The Secretary shall publish a notice identifying any drug for which, on or after the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, a pediatric formulation was developed, studied, and found to be safe and effective in the pediatric population (or specified subpopulation) if the pediatric formulation for such drug is not introduced onto the market within 1 year of the date that the Secretary publishes the notice described in paragraph (1). Such notice identifying such drug shall be published not later than 30 days after the date of the expiration of such 1 year period.

''(f) INTERNAL REVIEW OF WRITTEN REQUESTS AND PEDIATRIC STUDIES.—

''(1) INTERNAL REVIEW.—

''(A) IN GENERAL.—The Secretary shall create an internal review committee to review all written requests issued and all reports submitted on or after the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, in accordance with paragraphs (2) and (3).

''(B) MEMBERS.—The committee under subparagraph (A) shall include individuals, each of whom is an employee of the Food and Drug Administration, with the following expertise:

''(i) Pediatrics.

''(ii) Biopharmacology.

''(iii) Statistics.

''(iv) Drugs and drug formulations.

''(v) Legal issues.

''(vi) Appropriate expertise, such as expertise in child and adolescent psychiatry, pertaining to the pediatric product under review.

''(vii) One or more experts from the Office of Pediatric Therapeutics, which may include an expert in pediatric ethics.

''(viii) Other individuals as designated by the Secretary.

''(C) ACTION BY COMMITTEE.—The committee established under this paragraph may perform a function under this section using appropriate members of the committee under subparagraph (B) and need not convene all members of the committee under subparagraph (B) in order to perform a function under this section.

''(D) DOCUMENTATION OF COMMITTEE ACTION.—The committee established under this paragraph shall document for each function under paragraphs (2) and (3), which members of the committee participated in such function.

''(2) REVIEW OF WRITTEN REQUESTS.—All written requests under this section shall be reviewed and approved by the committee established under paragraph (1) prior to being issued.

''(3) REVIEW OF PEDIATRIC STUDIES.—The committee established under paragraph (1) shall review all studies conducted pursuant to this section to make a recommendation to the Secretary whether to accept or reject such reports under subsection (d)(3).

''(4) TRACKING PEDIATRIC STUDIES AND LABELING CHANGES.—The committee established under paragraph (1) shall be responsible for tracking and making available to the public, in an easily accessible manner, including through posting on the website of the Food and Drug Administration—

''(A) the number of studies conducted under this section;

''(B) the specific drugs and drug uses, including labeled and off-labeled indications, studied under this section;

''(C) the types of studies conducted under this section, including trial design, the number of pediatric patients studied, and the number of centers and countries involved;

''(D) the number of pediatric formulations developed and the number of pediatric formulations not developed and the reasons such formulations were not developed;

''(E) the labeling changes made as a result of studies conducted under this section;

''(F) an annual summary of labeling changes made as a result of studies conducted under this section for distribution pursuant to subsection (k)(2);

''(G) information regarding reports submitted on or after the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007; and

''(H) the number of times the committee established under paragraph (1) made a recommendation to the Secretary under paragraph (3), the number of times the Secretary

did not follow such a recommendation to accept reports under subsection (d)(3), and the number of times the Secretary did not follow such a recommendation to reject such reports under section (d)(3).

''(5) COMMITTEE.—The committee established under paragraph (1) is the committee established under section 505B(f)(1).'';

(6) in subsection (g)—

(A) in paragraph (1)—

(i) by striking ''(c)(1)(A)(ii)'' and inserting ''(c)(1)(A)(i)(II)''; and

(ii) by striking ''(c)(2)'' and inserting ''(c)(1)(B)'';

(B) in paragraph (2), by striking ''(c)(1)(B)'' and inserting ''(c)(1)(A)(ii)'';

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(D) by striking ''LIMITATIONS.—A drug'' and inserting ''LIMITATIONS.—

''(1) IN GENERAL.—Notwithstanding subsection (c)(2), a drug''; and

(E) by adding at the end the following:

''(2) EXCLUSIVITY ADJUSTMENT.—

''(A) ADJUSTMENT.—

''(i) IN GENERAL.—With respect to any drug, if the organization designated under subparagraph (B) notifies the Secretary that the combined annual gross sales for all drugs with the same active moiety exceeded $1,000,000,000 in any calendar year prior to the time the sponsor or holder agrees to the initial written request pursuant to subsection (d)(2), then each period of market exclusivity deemed or extended under subsection (b) or (c) shall be reduced by 3 months for such drug.

''(ii) DETERMINATION.—The determination under clause (i) of the combined annual gross sales shall be determined—

''(I) taking into account only those sales within the United States; and

''(II) taking into account only the sales of all drugs with the same active moiety of the sponsor or holder and its affiliates.

''(B) DESIGNATION.—The Secretary shall designate an organization other than the Food and Drug Administration to evaluate whether the combined annual gross sales for all drugs with the same active moiety exceeded $1,000,000,000 in a calendar year as described in subparagraph (A). Prior to designating such organization, the Secretary shall determine that such organization is independent and is qualified to evaluate the sales of pharmaceutical products. The Secretary shall re-evaluate the designation of such organization once every 3 years.

''(C) NOTIFICATION.—Once a year at a time designated by the Secretary, the organization designated under subparagraph (B) shall notify the Food and Drug Administration of all drugs with the same active moiety with combined annual gross sales that exceed $1,000,000,000 during the previous calendar year.'';

(7) in subsection (i)—

(A) in the heading, by striking ''SUPPLEMENTS'' and inserting ''CHANGES'';

(B) in paragraph (1)—

(i) in the heading, by inserting ''APPLICATIONS AND'' after ''PEDIATRIC'';

(ii) by inserting ''application or'' after ''Any'';

(iii) by striking ''change pursuant to a report on a pediatric study under'' and inserting ''change as a result of any pediatric study conducted pursuant to''; and

(iv) by inserting ''application or'' after ''to be a priority''; and

(C) in paragraph (2)(A), by—

(i) striking ''If the Commissioner'' and inserting ''If, on or after the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, the Commissioner''; and

(ii) striking ''an application with'' and all that follows through ''on appropriate'' and inserting ''the sponsor and the Commissioner have been unable to reach agreement on appropriate'';

(8) by striking subsection (m);

(9) by redesignating subsections (j), (k), (l), and (n), as subsections (k), (m), (o), and (p), respectively;

(10) by inserting after subsection (i) the following:

''(j) OTHER LABELING CHANGES.—If, on or after the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, the Secretary determines that a pediatric study conducted under this section does or does not demonstrate that the drug that is the subject of the study is safe and effective, including whether such study results are inconclusive, in pediatric populations or subpopulations, the Secretary shall order the labeling of such product to include information about the results of the study and a statement of the Secretary's determination.'';

(11) in subsection (k), as redesignated by paragraph (9)—

(A) in paragraph (1)—

(i) by striking ''a summary of the medical and'' and inserting ''the medical, statistical, and''; and

(ii) by striking ''for the supplement'' and all that follows through the period and inserting ''under subsection (b) or (c).'';

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

''(2) DISSEMINATION OF INFORMATION REGARDING LABELING CHANGES.—Beginning on the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, the Secretary shall require that the sponsors of the studies that result in labeling changes that are reflected in the annual summary developed pursuant to subsection (f)(4)(F) distribute, at least annually (or more frequently if the Secretary determines that it would be beneficial to the public health), such information to physicians and other health care providers.'';

(12) by inserting after subsection (k), as redesignated by paragraph (9), the following:

''(l) ADVERSE EVENT REPORTING.—

''(1) REPORTING IN YEAR ONE.—Beginning on the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, during the 1-year period beginning on the date a labeling change is made pursuant to subsection (i), the Secretary shall ensure that all adverse event reports that have been received for such drug (regardless of when such report was received) are referred to the Office of Pediatric Therapeutics established under section 6 of the Best Pharmaceuticals for Children Act (Public Law 107–109). In considering such reports, the Director of such Office shall provide for the review of the report by the Pediatric Advisory Committee, including obtaining any recommendations of such Committee regarding whether the Secretary should take action under this section in response to such reports.

''(2) REPORTING IN SUBSEQUENT YEARS.—Following the 1-year period described in paragraph (1), the Secretary shall, as appropriate, refer to the Office of Pediatric Therapeutics all pediatric adverse event reports for a drug for which a pediatric study was conducted under this section. In considering such reports, the Director of such Office may provide for the review of such reports by the Pediatric Advisory Committee, including obtaining any recommendation of such Committee regarding whether the Secretary should take action in response to such reports.

''(3) EFFECT.—The requirements of this subsection shall supplement, not supplant, other review of such adverse event reports by the Secretary.'';

(13) by inserting after subsection (m), as redesignated by paragraph (9), the following:

''(n) REFERRAL IF PEDIATRIC STUDIES NOT COMPLETED.—

''(1) IN GENERAL.—Beginning on the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, if pediatric studies of a drug have not been completed under subsection (d) and if the Secretary, through the committee established under subsection (f), determines that there is a continuing need for information relating to the use of the drug in the pediatric population (including neonates, as appropriate), the Secretary shall carry out the following:

''(A) For a drug for which a listed patent has not expired, make a determination regarding whether an assessment shall be required to be submitted under section 505B. Prior to making such determination, the Secretary may take not more than 60 days to certify whether the Foundation for the National Institutes of Health has sufficient funding at the time of such certification to initiate 1 or more of the pediatric studies of such drug referred to in the sentence preceding this paragraph and fund 1 or more of such studies in their entirety. Only if the Secretary makes such certification in the affirmative, the Secretary shall refer such pediatric study or studies to the Foundation for the National Institutes of Health for the conduct of such study or studies.

''(B) For a drug that has no listed patents or has 1 or more listed patents that have expired, the Secretary shall refer the drug for inclusion on the list established under section 409I of the Public Health Service Act for the conduct of studies.

''(2) PUBLIC NOTICE.—The Secretary shall give the public notice of—

''(A) a decision under paragraph (1)(A) not to require an assessment under section 505B and the basis for such decision; and

''(B) any referral under paragraph (1)(B) of a drug for inclusion on the list established under section 409I of the Public Health Service Act.

''(3) EFFECT OF SUBSECTION.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.''; and

(14) in subsection (p), as redesignated by paragraph (9)—

(A) striking ''6-month period'' and inserting ''3-month or 6-month period'';

(B) by striking ''subsection (a)'' and inserting ''subsection (b)''; and

(C) by striking ''2007'' both places it appears and inserting ''2012''.

(b) EFFECTIVE DATE.—Except as otherwise provided in the amendments made by subsection (a), such amendments shall apply to written requests under section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) made after the date of enactment of this subtitle.

SEC. 403. PROGRAM FOR PEDIATRIC STUDIES OF DRUGS.

Section 409I of the Public Health Service Act (42 U.S.C. 284m) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) LIST OF PRIORITY ISSUES IN PEDIATRIC THERAPEUTICS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, the Secretary, acting through the Director of the National Institutes of Health and in consultation with the Commissioner of Food and Drugs and experts in pediatric research, shall develop and publish a priority

list of needs in pediatric therapeutics, including drugs or indications that require study. The list shall be revised every 3 years.

''(2) CONSIDERATION OF AVAILABLE INFORMATION.—In developing and prioritizing the list under paragraph (1), the Secretary shall consider—

''(A) therapeutic gaps in pediatrics that may include developmental pharmacology, pharmacogenetic determinants of drug response, metabolism of drugs and biologics in children, and pediatric clinical trials;

''(B) particular pediatric diseases, disorders or conditions where more complete knowledge and testing of therapeutics, including drugs and biologics, may be beneficial in pediatric populations; and

''(C) the adequacy of necessary infrastructure to conduct pediatric pharmacological research, including research networks and trained pediatric investigators.

''(b) PEDIATRIC STUDIES AND RESEARCH.—The Secretary, acting through the National Institutes of Health, shall award funds to entities that have the expertise to conduct pediatric clinical trials or other research (including qualified universities, hospitals, laboratories, contract research organizations, practice groups, federally funded programs such as pediatric pharmacology research units, other public or private institutions, or individuals) to enable the entities to conduct the drug studies or other research on the issues described in subsection (a). The Secretary may use contracts, grants, or other appropriate funding mechanisms to award funds under this subsection.'';

(2) in subsection (c)—

(A) in the heading, by striking ''CONTRACTS'' and inserting ''PROPOSED PEDIATRIC STUDY REQUESTS'';

(B) by striking paragraphs (4) and (12);

(C) by redesignating paragraphs (1), (2), and (3), as paragraphs (2), (3), and (4);

(D) by inserting before paragraph (2), as redesignated by subparagraph (C), the following:

''(1) SUBMISSION OF PROPOSED PEDIATRIC STUDY REQUEST.—The Director of the National Institutes of Health shall, as appropriate, submit proposed pediatric study requests for consideration by the Commissioner of Food and Drugs for pediatric studies of a specific pediatric indication identified under subsection (a). Such a proposed pediatric study request shall be made in a manner equivalent to a written request made under subsection (b) or (c) of section 505A of the Federal Food, Drug, and Cosmetic Act, including with respect to the information provided on the pediatric studies to be conducted pursuant to the request. The Director of the National Institutes of Health may submit a proposed pediatric study request for a drug for which—

''(A)(i) there is an approved application under section 505(j) of the Federal Food, Drug, and Cosmetic Act; or

''(ii) there is a submitted application that could be approved under the criteria of section 505(j) of the Federal Food, Drug, and Cosmetic Act;

''(B) there is no patent protection or market exclusivity protection for at least 1 form of the drug under the Federal Food, Drug, and Cosmetic Act; and

''(C) additional studies are needed to assess the safety and effectiveness of the use of the drug in the pediatric population.'';

(E) in paragraph (2), as redesignated by subparagraph (C)—

(i) by inserting ''based on the proposed pediatric study request for the indication or indications submitted pursuant to paragraph (1)'' after ''issue a written request'';

(ii) by striking ''in the list described in subsection (a)(1)(A) (except clause (iv))'' and inserting ''under subsection (a)''; and

(iii) by inserting ''and using appropriate formulations for each age group for which the study is requested'' before the period at the end;

(F) in paragraph (3), as redesignated by subparagraph (C)—

(i) in the heading, by striking ''CONTRACT'';

(ii) by striking ''paragraph (1)'' and inserting ''paragraph (2)'';

(iii) by striking ''or if a referral described in subsection (a)(1)(A)(iv) is made,'';

(iv) by striking ''for contract proposals'' and inserting ''for proposals''; and

(v) by inserting ''in accordance with subsection (b)'' before the period at the end;

(G) in paragraph (4), as redesignated by subparagraph (C)—

(i) by striking ''contract''; and

(ii) by striking ''paragraph (2)'' and inserting ''paragraph (3)'';

(H) in paragraph (5)—

(i) by striking the heading and inserting ''CONTRACTS, GRANTS, OR OTHER FUNDING MECHANISMS''; and

(ii) by striking ''A contract'' and all that follows through ''is submitted'' and inserting ''A contract, grant, or other funding may be awarded under this section only if a proposal is submitted'';

(I) in paragraph (6)(A)—

(i) by striking ''a contract awarded'' and inserting ''an award''; and

(ii) by inserting '', including a written request if issued'' after ''with the study''; and

(3) by inserting after subsection (c) the following:

''(d) DISSEMINATION OF PEDIATRIC INFORMATION.—Not later than 1 year after the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007, the Secretary, acting through the Director of the National Institutes of Health, shall study the feasibility of establishing a compilation of information on pediatric drug use and report the findings to Congress.''

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $200,000,000 for fiscal year 2008; and

''(B) such sums as are necessary for each of the 4 succeeding fiscal years.

''(2) AVAILABILITY.—Any amount appropriated under paragraph (1) shall remain available to carry out this section until expended.''.

SEC. 404. REPORTS AND STUDIES.

(a) GAO REPORT.—Not later than January 31, 2011, the Comptroller General of the United States, in consultation with the Secretary of Health and Human Services, shall submit to Congress a report that addresses the effectiveness of section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) in ensuring that medicines used by children are tested and properly labeled, including—

(1) the number and importance of drugs for children that are being tested as a result of the amendments made by this subtitle and the importance for children, health care providers, parents, and others of labeling changes made as a result of such testing;

(2) the number and importance of drugs for children that are not being tested for their use notwithstanding the provisions of this subtitle and the amendments made by this subtitle, and possible reasons for the lack of testing, including whether the number of written requests declined by sponsors or holders of drugs subject to section 505A(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(g)(2)), has increased or decreased as a result of the amendments made by this subtitle;

(3) the number of drugs for which testing is being done and labeling changes required, including the date labeling changes are made and which labeling changes required the use of the dispute resolution process established pursuant to the amendments made by this subtitle, together with a description of the outcomes of such process, including a description of the disputes and the recommendations of the Pediatric Advisory Committee;

(4) any recommendations for modifications to the programs established under section 505A of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355a) and section 409I of the Public Health Service Act (42 U.S.C. 284m) that the Secretary determines to be appropriate, including a detailed rationale for each recommendation; and

(5)(A) the efforts made by the Secretary to increase the number of studies conducted in the neonate population; and

(B) the results of those efforts, including efforts made to encourage the conduct of appropriate studies in neonates by companies with products that have sufficient safety and other information to make the conduct of the studies ethical and safe.

(b) IOM STUDY.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine to conduct a study and report to Congress regarding the written requests made and the studies conducted pursuant to section 505A of the Federal Food, Drug, and Cosmetic Act. The Institute of Medicine may devise an appropriate mechanism to review a representative sample of requests made and studies conducted pursuant to such section in order to conduct such study. Such study shall—

(1) review such representative written requests issued by the Secretary since 1997 under subsections (b) and (c) of such section 505A;

(2) review and assess such representative pediatric studies conducted under such subsections (b) and (c) since 1997 and labeling changes made as a result of such studies; and

(3) review the use of extrapolation for pediatric subpopulations, the use of alternative endpoints for pediatric populations, neonatal assessment tools, and ethical issues in pediatric clinical trials.

SEC. 405. TRAINING OF PEDIATRIC PHARMACOLOGISTS.

(a) INVESTMENT IN TOMORROW'S PEDIATRIC RESEARCHERS.—Section 452G(2) of the Public Health Service Act (42 U.S.C. 285g–10(2)) is amended by adding before the period at the end the following: '', including pediatric pharmacological research''.

(b) PEDIATRIC RESEARCH LOAN REPAYMENT PROGRAM.—Section 487F(a)(1) of the Public Health Service Act (42 U.S.C. 288–6(a)(1)) is amended by inserting ''including pediatric pharmacological research,'' after ''pediatric research,''.

SEC. 406. FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH.

Section 499(c)(1)(C) of the Public Health Service Act (42 U.S.C. 290b(c)(1)(C)) is amended by striking ''and studies listed by the Secretary pursuant to section 409I(a)(1)(A) of the is Act and referred under section 505A(d)(4)(C) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(a)(d)(4)(C)'' and inserting ''and studies for which the Secretary issues a certification under section 505A(n)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(n)(1)(A))''.

SEC. 407. CONTINUATION OF OPERATION OF COMMITTEE.

Section 14 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended by adding at the end the following:

''(d) CONTINUATION OF OPERATION OF COMMITTEE.—Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C.

App.), the advisory committee shall continue to operate during the 5-year period beginning on the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007.''.

SEC. 408. PEDIATRIC SUBCOMMITTEE OF THE ONCOLOGIC DRUGS ADVISORY COMMITTEE.

Section 15 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

(ii) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(D) provide recommendations to the internal review committee created under section 505A(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(f)) regarding the implementation of amendments to sections 505A and 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a and 355c) with respect to the treatment of pediatric cancers.''; and

(B) by adding at the end the following:

''(3) CONTINUATION OF OPERATION OF SUBCOMMITTEE.—Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), the Subcommittee shall continue to operate during the 5-year period beginning on the date of enactment of the Best Pharmaceuticals for Children Amendments of 2007.''; and

(2) in subsection (d), by striking ''2003'' and inserting ''2009''.

SEC. 409. EFFECTIVE DATE AND LIMITATION FOR RULE RELATING TO TOLL-FREE NUMBER FOR ADVERSE EVENTS ON LABELING FOR HUMAN DRUG PRODUCTS.

(a) IN GENERAL.—Notwithstanding subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act'') and any other provision of law, the proposed rule issued by the Commissioner of Food and Drugs entitled ''Toll-Free Number for Reporting Adverse Events on Labeling for Human Drug Products'', 69 Fed. Reg. 21778, (April 22, 2004) shall take effect on January 1, 2008, unless such Commissioner issues the final rule before such date.

(b) LIMITATION.—The proposed rule that takes effect under subsection (a), or the final rule described under subsection (a), shall, notwithstanding section 17(a) of the Best Pharmaceuticals for Children Act (21 U.S.C. 355b(a)), not apply to a drug—

(1) for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355);

(2) that is not described under section 503(b)(1) of such Act (21 U.S.C. 353(b)(1)); and

(3) the packaging of which includes a toll-free number through which consumers can report complaints to the manufacturer or distributor of the drug.

Subtitle B—Pediatric Research Improvement

SEC. 411. SHORT TITLE.

This subtitle may be cited as the ''Pediatric Research Improvement Act''.

SEC. 412. PEDIATRIC FORMULATIONS, EXTRAPOLATIONS, AND DEFERRALS.

Section 505B(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355c(a)) is amended—

(1) in paragraph (4)(C), by adding at the end the following: ''An applicant seeking either a partial or full waiver on this ground shall submit to the Secretary documentation detailing why a pediatric formulation cannot be developed, and, if the waiver is granted, the applicant's submission shall promptly be made available to the public in an easily accessible manner, including through posting on the website of the Food and Drug Administration'';

(2) in paragraph (2)(B), by adding at the end the following:

''(iii) INFORMATION ON EXTRAPOLATION.—A brief documentation of the scientific data supporting the conclusion under clauses (i) and (ii) shall be included in any pertinent reviews for the application under section 505 or section 351 of the Public Health Service Act.''; and

(3) by striking paragraph (3) and inserting the following:

''(3) DEFERRAL.—

''(A) IN GENERAL.—On the initiative of the Secretary or at the request of the applicant, the Secretary may defer submission of some or all assessments required under paragraph (1) until a specified date after approval of the drug or issuance of the license for a biological product if—

''(i) the Secretary finds that—

''(I) the drug or biological product is ready for approval for use in adults before pediatric studies are complete;

''(II) pediatric studies should be delayed until additional safety or effectiveness data have been collected; or

''(III) there is another appropriate reason for deferral; and

''(ii) the applicant submits to the Secretary—

''(I) certification of the grounds for deferring the assessments;

''(II) a description of the planned or ongoing studies;

''(III) evidence that the studies are being conducted or will be conducted with due diligence and at the earliest possible time; and

''(IV) a timeline for the completion of such studies.

''(B) ANNUAL REVIEW.—

''(i) IN GENERAL.—On an annual basis following the approval of a deferral under subparagraph (A), the applicant shall submit to the Secretary the following information:

''(I) Information detailing the progress made in conducting pediatric studies.

''(II) If no progress has been made in conducting such studies, evidence and documentation that such studies will be conducted with due diligence and at the earliest possible time.

''(ii) PUBLIC AVAILABILITY.—The information submitted through the annual review under clause (i) shall promptly be made available to the public in an easily accessible manner, including through the website of the Food and Drug Administration.''.

SEC. 413. IMPROVING AVAILABILITY OF PEDIATRIC DATA FOR ALREADY MARKETED PRODUCTS.

Section 505B(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355c(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—After providing notice in the form of a written request under section 505A that was declined by the sponsor or holder, or a letter referencing such declined written request, and an opportunity for written response and a meeting, which may include an advisory committee meeting, the Secretary may (by order in the form of a letter) require the sponsor or holder of an approved application for a drug under section 505 or the holder of a license for a biological product under section 351 of the Public Health Service Act (42 U.S.C. 262) to submit by a specified date the assessments described in subsection (a)(2) and the written request, as appropriate, for the labeled indication or indications, if the Secretary finds that—

''(A)(i) the drug or biological product is used for a substantial number of pediatric patients for the labeled indications; and

''(ii) adequate pediatric labeling could confer a benefit on pediatric patients;

''(B) there is reason to believe that the drug or biological product would represent a meaningful therapeutic benefit over existing therapies for pediatric patients for 1 or more of the claimed indications; or

''(C) the absence of adequate pediatric labeling could pose a risk to pediatric patients.'';

(2) in paragraph (2)(C), by adding at the end the following: ''An applicant seeking either a partial or full waiver shall submit to the Secretary documentation detailing why a pediatric formulation cannot be developed, and, if the waiver is granted, the applicant's submission shall promptly be made available to the public in an easily accessible manner, including through posting on the website of the Food and Drug Administration.''; and

(3) by striking paragraph (3) and inserting the following:

''(3) EFFECT OF SUBSECTION.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.''.

SEC. 414. SUNSET; REVIEW OF PEDIATRIC ASSESSMENTS; ADVERSE EVENT REPORTING; LABELING CHANGES; AND PEDIATRIC ASSESSMENTS.

Section 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355c) is amended—

(1) redesignating subsection (h) as subsection (j);

(2) in subsection (j), as so redesignated, by striking ''505A(n)'' and inserting ''505A(p)'';

(3) by redesignating subsection (f) as subsection (k);

(4) by redesignating subsection (g) as subsection (l); and

(5) by inserting after subsection (e) the following:

''(f) REVIEW OF PEDIATRIC ASSESSMENT REQUESTS, PEDIATRIC ASSESSMENTS, DEFERRALS, AND WAIVERS.—

''(1) REVIEW.—The Secretary shall create an internal committee to review all pediatric assessment requests issued under this section, all pediatric assessments conducted under this section, and all deferral and waiver requests made pursuant to this section. Such internal committee shall include individuals, each of whom is an employee of the Food and Drug Administration, with the following expertise:

''(A) Pediatrics.

''(B) Biopharmacology.

''(C) Statistics.

''(D) Drugs and drug formulations.

''(E) Pediatric ethics.

''(F) Legal issues.

''(G) Appropriate expertise, such as expertise in child and adolescent psychiatry, pertaining to the pediatric product under review.

''(H) 1 or more experts from the Office of Pediatric Therapeutics.

''(I) Other individuals as designated by the Secretary.

''(2) ACTION BY THE COMMITTEE.—The committee established under paragraph (1) may perform a function under this section using appropriate members of the committee under paragraph (1) and need not convene all members of the committee under paragraph (1) in order to perform a function under this section.

''(3) DOCUMENTATION OF COMMITTEE ACTION.—For each drug or biological product, the committee established under this paragraph shall document for each function under paragraph (4) or (5), which members of the committee participated in such function.

''(4) REVIEW OF REQUESTS FOR PEDIATRIC ASSESSMENTS, DEFERRALS, AND WAIVERS.—All written requests for a pediatric assessment

issued pursuant to this section and all requests for deferrals and waivers from the requirement to conduct a pediatric assessment under this section shall be reviewed and approved by the committee established under paragraph (1).

''(5) REVIEW OF ASSESSMENTS.—The committee established under paragraph (1) shall review all assessments conducted under this section to determine whether such assessments meet the requirements of this section.

''(6) TRACKING OF ASSESSMENTS AND LABELING CHANGES.—The committee established under paragraph (1) is responsible for tracking and making public in an easily accessible manner, including through posting on the website of the Food and Drug Administration—

''(A) the number of assessments conducted under this section;

''(B) the specific drugs and drug uses assessed under this section;

''(C) the types of assessments conducted under this section, including trial design, the number of pediatric patients studied, and the number of centers and countries involved;

''(D) the total number of deferrals requested and granted under this section, and, if granted, the reasons for such deferrals, the timeline for completion, and the number completed and pending by the specified date, as outlined in subsection (a)(3);

''(E) the number of waivers requested and granted under this section, and, if granted, the reasons for the waivers;

''(F) the number of pediatric formulations developed and the number of pediatric formulations not developed and the reasons any such formulations were not developed;

''(G) the labeling changes made as a result of assessments conducted under this section;

''(H) an annual summary of labeling changes made as a result of assessments conducted under this section for distribution pursuant to subsection (i)(2); and

''(I) an annual summary of the information submitted pursuant to subsection (a)(3)(B).

''(7) COMMITTEE.—The committee established under paragraph (1) is the committee established under section 505A(f)(1).

''(g) LABELING CHANGES.—

''(1) PRIORITY STATUS FOR PEDIATRIC SUPPLEMENT.—Any supplement to an application under section 505 and section 351 of the Public Health Service Act proposing a labeling change as a result of any pediatric assessments conducted pursuant to this section—

''(A) shall be considered a priority supplement; and

''(B) shall be subject to the performance goals established by the Commissioner for priority drugs.

''(2) DISPUTE RESOLUTION.—

''(A) REQUEST FOR LABELING CHANGE AND FAILURE TO AGREE.—If the Commissioner determines that a sponsor and the Commissioner have been unable to reach agreement on appropriate changes to the labeling for the drug that is the subject of the application or supplement, not later than 180 days after the date of the submission of the application or supplement—

''(i) the Commissioner shall request that the sponsor make any labeling change that the Commissioner determines to be appropriate; and

''(ii) if the sponsor does not agree to make a labeling change requested by the Commissioner, the Commissioner shall refer the matter to the Pediatric Advisory Committee.

''(B) ACTION BY THE PEDIATRIC ADVISORY COMMITTEE.—Not later than 90 days after receiving a referral under subparagraph (A)(ii), the Pediatric Advisory Committee shall—

''(i) review the pediatric study reports; and

''(ii) make a recommendation to the Commissioner concerning appropriate labeling changes, if any.

''(C) CONSIDERATION OF RECOMMENDATIONS.—The Commissioner shall consider the recommendations of the Pediatric Advisory Committee and, if appropriate, not later than 30 days after receiving the recommendation, make a request to the sponsor of the application or supplement to make any labeling changes that the Commissioner determines to be appropriate.

''(D) MISBRANDING.—If the sponsor, within 30 days after receiving a request under subparagraph (C), does not agree to make a labeling change requested by the Commissioner, the Commissioner may deem the drug that is the subject of the application or supplement to be misbranded.

''(E) NO EFFECT ON AUTHORITY.—Nothing in this subsection limits the authority of the United States to bring an enforcement action under this Act when a drug lacks appropriate pediatric labeling. Neither course of action (the Pediatric Advisory Committee process or an enforcement action referred to in the preceding sentence) shall preclude, delay, or serve as the basis to stay the other course of action.

''(3) OTHER LABELING CHANGES.—If the Secretary makes a determination that a pediatric assessment conducted under this section does or does not demonstrate that the drug that is the subject of such assessment is safe and effective, including whether such assessment results are inconclusive, in pediatric populations or subpopulations, the Secretary shall order the labeling of such product to include information about the results of the assessment and a statement of the Secretary's determination.

''(h) DISSEMINATION OF PEDIATRIC INFORMATION.—

''(1) IN GENERAL.—Not later than 180 days after the date of submission of a pediatric assessment under this section, the Secretary shall make available to the public in an easily accessible manner the medical, statistical, and clinical pharmacology reviews of such pediatric assessments and shall post such assessments on the website of the Food and Drug Administration.

''(2) DISSEMINATION OF INFORMATION REGARDING LABELING CHANGES.—The Secretary shall require that the sponsors of the assessments that result in labeling changes that are reflected in the annual summary developed pursuant to subsection (f)(4)(H) distribute such information to physicians and other health care providers.

''(3) EFFECT OF SUBSECTION.—Nothing in this subsection shall alter or amend section 301(j) of this Act or section 552 of title 5, United States Code, or section 1905 of title 18, United States Code.

''(i) ADVERSE EVENT REPORTING.—

''(1) REPORTING IN YEAR 1.—During the 1-year period beginning on the date a labeling change is made pursuant to subsection (g), the Secretary shall ensure that all adverse event reports that have been received for such drug (regardless of when such report was received) are referred to the Office of Pediatric Therapeutics. In considering such reports, the Director of such Office shall provide for the review of the report by the Pediatric Advisory Committee, including obtaining any recommendations of such committee regarding whether the Secretary should take action under this Act in response to such report.

''(2) REPORTING IN SUBSEQUENT YEARS.—Following the 1-year period described in paragraph (1), the Secretary shall, as appropriate, refer to the Office of Pediatric Therapeutics with all pediatric adverse event reports for a drug for which a pediatric study was conducted under this section. In considering such reports, the Director of such Office may provide for the review of such reports by the Pediatric Advisory Committee, including obtaining any recommendation of such Committee regarding whether the Secretary should take action in response to such report.

''(3) EFFECT.—The requirements of this subsection shall supplement, not supplant, other review of such adverse event reports by the Secretary.''.

SEC. 415. MEANINGFUL THERAPEUTIC BENEFIT.

Section 505B(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355c) is amended—

(1) by striking ''estimates'' and inserting ''determines''; and

(2) by striking ''would'' and inserting ''could''.

SEC. 416. REPORTS.

(a) INSTITUTE OF MEDICINE STUDY.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this subtitle, the Secretary shall contract with the Institute of Medicine to conduct a study and report to Congress regarding the pediatric studies conducted pursuant to section 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355c) since 1997.

(2) CONTENT OF STUDY.—The study under paragraph (1) shall review and assess—

(A) pediatric studies conducted pursuant to section 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355c) since 1997 and labeling changes made as a result of such studies; and

(B) the use of extrapolation for pediatric subpopulations, the use of alternative endpoints for pediatric populations, neonatal assessment tools, number and type of pediatric adverse events, and ethical issues in pediatric clinical trials.

(3) REPRESENTATIVE SAMPLE.—The Institute of Medicine may devise an appropriate mechanism to review a representative sample of studies conducted pursuant to section 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355c) from each review division within the Center for Drug Evaluation and Research and the Center for Biologics Evaluation and Research in order to make the required assessment.

(b) GAO REPORT.—Not later than September 1, 2010, the Comptroller General of the United States, in consultation with the Secretary of Health and Human Services, shall submit to Congress a report that addresses the effectiveness of section 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) in ensuring that medicines used by children are tested and properly labeled, including—

(1) the number and importance of drugs for children that are being tested as a result of this provision and the importance for children, health care providers, parents, and others of labeling changes made as a result of such testing;

(2) the number and importance of drugs for children that are not being tested for their use notwithstanding the provisions of such section 505B, and possible reasons for the lack of testing; and

(3) the number of drugs for which testing is being done and labeling changes required, including the date labeling changes are made and which labeling changes required the use of the dispute resolution process established under such section 505B, together with a description of the outcomes of such process, including a description of the disputes and the recommendations of the Pediatric Advisory Committee.

SEC. 417. TECHNICAL CORRECTIONS.

Section 505B(a)(2)(B)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355c(a)(2)(B)(ii)) is amended by striking ''one'' and inserting ''1''.

Subtitle C—Pediatric Medical Devices

SEC. 421. SHORT TITLE.

This subtitle may be cited as the ''Pediatric Medical Device Safety and Improvement Act of 2007''.

SEC. 422. TRACKING PEDIATRIC DEVICE APPROVALS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 515 the following:

''SEC. 515A. PEDIATRIC USES OF DEVICES.

''(a) NEW DEVICES.—

''(1) IN GENERAL.—A person that submits to the Secretary an application under section 520(m), or an application (or supplement to an application) or a product development protocol under section 515, shall include in the application or protocol the information described in paragraph (2).

''(2) REQUIRED INFORMATION.—The application or protocol described in paragraph (1) shall include, with respect to the device for which approval is sought and if readily available—

''(A) a description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure; and

''(B) the number of affected pediatric patients.

''(3) ANNUAL REPORT.—Not later than 18 months after the date of enactment of this section, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes—

''(A) the number of devices approved in the year preceding the year in which the report is submitted, for which there is a pediatric subpopulation that suffers from the disease or condition that the device is intended to treat, diagnose, or cure;

''(B) the number of devices approved in the year preceding the year in which the report is submitted, labeled for use in pediatric patients;

''(C) the number of pediatric devices approved in the year preceding the year in which the report is submitted, exempted from a fee pursuant to section 738(a)(2)(B)(v); and

''(D) the review time for each device described in subparagraphs (A), (B), and (C).

''(b) DETERMINATION OF PEDIATRIC EFFECTIVENESS BASED ON SIMILAR COURSE OF DISEASE OR CONDITION OR SIMILAR EFFECT OF DEVICE ON ADULTS.—

''(1) IN GENERAL.—If the course of the disease or condition and the effects of the device are sufficiently similar in adults and pediatric patients, the Secretary may conclude that adult data may be used to support a determination of a reasonable assurance of effectiveness in pediatric populations, as appropriate.

''(2) EXTRAPOLATION BETWEEN SUBPOPULATIONS.—A study may not be needed in each pediatric subpopulation if data from one subpopulation can be extrapolated to another subpopulation.

''(c) PEDIATRIC SUBPOPULATION.—In this section, the term 'pediatric subpopulation' has the meaning given the term in section 520(m)(6)(E)(ii).''.

SEC. 423. MODIFICATION TO HUMANITARIAN DEVICE EXEMPTION.

(a) IN GENERAL.—Section 520(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)) is amended—

(1) in paragraph (3), by striking ''No'' and inserting ''Except as provided in paragraph (6), no'';

(2) in paragraph (5)—

(A) by inserting '', if the Secretary has reason to believe that the requirements of paragraph (6) are no longer met,'' after ''public health''; and

(B) by adding at the end the following: ''If the person granted an exemption under paragraph (2) fails to demonstrate continued compliance with the requirements of this subsection, the Secretary may suspend or withdraw the exemption from the effectiveness requirements of sections 514 and 515 for a humanitarian device only after providing notice and an opportunity for an informal hearing.'';

(3) by striking paragraph (6) and inserting the following:

''(6)(A) Except as provided in subparagraph (D), the prohibition in paragraph (3) shall not apply with respect to a person granted an exemption under paragraph (2) if each of the following conditions apply:

''(i)(I) The device with respect to which the exemption is granted is intended for the treatment or diagnosis of a disease or condition that occurs in pediatric patients or in a pediatric subpopulation, and such device is labeled for use in pediatric patients or in a pediatric subpopulation in which the disease or condition occurs.

''(II) The device was not previously approved under this subsection for the pediatric patients or the pediatric subpopulation described in subclause (I) prior to the date of enactment of the Pediatric Medical Device Safety and Improvement Act of 2007.

''(ii) During any calendar year, the number of such devices distributed during that year does not exceed the annual distribution number specified by the Secretary when the Secretary grants such exemption. The annual distribution number shall be based on the number of individuals affected by the disease or condition that such device is intended to treat, diagnose, or cure, and of that number, the number of individuals likely to use the device, and the number of devices reasonably necessary to treat such individuals. In no case shall the annual distribution number exceed the number identified in paragraph (2)(A).

''(iii) Such person immediately notifies the Secretary if the number of such devices distributed during any calendar year exceeds the annual distribution number referred to in clause (ii).

''(iv) The request for such exemption is submitted on or before October 1, 2012.

''(B) The Secretary may inspect the records relating to the number of devices distributed during any calendar year of a person granted an exemption under paragraph (2) for which the prohibition in paragraph (3) does not apply.

''(C) A person may petition the Secretary to modify the annual distribution number specified by the Secretary under subparagraph (A)(ii) with respect to a device if additional information on the number of individuals affected by the disease or condition arises, and the Secretary may modify such number but in no case shall the annual distribution number exceed the number identified in paragraph (2)(A).

''(D) If a person notifies the Secretary, or the Secretary determines through an inspection under subparagraph (B), that the number of devices distributed during any calendar year exceeds the annual distribution number, as required under subparagraph (A)(iii), and modified under subparagraph (C), if applicable, then the prohibition in paragraph (3) shall apply with respect to such person for such device for any sales of such device after such notification.

''(E)(i) In this subsection, the term 'pediatric patients' means patients who are 21 years of age or younger at the time of the diagnosis or treatment.

''(ii) In this subsection, the term 'pediatric subpopulation' means 1 of the following populations:

''(I) Neonates.

''(II) Infants.

''(III) Children.

''(IV) Adolescents.''; and

(4) by adding at the end the following:

''(7) The Secretary shall refer any report of an adverse event regarding a device for which the prohibition under paragraph (3) does not apply pursuant to paragraph (6)(A) that the Secretary receives to the Office of Pediatric Therapeutics, established under section 6 of the Best Pharmaceuticals for Children Act (Public Law 107–109)). In considering the report, the Director of the Office of Pediatric Therapeutics, in consultation with experts in the Center for Devices and Radiological Health, shall provide for periodic review of the report by the Pediatric Advisory Committee, including obtaining any recommendations of such committee regarding whether the Secretary should take action under this Act in response to the report.''.

(b) REPORT.—Not later than January 1, 2012, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the impact of allowing persons granted an exemption under section 520(m)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)(2)) with respect to a device to profit from such device pursuant to section 520(m)(6) of such Act (21 U.S.C. 360j(m)(6)) (as amended by subsection (a)), including—

(1) an assessment of whether such section 520(m)(6) (as amended by subsection (a)) has increased the availability of pediatric devices for conditions that occur in small numbers of children, including any increase or decrease in the number of—

(A) exemptions granted under such section 520(m)(2) for pediatric devices; and

(B) applications approved under section 515 of such Act (21 U.S.C. 360e) for devices intended to treat, diagnose, or cure conditions that occur in pediatric patients or for devices labeled for use in a pediatric population;

(2) the conditions or diseases the pediatric devices were intended to treat or diagnose and the estimated size of the pediatric patient population for each condition or disease;

(3) the costs of the pediatric devices, based on a survey of children's hospitals;

(4) the extent to which the costs of such devices are covered by health insurance;

(5) the impact, if any, of allowing profit on access to such devices for patients;

(6) the profits made by manufacturers for each device that receives an exemption;

(7) an estimate of the extent of the use of the pediatric devices by both adults and pediatric populations for a condition or disease other than the condition or disease on the label of such devices;

(8) recommendations of the Comptroller General of the United States regarding the effectiveness of such section 520(m)(6) (as amended by subsection (a)) and whether any modifications to such section 520(m)(6) (as amended by subsection (a)) should be made;

(9) existing obstacles to pediatric device development; and

(10) an evaluation of the demonstration grants described in section 425, which shall include an evaluation of the number of pediatric medical devices—

(A) that have been or are being studied in children; and

(B) that have been submitted to the Food and Drug Administration for approval, clearance, or review under such section 520(m) (as amended by this Act) and any regulatory actions taken.

(c) GUIDANCE.—Not later than 180 days after the date of enactment of this subtitle, the Commissioner of Food and Drugs shall issue guidance for institutional review committees on how to evaluate requests for approval for devices for which a humanitarian device exemption under section 520(m)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)(2)) has been granted.

SEC. 424. CONTACT POINT FOR AVAILABLE FUNDING.

Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (21), by striking ''and'' after the semicolon at the end;

(2) in paragraph (22), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (22) the following:

''(23) shall designate a contact point or office to help innovators and physicians identify sources of funding available for pediatric medical device development.''.

SEC. 425. DEMONSTRATION GRANTS FOR IMPROVING PEDIATRIC DEVICE AVAILABILITY.

(a) IN GENERAL.—

(1) REQUEST FOR PROPOSALS.—Not later than 90 days after the date of enactment of this subtitle, the Secretary of Health and Human Services shall issue a request for proposals for 1 or more grants or contracts to nonprofit consortia for demonstration projects to promote pediatric device development.

(2) DETERMINATION ON GRANTS OR CONTRACTS.—Not later than 180 days after the date the Secretary of Health and Human Services issues a request for proposals under paragraph (1), the Secretary shall make a determination on the grants or contracts under this section.

(b) APPLICATION.—A nonprofit consortium that desires to receive a grant or contract under this section shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—A nonprofit consortium that receives a grant or contract under this section shall facilitate the development, production, and distribution of pediatric medical devices by—

(1) encouraging innovation and connecting qualified individuals with pediatric device ideas with potential manufacturers;

(2) mentoring and managing pediatric device projects through the development process, including product identification, prototype design, device development, and marketing;

(3) connecting innovators and physicians to existing Federal and non-Federal resources, including resources from the Food and Drug Administration, the National Institutes of Health, the Small Business Administration, the Department of Energy, the Department of Education, the National Science Foundation, the Department of Veterans Affairs, the Agency for Healthcare Research and Quality, and the National Institute of Standards and Technology;

(4) assessing the scientific and medical merit of proposed pediatric device projects; and

(5) providing assistance and advice as needed on business development, personnel training, prototype development, postmarket needs, and other activities consistent with the purposes of this section.

(d) COORDINATION.—

(1) NATIONAL INSTITUTES OF HEALTH.—Each consortium that receives a grant or contract under this section shall—

(A) coordinate with the National Institutes of Health's pediatric device contact point or office, designated under section 424; and

(B) provide to the National Institutes of Health any identified pediatric device needs that the consortium lacks sufficient capacity to address or those needs in which the consortium has been unable to stimulate manufacturer interest.

(2) FOOD AND DRUG ADMINISTRATION.—Each consortium that receives a grant or contract under this section shall coordinate with the Commissioner of Food and Drugs and device companies to facilitate the application for approval or clearance of devices labeled for pediatric use.

(3) EFFECTIVENESS AND OUTCOMES.—Each consortium that receives a grant or contract under this section shall annually report to the Secretary of Health and Human Services on—

(A) the effectiveness of activities conducted under subsection (c);

(B) the impact of activities conducted under subsection (c) on pediatric device development; and

(C) the status of pediatric device development that has been facilitated by the consortium.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $6,000,000 for each of fiscal years 2008 through 2012.

SEC. 426. AMENDMENTS TO OFFICE OF PEDIATRIC THERAPEUTICS AND PEDIATRIC ADVISORY COMMITTEE.

(a) IN GENERAL.—

(1) OFFICE OF PEDIATRIC THERAPEUTICS.—Section 6(b) of the Best Pharmaceuticals for Children Act (21 U.S.C. 393a(b)) is amended by inserting '', including increasing pediatric access to medical devices'' after ''pediatric issues''.

(2) PLAN FOR PEDIATRIC MEDICAL DEVICE RESEARCH.—

(A) IN GENERAL.—Not later than 270 days after the date of enactment of this subtitle, the Office of Pediatric Therapeutics, in collaboration with the Director of the National Institutes of Health and the Director of the Agency for Healthcare Research and Quality, shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a plan for expanding pediatric medical device research and development. In developing such plan, the Commissioner of Food and Drugs shall consult with individuals and organizations with appropriate expertise in pediatric medical devices.

(B) CONTENTS.—The plan under subparagraph (A) shall include—

(i) the current status of federally funded pediatric medical device research;

(ii) any gaps in such research, which may include a survey of pediatric medical providers regarding unmet pediatric medical device needs, as needed; and

(iii) a research agenda for improving pediatric medical device development and Food and Drug Administration clearance or approval of pediatric medical devices, and for evaluating the short- and long-term safety and effectiveness of pediatric medical devices.

(b) PEDIATRIC ADVISORY COMMITTEE.—Section 14 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended—

(1) in subsection (a), by inserting ''(including drugs and biological products) and medical devices'' after ''therapeutics''; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''(including drugs and biological products) and medical devices'' after ''therapeutics''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''and 505B'' and inserting ''505B, 510(k), 515, and 520(m)'';

(ii) by striking subparagraph (B) and inserting the following:

''(B) identification of research priorities related to therapeutics (including drugs and biological products) and medical devices for pediatric populations and the need for additional diagnostics and treatments for specific pediatric diseases or conditions; and''; and

(iii) in subparagraph (C), by inserting ''(including drugs and biological products) and medical devices'' after ''therapeutics''.

SEC. 427. POSTMARKET SURVEILLANCE.

(a) POSTMARKET SURVEILLANCE.—Section 522 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360l) is amended—

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

''(a) POSTMARKET SURVEILLANCE.—

''(1) IN GENERAL.—

''(A) CONDUCT.—The Secretary may by order require a manufacturer to conduct postmarket surveillance for any device of the manufacturer that is a class II or class III device—

''(i) the failure of which would be reasonably likely to have serious adverse health consequences;

''(ii) that is expected to have significant use in pediatric populations; or

''(iii) that is intended to be—

''(I) implanted in the human body for more than 1 year; or

''(II) a life-sustaining or life-supporting device used outside a device user facility.

''(B) CONDITION.—The Secretary may order a postmarket surveillance under subparagraph (A) as a condition to approval or clearance of a device described in subparagraph (A)(ii).

''(2) RULE OF CONSTRUCTION.—The provisions of paragraph (1) shall have no effect on authorities otherwise provided under the Act or regulations issued under this Act.''; and

(2) in subsection (b)—

(A) by striking ''(b) SURVEILLANCE APPROVAL.—Each'' and inserting the following:

''(b) SURVEILLANCE APPROVAL.—

''(1) IN GENERAL.—Each'';

(B) by striking ''The Secretary, in consultation'' and inserting ''Except as provided in paragraph (2), the Secretary, in consultation'';

(C) by striking ''Any determination'' and inserting ''Except as provided in paragraph (2), any determination''; and

(D) by adding at the end the following:

''(2) LONGER SURVEILLANCES FOR PEDIATRIC DEVICES.—The Secretary may by order require a prospective surveillance period of more than 36 months with respect to a device that is expected to have significant use in pediatric populations if such period of more than 36 months is necessary in order to assess the impact of the device on growth and development, or the effects of growth, development, activity level, or other factors on the safety of the device.''.

TITLE V—OTHER PROVISIONS

SEC. 501. POLICY ON THE REVIEW AND CLEARANCE OF SCIENTIFIC ARTICLES PUBLISHED BY FDA EMPLOYEES.

Subchapter A of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.), as amended by section 241, is further amended by adding at the end the following:

''SEC. 713. POLICY ON THE REVIEW AND CLEARANCE OF SCIENTIFIC ARTICLES PUBLISHED BY FDA EMPLOYEES.

''(a) DEFINITION.—In this section, the term 'article' means a paper, poster, abstract, book, book chapter, or other published writing.

''(b) POLICIES.—The Secretary, through the Commissioner of Food and Drugs, shall establish and make publicly available clear written policies to implement this section

and govern the timely submission, review, clearance, and disclaimer requirements for articles.

''(c) TIMING OF SUBMISSION FOR REVIEW.—If an officer or employee, including a Staff Fellow and a contractor who performs staff work, of the Food and Drug Administration is required by the policies established under subsection (b) to submit an article to the supervisor of such officer or employee, or to some other official of the Food and Drug Administration, for review and clearance before such officer or employee may seek to publish or present such an article at a conference, such officer or employee shall submit such article for such review and clearance not less than 30 days before submitting the article for publication or presentation.

''(d) TIMING FOR REVIEW AND CLEARANCE.—The supervisor or other reviewing official shall review such article and provide written clearance, or written clearance on the condition of specified changes being made, to such officer or employee not later than 30 days after such officer or employee submitted such article for review.

''(e) NON-TIMELY REVIEW.—If, 31 days after such submission under subsection (c), the supervisor or other reviewing official has not cleared or has not reviewed such article and provided written clearance, such officer or employee may consider such article not to have been cleared and may submit the article for publication or presentation with an appropriate disclaimer as specified in the policies established under subsection (b).''.

SEC. 502. TECHNICAL AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 319C–2(j)(3)(B), by striking ''section 319C–1(h)'' and inserting ''section 319C–1(i)'';

(2) in section 402(b)(4), by inserting ''minority and other'' after ''reducing'';

(3) in section 403(a)(4)(C)(iv)(III), by inserting ''and post doctoral training funded through investigator-initiated research grant awards'' before the semicolon; and

(4) in section 403C(a)—

(A) in the matter preceding paragraph (1), by inserting ''graduate students supported by NIH for'' after ''with respect to'';

(B) in paragraph (1), by inserting ''such'' after ''percentage of''; and

(C) in paragraph (2), by inserting ''(not including any leaves of absence)'' after ''average time''.

SEC. 503. SEVERABILITY CLAUSE.

If any provision of this Act, an amendment made this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

SEC. 504. SENSE OF THE SENATE WITH RESPECT TO FOLLOW-ON BIOLOGICS.

(a) FINDINGS.—The Senate finds the following:

(1) The Food and Drug Administration has stated that it requires legislative authority to review follow-on biologics.

(2) Business, consumer, and government purchasers require competition and choice to ensure more affordable prescription drug options.

(3) Well-constructed policies that balance the needs of innovation and affordability have broad bipartisan support.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that legislation should be enacted to—

(1) provide the Food and Drug Administration with the authority and flexibility to approve biopharmaceuticals subject to an abbreviated approval pathway;

(2) ensure that patient safety remains paramount in the system;

(3) establish a regulatory pathway that is efficient, effective, and scientifically-grounded and that also includes measures to ensure timely resolution of patent disputes; and

(4) provide appropriate incentives to facilitate the research and development of innovative biopharmaceuticals.

SEC. 505. PRIORITY REVIEW TO ENCOURAGE TREATMENTS FOR TROPICAL DISEASES.

Subchapter A of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

''SEC. 524. PRIORITY REVIEW TO ENCOURAGE TREATMENTS FOR TROPICAL DISEASES.

''(a) DEFINITIONS.—In this section:

''(1) AIDS.—The term 'AIDS' means the acquired immune deficiency syndrome.

''(2) AIDS DRUG.—The term 'AIDS drug' means a drug indicated for treating HIV.

''(3) HIV.—The term 'HIV' means the human immunodeficiency virus, the pathogen that causes AIDS.

''(4) NEGLECTED OR TROPICAL DISEASE.—The term 'neglected or tropical disease' means—

''(A) HIV, malaria, tuberculosis, and related diseases; or

''(B) any other infectious disease that disproportionately affects poor and marginalized populations, including those diseases targeted by the Special Programme for Research and Training in Tropical Diseases cosponsored by the United Nations Development Program, UNICEF, the World Bank, and the World Health Organization.

''(5) PRIORITY REVIEW.—The term 'priority review', with respect to a new drug application described in paragraph (6), means review and action by the Secretary on such application not later than 180 days after receipt by the Secretary of such application, pursuant to the Manual of Policies and Procedures of the Food and Drug Administration.

''(6) PRIORITY REVIEW VOUCHER.—The term 'priority review voucher' means a voucher issued by the Secretary to the sponsor of a tropical disease product that entitles such sponsor, or a person described under subsection (b)(2), to priority review of a new drug application submitted under section 505(b)(1) after the date of approval of the tropical disease product.

''(7) TROPICAL DISEASE PRODUCT.—The term 'tropical disease product' means a product that—

''(A) is a new drug, antibiotic drug, biological product, vaccine, device, diagnostic, or other tool for treatment of a neglected or tropical disease; and

''(B) is approved by the Secretary for use in the treatment of a neglected or tropical disease.

''(b) PRIORITY REVIEW VOUCHER.—

''(1) IN GENERAL.—The Secretary shall award a priority review voucher to the sponsor of a tropical disease product upon approval by the Secretary of such tropical disease product.

''(2) TRANSFERABILITY.—The sponsor of a tropical disease product that receives a priority review voucher under this section may transfer (including by sale) the entitlement to such voucher to a sponsor of a new drug for which an application under section 505(b)(1) will be submitted after the date of the approval of the tropical disease product.

''(3) LIMITATION.—A sponsor of a tropical disease product may not receive a priority review voucher under this section if the tropical disease product was approved by the Secretary prior to the date of enactment of this section.

''(c) PRIORITY REVIEW USER FEE.—

''(1) IN GENERAL.—The Secretary shall establish a user fee program under which a sponsor of a drug that is the subject of a priority review voucher shall pay to the Secretary a fee determined under paragraph (2). Such fee shall be in addition to any fee required to be submitted by the sponsor under chapter VII.

''(2) FEE AMOUNT.—The amount of the priority review user fee shall be determined each fiscal year by the Secretary and based on the anticipated costs to the Secretary of implementing this section.

''(3) ANNUAL FEE SETTING.—The Secretary shall establish, before the beginning of each fiscal year beginning after September 30, 2007, for that fiscal year, the amount of the priority review user fee.

''(4) PAYMENT.—

''(A) IN GENERAL.—The fee required by this subsection shall be due upon the filing of the new drug application under section 505(b)(1) for which the voucher is used.

''(B) COMPLETE APPLICATION.—An application described under subparagraph (A) for which the sponsor requests the use of a priority review voucher shall be considered incomplete if the fee required by this subsection is not included in such application.

''(5) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year—

''(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Food and Drug Administration; and

''(B) shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.''.

SEC. 506. CITIZENS PETITIONS AND PETITIONS FOR STAY OF AGENCY ACTION.

Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by this Act, is amended by adding at the end the following:

''(s) CITIZEN PETITIONS AND PETITIONS FOR STAY OF AGENCY ACTION.—

''(1) IN GENERAL.—

''(A) NO DELAY OF CONSIDERATION OR APPROVAL.—

''(i) IN GENERAL.—With respect to a pending application submitted under subsection (b)(2) or (j), if a petition is submitted to the Secretary that seeks to have the Secretary take, or refrain from taking, any form of action relating to the approval of the application, including a delay in the effective date of the application, clauses (ii) and (iii) shall apply.

''(ii) NO DELAY OF CONSIDERATION OR APPROVAL.—Except as provided in clause (iii), the receipt and consideration of a petition described in clause (i) shall not delay consideration or approval of an application submitted under subsection (b)(2) or (j).

''(iii) NO DELAY OF APPROVAL WITHOUT DETERMINATION.—The Secretary shall not delay approval of an application submitted under subsection (b)(2) or (j) while a petition described in clause (i) is reviewed and considered unless the Secretary determines, not later than 25 business days after the submission of the petition, that a delay is necessary to protect the public health.

''(B) DETERMINATION OF DELAY.—With respect to a determination by the Secretary under subparagraph (A)(iii) that a delay is necessary to protect the public health the following shall apply:

''(i) Not later than 5 days after making such determination, the Secretary shall publish on the Internet website of the Food and Drug Administration a detailed statement providing the reasons underlying the determination. The detailed statement shall include a summary of the petition and comments and supplements, the specific substantive issues that the petition raises which

need to be considered prior to approving a pending application submitted under subsection (b)(2) or (j), and any clarifications and additional data that is needed by the Secretary to promptly review the petition.

''(ii) Not later than 10 days after making such determination, the Secretary shall provide notice to the sponsor of the pending application submitted under subsection (b)(2) or (j) and provide an opportunity for a meeting with appropriate staff as determined by the Commissioner to discuss the determination.

''(2) TIMING OF FINAL AGENCY ACTION ON PETITIONS.—

''(A) IN GENERAL.—Notwithstanding a determination made by the Secretary under paragraph (1)(A)(iii), the Secretary shall take final agency action with respect to a petition not later than 180 days of submission of that petition unless the Secretary determines, prior to the date that is 180 days after the date of submission of the petition, that a delay is necessary to protect the public health.

''(B) DETERMINATION OF DELAY.—With respect to a determination by the Secretary under subparagraph (A) that a delay is necessary to protect the public health the following shall apply:

''(i) Not later than 5 days after making the determination under subparagraph (A), the Secretary shall publish on the Internet website of the Food and Drug Administration a detailed statement providing the reasons underlying the determination. The detailed statement should include the state of the review of the petition, the specific outstanding issues that still need to be resolved, a proposed timeframe to resolve the issues, and any additional information that has been requested by the Secretary of the petitioner or needed by the Secretary in order to resolve the petition and not further delay an application filed under subsection (b)(2) or (j).

''(ii) Not later than 10 days after making the determination under subparagraph (A), the Secretary shall provide notice to the sponsor of the pending application submitted under subsection (b)(2) or (j) and provide an opportunity for a meeting with appropriate staff as determined by the Commissioner to discuss the determination.

''(3) VERIFICATIONS.—

''(A) PETITIONS FOR REVIEW.—The Secretary shall not accept a petition for review unless it is signed and contains the following verification: 'I certify that, to my best knowledge and belief: (a) this petition includes all information and views upon which the petition relies; (b) this petition includes representative data and/or information known to the petitioner which are unfavorable to the petition; and (c) information upon which I have based the action requested herein first became known to the party on whose behalf this petition is filed on or about _____. I received or expect to receive payments, including cash and other forms of consideration, from the following persons or organizations to file this petition: _____. I verify under penalty of perjury that the foregoing is true and correct.', with the date of the filing of such petition and the signature of the petitioner inserted in the first and second blank space, respectively.

''(B) SUPPLEMENTAL INFORMATION.—The Secretary shall not accept for review any supplemental information or comments on a petition unless the party submitting such information or comments does so in written form and that the subject document is signed and contains the following verification: 'I certify that, to my best knowledge and belief: (a) I have not intentionally delayed submission of this document or its contents; and (b) the information upon which I have based the action requested herein first became known to me on or about _____. I received or expect to receive payments, including cash and other forms of consideration, from the following persons or organizations to submit this information or its contents: _____. I verify under penalty of perjury that the foregoing is true and correct.', with the date of the submission of such document and the signature of the petitioner inserted in the first and second blank space, respectively.

''(4) ANNUAL REPORT ON DELAYS IN APPROVALS PER PETITION.—The Secretary shall annually submit to the Congress a report that specifies—

''(A) the number of applications under subsection (b)(2) and (j) that were approved during the preceding 1-year period;

''(B) the number of petitions that were submitted during such period;

''(C) the number of applications whose effective dates were delayed by petitions during such period and the number of days by which the applications were so delayed; and

''(D) the number of petitions that were filed under this subsection that were deemed by the Secretary under paragraph (1)(A)(iii) to require delaying an application under subsection (b)(2) or (j) and the number of days by which the applications were so delayed.

''(5) EXCEPTION.—This subsection does not apply to a petition that is made by the sponsor of the application under subsection (b)(2) or (j) and that seeks only to have the Secretary take or refrain from taking any form of action with respect to that application.

''(6) REPORT BY INSPECTOR GENERAL.—The Office of Inspector General of the Department of Health and Human Services shall issue a report not later than 2 years after the date of enactment of this subsection evaluating evidence of the compliance of the Food and Drug Administration with the requirement that the consideration by the Secretary of petitions that do not raise public health concerns remain separate and apart from the review and approval of an application submitted under subsection (b)(2) or (j).

''(7) DEFINITION.—For purposes of this subsection, the term 'petition' includes any request for an action described in paragraph (1)(A)(i) to the Secretary, without regard to whether the request is characterized as a petition.''.

SEC. 507. PUBLICATION OF ANNUAL REPORTS.

(a) IN GENERAL.—The Commissioner on Food and Drugs shall annually submit to Congress and publish on the Internet website of the Food and Drug Administration, a report concerning the results of the Administration's pesticide residue monitoring program, that includes—

(1) information and analysis similar to that contained in the report entitled ''Food and Drug Administration Pesticide Program Residue Monitoring 2003'' as released in June of 2005;

(2) based on an analysis of previous samples, an identification of products or countries (for imports) that require special attention and additional study based on a comparison with equivalent products manufactured, distributed, or sold in the United States (including details on the plans for such additional studies), including in the initial report (and subsequent reports as determined necessary) the results and analysis of the Ginseng Dietary Supplements Special Survey as described on page 13 of the report entitled ''Food and Drug Administration Pesticide Program Residue Monitoring 2003'';

(3) information on the relative number of interstate and imported shipments of each tested commodity that were sampled, including recommendations on whether sampling is statistically significant, provides confidence intervals or other related statistical information, and whether the number of samples should be increased and the details of any plans to provide for such increase; and

(4) a description of whether certain commodities are being improperly imported as another commodity, including a description of additional steps that are being planned to prevent such smuggling.

(b) INITIAL REPORTS.—Annual reports under subsection (a) for fiscal years 2004 through 2006 may be combined into a single report, by not later than June 1, 2008, for purposes of publication under subsection (a). Thereafter such reports shall be completed by June 1 of each year for the data collected for the year that was 2-years prior to the year in which the report is published.

(c) MEMORANDUM OF UNDERSTANDING.—The Commissioner of Food and Drugs, the Administrator of the Food Safety and Inspection Service, the Department of Commerce, and the head of the Agricultural Marketing Service shall enter into a memorandum of understanding to permit inclusion of data in the reports under subsection (a) relating to testing carried out by the Food Safety and Inspection Service and the Agricultural Marketing Service on meat, poultry, eggs, and certain raw agricultural products, respectively.

SEC. 508. HEAD START ACT AMENDMENT IMPOSING PARENTAL CONSENT REQUIREMENT FOR NONEMERGENCY INTRUSIVE PHYSICAL EXAMINATIONS.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by adding at the end the following:

''SEC. 657A. PARENTAL CONSENT REQUIREMENT FOR NONEMERGENCY INTRUSIVE PHYSICAL EXAMINATIONS.

''(a) IN GENERAL.—A Head Start agency shall obtain written parental consent before administration of any nonemergency intrusive physical examination of a child in connection with participation in a program under this subchapter.

''(b) DEFINITION.—The term 'nonemergency intrusive physical examination' means, with respect to a child, a physical examination that—

''(1) is not immediately necessary to protect the health or safety of the child involved or the health or safety of another individual; and

''(2) requires incision or is otherwise invasive, or involves exposure of private body parts.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit agencies from using established methods, for handling cases of suspected or known child abuse and neglect, that are in compliance with applicable Federal, State, or tribal law.''.

SEC. 509. SAFETY OF FOOD ADDITIVES.

Not later than 90 days after the date of enactment of this Act, the Food and Drug Administration shall issue a report on the question of whether substances used to preserve the appearance of fresh meat may create any health risks, or mislead consumers.

SEC. 510. IMPROVING GENETIC TEST SAFETY AND QUALITY.

Not later than 30 days after the date of enactment of this Act, the Secretary shall enter into a contract with the Institute of Medicine to conduct a study to assess the overall safety and quality of genetic tests and prepare a report that includes recommendations to improve Federal oversight and regulation of genetic tests. Such study shall take into consideration relevant reports by the Secretary's Advisory Committee on Genetic Testing and other groups and shall be completed not later than 1 year

after the date on which the Secretary entered into such contract.

SEC. 511. ORPHAN DISEASE TREATMENT IN CHILDREN.

(a) FINDING.—The Senate finds that parents of children suffering from rare genetic diseases known as orphan diseases face multiple obstacles in obtaining safe and effective treatment for their children due mainly to the fact that many Food and Drug Administration-approved drugs used in the treatment of orphan diseases in children may not be approved for pediatric indications.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Food and Drug Administration should enter into a contract with the Institute of Medicine for the conduct of a study concerning measures that may be taken to improve the likelihood that Food and Drug Administration-approved drugs that are safe and effective in treating children with orphan diseases are made available and affordable for pediatric indications.

SEC. 512. COLOR CERTIFICATION REPORTS.

Section 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379e) is amended by adding at the end the following:

''(g) COLOR CERTIFICATION REPORTS.—Not later than—

''(1) 90 days after the close of a fiscal year in which color certification fees are collected, the Secretary shall submit to Congress a performance report for such fiscal year on the number of batches of color additives approved, the average turn around time for approval, and quantifiable goals for improving laboratory efficiencies; and

''(2) 120 days after the close of a fiscal year in which color certification fees are collected, the Secretary shall submit to Congress a financial report for such fiscal year that includes all fees and expenses of the color certification program, the balance remaining in the fund at the end of the fiscal year, and anticipated costs during the next fiscal year for equipment needs and laboratory improvements of such program.''.

SEC. 513. PROHIBITION ON IMPORTATION FROM A FOREIGN FOOD FACILITY THAT DENIES ACCESS TO FOOD INSPECTORS.

Notwithstanding any other provision of law, no food product may be imported into the United States that is the product of a foreign facility registered under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) that refuses to permit United States inspectors, upon request, to inspect such facility or that unduly delays access to United States inspectors.

SEC. 514. COUNTERFEIT-RESISTANT TECHNOLOGIES.

Notwithstanding any other provision of this Act, the requirement that the Secretary of Health and Human Services certify that the implementation of the title of this Act relating to the Importation of Prescription Drugs will pose no additional risk to the public's health and safety and will result in a significant reduction in the cost of covered products to the American consumer shall not apply to the requirement that the Secretary require that the packaging of any prescription drug incorporates—

(1) not later than 18 months after the date of enactment of this Act, a standardized numerical identifier (which, to the extent practicable, shall be harmonized with international consensus standards for such an identifier) unique to each package of such drug, applied at the point of manufacturing and repackaging (in which case the numerical identifier shall be linked to the numerical identifier applied at the point of manufacturing); and

(2) not later than 24 months after the date of enactment of this Act for the 50 prescription drugs with the highest dollar volume of sales in the United States, based on the calendar year that ends of December 31, 2007, and, not later than 30 months after the date of enactment of this Act for all other prescription drugs—

(A) overt optically variable counterfeit-resistant technologies that—

(i) are visible to the naked eye, providing for visual identification of product authenticity without the need for readers, microscopes, lighting devices, or scanners;

(ii) are similar to that used by the Bureau of Engraving and Printing to secure United States currency;

(iii) are manufactured and distributed in a highly secure, tightly controlled environment; and

(iv) incorporate additional layers of nonvisible convert security features up to and including forensic capability; or

(B) technologies that have a function of security comparable to that described in subparagraph (A), as determined by the Secretary.

SEC. 515. ENHANCED AQUACULTURE AND SEAFOOD INSPECTION.

(a) FINDINGS.—Congress finds the following:

(1) In 2007, there has been an overwhelming increase in the volume of aquaculture and seafood that has been found to contain substances that are not approved for use in food in the United States.

(2) As of May 2007, inspection programs are not able to satisfactorily accomplish the goals of ensuring the food safety of the United States.

(3) To protect the health and safety of consumers in the United States, the ability of the Secretary of Health and Human Services to perform inspection functions must be enhanced.

(b) HEIGHTENED INSPECTIONS.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') is authorized to, by regulation, enhance, as necessary, the inspection regime of the Food and Drug Administration for aquaculture and seafood, consistent with obligations of the United States under international agreements and United States law.

(c) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) describes the specifics of the aquaculture and seafood inspection program;

(2) describes the feasibility of developing a traceability system for all catfish and seafood products, both domestic and imported, for the purpose of identifying the processing plant of origin of such products; and

(3) provides for an assessment of the risks associated with particular contaminants and banned substances.

(d) PARTNERSHIPS WITH STATES.—Upon the request by any State, the Secretary may enter into partnership agreements, as soon as practicable after the request is made, to implement inspection programs regarding the importation of aquaculture and seafood.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 516. SENSE OF THE SENATE REGARDING CERTAIN PATENT INFRINGEMENTS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Innovation in developing life-saving prescription drugs saves millions of lives around the world each year.

(2) The responsible protection of intellectual property is vital to the continued development of new and life-saving drugs and future growth of the United States economy.

(3) In order to maintain the global competitiveness of the United States, the United States Trade Representative's Office of Intellectual Property and Innovation develops and implements trade policy in support of vital American innovations, including innovation in the pharmaceutical and medical technology industries.

(4) The United States Trade Representative also provides trade policy leadership and expertise across the full range of interagency initiatives to enhance protection and enforcement of intellectual property rights.

(5) Strong and fair intellectual property protection, including patent, copyright, trademark, and data protection plays an integral role in fostering economic growth and development and ensuring patient access to the most effective medicines around the world.

(6) There are concerns that certain countries have engaged in unfair price manipulation and abuse of compulsory licensing. Americans bear the majority of research and development costs for the world, which could undermine the value of existing United States pharmaceutical patents and could impede access to important therapies.

(7) There is a growing global threat of counterfeit medicines and increased need for the United States Trade Representative and other United States agencies to use available trade policy measures to strengthen laws and enforcement abroad to prevent harm to United States patients and patients around the world.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States Trade Representative should use all the tools at the disposal of the Trade Representative to address violations and other concerns with intellectual property, including through—

(A) bilateral engagement with United States trading partners;

(B) transparency and balance of the annual ''Special 301'' review and reviews of compliance with the intellectual property requirements of countries with respect to which the United States grants trade preferences;

(C) negotiation of responsible and fair intellectual property provisions as part of bilateral and regional trade agreements; and

(D) multilateral engagement through the World Trade Organization (WTO); and

(2) the United States Trade Representative should develop and submit to Congress a strategic plan to address the problem of countries that infringe upon American pharmaceutical intellectual property rights and the problem of countries that engage in price manipulation.

SEC. 517. CONSULTATION REGARDING GENETICALLY ENGINEERED SEAFOOD PRODUCTS.

The Commissioner of Food and Drugs shall consult with the Assistant Administrator of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration to produce a report on any environmental risks associated with genetically engineered seafood products, including the impact on wild fish stocks.

SEC. 518. REPORT ON THE MARKETING OF CERTAIN CRUSTACEANS.

Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Secretary of Commerce, shall submit to the Health, Education, Labor, and Pensions Committee and the Committee on Commerce, Science, and Transportation of the Senate, a report on the differences between taxonomy of species of lobster in the subfamily Nephropinae, and species of langostino, specifically from the infraorder Caridea or Anomura. This report shall also

describe the differences in consumer perception of such species, including such factors as taste, quality, and value of the species.

SEC. 519. CIVIL PENALTIES; DIRECT-TO-CONSUMER ADVERTISEMENT.

(a) CIVIL PENALTIES.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

''(g)(1) Any applicant (as such term is used in section 505(o)) who disseminates a direct-to-consumer advertisement for a prescription drug that is false or misleading and a violation of section 502(n) shall be liable to the United States for a civil penalty in an amount not to exceed $150,000 for the first such violation in any 3-year period, and not to exceed $300,000 for each subsequent violation committed after the applicant has been penalized under this paragraph any time in the preceding 3-year period. For the purposes of this paragraph, repeated dissemination of the same or similar advertisement prior to the receipt of the written notice referred to in paragraph (2) for such advertisements shall be considered as 1 violation.

''(2) A civil penalty under paragraph (1) shall be assessed by the Secretary by an order made on the record after providing written notice to the applicant to be assessed a civil penalty and an opportunity for a hearing in accordance with this paragraph and section 554 of title 5, United States Code. If upon receipt of the written notice, the applicant to be assessed a civil penalty objects and requests a hearing, then in the course of any investigation related to such hearing, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation, including information pertaining to the factors described in paragraph (3).

''(3) Upon the request of the applicant to be assessed a civil penalty, the Secretary, in determining the amount of a civil penalty, shall take into account the nature, circumstances, extent, and gravity of the violation or violations, including the following factors:

''(A) Whether the applicant submitted the advertisement or a similar advertisement for review under section 736A.

''(B) Whether the applicant submitted the advertisement for prereview if required under section 505(o)(5)(D).

''(C) Whether, after submission of the advertisement as described in subparagraph (A) or (B), the applicant disseminated the advertisement before the end of the 45-day comment period.

''(D) Whether the applicant failed to incorporate any comments made by the Secretary with regard to the advertisement or a similar advertisement into the advertisement prior to its dissemination.

''(E) Whether the applicant ceased distribution of the advertisement upon receipt of the written notice referred to in paragraph (2) for such advertisement.

''(F) Whether the applicant had the advertisement reviewed by qualified medical, regulatory, and legal reviewers prior to its dissemination.

''(G) Whether the violations were material.

''(H) Whether the applicant who created the advertisement acted in good faith.

''(I) Whether the applicant who created the advertisement has been assessed a civil penalty under this provision within the previous 1-year period.

''(J) The scope and extent of any voluntary, subsequent remedial action by the applicant.

''(K) Such other matters, as justice may require.

''(4)(A) Subject to subparagraph (B), no applicant shall be required to pay a civil penalty under paragraph (1) if the applicant submitted the advertisement to the Secretary and disseminated such advertisement after incorporating any comment received from the Secretary.

''(B) The Secretary may retract or modify any prior comments the Secretary has provided to an advertisement submitted to the Secretary based on new information or changed circumstances, so long as the Secretary provides written notice to the applicant of the new views of the Secretary on the advertisement and provides a reasonable time for modification or correction of the advertisement prior to seeking any civil penalty under paragraph (1).

''(5) The Secretary may compromise, modify, remit, with or without conditions, any civil penalty which may be assessed under paragraph (1). The amount of such penalty, when finally determined, or the amount charged upon in compromise, may be deducted from any sums owned by the United States to the applicant charged.

''(6) Any applicant who requested, in accordance with paragraph (2), a hearing with respect to the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty, may file a petition for de novo judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such applicant resides or transacts business. Such a petition may only be filed within the 60-day period beginning on the date the order making such assessments was issued.

''(7) If any applicant fails to pay an assessment of a civil penalty—

''(A) after the order making the assessment becomes final, and if such applicant does not file a petition for judicial review of the order in accordance with paragraph (6); or

''(B) after a court in an action brought under paragraph (6) has entered a final judgment in favor of the Secretary,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 60-day period referred to in paragraph (6) or date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.''.

(b) DIRECT-TO-CONSUMER ADVERTISEMENT.—

(1) IN GENERAL.—Section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) is amended by inserting after the first sentence the following: ''In the case of an advertisement for a prescription drug presented directly to consumers in television or radio format that states the name of the drug and its conditions of use, the major statement relating to side effects, contraindications, and effectiveness referred to in the previous sentence shall be stated in a clear and conspicuous (neutral) manner.''.

(2) REGULATIONS TO DETERMINE NEUTRAL MANNER.—The Secretary of Health and Human Services shall by regulation establish standards for determining whether a major statement, relating to side effects, contraindications, and effectiveness of a drug, described in section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) (as amended by paragraph (1)) is presented in the manner required under such section.

SEC. 520. REPORT BY THE FOOD AND DRUG ADMINISTRATION REGARDING LABELING INFORMATION ON THE RELATIONSHIP BETWEEN THE USE OF INDOOR TANNING DEVICES AND DEVELOPMENT OF SKIN CANCER OR OTHER SKIN DAMAGE.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), acting through the Commissioner of Food and Drugs, shall determine—

(1) whether the labeling requirements for indoor tanning devices, including the positioning requirements, provide sufficient information to consumers regarding the risks that the use of such devices pose for the development of irreversible damage to the eyes and skin, including skin cancer; and

(2)(A) whether modifying the warning label required on tanning beds to read, ''Ultraviolet radiation can cause skin cancer'', or any other additional warning, would communicate the risks of indoor tanning more effectively; or

(B) whether there is no warning that would be capable of adequately communicating such risks.

(b) CONSUMER TESTING.—In making the determinations under subsection (a), the Secretary shall conduct appropriate consumer testing, using the best available methods for determining consumer understanding of label warnings.

(c) PUBLIC HEARINGS; PUBLIC COMMENT.—The Secretary shall hold public hearings and solicit comments from the public in making the determinations under subsection (a).

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report that provides the determinations under subsection (a). In addition, the Secretary shall include in the report the measures being implemented by the Secretary to significantly reduce the risks associated with indoor tanning devices.

TITLE VI—FOOD SAFETY

SEC. 601. FINDINGS.

(a) FINDINGS.—Congress finds that—

(1) the safety and integrity of the United States food supply is vital to the public health, to public confidence in the food supply, and to the success of the food sector of the Nation's economy;

(2) illnesses and deaths of individuals and companion animals caused by contaminated food—

(A) have contributed to a loss of public confidence in food safety; and

(B) have caused significant economic losses to manufacturers and producers not responsible for contaminated food items;

(3) the task of preserving the safety of the food supply of the United States faces tremendous pressures with regard to—

(A) emerging pathogens and other contaminants and the ability to detect all forms of contamination; and

(B) an increasing volume of imported food from a wide variety of countries; and

(C) a shortage of adequate resources for monitoring and inspection;

(4) the United States is increasing the amount of food that it imports such that—

(A) from 2003 to the present, the value of food imports has increased from $45,600,000,000 to $64,000,000,000; and

(B) imported food accounts for 13 percent of the average Americans diet including 31 percent of fruits, juices, and nuts, 9.5 percent of red meat and 78.6 percent of fish and shellfish; and

(5) the number of full time equivalent Food and Drug Administration employees conducting inspections has decreased from 2003 to 2007.

SEC. 602. ENSURING THE SAFETY OF PET FOOD.

(a) PROCESSING AND INGREDIENT STANDARDS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this title as the ''Secretary''), in consultation with the Association of American Feed Control Officials, and other relevant stakeholder groups, including veterinary medical

associations, animal health organizations, and pet food manufacturers, shall by regulation establish—

(1) processing and ingredient standards with respect to pet food, animal waste, and ingredient definitions; and

(2) updated standards for the labeling of pet food that includes nutritional information and ingredient information.

(b) EARLY WARNING SURVEILLANCE SYSTEMS AND NOTIFICATION DURING PET FOOD RECALLS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall by regulation establish an early warning and surveillance system to identify adulteration of the pet food supply and outbreaks of illness associated with pet food. In establishing such system, the Secretary shall—

(1) use surveillance and monitoring mechanisms similar to, or in coordination with, those mechanisms used by the Centers for Disease Control and Prevention to monitor human health, such as the Foodborne Diseases Active Surveillance Network (FoodNet) and PulseNet;

(2) consult with relevant professional associations and private sector veterinary hospitals; and

(3) work with the Health Alert Network and other notification networks to inform veterinarians and relevant stakeholders during any recall of pet food.

SEC. 603. ENSURING EFFICIENT AND EFFECTIVE COMMUNICATIONS DURING A RECALL.

The Secretary shall, during an ongoing recall of human or pet food—

(1) work with companies, relevant professional associations, and other organizations to collect and aggregate information pertaining to the recall;

(2) use existing networks of communication including electronic forms of information dissemination to enhance the quality and speed of communication with the public; and

(3) post information regarding recalled products on the Internet website of the Food and Drug Administration in a consolidated, searchable form that is easily accessed and understood by the public.

SEC. 604. STATE AND FEDERAL COOPERATION.

(a) IN GENERAL.—The Secretary shall work with the States in undertaking activities and programs that assist in improving the safety of fresh and processed produce so that State food safety programs involving the safety of fresh and processed produce and activities conducted by the Secretaries function in a coordinated and cost-effective manner. With the assistance provided under subsection (b), the Secretary shall encourage States to—

(1) establish, continue, or strengthen State food safety programs, especially with respect to the regulation of retail commercial food establishments; and

(2) establish procedures and requirements for ensuring that processed produce under the jurisdiction of the State food safety programs is not unsafe for human consumption.

(b) ASSISTANCE.—The Secretary may provide to a State, for planning, developing, and implementing such a food safety program—

(1) advisory assistance;

(2) technical assistance, training, and laboratory assistance (including necessary materials and equipment); and

(3) financial and other assistance.

(c) SERVICE AGREEMENTS.—The Secretary may, under an agreement entered into with a Federal, State, or local agency, use, on a reimbursable basis or otherwise, the personnel, services, and facilities of the agency to carry out the responsibilities of the agency under this section. An agreement entered into with a State agency under this subsection may provide for training of State employees.

SEC. 605. ADULTERATED FOOD REGISTRY.

(a) FINDINGS.—Congress makes the following findings:

(1) In 1994, Congress passed the Dietary Supplement Health and Education Act (P.L. 103–417) to provide the Food and Drug Administration with the legal framework to ensure that dietary supplements are safe and properly labeled foods.

(2) In 2006, Congress passed the Dietary Supplement and Nonprescription Drug Consumer Protection Act (P.L. 109–462) to establish a mandatory reporting system of serious adverse events for non-prescription drugs and dietary supplements sold and consumed in the United States.

(3) The adverse event reporting system created under the Dietary Supplement and Nonprescription Drug Consumer Protection Act will serve as the early warning system for any potential public health issues associated with the use of these food products.

(4) A reliable mechanism to track patterns of adulteration in food would support efforts by the Food and Drug Administration to effectively target limited inspection resources to protect the public health.

(b) IN GENERAL.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

"SEC. 417. ADULTERATED FOOD REGISTRY.

''(a) DEFINITIONS.—In this section:

''(1) IMPORTER.—The term 'importer', with respect to an article of food, means the person who submitted the notice with respect to such article of food under section 801(m).

''(2) RESPONSIBLE PARTY.—The term 'responsible party', with respect to an article of food, means any registered food facility under section 415(a), including those responsible for the manufacturing, processing, packaging or holding of such food for consumption in the United States.

''(3) REPORTABLE ADULTERATED FOOD.—The term 'reportable adulterated food' for purposes of this section means a food that is adulterated or—

''(A) presents a situation in which there is a reasonable probability that the use of, or exposure to, a violative product will cause serious adverse health consequences or death as defined in section 7.3(m)(1) of title, Code of Federal Regulations (or any successor regulations); or

''(B) meets the threshold established in section 304(h).

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish within the Food and Drug Administration an Adulterated Food Registry to which instances of reportable adulterated food may be submitted by the Food and Drug Administration after receipt of reports of adulteration, via an electronic portal, from—

''(A) Federal, State, and local public health officials;

''(B) an importer;

''(C) a responsible party; or

''(D) a consumer or other individual.

''(2) REVIEW BY SECRETARY.—The Secretary shall review and determine the validity of the information submitted under paragraph (1) for the purposes of identifying adulterated food, submitting entries to the Adulterated Food Registry, acting under subsection (c), and exercising other existing food safety authorities under the Act to protect the public health.

''(c) ISSUANCE OF AN ALERT BY THE SECRETARY.—

''(1) IN GENERAL.—The Secretary shall issue an alert with respect to an adulterated food if the Adulterated Food Registry shows that the food—

''(A) has been associated with repeated and separate outbreaks of illness or has been repeatedly determined to be adulterated; or

''(B) is a reportable adulterated food.

''(2) SCOPE OF ALERT.—An alert under paragraph (1) may apply to a particular food or to food from a particular producer, manufacturer, shipper, growing area, or country, to the extent that elements in subparagraph (A) or (B) of paragraph (1) are associated with the particular food, producer, manufacturer, shipper, growing area, or country.

''(d) SUBMISSION BY A CONSUMER OR OTHER INDIVIDUAL.—A consumer or other individual may submit a report to the Food and Drug Administration using the electronic portal data elements described in subsection (e). Such reports shall be evaluated by the Secretary as specified in subsection (b)(2).

''(e) NOTIFICATION AND REPORTING OF ADULTERATION.—

''(1) DETERMINATION BY RESPONSIBLE PARTY OR IMPORTER.—If a responsible party or importer determines that an article of food it produced, processed, manufactured, distributed, or otherwise handled is a reportable adulterated food, the responsible party shall provide the notifications described under paragraph (2).

''(2) NOTIFICATION OF ADULTERATION.—

''(A) IN GENERAL.—Not later than 5 days after a responsible party or importer receives a notification, the responsible party or importer, as applicable, shall review whether the food referenced in the report described in paragraph (1) is a reportable adulterated food.

''(B) NOTIFICATION.—If a determination is made by such responsible party or importer that the food is a reportable adulterated food, such responsible party or importer shall, no later than 2 days after such determination is made, notify other responsible parties directly linked in the supply chain to which and from which the article of reportable adulterated food was transferred.

''(3) SUBMISSION OF REPORTS TO THE FOOD AND DRUG ADMINISTRATION BY A RESPONSIBLE PARTY OR IMPORTER.—The responsible party or importer, as applicable, shall submit a report to the Food and Drug Administration through the electronic portal using the data elements described in subsection (f) not later than 2 days after a responsible party or importer—

''(A) makes a notification under paragraph (2)(B); or

''(B) determines that an article of food it produced, processed, manufactured, distributed, imported, or otherwise handled is a reportable adulterated food, except that if such adulteration was initiated with such responsible party or importer, was detected prior to any transfer of such article of food, and was destroyed, no report is necessary.

''(f) DATA ELEMENTS IN THE REGISTRY.—A report submitted to the Food and Drug Administration electronic portal under subsection (e) shall include the following data elements:

''(1) Contact information for the individual or entity submitting the report.

''(2) The date on which an article of food was determined to be adulterated or suspected of being adulterated.

''(3) A description of the article of food including the quantity or amount.

''(4) The extent and nature of the adulteration.

''(5) The disposition of the article.

''(6) Product information typically found on packaging including product codes, use by dates, and names of manufactures or distributors.

''(7) Information about the place of purchase or process by which the consumer or

other individual acquired the article of adulterated food.

''(8) In the case of a responsible party or an importer, the elements required for the registration of food facilities under section 415(a).

''(9) The contact information for parties directly linked in the supply chain and notified under subsection (e)(2).

''(10) In the case of an importer, the elements required for the prior notice of imported food shipments under section 801(m).

''(g) MAINTENANCE AND INSPECTION OF RECORDS.—The responsible person or importer shall maintain records related to each report received, notification made, and report submitted to the Food and Drug Administration under this section and permit inspection of such records as provided for in section 414. Such records shall also be made available during an inspection under section 704.

''(h) REQUEST FOR INFORMATION.—Section 552 of title 5, United States Code, shall apply to any request for information regarding a record in the Adulterated Food Registry.

''(i) HOMELAND SECURITY NOTIFICATION.—If, after receiving a report under subsection (e), the Secretary suspects such food may have been deliberately adulterated, the Secretary shall immediately notify the Secretary of Homeland Security. The Secretary shall make the data in the Adulterated Imported Food Registry available to the Secretary of Homeland Security.''.

(c) DEFINITION.—Section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)) is amended by striking ''section 201(g)'' and inserting ''sections 201(g) and 417''.

(d) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), as amended by this Act, is further amended by adding at the end the following:

''(kk) The failure to provide a report as required under section 417(e)(3).

''(ll) The falsification a report as required under section 417(e)(3).''.

(e) SUSPECTED FOOD ADULTERATION REGULATIONS.—The Secretary shall, within 180 days of enactment of this Act, promulgate regulations that establish standards and thresholds by which importers and responsible parties shall be required and consumers may be able to, under section 417 of the Federal Food, Drug, and Cosmetic Act (as added by this section)—

(1) report instances of suspected reportable adulteration of food to the Food and Drug Administration for possible inclusion in the Adulterated Food Registry after evaluation of such report; and

(2) notify, in keeping with subsection (e)(2) of such section 417, other responsible parties directly linked in the supply chain, including establishments as defined in section 415(b) of such Act.

(f) EFFECTIVE DATE.—The requirements of section 417(e) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall become effective 180 days after the date of enactment of this Act.

SEC. 606. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) it is vital for Congress to provide the Food and Drug Administration with additional resources, authorities, and direction with respect to ensuring the safety of the food supply of the United States;

(2) additional inspectors are required to improve the Food and Drug Administration's ability to safeguard the food supply of the United States;

(3) because of the increasing volume of international trade in food products the Secretary of Health and Human Services should make it a priority to enter into agreements with the trading partners of the United States with respect to food safety; and

(4) the Senate should work to develop a comprehensive response to the issue of food safety.

SEC. 607. ANNUAL REPORT TO CONGRESS.

The Secretary shall, on an annual basis, submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives a report that includes, with respect to the preceding 1-year period—

(1) the number and amount of food products regulated by the Food and Drug Administration imported into the United States, aggregated by country and type of food;

(2) a listing of the number of Food and Drug Administration inspectors of imported food products referenced in paragraph (1) and the number of Food and Drug Administration inspections performed on such products; and

(3) aggregated data on the findings of such inspections, including data related to violations of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.), and enforcement actions used to follow-up on such findings and violations.

SEC. 608. RULE OF CONSTRUCTION.

Nothing in this title (or an amendment made by this title) shall be construed to affect—

(1) the regulation of dietary supplements under the Dietary Supplement Health and Education Act; or

(2) the adverse event reporting system for dietary supplements created under the Dietary Supplement and Nonprescription Drug Consumer Protection Act.

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title (and the amendments made by this title) such sums as may be necessary.

TITLE VII—DOMESTIC PET TURTLE MARKET ACCESS

SEC. 701. SHORT TITLE.

This title may be cited as the ''Domestic Pet Turtle Market Access Act of 2007''.

SEC. 702. FINDINGS.

Congress makes the following findings:

(1) Pet turtles less than 10.2 centimeters in diameter have been banned for sale in the United States by the Food and Drug Administration since 1975 due to health concerns.

(2) The Food and Drug Administration does not ban the sale of iguanas or other lizards, snakes, frogs, or other amphibians or reptiles that are sold as pets in the United States that also carry salmonella bacteria. The Food and Drug Administration also does not require that these animals be treated for salmonella bacteria before being sold as pets.

(3) The technology to treat turtles for salmonella, and make them safe for sale, has greatly advanced since 1975. Treatments exist that can nearly eradicate salmonella from turtles, and individuals are more aware of the causes of salmonella, how to treat salmonella poisoning, and the seriousness associated with salmonella poisoning.

(4) University research has shown that these turtles can be treated in such a way that they can be raised, shipped, and distributed without having a recolonization of salmonella.

(5) University research has also shown that pet owners can be equipped with a treatment regiment that allows the turtle to be maintained safe from salmonella.

(6) The Food and Drug Administration should allow the sale of turtles less than 10.2 centimeters in diameter as pets as long as the sellers are required to use proven methods to treat these turtles for salmonella.

SEC. 703. SALE OF BABY TURTLES.

Notwithstanding any other provision of law, the Food and Drug Administration shall not restrict the sale by a turtle farmer, wholesaler, or commercial retail seller of a turtle that is less than 10.2 centimeters in diameter as a pet if—

(1) the State or territory in which such farmer is located has developed a regulatory process by which pet turtle farmers are required to have a State license to breed, hatch, propagate, raise, grow, receive, ship, transport, export, or sell pet turtles or pet turtle eggs;

(2) such State or territory requires certification of sanitization that is signed by a veterinarian who is licensed in the State or territory, and approved by the State or territory agency in charge of regulating the sale of pet turtles;

(3) the certification of sanitization requires each turtle to be sanitized or treated for diseases, including salmonella, and is dependant upon using the Siebeling method, or other such proven non-antibiotic method, to make the turtle salmonella-free; and

(4) the turtle farmer or commercial retail seller includes, with the sale of such a turtle, a disclosure to the buyer that includes—

(A) information regarding—

(i) the possibility that salmonella can recolonize in turtles;

(ii) the dangers, including possible severe illness or death, especially for at-risk people who may be susceptible to salmonella poisoning, such as children, pregnant women, and others who may have weak immune systems, that could result if the turtle is not properly handled and safely maintained;

(iii) the proper handling of the turtle, including an explanation of proper hygiene such as handwashing after handling a turtle; and

(iv) the proven methods of treatment that, if properly applied, keep the turtle safe from salmonella;

(B) a detailed explanation of how to properly treat the turtle to keep it safe from salmonella, using the proven methods of treatment referred to under subparagraph (A), and how the buyer can continue to purchase the tools, treatments, or any other required item to continually treat the turtle; and

(C) a statement that buyers of pet turtles should not abandon the turtle or abandon it outside, as the turtle may become an invasive species to the local community, but should instead return them to a commercial retail pet seller or other organization that would accept turtles no longer wanted as pets.

SEC. 704. FDA REVIEW OF STATE PROTECTIONS.

The Commissioner of Food and Drugs may, after providing an opportunity for the affected State to respond, restrict the sale of a turtle only if the Secretary of Health and Human Services determines that the actual implementation of State health protections described in this title are insufficient to protect consumers against infectious diseases acquired from such turtle at the time of sale.

TITLE VIII—IMPORTATION OF PRESCRIPTION DRUGS

SEC. 801. SHORT TITLE.

This title may be cited as the ''Pharmaceutical Market Access and Drug Safety Act of 2007''.

SEC. 802. FINDINGS.

Congress finds that—

(1) Americans unjustly pay up to 5 times more to fill their prescriptions than consumers in other countries;

(2) the United States is the largest market for pharmaceuticals in the world, yet American consumers pay the highest prices for brand pharmaceuticals in the world;

(3) a prescription drug is neither safe nor effective to an individual who cannot afford it;

(4) allowing and structuring the importation of prescription drugs to ensure access to safe and affordable drugs approved by the Food and Drug Administration will provide a level of safety to American consumers that they do not currently enjoy;

(5) American spend more than $200,000,000,000 on prescription drugs every year;

(6) the Congressional Budget Office has found that the cost of prescription drugs are between 35 to 55 percent less in other highly-developed countries than in the United States; and

(7) promoting competitive market pricing would both contribute to health care savings and allow greater access to therapy, improving health and saving lives.

SEC. 803. REPEAL OF CERTAIN SECTION REGARDING IMPORTATION OF PRESCRIPTION DRUGS.

Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804.

SEC. 804. IMPORTATION OF PRESCRIPTION DRUGS; WAIVER OF CERTAIN IMPORT RESTRICTIONS.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 803, is further amended by inserting after section 803 the following:

"SEC. 804. COMMERCIAL AND PERSONAL IMPORTATION OF PRESCRIPTION DRUGS.

''(a) IMPORTATION OF PRESCRIPTION DRUGS.—

''(1) IN GENERAL.—In the case of qualifying drugs imported or offered for import into the United States from registered exporters or by registered importers—

''(A) the limitation on importation that is established in section 801(d)(1) is waived; and

''(B) the standards referred to in section 801(a) regarding admission of the drugs are subject to subsection (g) of this section (including with respect to qualifying drugs to which section 801(d)(1) does not apply).

''(2) IMPORTERS.—A qualifying drug may not be imported under paragraph (1) unless—

''(A) the drug is imported by a pharmacy, group of pharmacies, or a wholesaler that is a registered importer; or

''(B) the drug is imported by an individual for personal use or for the use of a family member of the individual (not for resale) from a registered exporter.

''(3) RULE OF CONSTRUCTION.—This section shall apply only with respect to a drug that is imported or offered for import into the United States—

''(A) by a registered importer; or

''(B) from a registered exporter to an individual.

''(4) DEFINITIONS.—

''(A) REGISTERED EXPORTER; REGISTERED IMPORTER.—For purposes of this section:

''(i) The term 'registered exporter' means an exporter for which a registration under subsection (b) has been approved and is in effect.

''(ii) The term 'registered importer' means a pharmacy, group of pharmacies, or a wholesaler for which a registration under subsection (b) has been approved and is in effect.

''(iii) The term 'registration condition' means a condition that must exist for a registration under subsection (b) to be approved.

''(B) QUALIFYING DRUG.—For purposes of this section, the term 'qualifying drug' means a drug for which there is a corresponding U.S. label drug.

''(C) U.S. LABEL DRUG.—For purposes of this section, the term 'U.S. label drug' means a prescription drug that—

''(i) with respect to a qualifying drug, has the same active ingredient or ingredients, route of administration, dosage form, and strength as the qualifying drug;

''(ii) with respect to the qualifying drug, is manufactured by or for the person that manufactures the qualifying drug;

''(iii) is approved under section 505(c); and

''(iv) is not—

''(I) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

''(II) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262), including—

''(aa) a therapeutic DNA plasmid product;

''(bb) a therapeutic synthetic peptide product;

''(cc) a monoclonal antibody product for in vivo use; and

''(dd) a therapeutic recombinant DNA-derived product;

''(III) an infused drug, including a peritoneal dialysis solution;

''(IV) an injected drug;

''(V) a drug that is inhaled during surgery;

''(VI) a drug that is the listed drug referred to in 2 or more abbreviated new drug applications under which the drug is commercially marketed; or

''(VII) a sterile opthlamic drug intended for topical use on or in the eye.

''(D) OTHER DEFINITIONS.—For purposes of this section:

''(i)(I) The term 'exporter' means a person that is in the business of exporting a drug to individuals in the United States from Canada or from a permitted country designated by the Secretary under subclause (II), or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

''(II) The Secretary shall designate a permitted country under subparagraph (E) (other than Canada) as a country from which an exporter may export a drug to individuals in the United States if the Secretary determines that—

''(aa) the country has statutory or regulatory standards that are equivalent to the standards in the United States and Canada with respect to—

''(AA) the training of pharmacists;

''(BB) the practice of pharmacy; and

''(CC) the protection of the privacy of personal medical information; and

''(bb) the importation of drugs to individuals in the United States from the country will not adversely affect public health.

''(ii) The term 'importer' means a pharmacy, a group of pharmacies, or a wholesaler that is in the business of importing a drug into the United States or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

''(iii) The term 'pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

''(iv) The term 'pharmacy' means a person that—

''(I) is licensed by a State to engage in the business of selling prescription drugs at retail; and

''(II) employs 1 or more pharmacists.

''(v) The term 'prescription drug' means a drug that is described in section 503(b)(1).

''(vi) The term 'wholesaler'—

''(I) means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A); and

''(II) does not include a person authorized to import drugs under section 801(d)(1).

''(E) PERMITTED COUNTRY.—The term 'permitted country' means—

''(i) Australia;

''(ii) Canada;

''(iii) a member country of the European Union, but does not include a member country with respect to which—

''(I) the country's Annex to the Treaty of Accession to the European Union 2003 includes a transitional measure for the regulation of human pharmaceutical products that has not expired; or

''(II) the Secretary determines that the requirements described in subclauses (I) and (II) of clause (vii) will not be met by the date on which such transitional measure for the regulation of human pharmaceutical products expires;

''(iv) Japan;

''(v) New Zealand;

''(vi) Switzerland; and

''(vii) a country in which the Secretary determines the following requirements are met:

''(I) The country has statutory or regulatory requirements—

''(aa) that require the review of drugs for safety and effectiveness by an entity of the government of the country;

''(bb) that authorize the approval of only those drugs that have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety and effectiveness of drugs on the basis of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs;

''(cc) that require the methods used in, and the facilities and controls used for the manufacture, processing, and packing of drugs in the country to be adequate to preserve their identity, quality, purity, and strength;

''(dd) for the reporting of adverse reactions to drugs and procedures to withdraw approval and remove drugs found not to be safe or effective; and

''(ee) that require the labeling and promotion of drugs to be in accordance with the approval of the drug.

''(II) The valid marketing authorization system in the country is equivalent to the systems in the countries described in clauses (i) through (vi).

''(III) The importation of drugs to the United States from the country will not adversely affect public health.

''(b) REGISTRATION OF IMPORTERS AND EXPORTERS.—

''(1) REGISTRATION OF IMPORTERS AND EXPORTERS.—A registration condition is that the importer or exporter involved (referred to in this subsection as a 'registrant') submits to the Secretary a registration containing the following:

''(A)(i) In the case of an exporter, the name of the exporter and an identification of all places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter.

''(ii) In the case of an importer, the name of the importer and an identification of the places of business of the importer at which the importer initially receives a qualifying drug after importation (which shall not exceed 3 places of business except by permission of the Secretary).

''(B) Such information as the Secretary determines to be necessary to demonstrate that the registrant is in compliance with registration conditions under—

''(i) in the case of an importer, subsections (c), (d), (e), (g), and (j) (relating to the

sources of imported qualifying drugs; the inspection of facilities of the importer; the payment of fees; compliance with the standards referred to in section 801(a); and maintenance of records and samples); or

''(ii) in the case of an exporter, subsections (c), (d), (f), (g), (h), (i), and (j) (relating to the sources of exported qualifying drugs; the inspection of facilities of the exporter and the marking of compliant shipments; the payment of fees; and compliance with the standards referred to in section 801(a); being licensed as a pharmacist; conditions for individual importation; and maintenance of records and samples).

''(C) An agreement by the registrant that the registrant will not under subsection (a) import or export any drug that is not a qualifying drug.

''(D) An agreement by the registrant to—

''(i) notify the Secretary of a recall or withdrawal of a qualifying drug distributed in a permitted country that the registrant has exported or imported, or intends to export or import, to the United States under subsection (a);

''(ii) provide for the return to the registrant of such drug; and

''(iii) cease, or not begin, the exportation or importation of such drug unless the Secretary has notified the registrant that exportation or importation of such drug may proceed.

''(E) An agreement by the registrant to ensure and monitor compliance with each registration condition, to promptly correct any noncompliance with such a condition, and to promptly report to the Secretary any such noncompliance.

''(F) A plan describing the manner in which the registrant will comply with the agreement under subparagraph (E).

''(G) An agreement by the registrant to enforce a contract under subsection (c)(3)(B) against a party in the chain of custody of a qualifying drug with respect to the authority of the Secretary under clauses (ii) and (iii) of that subsection.

''(H) An agreement by the registrant to notify the Secretary not more than 30 days before the registrant intends to make the change, of—

''(i) any change that the registrant intends to make regarding information provided under subparagraph (A) or (B); and

''(ii) any change that the registrant intends to make in the compliance plan under subparagraph (F).

''(I) In the case of an exporter—

''(i) An agreement by the exporter that a qualifying drug will not under subsection (a) be exported to any individual not authorized pursuant to subsection (a)(2)(B) to be an importer of such drug.

''(ii) An agreement to post a bond, payable to the Treasury of the United States that is equal in value to the lesser of—

''(I) the value of drugs exported by the exporter to the United States in a typical 4-week period over the course of a year under this section; or

''(II) $1,000,000;

''(iii) An agreement by the exporter to comply with applicable provisions of Canadian law, or the law of the permitted country designated under subsection (a)(4)(D)(i)(II) in which the exporter is located, that protect the privacy of personal information with respect to each individual importing a prescription drug from the exporter under subsection (a)(2)(B).

''(iv) An agreement by the exporter to report to the Secretary—

''(I) not later than August 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the 6-month period from January 1 through June 30 of that year; and

''(II) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.

''(J) In the case of an importer, an agreement by the importer to report to the Secretary—

''(i) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

''(ii) not later than January 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the previous fiscal year.

''(K) Such other provisions as the Secretary may require by regulation to protect the public health while permitting—

''(i) the importation by pharmacies, groups of pharmacies, and wholesalers as registered importers of qualifying drugs under subsection (a); and

''(ii) importation by individuals of qualifying drugs under subsection (a).

''(2) APPROVAL OR DISAPPROVAL OF REGISTRATION.—

''(A) IN GENERAL.—Not later than 90 days after the date on which a registrant submits to the Secretary a registration under paragraph (1), the Secretary shall notify the registrant whether the registration is approved or is disapproved. The Secretary shall disapprove a registration if there is reason to believe that the registrant is not in compliance with one or more registration conditions, and shall notify the registrant of such reason. In the case of a disapproved registration, the Secretary shall subsequently notify the registrant that the registration is approved if the Secretary determines that the registrant is in compliance with such conditions.

''(B) CHANGES IN REGISTRATION INFORMATION.—Not later than 30 days after receiving a notice under paragraph (1)(H) from a registrant, the Secretary shall determine whether the change involved affects the approval of the registration of the registrant under paragraph (1), and shall inform the registrant of the determination.

''(3) PUBLICATION OF CONTACT INFORMATION FOR REGISTERED EXPORTERS.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall make readily available to the public a list of registered exporters, including contact information for the exporters. Promptly after the approval of a registration submitted under paragraph (1), the Secretary shall update the Internet website and the information provided through the toll-free telephone number accordingly.

''(4) SUSPENSION AND TERMINATION.—

''(A) SUSPENSION.—With respect to the effectiveness of a registration submitted under paragraph (1):

''(i) Subject to clause (ii), the Secretary may suspend the registration if the Secretary determines, after notice and opportunity for a hearing, that the registrant has failed to maintain substantial compliance with a registration condition.

''(ii) If the Secretary determines that, under color of the registration, the exporter has exported a drug or the importer has imported a drug that is not a qualifying drug, or a drug that does not comply with subsection (g)(2)(A) or (g)(4), or has exported a qualifying drug to an individual in violation of subsection (i)(2)(F), the Secretary shall immediately suspend the registration. A suspension under the preceding sentence is not subject to the provision by the Secretary of prior notice, and the Secretary shall provide to the registrant an opportunity for a hearing not later than 10 days after the date on which the registration is suspended.

''(iii) The Secretary may reinstate the registration, whether suspended under clause (i) or (ii), if the Secretary determines that the registrant has demonstrated that further violations of registration conditions will not occur.

''(B) TERMINATION.—The Secretary, after notice and opportunity for a hearing, may terminate the registration under paragraph (1) of a registrant if the Secretary determines that the registrant has engaged in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under subparagraph (A)(ii) suspended the registration of the registrant. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration is terminated, any registration submitted under paragraph (1) by the registrant, or a person that is a partner in the export or import enterprise, or a principal officer in such enterprise, and any registration prepared with the assistance of the registrant or such a person, has no legal effect under this section.

''(5) DEFAULT OF BOND.—A bond required to be posted by an exporter under paragraph (1)(I)(ii) shall be defaulted and paid to the Treasury of the United States if, after opportunity for an informal hearing, the Secretary determines that the exporter has—

''(A) exported a drug to the United States that is not a qualifying drug or that is not in compliance with subsection (g)(2)(A), (g)(4), or (i); or

''(B) failed to permit the Secretary to conduct an inspection described under subsection (d).

''(c) SOURCES OF QUALIFYING DRUGS.—A registration condition is that the exporter or importer involved agrees that a qualifying drug will under subsection (a) be exported or imported into the United States only if there is compliance with the following:

''(1) The drug was manufactured in an establishment—

''(A) required to register under subsection (h) or (i) of section 510; and

''(B)(i) inspected by the Secretary; or

''(ii) for which the Secretary has elected to rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided for under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

''(2) The establishment is located in any country, and the establishment manufactured the drug for distribution in the United States or for distribution in 1 or more of the permitted countries (without regard to whether in addition the drug is manufactured for distribution in a foreign country that is not a permitted country).

''(3) The exporter or importer obtained the drug—

''(A) directly from the establishment; or

''(B) directly from an entity that, by contract with the exporter or importer—

''(i) provides to the exporter or importer a statement (in such form and containing such information as the Secretary may require) that, for the chain of custody from the establishment, identifies each prior sale, purchase, or trade of the drug (including the date of the transaction and the names and addresses of all parties to the transaction);

''(ii) agrees to permit the Secretary to inspect such statements and related records to determine their accuracy;

''(iii) agrees, with respect to the qualifying drugs involved, to permit the Secretary to

inspect warehouses and other facilities, including records, of the entity for purposes of determining whether the facilities are in compliance with any standards under this Act that are applicable to facilities of that type in the United States; and

''(iv) has ensured, through such contractual relationships as may be necessary, that the Secretary has the same authority regarding other parties in the chain of custody from the establishment that the Secretary has under clauses (ii) and (iii) regarding such entity.

''(4)(A) The foreign country from which the importer will import the drug is a permitted country; or

''(B) The foreign country from which the exporter will export the drug is the permitted country in which the exporter is located.

''(5) During any period in which the drug was not in the control of the manufacturer of the drug, the drug did not enter any country that is not a permitted country.

''(6) The exporter or importer retains a sample of each lot of the drug for testing by the Secretary.

''(d) INSPECTION OF FACILITIES; MARKING OF SHIPMENTS.—

''(1) INSPECTION OF FACILITIES.—A registration condition is that, for the purpose of assisting the Secretary in determining whether the exporter involved is in compliance with all other registration conditions—

''(A) the exporter agrees to permit the Secretary—

''(i) to conduct onsite inspections, including monitoring on a day-to-day basis, of places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter;

''(ii) to have access, including on a day-to-day basis, to—

''(I) records of the exporter that relate to the export of such drugs, including financial records; and

''(II) samples of such drugs;

''(iii) to carry out the duties described in paragraph (3); and

''(iv) to carry out any other functions determined by the Secretary to be necessary regarding the compliance of the exporter; and

''(B) the Secretary has assigned 1 or more employees of the Secretary to carry out the functions described in this subsection for the Secretary randomly, but not less than 12 times annually, on the premises of places of businesses referred to in subparagraph (A)(i), and such an assignment remains in effect on a continuous basis.

''(2) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the exporter involved agrees to affix to each shipping container of qualifying drugs exported under subsection (a) such markings as the Secretary determines to be necessary to identify the shipment as being in compliance with all registration conditions. Markings under the preceding sentence shall—

''(A) be designed to prevent affixation of the markings to any shipping container that is not authorized to bear the markings; and

''(B) include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies.

''(3) CERTAIN DUTIES RELATING TO EXPORTERS.—Duties of the Secretary with respect to an exporter include the following:

''(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the exporter at which qualifying drugs are stored and from which qualifying drugs are shipped.

''(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the exporter, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an exporter.

''(C) Randomly reviewing records of exports to individuals for the purpose of determining whether the drugs are being imported by the individuals in accordance with the conditions under subsection (i). Such reviews shall be conducted in a manner that will result in a statistically significant determination of compliance with all such conditions.

''(D) Monitoring the affixing of markings under paragraph (2).

''(E) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records, of other parties in the chain of custody of qualifying drugs.

''(F) Determining whether the exporter is in compliance with all other registration conditions.

''(4) PRIOR NOTICE OF SHIPMENTS.—A registration condition is that, not less than 8 hours and not more than 5 days in advance of the time of the importation of a shipment of qualifying drugs, the importer involved agrees to submit to the Secretary a notice with respect to the shipment of drugs to be imported or offered for import into the United States under subsection (a). A notice under the preceding sentence shall include—

''(A) the name and complete contact information of the person submitting the notice;

''(B) the name and complete contact information of the importer involved;

''(C) the identity of the drug, including the established name of the drug, the quantity of the drug, and the lot number assigned by the manufacturer;

''(D) the identity of the manufacturer of the drug, including the identity of the establishment at which the drug was manufactured;

''(E) the country from which the drug is shipped;

''(F) the name and complete contact information for the shipper of the drug;

''(G) anticipated arrival information, including the port of arrival and crossing location within that port, and the date and time;

''(H) a summary of the chain of custody of the drug from the establishment in which the drug was manufactured to the importer;

''(I) a declaration as to whether the Secretary has ordered that importation of the drug from the permitted country cease under subsection (g)(2)(C) or (D); and

''(J) such other information as the Secretary may require by regulation.

''(5) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the importer involved agrees, before wholesale distribution (as defined in section 503(e)) of a qualifying drug that has been imported under subsection (a), to affix to each container of such drug such markings or other technology as the Secretary determines necessary to identify the shipment as being in compliance with all registration conditions, except that the markings or other technology shall not be required on a drug that bears comparable, compatible markings or technology from the manufacturer of the drug. Markings or other technology under the preceding sentence shall—

''(A) be designed to prevent affixation of the markings or other technology to any container that is not authorized to bear the markings; and

''(B) shall include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of such technologies.

''(6) CERTAIN DUTIES RELATING TO IMPORTERS.—Duties of the Secretary with respect to an importer include the following:

''(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the importer at which a qualifying drug is initially received after importation.

''(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the importer, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an importer.

''(C) Reviewing notices under paragraph (4).

''(D) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records of other parties in the chain of custody of qualifying drugs.

''(E) Determining whether the importer is in compliance with all other registration conditions.

''(e) IMPORTER FEES.—

''(1) REGISTRATION FEE.—A registration condition is that the importer involved pays to the Secretary a fee of $10,000 due on the date on which the importer first submits the registration to the Secretary under subsection (b).

''(2) INSPECTION FEE.—A registration condition is that the importer involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

''(3) AMOUNT OF INSPECTION FEE.—

''(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for importers for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered importers, including the costs associated with—

''(i) inspecting the facilities of registered importers, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(6);

''(ii) developing, implementing, and operating under such subsection an electronic system for submission and review of the notices required under subsection (d)(4) with respect to shipments of qualifying drugs under subsection (a) to assess compliance with all registration conditions when such shipments are offered for import into the United States; and

''(iii) inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

''(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (a).

''(C) TOTAL PRICE OF DRUGS.—

''(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal

year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

''(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during that fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

''(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered importers during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered importer on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

''(D) INDIVIDUAL IMPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an importer shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the importer of the volume of qualifying drugs imported by importers under subsection (a).

''(4) USE OF FEES.—

''(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

''(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

''(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

''(f) EXPORTER FEES.—

''(1) REGISTRATION FEE.—A registration condition is that the exporter involved pays to the Secretary a fee of $10,000 due on the date on which the exporter first submits that registration to the Secretary under subsection (b).

''(2) INSPECTION FEE.—A registration condition is that the exporter involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

''(3) AMOUNT OF INSPECTION FEE.—

''(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for exporters for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered exporters, including the costs associated with—

''(i) inspecting the facilities of registered exporters, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(3);

''(ii) developing, implementing, and operating under such subsection a system to screen marks on shipments of qualifying drugs under subsection (a) that indicate compliance with all registration conditions, when such shipments are offered for import into the United States; and

''(iii) screening such markings, and inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

''(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered exporters under subsection (a).

''(C) TOTAL PRICE OF DRUGS.—

''(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

''(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during that fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

''(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered exporters during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered exporter on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

''(D) INDIVIDUAL EXPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an exporter shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the exporter of the volume of qualifying drugs exported by exporters under subsection (a).

''(4) USE OF FEES.—

''(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

''(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

''(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

''(g) COMPLIANCE WITH SECTION 801(a).—

''(1) IN GENERAL.—A registration condition is that each qualifying drug exported under subsection (a) by the registered exporter involved or imported under subsection (a) by the registered importer involved is in compliance with the standards referred to in section 801(a) regarding admission of the drug into the United States, subject to paragraphs (2), (3), and (4).

''(2) SECTION 505; APPROVAL STATUS.—

''(A) IN GENERAL.—A qualifying drug that is imported or offered for import under subsection (a) shall comply with the conditions established in the approved application under section 505(b) for the U.S. label drug as described under this subsection.

''(B) NOTICE BY MANUFACTURER; GENERAL PROVISIONS.—

''(i) IN GENERAL.—The person that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country shall in accordance with this paragraph submit to the Secretary a notice that—

''(I) includes each difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

''(aa) the variations provided for in the application; and

''(bb) any difference in labeling (except ingredient labeling); or

''(II) states that there is no difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

''(aa) the variations provided for in the application; and

''(bb) any difference in labeling (except ingredient labeling).

''(ii) INFORMATION IN NOTICE.—A notice under clause (i)(I) shall include the information that the Secretary may require under section 506A, any additional information the Secretary may require (which may include data on bioequivalence if such data are not required under section 506A), and, with respect to the permitted country that approved the qualifying drug for commercial distribution, or with respect to which such approval is sought, include the following:

''(I) The date on which the qualifying drug with such difference was, or will be, introduced for commercial distribution in the permitted country.

''(II) Information demonstrating that the person submitting the notice has also notified the government of the permitted country in writing that the person is submitting to the Secretary a notice under clause (i)(I), which notice describes the difference in the qualifying drug from a condition established in the approved application for the U.S. label drug.

''(III) The information that the person submitted or will submit to the government of the permitted country for purposes of obtaining approval for commercial distribution

of the drug in the country which, if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation.

''(iii) CERTIFICATIONS.—The chief executive officer and the chief medical officer of the manufacturer involved shall each certify in the notice under clause (i) that—

''(I) the information provided in the notice is complete and true; and

''(II) a copy of the notice has been provided to the Federal Trade Commission and to the State attorneys general.

''(iv) FEE.—If a notice submitted under clause (i) includes a difference that would, under section 506A, require the submission of a supplemental application if made as a change to the U.S. label drug, the person that submits the notice shall pay to the Secretary a fee in the same amount as would apply if the person were paying a fee pursuant to section 736(a)(1)(A)(ii). Subject to appropriations Acts, fees collected by the Secretary under the preceding sentence are available only to the Secretary and are for the sole purpose of paying the costs of reviewing notices submitted under clause (i).

''(v) TIMING OF SUBMISSION OF NOTICES.—

''(I) PRIOR APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (C) applies shall be submitted to the Secretary not later than 120 days before the qualifying drug with the difference is introduced for commercial distribution in a permitted country, unless the country requires that distribution of the qualifying drug with the difference begin less than 120 days after the country requires the difference.

''(II) OTHER APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (D) applies shall be submitted to the Secretary not later than the day on which the qualifying drug with the difference is introduced for commercial distribution in a permitted country.

''(III) OTHER NOTICES.—A notice under clause (i) to which subparagraph (E) applies shall be submitted to the Secretary on the date that the qualifying drug is first introduced for commercial distribution in a permitted country and annually thereafter.

''(vi) REVIEW BY SECRETARY.—

''(I) IN GENERAL.—In this paragraph, the difference in a qualifying drug that is submitted in a notice under clause (i) from the U.S. label drug shall be treated by the Secretary as if it were a manufacturing change to the U.S. label drug under section 506A.

''(II) STANDARD OF REVIEW.—Except as provided in subclause (III), the Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, using the safe and effective standard for approving or disapproving a manufacturing change under section 506A.

''(III) BIOEQUIVALENCE.—If the Secretary would approve the difference in a notice submitted under clause (i) using the safe and effective standard under section 506A and if the Secretary determines that the qualifying drug is not bioequivalent to the U.S. label drug, the Secretary shall—

''(aa) include in the labeling provided under paragraph (3) a prominent advisory that the qualifying drug is safe and effective but is not bioequivalent to the U.S. label drug if the Secretary determines that such an advisory is necessary for health care practitioners and patients to use the qualifying drug safely and effectively; or

''(bb) decline to approve the difference if the Secretary determines that the availability of both the qualifying drug and the U.S. label drug would pose a threat to the public health.

''(IV) REVIEW BY THE SECRETARY.—The Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, not later than 120 days after the date on which the notice is submitted.

''(V) ESTABLISHMENT INSPECTION.—If review of such difference would require an inspection of the establishment in which the qualifying drug is manufactured—

''(aa) such inspection by the Secretary shall be authorized; and

''(bb) the Secretary may rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

''(vii) PUBLICATION OF INFORMATION ON NOTICES.—

''(I) IN GENERAL.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall readily make available to the public a list of notices submitted under clause (i).

''(II) CONTENTS.—The list under subclause (I) shall include the date on which a notice is submitted and whether—

''(aa) a notice is under review;

''(bb) the Secretary has ordered that importation of the qualifying drug from a permitted country cease; or

''(cc) the importation of the drug is permitted under subsection (a).

''(III) UPDATE.—The Secretary shall promptly update the Internet website with any changes to the list.

''(C) NOTICE; DRUG DIFFERENCE REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(c) or (d)(3)(B)(i), require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

''(i) Promptly after the notice is submitted, the Secretary shall notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general that the notice has been submitted with respect to the qualifying drug involved.

''(ii) If the Secretary has not made a determination whether such a supplemental application regarding the U.S. label drug would be approved or disapproved by the date on which the qualifying drug involved is to be introduced for commercial distribution in a permitted country, the Secretary shall—

''(I) order that the importation of the qualifying drug involved from the permitted country not begin until the Secretary completes review of the notice; and

''(II) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the order.

''(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

''(I) order that the importation of the qualifying drug involved from the permitted country cease, or provide that an order under clause (ii), if any, remains in effect;

''(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

''(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

''(iv) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

''(I) vacate the order under clause (ii), if any;

''(II) consider the difference to be a variation provided for in the approved application for the U.S. label drug;

''(III) permit importation of the qualifying drug under subsection (a); and

''(IV) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

''(D) NOTICE; DRUG DIFFERENCE NOT REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(ii), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

''(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

''(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

''(I) order that the importation of the qualifying drug involved from the permitted country cease;

''(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

''(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

''(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the difference shall be considered to be a variation provided for in the approved application for the U.S. label drug.

''(E) NOTICE; DRUG DIFFERENCE NOT REQUIRING APPROVAL; NO DIFFERENCE.—In the case of a notice under subparagraph (B)(i) that includes a difference for which, under section 506A(d)(1)(A), a supplemental application would not be required for the difference to be made to the U.S. label drug, or that states that there is no difference, the Secretary—

''(i) shall consider such difference to be a variation provided for in the approved application for the U.S. label drug;

''(ii) may not order that the importation of the qualifying drug involved cease; and

''(iii) shall promptly notify registered exporters and registered importers.

''(F) DIFFERENCES IN ACTIVE INGREDIENT, ROUTE OF ADMINISTRATION, DOSAGE FORM, OR STRENGTH.—

''(i) IN GENERAL.—A person who manufactures a drug approved under section 505(b) shall submit an application under section 505(b) for approval of another drug that is manufactured for distribution in a permitted country by or for the person that manufactures the drug approved under section 505(b) if—

''(I) there is no qualifying drug in commercial distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries with the same active ingredient or ingredients, route of administration, dosage form, and strength as the drug approved under section 505(b); and

''(II) each active ingredient of the other drug is related to an active ingredient of the drug approved under section 505(b), as defined in clause (v).

''(ii) APPLICATION UNDER SECTION 505(b).—The application under section 505(b) required under clause (i) shall—

''(I) request approval of the other drug for the indication or indications for which the drug approved under section 505(b) is labeled;

''(II) include the information that the person submitted to the government of the permitted country for purposes of obtaining approval for commercial distribution of the other drug in that country, which if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation;

''(III) include a right of reference to the application for the drug approved under section 505(b); and

''(IV) include such additional information as the Secretary may require.

''(iii) TIMING OF SUBMISSION OF APPLICATION.—An application under section 505(b) required under clause (i) shall be submitted to the Secretary not later than the day on which the information referred to in clause (ii)(II) is submitted to the government of the permitted country.

''(iv) NOTICE OF DECISION ON APPLICATION.—The Secretary shall promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of a determination to approve or to disapprove an application under section 505(b) required under clause (i).

''(v) RELATED ACTIVE INGREDIENTS.—For purposes of clause (i)(II), 2 active ingredients are related if they are—

''(I) the same; or

''(II) different salts, esters, or complexes of the same moiety.

''(3) SECTION 502; LABELING.—

''(A) IMPORTATION BY REGISTERED IMPORTER.—

''(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered importer, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the qualifying drug bears—

''(I) a copy of the labeling approved for the U.S. label drug under section 505, without regard to whether the copy bears any trademark involved;

''(II) the name of the manufacturer and location of the manufacturer;

''(III) the lot number assigned by the manufacturer;

''(IV) the name, location, and registration number of the importer; and

''(V) the National Drug Code number assigned to the qualifying drug by the Secretary.

''(ii) REQUEST FOR COPY OF THE LABELING.—The Secretary shall provide such copy to the registered importer involved, upon request of the importer.

''(iii) REQUESTED LABELING.—The labeling provided by the Secretary under clause (ii) shall—

''(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the qualifying drug;

''(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof;

''(III) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the qualifying drug is safe and effective but not bioequivalent to the U.S. label drug; and

''(IV) if the inactive ingredients of the qualifying drug are different from the inactive ingredients for the U.S. label drug, include—

''(aa) a prominent notice that the ingredients of the qualifying drug differ from the ingredients of the U.S. label drug and that the qualifying drug must be dispensed with an advisory to people with allergies about this difference and a list of ingredients; and

''(bb) a list of the ingredients of the qualifying drug as would be required under section 502(e).

''(B) IMPORTATION BY INDIVIDUAL.—

''(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered exporter to an individual, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the packaging and labeling of the qualifying drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and the labeling of the qualifying drug includes—

''(I) directions for use by the consumer;

''(II) the lot number assigned by the manufacturer;

''(III) the name and registration number of the exporter;

''(IV) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug;

''(V) if the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

''(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

''(bb) a list of the ingredients of the drug as would be required under section 502(e); and

''(VI) a copy of any special labeling that would be required by the Secretary had the U.S. label drug been dispensed by a pharmacist in the United States, without regard to whether the special labeling bears any trademark involved.

''(ii) PACKAGING.—A qualifying drug offered for import to an individual by an exporter under this section that is packaged in a unit-of-use container (as those items are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

''(I) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

''(II) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the exporter will provide the drug in packaging that is compliant at no additional cost.

''(iii) REQUEST FOR COPY OF SPECIAL LABELING AND INGREDIENT LIST.—The Secretary shall provide to the registered exporter involved a copy of the special labeling, the advisory, and the ingredient list described under clause (i), upon request of the exporter.

''(iv) REQUESTED LABELING AND INGREDIENT LIST.—The labeling and ingredient list provided by the Secretary under clause (iii) shall—

''(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the drug; and

''(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof.

''(4) SECTION 501; ADULTERATION.—A qualifying drug that is imported or offered for import under subsection (a) shall be considered to be in compliance with section 501 if the drug is in compliance with subsection (c).

''(5) STANDARDS FOR REFUSING ADMISSION.—A drug exported under subsection (a) from a registered exporter or imported by a registered importer may be refused admission into the United States if 1 or more of the following applies:

''(A) The drug is not a qualifying drug.

''(B) A notice for the drug required under paragraph (2)(B) has not been submitted to the Secretary.

''(C) The Secretary has ordered that importation of the drug from the permitted country cease under paragraph (2)(C) or (D).

''(D) The drug does not comply with paragraph (3) or (4).

''(E) The shipping container appears damaged in a way that may affect the strength, quality, or purity of the drug.

''(F) The Secretary becomes aware that—

''(i) the drug may be counterfeit;

''(ii) the drug may have been prepared, packed, or held under insanitary conditions; or

''(iii) the methods used in, or the facilities or controls used for, the manufacturing, processing, packing, or holding of the drug do not conform to good manufacturing practice.

''(G) The Secretary has obtained an injunction under section 302 that prohibits the distribution of the drug in interstate commerce.

''(H) The Secretary has under section 505(e) withdrawn approval of the drug.

''(I) The manufacturer of the drug has instituted a recall of the drug.

''(J) If the drug is imported or offered for import by a registered importer without submission of a notice in accordance with subsection (d)(4).

''(K) If the drug is imported or offered for import from a registered exporter to an individual and 1 or more of the following applies:

''(i) The shipping container for such drug does not bear the markings required under subsection (d)(2).

''(ii) The markings on the shipping container appear to be counterfeit.

''(iii) The shipping container or markings appear to have been tampered with.

''(h) EXPORTER LICENSURE IN PERMITTED COUNTRY.—A registration condition is that the exporter involved agrees that a qualifying drug will be exported to an individual only if the Secretary has verified that—

''(1) the exporter is authorized under the law of the permitted country in which the exporter is located to dispense prescription drugs; and

''(2) the exporter employs persons that are licensed under the law of the permitted country in which the exporter is located to dispense prescription drugs in sufficient number to dispense safely the drugs exported by the exporter to individuals, and the exporter assigns to those persons responsibility for dispensing such drugs to individuals.

''(i) INDIVIDUALS; CONDITIONS FOR IMPORTATION.—

''(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the importation of a qualifying drug by an individual is in accordance with this subsection if the following conditions are met:

''(A) The drug is accompanied by a copy of a prescription for the drug, which prescription—

''(i) is valid under applicable Federal and State laws; and

''(ii) was issued by a practitioner who, under the law of a State of which the individual is a resident, or in which the individual receives care from the practitioner who issues the prescription, is authorized to administer prescription drugs.

''(B) The drug is accompanied by a copy of the documentation that was required under the law or regulations of the permitted country in which the exporter is located, as a condition of dispensing the drug to the individual.

''(C) The copies referred to in subparagraphs (A)(i) and (B) are marked in a manner sufficient—

''(i) to indicate that the prescription, and the equivalent document in the permitted country in which the exporter is located, have been filled; and

''(ii) to prevent a duplicative filling by another pharmacist.

''(D) The individual has provided to the registered exporter a complete list of all drugs used by the individual for review by the individuals who dispense the drug.

''(E) The quantity of the drug does not exceed a 90-day supply.

''(F) The drug is not an ineligible subpart H drug. For purposes of this section, a prescription drug is an 'ineligible subpart H drug' if the drug was approved by the Secretary under subpart H of part 314 of title 21, Code of Federal Regulations (relating to accelerated approval), with restrictions under section 520 of such part to assure safe use, and the Secretary has published in the Federal Register a notice that the Secretary has determined that good cause exists to prohibit the drug from being imported pursuant to this subsection.

''(2) NOTICE REGARDING DRUG REFUSED ADMISSION.—If a registered exporter ships a drug to an individual pursuant to subsection (a)(2)(B) and the drug is refused admission to the United States, a written notice shall be sent to the individual and to the exporter that informs the individual and the exporter of such refusal and the reason for the refusal.

''(j) MAINTENANCE OF RECORDS AND SAMPLES.—

''(1) IN GENERAL.—A registration condition is that the importer or exporter involved shall—

''(A) maintain records required under this section for not less than 2 years; and

''(B) maintain samples of each lot of a qualifying drug required under this section for not more than 2 years.

''(2) PLACE OF RECORD MAINTENANCE.—The records described under paragraph (1) shall be maintained—

''(A) in the case of an importer, at the place of business of the importer at which the importer initially receives the qualifying drug after importation; or

''(B) in the case of an exporter, at the facility from which the exporter ships the qualifying drug to the United States.

''(k) DRUG RECALLS.—

''(1) MANUFACTURERS.—A person that manufactures a qualifying drug imported from a permitted country under this section shall promptly inform the Secretary—

''(A) if the drug is recalled or withdrawn from the market in a permitted country;

''(B) how the drug may be identified, including lot number; and

''(C) the reason for the recall or withdrawal.

''(2) SECRETARY.—With respect to each permitted country, the Secretary shall—

''(A) enter into an agreement with the government of the country to receive information about recalls and withdrawals of qualifying drugs in the country; or

''(B) monitor recalls and withdrawals of qualifying drugs in the country using any information that is available to the public in any media.

''(3) NOTICE.—The Secretary may notify, as appropriate, registered exporters, registered importers, wholesalers, pharmacies, or the public of a recall or withdrawal of a qualifying drug in a permitted country.

''(l) DRUG LABELING AND PACKAGING.—

''(1) IN GENERAL.—When a qualifying drug that is imported into the United States by an importer under subsection (a) is dispensed by a pharmacist to an individual, the pharmacist shall provide that the packaging and labeling of the drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and shall include with any other labeling provided to the individual the following:

''(A) The lot number assigned by the manufacturer.

''(B) The name and registration number of the importer.

''(C) If required under paragraph (2)(B)(vi)(III) of subsection (g), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug.

''(D) If the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

''(i) a prominent advisory that persons with allergies should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

''(ii) a list of the ingredients of the drug as would be required under section 502(e).

''(2) PACKAGING.—A qualifying drug that is packaged in a unit-of-use container (as those terms are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

''(A) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

''(B) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the pharmacist will provide the drug in packaging that is compliant at no additional cost.

''(m) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, this section does not authorize the importation into the United States of a qualifying drug donated or otherwise supplied for free or at nominal cost by the manufacturer of the drug to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country.

''(n) UNFAIR AND DISCRIMINATORY ACTS AND PRACTICES.—

''(1) IN GENERAL.—It is unlawful for a manufacturer, directly or indirectly (including by being a party to a licensing agreement or other agreement), to—

''(A) discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of rebates or other incentives to the permitted country or other person, to another person that is in the same country and that does not export a qualifying drug into the United States under this section;

''(B) discriminate by charging a higher price for a prescription drug sold to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section than the price that is charged to another person in the United States that does not import a qualifying drug under this section, or that does not distribute, sell, or use such a drug;

''(C) discriminate by denying, restricting, or delaying supplies of a prescription drug to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

''(D) discriminate by publicly, privately, or otherwise refusing to do business with a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or with a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

''(E) knowingly fail to submit a notice under subsection (g)(2)(B)(i), knowingly fail to submit such a notice on or before the date specified in subsection (g)(2)(B)(v) or as otherwise required under subsection (e)(3), (4), and (5) of section 4 of the Pharmaceutical Market Access and Drug Safety Act of 2007, knowingly submit such a notice that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such a notice;

''(F) knowingly fail to submit an application required under subsection (g)(2)(F), knowingly fail to submit such an application on or before the date specified in subsection (g)(2)(F)(ii), knowingly submit such an application that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such an application;

''(G) cause there to be a difference (including a difference in active ingredient, route of administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) between a prescription drug for distribution in the United States and the drug for distribution in a permitted country;

''(H) refuse to allow an inspection authorized under this section of an establishment that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country;

''(I) fail to conform to the methods used in, or the facilities used for, the manufacturing, processing, packing, or holding of a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country to good manufacturing practice under this Act;

''(J) become a party to a licensing agreement or other agreement related to a qualifying drug that fails to provide for compliance with all requirements of this section with respect to such drug;

''(K) enter into a contract that restricts, prohibits, or delays the importation of a qualifying drug under this section;

''(L) engage in any other action to restrict, prohibit, or delay the importation of a qualifying drug under this section; or

''(M) engage in any other action that the Federal Trade Commission determines to discriminate against a person that engages or attempts to engage in the importation of a qualifying drug under this section.

''(2) REFERRAL OF POTENTIAL VIOLATIONS.—The Secretary shall promptly refer to the Federal Trade Commission each potential violation of subparagraph (E), (F), (G), (H), or (I) of paragraph (1) that becomes known to the Secretary.

''(3) AFFIRMATIVE DEFENSE.—

''(A) DISCRIMINATION.—It shall be an affirmative defense to a charge that a manufacturer has discriminated under subparagraph (A), (B), (C), (D), or (M) of paragraph (1) that the higher price charged for a prescription drug sold to a person, the denial, restriction, or delay of supplies of a prescription drug to a person, the refusal to do business with a person, or other discriminatory activity against a person, is not based, in whole or in part, on—

''(i) the person exporting or importing a qualifying drug into the United States under this section; or

''(ii) the person distributing, selling, or using a qualifying drug imported into the United States under this section.

''(B) DRUG DIFFERENCES.—It shall be an affirmative defense to a charge that a manufacturer has caused there to be a difference described in subparagraph (G) of paragraph (1) that—

''(i) the difference was required by the country in which the drug is distributed;

''(ii) the Secretary has determined that the difference was necessary to improve the safety or effectiveness of the drug;

''(iii) the person manufacturing the drug for distribution in the United States has given notice to the Secretary under subsection (g)(2)(B)(i) that the drug for distribution in the United States is not different from a drug for distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries; or

''(iv) the difference was not caused, in whole or in part, for the purpose of restricting importation of the drug into the United States under this section.

''(4) EFFECT OF SUBSECTION.—

''(A) SALES IN OTHER COUNTRIES.—This subsection applies only to the sale or distribution of a prescription drug in a country if the manufacturer of the drug chooses to sell or distribute the drug in the country. Nothing in this subsection shall be construed to compel the manufacturer of a drug to distribute or sell the drug in a country.

''(B) DISCOUNTS TO INSURERS, HEALTH PLANS, PHARMACY BENEFIT MANAGERS, AND COVERED ENTITIES.—Nothing in this subsection shall be construed to—

''(i) prevent or restrict a manufacturer of a prescription drug from providing discounts to an insurer, health plan, pharmacy benefit manager in the United States, or covered entity in the drug discount program under section 340B of the Public Health Service Act (42 U.S.C. 256b) in return for inclusion of the drug on a formulary;

''(ii) require that such discounts be made available to other purchasers of the prescription drug; or

''(iii) prevent or restrict any other measures taken by an insurer, health plan, or pharmacy benefit manager to encourage consumption of such prescription drug.

''(C) CHARITABLE CONTRIBUTIONS.—Nothing in this subsection shall be construed to—

''(i) prevent a manufacturer from donating a prescription drug, or supplying a prescription drug at nominal cost, to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country; or

''(ii) apply to such donations or supplying of a prescription drug.

''(5) ENFORCEMENT.—

''(A) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this subsection shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

''(B) ACTIONS BY THE COMMISSION.—The Federal Trade Commission—

''(i) shall enforce this subsection in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section; and

''(ii) may seek monetary relief threefold the damages sustained, in addition to any other remedy available to the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

''(6) ACTIONS BY STATES.—

''(A) IN GENERAL.—

''(i) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State have been adversely affected by any manufacturer that violates paragraph (1), the attorney general of a State may bring a civil action on behalf of the residents of the State, and persons doing business in the State, in a district court of the United States of appropriate jurisdiction to—

''(I) enjoin that practice;

''(II) enforce compliance with this subsection;

''(III) obtain damages, restitution, or other compensation on behalf of residents of the State and persons doing business in the State, including threefold the damages; or

''(IV) obtain such other relief as the court may consider to be appropriate.

''(ii) NOTICE.—

''(I) IN GENERAL.—Before filing an action under clause (i), the attorney general of the State involved shall provide to the Federal Trade Commission—

''(aa) written notice of that action; and

''(bb) a copy of the complaint for that action.

''(II) EXEMPTION.—Subclause (I) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph, if the attorney general determines that it is not feasible to provide the notice described in that subclause before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Federal Trade Commission at the same time as the attorney general files the action.

''(B) INTERVENTION.—

''(i) IN GENERAL.—On receiving notice under subparagraph (A)(ii), the Federal Trade Commission shall have the right to intervene in the action that is the subject of the notice.

''(ii) EFFECT OF INTERVENTION.—If the Federal Trade Commission intervenes in an action under subparagraph (A), it shall have the right—

''(I) to be heard with respect to any matter that arises in that action; and

''(II) to file a petition for appeal.

''(C) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

''(i) conduct investigations;

''(ii) administer oaths or affirmations; or

''(iii) compel the attendance of witnesses or the production of documentary and other evidence.

''(D) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Federal Trade Commission for a violation of paragraph (1), a State may not, during the pendency of that action, institute an action under subparagraph (A) for the same violation against any defendant named in the complaint in that action.

''(E) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(F) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) may be found.

''(G) MEASUREMENT OF DAMAGES.—In any action under this paragraph to enforce a cause of action under this subsection in which there has been a determination that a defendant has violated a provision of this subsection, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

''(H) EXCLUSION ON DUPLICATIVE RELIEF.—The district court shall exclude from the amount of monetary relief awarded in an action under this paragraph brought by the attorney general of a State any amount of monetary relief which duplicates amounts which have been awarded for the same injury.

''(7) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws. For the purpose of this subsection, the term 'antitrust laws' has the meaning given it in the first section of the Clayton Act, except that it includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

''(8) MANUFACTURER.—In this subsection, the term 'manufacturer' means any entity, including any affiliate or licensee of that entity, that is engaged in—

''(A) the production, preparation, propagation, compounding, conversion, or processing of a prescription drug, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

''(B) the packaging, repackaging, labeling, relabeling, or distribution of a prescription drug.''.

(b) PROHIBITED ACTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301 (21 U.S.C. 331), by striking paragraph (aa) and inserting the following:

''(aa)(1) The sale or trade by a pharmacist, or by a business organization of which the pharmacist is a part, of a qualifying drug that under section 804(a)(2)(A) was imported by the pharmacist, other than—

''(A) a sale at retail made pursuant to dispensing the drug to a customer of the pharmacist or organization; or

''(B) a sale or trade of the drug to a pharmacy or a wholesaler registered to import drugs under section 804.

''(2) The sale or trade by an individual of a qualifying drug that under section 804(a)(2)(B) was imported by the individual.

''(3) The making of a materially false, fictitious, or fraudulent statement or representation, or a material omission, in a notice under clause (i) of section 804(g)(2)(B) or in an application required under section 804(g)(2)(F), or the failure to submit such a notice or application.

''(4) The importation of a drug in violation of a registration condition or other requirement under section 804, the falsification of any record required to be maintained, or provided to the Secretary, under such section, or the violation of any registration condition or other requirement under such section.''; and

(2) in section 303(a) (21 U.S.C. 333(a)), by striking paragraph (6) and inserting the following:

''(6) Notwithstanding subsection (a), any person that knowingly violates section 301(i)(2) or (3) or section 301(aa)(4) shall be imprisoned not more than 10 years, or fined in accordance with title 18, United States Code, or both.''.

(c) AMENDMENT OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by striking subsection (g) and inserting the following:

''(g) With respect to a prescription drug that is imported or offered for import into the United States by an individual who is not in the business of such importation, that is not shipped by a registered exporter under section 804, and that is refused admission under subsection (a), the Secretary shall notify the individual that—

''(1) the drug has been refused admission because the drug was not a lawful import under section 804;

''(2) the drug is not otherwise subject to a waiver of the requirements of subsection (a);

''(3) the individual may under section 804 lawfully import certain prescription drugs from exporters registered with the Secretary under section 804; and

''(4) the individual can find information about such importation, including a list of registered exporters, on the Internet website of the Food and Drug Administration or through a toll-free telephone number required under section 804.''.

(2) ESTABLISHMENT REGISTRATION.—Section 510(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(i)) is amended in paragraph (1) by inserting after ''import into the United States'' the following: '', including a drug that is, or may be, imported or offered for import into the United States under section 804,''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 90 days after the date of enactment of this title.

(d) EXHAUSTION.—

(1) IN GENERAL.—Section 271 of title 35, United States Code, is amended—

(A) by redesignating subsections (h) and (i) as (i) and (j), respectively; and

(B) by inserting after subsection (g) the following:

''(h) It shall not be an act of infringement to use, offer to sell, or sell within the United States or to import into the United States any patented invention under section 804 of the Federal Food, Drug, and Cosmetic Act that was first sold abroad by or under authority of the owner or licensee of such patent.''.

(2) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (1) shall be construed to affect the ability of a patent owner or licensee to enforce their patent, subject to such amendment.

(e) EFFECT OF SECTION 804.—

(1) IN GENERAL.—Section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall permit the importation of qualifying drugs (as defined in such section 804) into the United States without regard to the status of the issuance of implementing regulations—

(A) from exporters registered under such section 804 on the date that is 90 days after the date of enactment of this title; and

(B) from permitted countries, as defined in such section 804, by importers registered under such section 804 on the date that is 1 year after the date of enactment of this title.

(2) REVIEW OF REGISTRATION BY CERTAIN EXPORTERS.—

(A) REVIEW PRIORITY.—In the review of registrations submitted under subsection (b) of such section 804, registrations submitted by entities in Canada that are significant exporters of prescription drugs to individuals in the United States as of the date of enactment of this title will have priority during the 90 day period that begins on such date of enactment.

(B) PERIOD FOR REVIEW.—During such 90-day period, the reference in subsection (b)(2)(A) of such section 804 to 90 days (relating to approval or disapproval of registrations) is, as applied to such entities, deemed to be 30 days.

(C) LIMITATION.—That an exporter in Canada exports, or has exported, prescription drugs to individuals in the United States on or before the date that is 90 days after the date of enactment of this title shall not serve as a basis, in whole or in part, for disapproving a registration under such section 804 from the exporter.

(D) FIRST YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date of enactment of this title, the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') may limit the number of registered exporters under such section 804 to not less than 50, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(E) SECOND YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this title, the Secretary may limit the number of registered exporters under such section 804 to not less than 100, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(F) FURTHER LIMIT ON NUMBER OF EXPORTERS.—During any 1-year period beginning on a date that is 2 or more years after the date of enactment of this title, the Secretary may limit the number of registered exporters under such section 804 to not less than 25 more than the number of such exporters during the previous 1-year period, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(3) LIMITS ON NUMBER OF IMPORTERS.—

(A) FIRST YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 100 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs imported into the United States.

(B) SECOND YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 2 years after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 200 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs into the United States.

(C) FURTHER LIMIT ON NUMBER OF IMPORTERS.—During any 1-year period beginning on a date that is 3 or more years after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 50 more (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups) than the number of such importers during the previous 1-year period, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs to the United States.

(4) NOTICES FOR DRUGS FOR IMPORT FROM CANADA.—The notice with respect to a qualifying drug introduced for commercial distribution in Canada as of the date of enactment of this title that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 30 days after the date of enactment of this title if—

(A) the U.S. label drug (as defined in such section 804) for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period most recently completed before the date of enactment of this Act; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(5) NOTICE FOR DRUGS FOR IMPORT FROM OTHER COUNTRIES.—The notice with respect to a qualifying drug introduced for commercial distribution in a permitted country other than Canada as of the date of enactment of this title that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 180 days after the date of enactment of this title if—

(A) the U.S. label drug for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period that is first completed on the date that is 120 days after the date of enactment of this title; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(6) NOTICE FOR OTHER DRUGS FOR IMPORT.—

(A) GUIDANCE ON SUBMISSION DATES.—The Secretary shall by guidance establish a series of submission dates for the notices under subsection (g)(2)(B)(i) of such section 804 with respect to qualifying drugs introduced for commercial distribution as of the date of enactment of this title and that are not required to be submitted under paragraph (4) or (5).

(B) CONSISTENT AND EFFICIENT USE OF RESOURCES.—The Secretary shall establish the dates described under subparagraph (A) so that such notices described under subparagraph (A) are submitted and reviewed at a rate that allows consistent and efficient use of the resources and staff available to the Secretary for such reviews. The Secretary may condition the requirement to submit such a notice, and the review of such a notice, on the submission by a registered exporter or a registered importer to the Secretary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(C) PRIORITY FOR DRUGS WITH HIGHER SALES.—The Secretary shall establish the dates described under subparagraph (A) so that the Secretary reviews the notices described under such subparagraph with respect to qualifying drugs with higher dollar volume of sales in the United States before the notices with respect to drugs with lower sales in the United States.

(7) NOTICES FOR DRUGS APPROVED AFTER EFFECTIVE DATE.—The notice required under subsection (g)(2)(B)(i) of such section 804 for a qualifying drug first introduced for commercial distribution in a permitted country (as defined in such section 804) after the date of enactment of this title shall be submitted to and reviewed by the Secretary as provided under subsection (g)(2)(B) of such section 804, without regard to paragraph (4), (5), or (6).

(8) REPORT.—Beginning with the first full fiscal year after the date of enactment of this title, not later than 90 days after the end of each fiscal year during which the Secretary reviews a notice referred to in paragraph (4), (5), or (6), the Secretary shall submit a report to Congress concerning the

progress of the Food and Drug Administration in reviewing the notices referred to in paragraphs (4), (5), and (6).

(9) USER FEES.—

(A) EXPORTERS.—When establishing an aggregate total of fees to be collected from exporters under subsection (f)(2) of such section 804, the Secretary shall, under subsection (f)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered exporters during the first fiscal year in which this title takes effect to be an amount equal to the amount which bears the same ratio to $1,000,000,000 as the number of days in such fiscal year during which this title is effective bears to 365.

(B) IMPORTERS.—When establishing an aggregate total of fees to be collected from importers under subsection (e)(2) of such section 804, the Secretary shall, under subsection (e)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered importers during—

(i) the first fiscal year in which this title takes effect to be an amount equal to the amount which bears the same ratio to $1,000,000,000 as the number of days in such fiscal year during which this title is effective bears to 365; and

(ii) the second fiscal year in which this title is in effect to be $3,000,000,000.

(C) SECOND YEAR ADJUSTMENT.—

(i) REPORTS.—Not later than February 20 of the second fiscal year in which this title is in effect, registered importers shall report to the Secretary the total price and the total volume of drugs imported to the United States by the importer during the 4-month period from October 1 through January 31 of such fiscal year.

(ii) REESTIMATE.—Notwithstanding subsection (e)(3)(C)(ii) of such section 804 or subparagraph (B), the Secretary shall reestimate the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during the second fiscal year in which this title is in effect. Such reestimate shall be equal to—

(I) the total price of qualifying drugs imported by each importer as reported under clause (i); multiplied by

(II) 3.

(iii) ADJUSTMENT.—The Secretary shall adjust the fee due on April 1 of the second fiscal year in which this title is in effect, from each importer so that the aggregate total of fees collected under subsection (e)(2) for such fiscal year does not exceed the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during such fiscal year as reestimated under clause (ii).

(D) FAILURE TO PAY FEES.—Notwithstanding any other provision of this section, the Secretary may prohibit a registered importer or exporter that is required to pay user fees under subsection (e) or (f) of such section 804 and that fails to pay such fees within 30 days after the date on which it is due, from importing or offering for importation a qualifying drug under such section 804 until such fee is paid.

(E) ANNUAL REPORT.—

(i) FOOD AND DRUG ADMINISTRATION.—Not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e), (f), or (g)(2)(B)(iv) of such section 804, the Secretary shall prepare and submit to the House of Representatives and the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for the fiscal year for which the report is made and credited to the Food and Drug Administration.

(ii) CUSTOMS AND BORDER CONTROL.—Not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e) or (f) of such section 804, the Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall prepare and submit to the House of Representatives and the Senate a report on the use, by the Bureau of Customs and Border Protection, of the fees, if any, transferred by the Secretary to the Bureau of Customs and Border Protection for the fiscal year for which the report is made.

(10) SPECIAL RULE REGARDING IMPORTATION BY INDIVIDUALS.—

(A) IN GENERAL.—Notwithstanding any provision of this title (or an amendment made by this title), the Secretary shall expedite the designation of any additional countries from which an individual may import a qualifying drug into the United States under such section 804 if any action implemented by the Government of Canada has the effect of limiting or prohibiting the importation of qualifying drugs into the United States from Canada.

(B) TIMING AND CRITERIA.—The Secretary shall designate such additional countries under subparagraph (A)—

(i) not later than 6 months after the date of the action by the Government of Canada described under such subparagraph; and

(ii) using the criteria described under subsection (a)(4)(D)(i)(II) of such section 804.

(f) IMPLEMENTATION OF SECTION 804.—

(1) INTERIM RULE.—The Secretary may promulgate an interim rule for implementing section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section.

(2) NO NOTICE OF PROPOSED RULEMAKING.—The interim rule described under paragraph (1) may be developed and promulgated by the Secretary without providing general notice of proposed rulemaking.

(3) FINAL RULE.—Not later than 1 year after the date on which the Secretary promulgates an interim rule under paragraph (1), the Secretary shall, in accordance with procedures under section 553 of title 5, United States Code, promulgate a final rule for implementing such section 804, which may incorporate by reference provisions of the interim rule provided for under paragraph (1), to the extent that such provisions are not modified.

(g) CONSUMER EDUCATION.—The Secretary shall carry out activities that educate consumers—

(1) with regard to the availability of qualifying drugs for import for personal use from an exporter registered with and approved by the Food and Drug Administration under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by this section, including information on how to verify whether an exporter is registered and approved by use of the Internet website of the Food and Drug Administration and the toll-free telephone number required by this title;

(2) that drugs that consumers attempt to import from an exporter that is not registered with and approved by the Food and Drug Administration can be seized by the United States Customs Service and destroyed, and that such drugs may be counterfeit, unapproved, unsafe, or ineffective;

(3) with regard to the suspension and termination of any registration of a registered importer or exporter under such section 804; and

(4) with regard to the availability at domestic retail pharmacies of qualifying drugs imported under such section 804 by domestic wholesalers and pharmacies registered with and approved by the Food and Drug Administration.

(h) EFFECT ON ADMINISTRATION PRACTICES.—Notwithstanding any provision of this title (and the amendments made by this title), the practices and policies of the Food and Drug Administration and Bureau of Customs and Border Protection, in effect on January 1, 2004, with respect to the importation of prescription drugs into the United States by an individual, on the person of such individual, for personal use, shall remain in effect.

(i) REPORT TO CONGRESS.—The Federal Trade Commission shall, on an annual basis, submit to Congress a report that describes any action taken during the period for which the report is being prepared to enforce the provisions of section 804(n) of the Federal Food, Drug, and Cosmetic Act (as added by this title), including any pending investigations or civil actions under such section.

SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION INTO UNITED STATES.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 804, is further amended by adding at the end the following section:

"SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION.

''(a) IN GENERAL.—The Secretary of Homeland Security shall deliver to the Secretary a shipment of drugs that is imported or offered for import into the United States if—

''(1) the shipment has a declared value of less than $10,000; and

''(2)(A) the shipping container for such drugs does not bear the markings required under section 804(d)(2); or

''(B) the Secretary has requested delivery of such shipment of drugs.

''(b) NO BOND OR EXPORT.—Section 801(b) does not authorize the delivery to the owner or consignee of drugs delivered to the Secretary under subsection (a) pursuant to the execution of a bond, and such drugs may not be exported.

''(c) DESTRUCTION OF VIOLATIVE SHIPMENT.—The Secretary shall destroy a shipment of drugs delivered by the Secretary of Homeland Security to the Secretary under subsection (a) if—

''(1) in the case of drugs that are imported or offered for import from a registered exporter under section 804, the drugs are in violation of any standard described in section 804(g)(5); or

''(2) in the case of drugs that are not imported or offered for import from a registered exporter under section 804, the drugs are in violation of a standard referred to in section 801(a) or 801(d)(1).

''(d) CERTAIN PROCEDURES.—

''(1) IN GENERAL.—The delivery and destruction of drugs under this section may be carried out without notice to the importer, owner, or consignee of the drugs except as required by section 801(g) or section 804(i)(2). The issuance of receipts for the drugs, and recordkeeping activities regarding the drugs, may be carried out on a summary basis.

''(2) OBJECTIVE OF PROCEDURES.—Procedures promulgated under paragraph (1) shall be designed toward the objective of ensuring that, with respect to efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to described in subsection (c) are identified and destroyed.

''(e) EVIDENCE EXCEPTION.—Drugs may not be destroyed under subsection (c) to the extent that the Attorney General of the United States determines that the drugs should be preserved as evidence or potential evidence with respect to an offense against the United States.

''(f) RULE OF CONSTRUCTION.—This section may not be construed as having any legal effect on applicable law with respect to a shipment of drugs that is imported or offered for import into the United States and has a declared value equal to or greater than $10,000.''.

(b) PROCEDURES.—Procedures for carrying out section 805 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall be established not later than 90 days after the date of the enactment of this title.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 90 days after the date of enactment of this title.

SEC. 806. WHOLESALE DISTRIBUTION OF DRUGS; STATEMENTS REGARDING PRIOR SALE, PURCHASE, OR TRADE.

(a) STRIKING OF EXEMPTIONS; APPLICABILITY TO REGISTERED EXPORTERS.—Section 503(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(e)) is amended—

(1) in paragraph (1)—

(A) by striking ''and who is not the manufacturer or an authorized distributor of record of such drug'';

(B) by striking ''to an authorized distributor of record or''; and

(C) by striking subparagraph (B) and inserting the following:

''(B) The fact that a drug subject to subsection (b) is exported from the United States does not with respect to such drug exempt any person that is engaged in the business of the wholesale distribution of the drug from providing the statement described in subparagraph (A) to the person that receives the drug pursuant to the export of the drug.

''(C)(i) The Secretary shall by regulation establish requirements that supersede subparagraph (A) (referred to in this subparagraph as 'alternative requirements') to identify the chain of custody of a drug subject to subsection (b) from the manufacturer of the drug throughout the wholesale distribution of the drug to a pharmacist who intends to sell the drug at retail if the Secretary determines that the alternative requirements, which may include standardized anti-counterfeiting or track-and-trace technologies, will identify such chain of custody or the identity of the discrete package of the drug from which the drug is dispensed with equal or greater certainty to the requirements of subparagraph (A), and that the alternative requirements are economically and technically feasible.

''(ii) When the Secretary promulgates a final rule to establish such alternative requirements, the final rule in addition shall, with respect to the registration condition established in clause (i) of section 804(c)(3)(B), establish a condition equivalent to the alternative requirements, and such equivalent condition may be met in lieu of the registration condition established in such clause (i).'';

(2) in paragraph (2)(A), by adding at the end the following: ''The preceding sentence may not be construed as having any applicability with respect to a registered exporter under section 804.''; and

(3) in paragraph (3), by striking ''and subsection (d)—'' in the matter preceding subparagraph (A) and all that follows through ''the term 'wholesale distribution' means'' in subparagraph (B) and inserting the following: ''and subsection (d), the term 'wholesale distribution' means''.

(b) CONFORMING AMENDMENT.—Section 503(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(d)) is amended by adding at the end the following:

''(4) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug.

''(5) For purposes of this subsection, the term 'authorized distributors of record' means those distributors with whom a manufacturer has established an ongoing relationship to distribute such manufacturer's products.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on January 1, 2010.

(2) DRUGS IMPORTED BY REGISTERED IMPORTERS UNDER SECTION 804.—Notwithstanding paragraph (1), the amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on the date that is 90 days after the date of enactment of this title with respect to qualifying drugs imported under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by section 804.

(3) EFFECT WITH RESPECT TO REGISTERED EXPORTERS.—The amendment made by subsection (a)(2) shall take effect on the date that is 90 days after the date of enactment of this title.

(4) ALTERNATIVE REQUIREMENTS.—The Secretary shall issue regulations to establish the alternative requirements, referred to in the amendment made by subsection (a)(1), that take effect not later than January 1, 2010.

(5) INTERMEDIATE REQUIREMENTS.—The Secretary shall by regulation require the use of standardized anti-counterfeiting or track-and-trace technologies on prescription drugs at the case and pallet level effective not later than 1 year after the date of enactment of this title.

(6) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary shall, not later than 18 months after the date of enactment of this title, require that the packaging of any prescription drug incorporates—

(i) a standardized numerical identifier unique to each package of such drug, applied at the point of manufacturing and repackaging (in which case the numerical identifier shall be linked to the numerical identifier applied at the point of manufacturing); and

(ii)(I) overt optically variable counterfeit-resistant technologies that—

(aa) are visible to the naked eye, providing for visual identification of product authenticity without the need for readers, microscopes, lighting devices, or scanners;

(bb) are similar to that used by the Bureau of Engraving and Printing to secure United States currency;

(cc) are manufactured and distributed in a highly secure, tightly controlled environment; and

(dd) incorporate additional layers of nonvisible convert security features up to and including forensic capability, as described in subparagraph (B); or

(II) technologies that have a function of security comparable to that described in subclause (I), as determined by the Secretary.

(B) STANDARDS FOR PACKAGING.—For the purpose of making it more difficult to counterfeit the packaging of drugs subject to this paragraph, the manufacturers of such drugs shall incorporate the technologies described in subparagraph (A) into at least 1 additional element of the physical packaging of the drugs, including blister packs, shrink wrap, package labels, package seals, bottles, and boxes.

SEC. 807. INTERNET SALES OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 503A the following:

''SEC. 503B. INTERNET SALES OF PRESCRIPTION DRUGS.

''(a) REQUIREMENTS REGARDING INFORMATION ON INTERNET SITE.—

''(1) IN GENERAL.—A person may not dispense a prescription drug pursuant to a sale of the drug by such person if—

''(A) the purchaser of the drug submitted the purchase order for the drug, or conducted any other part of the sales transaction for the drug, through an Internet site;

''(B) the person dispenses the drug to the purchaser by mailing or shipping the drug to the purchaser; and

''(C) such site, or any other Internet site used by such person for purposes of sales of a prescription drug, fails to meet each of the requirements specified in paragraph (2), other than a site or pages on a site that—

''(i) are not intended to be accessed by purchasers or prospective purchasers; or

''(ii) provide an Internet information location tool within the meaning of section 231(e)(5) of the Communications Act of 1934 (47 U.S.C. 231(e)(5)).

''(2) REQUIREMENTS.—With respect to an Internet site, the requirements referred to in subparagraph (C) of paragraph (1) for a person to whom such paragraph applies are as follows:

''(A) Each page of the site shall include either the following information or a link to a page that provides the following information:

''(i) The name of such person.

''(ii) Each State in which the person is authorized by law to dispense prescription drugs.

''(iii) The address and telephone number of each place of business of the person with respect to sales of prescription drugs through the Internet, other than a place of business that does not mail or ship prescription drugs to purchasers.

''(iv) The name of each individual who serves as a pharmacist for prescription drugs that are mailed or shipped pursuant to the site, and each State in which the individual is authorized by law to dispense prescription drugs.

''(v) If the person provides for medical consultations through the site for purposes of providing prescriptions, the name of each individual who provides such consultations; each State in which the individual is licensed or otherwise authorized by law to provide such consultations or practice medicine; and the type or types of health professions for which the individual holds such licenses or other authorizations.

''(B) A link to which paragraph (1) applies shall be displayed in a clear and prominent place and manner, and shall include in the caption for the link the words 'licensing and contact information'.

''(b) INTERNET SALES WITHOUT APPROPRIATE MEDICAL RELATIONSHIPS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a person may not dispense a prescription drug, or sell such a drug, if—

''(A) for purposes of such dispensing or sale, the purchaser communicated with the person through the Internet;

''(B) the patient for whom the drug was dispensed or purchased did not, when such communications began, have a prescription for the drug that is valid in the United States;

''(C) pursuant to such communications, the person provided for the involvement of a practitioner, or an individual represented by the person as a practitioner, and the practitioner or such individual issued a prescription for the drug that was purchased;

''(D) the person knew, or had reason to know, that the practitioner or the individual referred to in subparagraph (C) did not, when

issuing the prescription, have a qualifying medical relationship with the patient; and

''(E) the person received payment for the dispensing or sale of the drug.

For purposes of subparagraph (E), payment is received if money or other valuable consideration is received.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) the dispensing or selling of a prescription drug pursuant to telemedicine practices sponsored by—

''(i) a hospital that has in effect a provider agreement under title XVIII of the Social Security Act (relating to the Medicare program); or

''(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

''(B) the dispensing or selling of a prescription drug pursuant to practices that promote the public health, as determined by the Secretary by regulation.

''(3) QUALIFYING MEDICAL RELATIONSHIP.—

''(A) IN GENERAL.—With respect to issuing a prescription for a drug for a patient, a practitioner has a qualifying medical relationship with the patient for purposes of this section if—

''(i) at least one in-person medical evaluation of the patient has been conducted by the practitioner; or

''(ii) the practitioner conducts a medical evaluation of the patient as a covering practitioner.

''(B) IN-PERSON MEDICAL EVALUATION.—A medical evaluation by a practitioner is an in-person medical evaluation for purposes of this section if the practitioner is in the physical presence of the patient as part of conducting the evaluation, without regard to whether portions of the evaluation are conducted by other health professionals.

''(C) COVERING PRACTITIONER.—With respect to a patient, a practitioner is a covering practitioner for purposes of this section if the practitioner conducts a medical evaluation of the patient at the request of a practitioner who has conducted at least one in-person medical evaluation of the patient and is temporarily unavailable to conduct the evaluation of the patient. A practitioner is a covering practitioner without regard to whether the practitioner has conducted any in-person medical evaluation of the patient involved.

''(4) RULES OF CONSTRUCTION.—

''(A) INDIVIDUALS REPRESENTED AS PRACTITIONERS.—A person who is not a practitioner (as defined in subsection (e)(1)) lacks legal capacity under this section to have a qualifying medical relationship with any patient.

''(B) STANDARD PRACTICE OF PHARMACY.—Paragraph (1) may not be construed as prohibiting any conduct that is a standard practice in the practice of pharmacy.

''(C) APPLICABILITY OF REQUIREMENTS.—Paragraph (3) may not be construed as having any applicability beyond this section, and does not affect any State law, or interpretation of State law, concerning the practice of medicine.

''(c) ACTIONS BY STATES.—

''(1) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice that violates section 301(l), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such practice, to enforce compliance with such section (including a nationwide injunction), to obtain damages, restitution, or other compensation on behalf of residents of such State, to obtain reasonable attorneys fees and costs if the State prevails in the civil action, or to obtain such further and other relief as the court may deem appropriate.

''(2) NOTICE.—The State shall serve prior written notice of any civil action under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall have the right—

''(A) to intervene in such action;

''(B) upon so intervening, to be heard on all matters arising therein; and

''(C) to file petitions for appeal.

''(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

''(5) ACTIONS BY OTHER STATE OFFICIALS.—

''(A) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

''(B) In addition to actions brought by an attorney general of a State under paragraph (1), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

''(d) EFFECT OF SECTION.—This section shall not apply to a person that is a registered exporter under section 804.

''(e) GENERAL DEFINITIONS.—For purposes of this section:

''(1) The term 'practitioner' means a practitioner referred to in section 503(b)(1) with respect to issuing a written or oral prescription.

''(2) The term 'prescription drug' means a drug that is described in section 503(b)(1).

''(3) The term 'qualifying medical relationship', with respect to a practitioner and a patient, has the meaning indicated for such term in subsection (b).

''(f) INTERNET-RELATED DEFINITIONS.—

''(1) IN GENERAL.—For purposes of this section:

''(A) The term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

''(B) The term 'link', with respect to the Internet, means one or more letters, words, numbers, symbols, or graphic items that appear on a page of an Internet site for the purpose of serving, when activated, as a method for executing an electronic command—

''(i) to move from viewing one portion of a page on such site to another portion of the page;

''(ii) to move from viewing one page on such site to another page on such site; or

''(iii) to move from viewing a page on one Internet site to a page on another Internet site.

''(C) The term 'page', with respect to the Internet, means a document or other file accessed at an Internet site.

''(D)(i) The terms 'site' and 'address', with respect to the Internet, mean a specific location on the Internet that is determined by Internet Protocol numbers. Such term includes the domain name, if any.

''(ii) The term 'domain name' means a method of representing an Internet address without direct reference to the Internet Protocol numbers for the address, including methods that use designations such as '.com', '.edu', '.gov', '.net', or '.org'.

''(iii) The term 'Internet Protocol numbers' includes any successor protocol for determining a specific location on the Internet.

''(2) AUTHORITY OF SECRETARY.—The Secretary may by regulation modify any definition under paragraph (1) to take into account changes in technology.

''(g) INTERACTIVE COMPUTER SERVICE; ADVERTISING.—No provider of an interactive computer service, as defined in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)), or of advertising services shall be liable under this section for dispensing or selling prescription drugs in violation of this section on account of another person's selling or dispensing such drugs, provided that the provider of the interactive computer service or of advertising services does not own or exercise corporate control over such person.''.

(b) INCLUSION AS PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by inserting after paragraph (k) the following:

''(l) The dispensing or selling of a prescription drug in violation of section 503B.''.

(c) INTERNET SALES OF PRESCRIPTION DRUGS; CONSIDERATION BY SECRETARY OF PRACTICES AND PROCEDURES FOR CERTIFICATION OF LEGITIMATE BUSINESSES.—In carrying out section 503B of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section), the Secretary of Health and Human Services shall take into consideration the practices and procedures of public or private entities that certify that businesses selling prescription drugs through Internet sites are legitimate businesses, including practices and procedures regarding disclosure formats and verification programs.

(d) REPORTS REGARDING INTERNET-RELATED VIOLATIONS OF FEDERAL AND STATE LAWS ON DISPENSING OF DRUGS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall, pursuant to the submission of an application meeting the criteria of the Secretary, make an award of a grant or contract to the National Clearinghouse on Internet Prescribing (operated by the Federation of State Medical Boards) for the purpose of—

(A) identifying Internet sites that appear to be in violation of Federal or State laws concerning the dispensing of drugs;

(B) reporting such sites to State medical licensing boards and State pharmacy licensing boards, and to the Attorney General and the Secretary, for further investigation; and

(C) submitting, for each fiscal year for which the award under this subsection is made, a report to the Secretary describing investigations undertaken with respect to violations described in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there is authorized to be appropriated

$100,000 for each of the first 3 fiscal years in which this section is in effect.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect 90 days after the date of enactment of this title, without regard to whether a final rule to implement such amendments has been promulgated by the Secretary of Health and Human Services under section 701(a) of the Federal Food, Drug, and Cosmetic Act. The preceding sentence may not be construed as affecting the authority of such Secretary to promulgate such a final rule.

SEC. 808. PROHIBITING PAYMENTS TO UNREGISTERED FOREIGN PHARMACIES.

(a) IN GENERAL.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

''(g) RESTRICTED TRANSACTIONS.—

''(1) IN GENERAL.—The introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system is prohibited.

''(2) PAYMENT SYSTEM.—

''(A) IN GENERAL.—The term 'payment system' means a system used by a person described in subparagraph (B) to effect a credit transaction, electronic fund transfer, or money transmitting service that may be used in connection with, or to facilitate, a restricted transaction, and includes—

''(i) a credit card system;

''(ii) an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service; and

''(iii) any other system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic fund transfers, or money transmitting services.

''(B) PERSONS DESCRIBED.—A person referred to in subparagraph (A) is—

''(i) a creditor;

''(ii) a credit card issuer;

''(iii) a financial institution;

''(iv) an operator of a terminal at which an electronic fund transfer may be initiated;

''(v) a money transmitting business; or

''(vi) a participant in an international, national, regional, or local network used to effect a credit transaction, electronic fund transfer, or money transmitting service.

''(3) RESTRICTED TRANSACTION.—The term 'restricted transaction' means a transaction or transmittal, on behalf of an individual who places an unlawful drug importation request to any person engaged in the operation of an unregistered foreign pharmacy, of—

''(A) credit, or the proceeds of credit, extended to or on behalf of the individual for the purpose of the unlawful drug importation request (including credit extended through the use of a credit card);

''(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the individual for the purpose of the unlawful drug importation request;

''(C) a check, draft, or similar instrument which is drawn by or on behalf of the individual for the purpose of the unlawful drug importation request and is drawn on or payable at or through any financial institution; or

''(D) the proceeds of any other form of financial transaction (identified by the Board by regulation) that involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the individual for the purpose of the unlawful drug importation request.

''(4) UNLAWFUL DRUG IMPORTATION REQUEST.—The term 'unlawful drug importation request' means the request, or transmittal of a request, made to an unregistered foreign pharmacy for a prescription drug by mail (including a private carrier), facsimile, phone, or electronic mail, or by a means that involves the use, in whole or in part, of the Internet.

''(5) UNREGISTERED FOREIGN PHARMACY.—The term 'unregistered foreign pharmacy' means a person in a country other than the United States that is not a registered exporter under section 804.

''(6) OTHER DEFINITIONS.—

''(A) CREDIT; CREDITOR; CREDIT CARD.—The terms 'credit', 'creditor', and 'credit card' have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

''(B) ACCESS DEVICE; ELECTRONIC FUND TRANSFER.—The terms 'access device' and 'electronic fund transfer'—

''(i) have the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a); and

''(ii) the term 'electronic fund transfer' also includes any fund transfer covered under Article 4A of the Uniform Commercial Code, as in effect in any State.

''(C) FINANCIAL INSTITUTION.—The term 'financial institution'—

''(i) has the meaning given the term in section 903 of the Electronic Transfer Fund Act (15 U.S.C. 1693a); and

''(ii) includes a financial institution (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)).

''(D) MONEY TRANSMITTING BUSINESS; MONEY TRANSMITTING SERVICE.—The terms 'money transmitting business' and 'money transmitting service' have the meaning given the terms in section 5330(d) of title 31, United States Code.

''(E) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

''(7) POLICIES AND PROCEDURES REQUIRED TO PREVENT RESTRICTED TRANSACTIONS.—

''(A) REGULATIONS.—The Board shall promulgate regulations requiring—

''(i) an operator of a credit card system;

''(ii) an operator of an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service;

''(iii) an operator of any other payment system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic transfers or money transmitting services where at least one party to the transaction or transfer is an individual; and

''(iv) any other person described in paragraph (2)(B) and specified by the Board in such regulations,

to establish policies and procedures that are reasonably designed to prevent the introduction of a restricted transaction into a payment system or the completion of a restricted transaction using a payment system.

''(B) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In promulgating regulations under subparagraph (A), the Board shall—

''(i) identify types of policies and procedures, including nonexclusive examples, that shall be considered to be reasonably designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system; and

''(ii) to the extent practicable, permit any payment system, or person described in paragraph (2)(B), as applicable, to choose among alternative means of preventing the introduction or completion of restricted transactions.

''(C) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTION.—

''(i) IN GENERAL.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, and any participant in such payment system that prevents or otherwise refuses to honor transactions in an effort to implement the policies and procedures required under this subsection or to otherwise comply with this subsection shall not be liable to any party for such action.

''(ii) COMPLIANCE.—A person described in paragraph (2)(B) meets the requirements of this subsection if the person relies on and complies with the policies and procedures of a payment system of which the person is a member or in which the person is a participant, and such policies and procedures of the payment system comply with the requirements of the regulations promulgated under subparagraph (A).

''(D) ENFORCEMENT.—

''(i) IN GENERAL.—This section shall be enforced by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)).

''(ii) FACTORS TO BE CONSIDERED.—In considering any enforcement action under this subsection against a payment system or person described in paragraph (2)(B), the Federal functional regulators and the Federal Trade Commission shall consider the following factors:

''(I) The extent to which the payment system or person knowingly permits restricted transactions.

''(II) The history of the payment system or person in connection with permitting restricted transactions.

''(III) The extent to which the payment system or person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

''(8) TRANSACTIONS PERMITTED.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, is authorized to engage in transactions with foreign pharmacies in connection with investigating violations or potential violations of any rule or requirement adopted by the payment system or person in connection with complying with paragraph (7). A payment system, or such a person, and its agents and employees shall not be found to be in violation of, or liable under, any Federal, State or other law by virtue of engaging in any such transaction.

''(9) RELATION TO STATE LAWS.—No requirement, prohibition, or liability may be imposed on a payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, under the laws of any state with respect to any payment transaction by an individual because the payment transaction involves a payment to a foreign pharmacy.

''(10) TIMING OF REQUIREMENTS.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, must adopt policies and procedures reasonably designed to comply with any regulations required under paragraph (7) within 60 days after such regulations are issued in final form.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day that is 90 days after the date of enactment of this Act.

(c) IMPLEMENTATION.—The Board of Governors of the Federal Reserve System shall promulgate regulations as required by subsection (g)(7) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as added by subsection (a), not later than 90 days after the date of enactment of this title.

SEC. 809. IMPORTATION EXEMPTION UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1006(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)(2)) is amended by striking ''not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.'' and inserting ''import into the United States not more than 10 dosage units combined of all such controlled substances.''.

SEC. 810. SEVERABILITY.

If any provision of this title, an amendment by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not affected thereby.

SEC. 811. PROTECTION OF HEALTH AND SAFETY.

This title, and the amendments made by this title, shall become effective only if the Secretary of Health and Human Services certifies to Congress that the implementation of this title (and amendments) will—

(1) pose no additional risk to the public's health and safety; and

(2) result in a significant reduction in the cost of covered products to the American consumer.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the title amendment which is at the desk is agreed to, and the motion to reconsider is considered made and laid upon the table.

The title was amended so as to read:

To amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to reauthorize drug and device user fees and ensure the safety of medical products, and for other purposes.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I ask unanimous consent that Senator KENNEDY and I have a few minutes here to thank some of the people involved. I have checked with the people who would be involved with the judges, and they have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I do want to take a few minutes to thank the leaders, particularly the majority leader, who, after some difficulties last week, helped to smooth some things out and make it possible for us to move on a little bit on the bill. His coordination and leadership were indispensable.

I thank the Republican leader for the way he participated in the bill and, again, made sure we were working across the aisle and getting difficulties smoothed out.

I definitely wish to thank the chairman of the committee for the outstanding work he did through the entire process. As we mentioned a number of times, it has been a very lengthy process, but he has always been so forthright and knowledgeable and willing to work under all kinds of circumstances and difficulties. Because of his dedication and abilities, I have learned a lot about running the committee from him and I have learned a lot about getting a bill passed from him and have enjoyed working with him over the last 2 years on a number of bills.

I thank the staff people who have worked so hard. They have spent many evenings and even weekends away from their homes. They worked virtually through the night to get some of these issues worked out. The way we work a bill, it is a work in progress until it is finished. It is not finished yet; we have got to work with the House side yet, and we will do that.

This is such an important bill for the country. My HELP team worked overtime to get this bill to the floor and passed in the Senate.

I would first like to thank my health policy director, Shana Christrup. Shana was promoted to her leadership position in January of this year. She took ahold of the reins, has incredible knowledge, dedication, and negotiating experience and expertise that helped bring this bill to fruition.

I also want to greatly thank Amy Muhlberg, our crackerjack expert who knows all things FDA. Her knowledge and drafting skills were central to this bill.

I thank Keith Flanagan for his work on the children's statutes in this bill, and Dave Schmickel, who is our resident drug patent expert, for his ongoing work on follow-on biologics.

Others on the team I would like to thank include Todd Spangler and Brittany Moore, who provided the required backup that goes with moving a bill of this magnitude.

Finally, I thank my staff director, Katherine McGuire, whose steady hand in negotiating and communication skills and ability to juggle a number of issues at the same time and tap dance and do all sorts of things that make these bills possible provided the cement for the entire process.

I would also like to thank Ilyse Schuman, my chief counsel, for her precision and attention to detail.

I thank Amy Angelier Shank for her great work on the budget aspects of the bill; my press team, Craig Orfield and Mike Mahaffey; and my chief of staff, Flip McConnaughey, who was good at putting out brushfires throughout the process and kind of maintaining the core to our whole process.

On Senator KENNEDY's staff, I would like to thank Michael Myers, David Bowen, David Dorsey, Missy Rohrbach, Jeff Teitz, David Noll, and Tom Kraus. Senator KENNEDY's staffers were reasonable negotiators throughout the process and open and patient to hearing all sides of any issue.

As I mentioned before, Senator HATCH was responsible for the first FDA Revitalization Act, and I would like to thank him and his staff, Patty DeLoatche and Trish Knight, for helping me with the second FDA Revitalization Act.

With Senator GREGG's office, and for his assistance with the health IT for drug safety, I thank Dave Fisher and Liz Wroe.

Stephanie Carlton from Senator COBURN's staff and Jenny Ware with Senator BURR were also integral to many parts of the bill.

I would like to thank my colleague from Kansas, Senator ROBERTS, and his staff, Jennifer Swenson, Kate Anderson, and Mike Seyfert, for their incredible work on our direct-to-consumer advertising.

I also thank my colleague, Senator HARKIN, and his staffer, Mike Woody, for his hard work on the issue.

I thank Meghan Hauck, who is with Senator MCCONNELL, for her great assistance throughout the process and her tireless hours.

I thank Isaac Edwards, Amanda Makki, Tyler Thompson, Jennifer Claypool, and Mary-Sumpter Johnson.

Finally, there is a group of people without whom none of this would have happened. They work behind the scenes and make the rest of us look good. I am talking about the dedicated folks at legislative counsel, Stacy Kern-Scheerer, Bill Baird, Amy Gaynor, and the rest of the legislative counsel team. They have drafted forever on this, and redrafted, helped make this concept a reality. They did it with class, grace, patience, kindness, and I cannot thank them enough.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, one of the great joys of serving in the Senate has been working with my friend and colleague from Wyoming, Senator ENZI, on different legislation. He does it the old-fashioned way. He believes that what we ought to do is have the hearings on the problem and then listen to various alternatives and then try to work out a solution and carry the process forward. That is the old-fashioned way. Today people look at different issues, file bills, and try and ward off interventions. He has a deep-seated conservative philosophical commitment. He and I differ on some matters, but we always try to find common ground. We have been able to find it certainly on this legislation and many other pieces of legislation. I look forward to continuing this tradition. I am personally grateful to him for all his help in guiding us. You can see the closeness of these votes. This is enormously important legislation to bring the Food and Drug Administration into the 21st century. But there are strong feelings, strong opinions, strong arguments on different ways to do so. We have legislation. It is solid legislation. We are proud of it. I think the overwhelming, virtually unanimous vote of the Senate on both sides is a vindication of the efforts our committee has made. It starts with Senator ENZI. I am grateful to him.

I see SHERROD BROWN, the Senator from Ohio, was kind enough yesterday to stand in for me when I had the great honor to witness the coming together in Northern Ireland after 400 years of

conflict and the establishment of democratic institutions in a very momentous historical moment. When I left Monday night, there was a certain element of chaos surrounding this bill, and coming back early this morning, under the great work of Senator ENZI and Senator BROWN, we had an orderly path to proceed. He is knowledgeable about health issues and had a very distinguished record on health policy before he came to the Senate. He has not missed a beat in working through the issues. He has been invaluable to me personally and to our committee. I thank Senator BROWN for all of his good work.

Quickly: I would like to thank my friend, Senator DODD for his work on all of the issues that affect kids' drugs and devices; Senator CLINTON for her work on drugs and devices; Senator MIKULSKI for her work on the issues of transparency, enormously important provisions on which this legislation depends; Senator HATCH for his work on antibiotics; Senator GREGG for his work on the databases and Web portal; Senators ROBERTS and HARKIN for their work on the direct to consumer advertising issue, which involves a lot of different policy issues and a lot of emotion and feeling. They worked very hard with the staff, we had very solid recommendations on this; Senator STABENOW for her work on the citizens' petitions in order to help get product onto the markets in a quicker way. I would also like to thank Senator BROWN and Senator BROWNBACK, for their enormously creative innovative idea with regard to neglected diseases. This is something the United States should be doing more of, and they have been very creative in coming up with an idea; Senator COBURN on the doctor-patient relationship, a subject matter he feels intensely about and has been helpful to us on the legislation; Senator DURBIN on food safety provisions, very important and helpful; Senator ALEXANDER on the children's drugs; Senator ALLARD on food safety issues; Senator LINCOLN on food safety including the raised-fish issue.

These are some of the items. Again, we thank staff members: From my staff, Dave Bowen, David Dorsey, David Noll, and Caya Lewis, all who have spent a great deal of time and effort over these past weeks, Michael Myers and Carmel Martin and Missy Rohrbach, Tom Kraus, I thank them enormously.

I express appreciation to Senator ENZI's staff. If people try to find solutions, rather than perpetuate differences, it makes an enormous difference. That was certainly true of all the staffs on our committee. I thank Amy Muhlberg and David Schmickel and Keith Flanagan and Katherine McGuire, Shana Christrup; Senator BROWN's staff: Ellie Dehoney; Senator DODD: Tamar Magarik; Senator MIKULSKI: Ellen-Marie Whelan; Senator HATCH's staff: Patty DeLoatche, and Trisha Knight; Mike Woody from Senator HARKIN; Senator GREGG: Liz Wroe; Senator Roberts: Jennifer Swenson, Mike Seyfert, and Kate Anderson; Senator CLINTON's staff: Ann Gavaghan and Andrea Palm. I am sure I might have missed someone, but we will make sure they are included in the RECORD.

We thank all our colleagues and friends. We look forward to meeting with the House and reflecting the Senate's best judgment on the legislation.

Mr. President, over the past 10 days we have had a good debate about important issues affecting the safety of our Nation's citizens, about the drugs they use when they are ill, and about the food they eat every day.

S. 1082 will reauthorize two important user fee programs at the FDA. First among these is the prescription drug user fee program. In 2008, the program is projected to supply the FDA with nearly $400 million to help support new drug reviews and monitor the safety of drugs once they are approved and on the market. Additionally, the bill will reauthorize the medical device user fee program, which subsidizes the medical device review process. Both these programs speed new medical products to patients by enhancing the resources the FDA can devote to medical product review, without changing the standards that must be met for FDA approval or clearance.

These resources to enhance speedy access to drugs and biologics are balanced with several significant provisions that will improve postapproval drug safety. A public-private partnership involving the FDA will build a network of health care databases to gather far better information about the safety risks of prescription drugs. Expanded drug user fees would also be used to develop this active surveillance system for all FDA approved drugs.

The bill will create an additional risk-based method for approving and monitoring new drugs and biologics, called risk evaluation and mitigation strategies, or REMS. A REMS consists of a flexible collection of tools that the agency can apply to address the unique risks associated with a new drug. From labeling changes to postapproval safety studies to measures to assure safe use of a drug, the bill gives FDA important new authorities to address safety issues that arise after a drug is approved. For the first time, civil money penalties will deter noncompliance. The bill increases drug user fees to implement the REMS and enhance the postapproval drug safety system.

Furthermore, this legislation would improve transparency, strengthen the agency's science-based culture, and inspire the trust of the American public. For example, it would require the FDA to identify and disclose conflicts of interest among advisory committee members who provide the agency expert scientific recommendations.

It would also improve access to information for patients and health care providers by launching a pubic database with the results of clinical trials. A clinical trials registry would enhance patient enrollment and provide a mechanism to track the progress of clinical trials.

Finally, the legislation would establish the Reagan-Udall Foundation for the FDA to head collaborative research projects, among the FDA, academic institutions, and industry intended to improve medical product development and evaluation.

I appreciate Senator DODD and Senator CLINTON's leadership to promote the safety of drugs and devices used to treat children.

I thank Senator ROBERTS and Senator HARKIN for working with Senator ENZI and me to design constitutionally sound, effective, and feasible controls on DTC advertising. The amendment we produced will ensure the information that ads provide is accurate, clear, and conspicuous without imposing a moratorium.

I commend Senators STABENOW, BROWN, LOTT, THUNE, COBURN, and HATCH for coming to a solution on the issue of citizens' petitions. They were able to craft an amendment that ensures that only citizens' petitions with meritorious claims could delay approval of a generic drug and that frivolous petitions will not lead to unwarranted delays in the approval of new generic drugs.

I applaud Senator BROWNBACK and Senator BROWN for their novel proposal to encourage investment in new medicines for neglected tropical diseases. Their proposal entitles companies that develop new therapies or vaccines to a voucher allowing them a priority review at the FDA for a product of their choosing. It would provide pharmaceutical manufacturers a significant incentive without raising costs to consumers or relaxing the safety standards applied to the drug given priority review.

I would also like to draw attention to the essential amendment introduced by Senator HATCH, with important contributions from Senators BROWN, BURR, STABENOW, and others. The amendment would close a loophole that did away with the incentive to bring old but never approved antibiotics to market. It would also establish a public process to identify drug-resistant infections that are orphan diseases and that could be treated with orphan drugs. Additionally, the amendment would make certain molecules that are a part of old active ingredients eligible for recognition as new active ingredients, provided they will be used for a new indication. This provision includes limits that would prevent pharmaceutical manufacturers from abusing the process to extend the life of old active ingredient drugs.

Finally, I am grateful to my friend, Senator ENZI, for his leadership and commitment to addressing prescription drug safety. We have worked together for over 2½ years to develop this legislation, and I am proud of where we are today.

I have already thanked a number of people, and I would also like to thank, on Senator ENZI's staff, Ilyse Schuman, and on my own staff, Stacy Sachs, Molly Nicholson, Jeff Teitz, and Charlotte Burrows, and two of my interns, Ashley Bennett and Lara Mounir.

I would also like to thank the many other staff members, both on and off the committee, who did such great work on this bill: Carmen Green, Nancy Hardt, Paula Burg, Lisa German, Jessica Gerrity, Dora Hughes, Ed Ramos, Ben Klein, Jim Esquea, David Lazarus, Lisa Layman, Jenny Ware, Mary-Sumpter Johnson, Stephanie Carlton, and Jennifer Claypool.

I would also like to thank the legislative counsels Bill Baird, Amy Gaynor, and Stacey Kern-Scheerer for all of their hard work on this bill.

Mr. ROBERTS. Mr. President, today the Senate voted to approve S. 1082, the Food and Drug Administration Revitalization Act. I am very pleased the Senate took this action and I now look forward to its consideration in the House.

Unfortunately, I was not present to vote for the bill, but I would like the record to reflect that I had planned to vote in favor of this legislation. Just last weekend, Kansas experienced a horrible disaster when a tornado devastated an entire community and took the lives of several Kansans.

Late last Friday evening, the town of Greensburg, KS, was literally wiped off the map by an enormous tornado. As a result of this and storms associated with the system, 12 Kansans are confirmed dead, and all of the 1500 residents of Greensburg have been displaced. What we have experienced in Greensburg is unlike any other event in recent Kansas history. The hospital is gone, the schools are gone, every church is gone, virtually every business in the community is gone, including all of Main Street. Estimates are that fully 95 percent of the structures in the town are damaged or destroyed. Because of this devastation, I invited President Bush to come to Greensburg, KS, and view the damage from this unspeakable disaster. Today, President Bush is in Greensburg, and I, along with other members of the Kansas congressional delegation, are showing him the devastation this community has experienced, so I could not be present to vote for S. 1082.

However, I want my colleagues to know that I support this legislation and would have voted in favor of the bill if I were present. I believe S. 1082 will give FDA the tools to ensure drug safety and will renew some very important prescription drug and medical device programs. I am also pleased the bill includes an amendment I sponsored with Senators HARKIN, BURR, and COBURN to improve the drug advertisement provisions in the underlying bill. This amendment was accepted unanimously by the Senate.

Our amendment addresses the first amendment concerns with the advertising provisions in the original bill and gives the FDA the tools they need to protect the public from false or misleading prescription drug advertisements. We believe this amendment is a more commonsense approach to dealing with prescription drug advertisements and ensures the public will get truthful and accurate information about new prescription drugs.

I especially want to thank Chairman KENNEDY, Ranking Member ENZI, and Senator HARKIN for their leadership and hard work on this issue. I also thank Senators BURR and COBURN for their cooperation and cosponsorship of my amendment. This amendment represents the result of our efforts to achieve an outcome that is acceptable to all of us. The agreement that was accepted today is a fair compromise that addresses the concerns of all of the Members involved

Mr. BYRD. Mr. President, I voted against Senator DURBIN's amendment because it would have forced the removal of the best scientific minds from the oversight of the safety of our Nation's food and prescription drug approval process. Though well intentioned, the Durbin amendment would have limited the advice available to the Food and Drug Administration for critical decisions pertaining to consumer safety. I will support the efforts to ensure that conflicts of interest do not interfere with the safety of the American people, and I will work to ensure that the country's best experts continue to secure our medications and food supply.

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. LEAHY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF DEBRA ANN LIVINGSTON TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider Executive Calendar No. 104, which the clerk will report.

The legislative clerk read the nomination of Debra Ann Livingston, of New York, to be United States Circuit Judge for the Second Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 3 hours for debate equally divided between the chairman, Senator LEAHY, and the ranking member of the Judiciary Committee or their designees.

The Senator from Vermont is recognized.

JACK VALENTI

Mr. LEAHY. Mr. President, in the time allotted to me, I will talk about some other things. Later this afternoon, a wonderful American man who had a life that epitomizes what is best in our country will be buried in Arlington. I am speaking about Jack Valenti. Jack and his wife Mary Margaret first took my wife Marcel and I under their wings when I came here as an unknown 34-year-old Senator from Vermont. We had so many wonderful times with both of them. There would be times, obviously, as many of us did during Jack's years as president of the Motion Picture Association, when we would gather for a dinner at the MPAA, always with at least one Italian dish, and then watch a first-run movie. Jack would be greeting everybody by name. For those of us who sometimes have to remember the names of our own families, he was remarkable. But the remarkable thing was, he greeted everybody. He knew about you and was interested in what you were interested in, but also on the points that he wanted to get across, he would do so in a way with integrity, with brilliance, and with the respect of both Republicans and Democrats, as he would go through the halls of the Senate and the House.

On a personal basis, with he and Mary Margaret, we would sit sometimes having a quiet meal at their house or on one occasion at a favorite restaurant of theirs, on a soft summer evening, sitting outdoors and talking about kids and, in that case, their pending grandchild. I could not help but think about this man, who by all rights never should have made it through World War II. He was a highly decorated fighter bomber pilot. He went through battles where there were enormous casualties. He received the Distinguished Flying Cross and just about every other bravery medal one could, and he survived.

He came back to a career that ranged from being somber, as we all know, in Texas at the time of President Kennedy's death, to going on the plane with President Johnson, and sharing those Texas roots and working with him.

From a personal point of view, I think of the time he spent with my late mother who was an Italian American. They had that bond. He would single her out at national gatherings of Italian Americans. She loved it. She called me once and said: I saw that nice young man on television. I said: Mother, whom are you talking about? She said: Jack Valenti, that nice young man. I said: Mom, Jack is almost 20 years older than I am. She said: Really. Well, he doesn't look it. And then came the killing shot. She said: Patrick, you should take better care of yourself. When Jack had one of his many retirement parties—I will speak to that in a moment—I told that story.

I am afraid more than one person in the audience agrees with my mother.

I said ''one of his many retirements.'' He never retired. He continued to write books. He had one that he just finished before a stroke silenced him a few

weeks ago. I have a copy of his book in my desk on the Senate floor. I have a copy of all his books. They are well written. He had a command of the English language that all of us would like to think we could master with the best of all speechwriters, and we can't. He did it. He was his own speechwriter. Nobody else could begin to match what he did.

One of the things I think of—and I was thinking of this at his funeral, where I had the honor of being an honorary pallbearer—I spoke with Mary Margaret and his son John afterward, his daughter Courtney. I was speaking with others. I remembered an op-ed piece that my friend Matt Gerson wrote for the Saturday, April 28, Washington Post about Jack. Matt refers to the mentoring that he did of so many people. Matt refers to his own mentoring by Jack Valenti.

Well, I am one of those Senators—one of hundreds of Senators—on both sides of the aisle mentored by Jack. I, along with my wife, am among the thousands of people who will miss his phone calls, who will miss his conversations, who will miss his friendship, and we join in sending our condolences to Mary Margaret, and know she carries on great memories of her own, and memories we will continue to share.

Mr. President, I ask unanimous consent that the op-ed piece I referred to by Matt Gerson be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Saturday, April 28, 2007]

WHAT JACK VALENTI TAUGHT US ALL

(By Matt Gerson)

Jack Valenti lived a unique life between two of society's fascinations—politics and Hollywood. For Republicans and Democrats, for senators and young aides, for celebrities and the legions behind the cameras, interactions with him were graduate seminars in history, politics, human nature and common sense. This extraordinary communicator punctuated every conversation with a witticism linked to his beloved Texas, a quote from an obscure historical figure or a rule passed on to him by his mentor, Lyndon Johnson. In the weeks leading up to his death Thursday, all over town a simple ''How's Jack?'' almost always led to, ''You know, I try to live by something I once heard him say.''

I first noticed his reach when a lunch companion said, ''I try to return every phone call the same day I receive it, and I try to treat an appointment secretary like a Cabinet secretary.'' That was followed by a senator who revealed: ''Jack was the first one to contact me after my son died. I will never forget his concern and support. How can I reach his family?''

For those Jack mentored during the 38 years he dedicated to America's film industry, it became clear that character was defined by loyalty. In both Washington and Hollywood, people often desert ''friends'' at the first whiff of public disfavor. Not Jack—time and again he insisted that you never abandon a friend who was going through a rough time, and he always stood with a beleaguered colleague or public official who was receiving unwanted publicity.

He would tell his team to respect every elected official (''because you never even ran for dog catcher, and they were sent here by the people''). He admonished us that your adversary today might be your ally tomorrow. ''In a political struggle, never get personal—else the dagger digs too deep.''

Jack rejected the partisanship that gripped Washington and would warn that ''nothing lasts—today's minority backbencher will be tomorrow's subcommittee chairman.'' On the day the Motion Picture Association of America headquarters was named the Jack Valenti Building, Sen. Ted Stevens observed, ''Jack works across the aisle because he doesn't see an aisle. It is the root of his success and what others ought to emulate.''

Each of the six studio chiefs who spoke at the dedication ceremony emphasized that Jack's word was his bond—if he made a promise, he never wavered. His rock-solid commitment gave him unusual credibility with leaders on both coasts and around the world.

Jack was a gifted public speaker who put incredible effort into making it all look effortless. He would rework his text behind closed doors, reciting it until the cadence was just right. Jack was ebullient when a president complimented him once on the ''extemporaneous'' remarks he had made at the Gridiron Club. ''The president couldn't believe I didn't have a prepared text. I neglected to mention that I didn't need notes because I spent several days getting ready,'' he said.

It was especially fun to watch Washington's most accomplished professionals try to decipher one of his homilies. They eventually got the point and often adopted the line as their own. When a project was in trouble, it was time to ''hunker down like a mule in a hailstorm.'' [Modified from the original Texas vernacular for a family newspaper.] When prospects got even worse, ''The ox was in the ditch.'' But every problem could be addressed if you remembered ''the three most important words in the English language: Wait a minute.''

When someone from the MPAA left to take a new job, Jack would say, ''I like to think I teach my people everything they know. But I know I didn't teach them everything I know.'' That line always got a laugh. I worked with Jack for six years and was friends with him for nearly two decades. In the past few years, frankly, I thought I had gleaned every lesson he had to offer. But then I picked up the galleys of his soon-to-be-published memoir, a book that tracks his ''Greatest Generation'' fable. This grandson of Sicilian immigrants, decorated combat pilot, Harvard MBA (''thanks to the greatest piece of social legislation ever devised by man—the G.I. Bill''), presidential adviser and confidant of America's business leaders has left a treatise with even more rules to live by.

One paragraph is a must-read for the BlackBerry-addicted. Jack quoted Emerson's observation that ''for every gain, there is a loss. For every loss, there is a gain.'' While lamenting the number of nights he spent away from his family, he reminded us that attending one more reception meant missing a meal around the dinner table, and one extra night on a business trip would mean one less chance to help with homework or watch a soccer game.

I have recounted that quote many times over the past few weeks. And while this loss is devastating for many in Washington and Los Angeles, the life lessons that are his legacy are our gain.

NATIONAL GUARD EQUIPMENT STOCKS

Mr. LEAHY. Mr. President, earlier today, we had a meeting of the Senate Appropriations Committee. Defense Secretary Gates and Chairman of the Joint Chiefs of Staff General Pace were there. I was at that meeting. I had questions that I asked. I have been bothered since the meeting, not so much by what they said, but by what has happened in the last few days.

Every one of us, when we turn on our television set, sees the devastation in Kansas by a tornado—something we would not see in my State of Vermont. But even in a State where these are not unusual things, the devastation of this tornado was unique. I thought yesterday about how the President of the United States, through his spokesperson, blatantly dismissed the all too real concerns of the Governor of Kansas, Governor Sebelius, about the equipment levels available to our National Guard for dealing with such emergencies at home as this horrible disaster I spoke of that befell Greensburg, KS.

The White House spokesperson, sitting comfortably at the White House, said: Well, you know, there is no problem. The Guard has considerable equipment stocks still available.

Everybody who has studied the situation with our National Guard around this country knows that assertion is absurd on a number of levels. Maybe they felt they could make a political statement because the Governor is of another party. But the reality is, the Governor spoke the truth. She knows the Guard faces real, incontrovertible shortfalls in vital equipment.

Contrary to what the White House has said, the Governors—I am talking about the Governors; Republican, Democratic Governors alike—and their adjutant generals—those who are the heads of the National Guard in their respective States—are reporting something quite different than the blase attitude of the White House.

State after State reports missing humvees, medium-sized trucks, generators, dump trucks, communications systems. These are not claims from just any observer of Guard issues; these are the leaders who have been elected by the people to provide for their security and deal with these sometimes terrifying State emergencies.

As the Presiding Officer knows, the Governors command the Guard when operating in a State, and we have to give special credence to what they say. The idea that there is no problem—this kind of dismissive ''there is no problem''—is equally ridiculous because it has been clearly documented there is a very real $24 billion equipment shortfall in Army National Guard equipment alone. Now, those are reports that do not take into consideration the shortfalls within the Air National Guard. But both the Active Army and the National Guard agree on this figure. It was developed together with the National Guard Bureau working closely with the Army staff.

To say there is no problem, on the one hand, and have an arm of the administration, on the other hand, say there is a $24 billion shortfall—to me, that is a problem.

What is a greater problem is there are no plans to address this shortfall in the long-range budget. There are no plans to buy the 18,000 needed humvees, no plans to obtain the 30,000 medium-sized trucks, no plans to purchase the 12,000 required generators, no plans to purchase the 62,000 communications sets—the list goes on and on.

Another reason the White House's assessment of Guard equipment issues is so flawed is that everyone—from the Guard leadership to the Army leadership to Members here on the Hill—knows that, very frequently, that equipment slated for the Guard never actually makes it to the Guard because it is diverted, transferred to the Active Force before it gets into Guard stocks.

Even when the Guard equipment makes it into the Guard stocks, it is often quickly turned around and sent right back off to Iraq, along with deploying Guard units, many of which now face their second Iraq deployment.

It is passing strange to me that while this administration asks for a blank check to resupply the Iraqi National Guard, they do not have 1 cent in their long-range budget to resupply the American National Guard. Now, whether someone is for or against the war in Iraq, you would think our own forces—our own American national guard—could be treated at least on par with the Iraqi national guard, especially as we see the brave men and women of our National Guard not only answering the call in Iraq and Afghanistan, but answering the call when there are dangers here at home. We do not see them, as we have seen in units of the Iraqi national guard, setting out to kill each other or forming death squads. So why do we write blank checks for the Iraqi national guard when we can't take care of our own? I wish the President and the White House would come to fully realize this reality. Here is the real situation when it comes to National Guard equipment: The Guard does not have adequate stocks to deal with emergencies where they can maximize their full potential. In a smaller scale disaster, they cannot respond as quickly to support first responders and local law enforcement.

That is what we saw recently in Kansas. Now, suppose you have another emergency in Kansas or a larger scale emergency or something like Hurricane Katrina or, God forbid, two simultaneous disasters. The Guard is going to be hard pressed to respond as well as it did along the gulf coast almost 2 years ago.

Let me show you some photographs. You can see from these photographs, these are things our Guard does. You see this capsized tanker, and helicopters trying to rescue the people. Those are National Guard helicopters.

Here we have a forest fire close to an urban area, where homes are in danger. You can see an airplane putting down a fire retardant. That is a National Guard airplane.

Here you see a little child being rescued, carried up to a helicopter in the arms—the embracing arms, the safety of the arms—of a National Guard member.

Here you see the rescue of somebody who was in an accident.

Here you see National Guard in armored personnel carriers in a flooded area. In case you are wondering where that area is, look at the sign in the background that says ''Welcome to New Orleans.'' Much of that sign is under water. First responders—the police, fire departments—in New Orleans were totally overwhelmed, figuratively and literally. The Guard responded.

Look at these firefighters, trudging through a forest, at risk to their own lives, to put out a forest fire. Who are they? National Guard members.

The Secretary of Defense maintained this morning in his appearance before the Defense Appropriations Subcommittee that the Guard has 56 percent of its equipment stocks available. Well, that figure contradicts everything I have heard from other responsible officials, who put the figure closer to 35 percent. Frankly, 35 percent or 56 percent is not adequate, by any means.

In the latest supplemental spending bill, which the President seemed happy to veto, I worked with my colleague on the National Guard Caucus, Senator BOND. We cochair the National Guard Caucus. We also serve on the Defense Appropriations Subcommittee. We added $1 billion for Army Guard equipment purchases. That $1 billion was not requested by the administration. We had virtually unanimous support, Republicans and Democrats, in this body for it. It would go directly for dealing with that $24 billion shortfall. Now, that has been vetoed. We are going to work together in a bipartisan fashion to get it back into whatever spending bill we pass.

We cannot do that unless we work together—unless we work together. This is a case where it almost becomes a cliche to say: We cannot afford to let our Guard down—but we cannot. We do not have tornadoes in Vermont, but we have had some pretty vicious floods—one that nearly wiped out my hometown of Montpelier, VT, the capital. We have had some pretty vicious ice storms—one that almost removed the agricultural sector of a major part of our State.

In each case—as hard working as the local responders were, and they were, the police and the fire departments—the first call of the Governor went to the Guard, the National Guard. And they came. They rescued people. They kept people going.

When you have an ice storm, and it is 10 degrees below zero in your State, you can't wait for them to say: Well, we have 56 percent or we have 35 percent of your equipment. The other equipment you need is in Los Angeles, and we will ship it to you as quickly as we can. That is the old ''check is in the mail.'' If it is 10 degrees below zero, and you have an ice storm, with all the power lines that come down, people are going to die—people are going to die—if they can't get power within a matter of, really, minutes. The Guard can do that.

We know what a fiasco it was with our still dysfunctional Department of Homeland Security after Katrina. We have seen how the Department of Homeland Security and its FEMA division have still not responded to that. But we did respond when the Governors called out the National Guard.

So I rarely ever respond to comments made by the White House and their press operation, even when they take gratuitous swipes at me, but this one, I couldn't pass up. They know what the numbers are. They know the Governor of Kansas was speaking the truth. They know the Guard is woefully undersupplied. They know they have been diverting money to pay for the Iraqi National Guard from our Guard. So I think it would be really helpful for the White House to stop showing contempt for the views of our Nation's elected Governors. Take and consider their input, respect their thoughts about the Guard given their places with the National Guard in their States.

Let's turn the situation around. Let's come up with a new plan to replenish depleted Guard equipment stocks. We can't afford to continue to let our Guard down.

Mr. President, I ask unanimous consent to have printed in the RECORD the appropriate charts on this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FY08
ARNG TOP 25 EQUIPMENT MODERNIZATION SHORTFALL LIST

	Quantity Required	Quantity Shortage	Shortage $M	POM 08-13 $M	APPN	UFR 08-13 $M
HMMWV	48,715	18,611	$4,039	$1,647.0	OPA	$2,392.0
Family of Medium Tactical Vehicles	37,995	30,140	$7,267	$1,689.9	OPA	$5,577.1
HTV - HEMTT/LHS/PLS	21,180	14,796	$1,652	$1,059.3	OPA	$592.7
M916A3 Light Equipment Transporter	1,591	794	$180	$152.4	OPA	$27.6
Tactical Trailers	5,699	2,984	$177	$10.6	OPA	$166.4
M917A2 Dump Truck	544	334	$67	$0.0	OPA	$67.0
CH-47F Chinook	159	159	$6,678	$670.6	ACFT	$6,007.4
Comm Systems (JNN, SINCGARS, HF)	143,615	62,613	$3,997	$968.7	OPA	$3,028.3
UAV Systems (Shadow , Raven)	586	575	$462	$307.1	OPA	$154.9
Small Arms	209,098	99,129	$360	$240.0	OPA	$120.4
ABCS (Suite of Systems)	1,399	800	$166	$20.7	OPA	$145.3
Digital Enablers (Log Automation)	12,167	7,873	$196	$0.0	OPA	$196.0
Movement Tracking System	16,711	12,588	$302	$203.4	OPA	$98.6
Night Vision (AN/PAS-13, AN/VAS-5)	41,912	33,170	$640	$241.5	OPA	$398.5
Tactical Water Purification System	131	128	$61	$38.9	OPA	$22.1
Tactical Quiet Generators	19,611	12,748	$324	$118.1	OPA	$205.9
All Terrain Crane (ATEC)	174	29	$7	$0.0	OPA	$7.0
M9 ACE SLEP	114	90	$80	$0.0	OPA	$80.0
Route and Area Clearance Systems	138	138	$203	$167.8	OPA	$35.2
Horizontal Construction Systems	587	332	$141	$111.0	OPA	$30.0
Howitzers (M777A1, M119A2)	498	342	$4,259	$477.4	WTCV	$3,781.6
Profiler	65	63	$67	$57.2	OPA	$0.0
LLDR	1,099	1,034	$362	$187.5	OPA	$174.5
Gun Laying Positioning System	455	208	$20	$0.0	OPA	$20.0
Chemical (Detectors, Decon & Shelters)	65,719	52,433	$669	$107.5	OPA	$561.5
TOTALS	629,962	352,111	$32,367	$8,476.5		$23,690.1

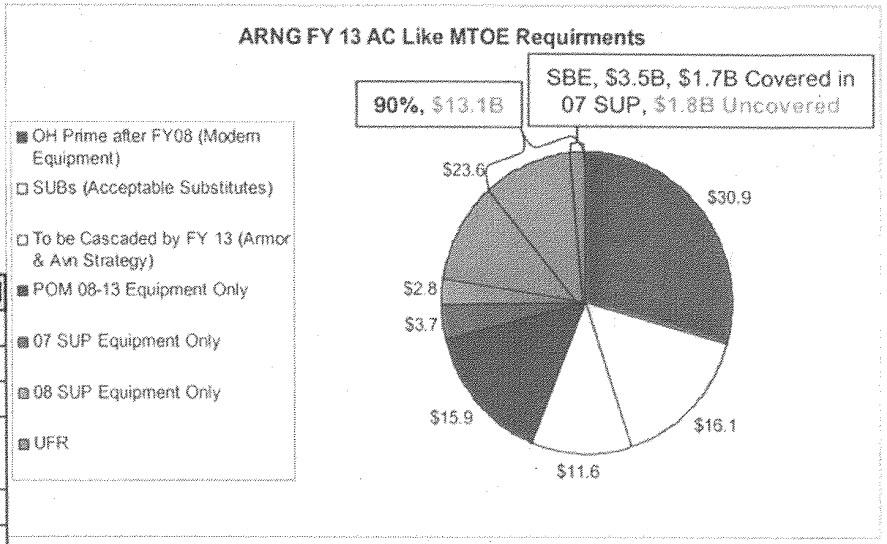
Quantity Required = Endstate FY08 ARNG Requirements (MTOE or like AC) to fully modernize the ARNG.
Quantity Shortage = Quantity Required – On-Hand – Programmed (2-year Equipment Distribution Plans).
Shortage ($M) = Quantity Shortage x Per Unit Cost.
POM 08-13 ($M) = Total procurement funding stream from FDIIS (dtd 10 JAN 07), by Army Program Element (APE) for respective equipment systems.
APPN = Type of Appropriation (OPA – Other Procurement Army, ACFT – Aircraft, WTCV – Weapons & Tracked Combat Vehicles.
UFR 08-13 ($M) = Shortage dollar amount – POM 08-13 dollar amount.

ARNG Equipping Requirements versus Resources

ARNG Equipping Requirements Overview

ARNG Total Requirement for FY13 AC Like MTOE & TDA: $104.6B

ARNG FY13 AC Like MTOE Rqmnts	$B	% OF Rqd
Total Required $B	$104.6	100%
OH Prime after FY08 (Modern Equipment)	$30.9	30%
SUB (Acceptable Substitutes)	$16.1	15%
To be Cascaded from AC by FY 13 (Armor & Avn Strategy)	$11.6	11%
POM 08-13 Equipment Only	$15.9	15%
07 SUP Equipment Only	$3.7	4%
08 SUP Equipment Only	$2.8	3%
Value On Hand + Pgmd + Cascade	$81.0	77%
Total UFR	$23.6	23%
UFR to Reach 90%	$13.1	



FY13 ARNG AC Like MTOE Requirements

The ARNG has a **$23.6 UFR** after FY13

$13.1B against this equips ARNG to 90%

* "Equipment Only" Only includes funds that purchase new equipment.
* On Hand Equipment does not include Unacceptable Substitutes (Example- M35s and 800s)
* Does not Include "Grow the Army" and all costs are based in FY08 dollars

ARNG UFR to reach 90%: $13.1B

Equipment Category	Required Quantities (000)	On Hand Quantities (000)	Quantities Delivered FY 07-08 (000)	Shortfall Quantities before FY 08-13 (000)	Shortfall before FY 08-13 ($M)	Procurement Program FY 08-13 ($M)	Post FY 08-13 Shortfall ($M)	* UFR to S-1 Floor (90%)
Armor-Hvy T/W	15.04	8.58	0.59	5.87	$1,949.18	$2,312.76	$0.00	**$0.00**
AVN	60.58	29.84	0.36	30.38	$12,928.15	$3,596.72	$9,331.43	**$5,528.87**
C2	189.68	17.02	23.95	148.71	$1,917.63	$2,021.18	$0.00	**$0.00**
Communicate	589.81	336.90	15.52	237.39	$3,009.98	$1,512.38	$1,497.60	**$891.07**
Engineer	30.97	14.42	0.79	15.76	$1,655.52	$851.72	$803.80	**$478.26**
Force Protection	476.50	356.94	20.29	99.27	$996.37	$122.89	$873.48	**$519.72**
ISR	5.65	2.22	0.93	2.50	$381.96	$787.05	$0.00	**$0.00**
Logistics	588.11	137.45	3.07	447.59	$1,637.92	$648.38	$989.54	**$588.78**
Maintenance	19.25	3.25	2.29	13.71	$281.19	$36.50	$244.69	**$145.59**
Medical	25.14	10.24	6.19	8.71	$15.98	$101.67	$0.00	**$0.00**
Precision Strike	27.51	10.49	0.91	16.10	$1,975.81	$2,474.67	$0.00	**$0.00**
Security	1730.86	819.94	135.94	774.97	$3,561.81	$1,543.94	$2,017.87	**$1,200.63**
Transportation	179.61	51.20	17.61	110.80	$10,163.36	$5,178.90	$4,984.46	**$2,965.76**
Other	262.05	72.35	0.00	189.70	$1,451.32	$0.00	$1,451.32	**$863.54**
Totals	**4,200.75**	**1,870.85**	**228.23**	**2101.46**	**$41,926.18**	**$21,188.76**	**$22,194.19**	**$13,182.22**

*** In addition to the fall current funds programmed through FY13, an additional UFR of $13.18B is required to get the ARNG to 90% EOH (S-1). It will take approximately $24B to reach 100%. All figures are based on FY 08 Costs and don't include "Grow the Army" Costs.**

NGB-ARQ

Essential 10 Key Enablers: DSCA Prioritized Buy List

ITEM	PRIORITY 1	PRIORITY 2	PRIORITY 3	PRIORITY 4	RATIONALE/JUSTIFICATION
Joint Force Headquarters					
Miscellaneous Equipment	$5,000,066	$5,000,027	$5,000,126	$5,000,111	
Command and Control (C2)					
Joint Network Nodes (JNN)	$33,300,000	$16,650,000	$16,650,000	$16,650,000	Provides the tactical user with an interface to strategic data networks, and interoperability with commercial, joint, combined and coalition communications systems across multiple security levels.
Army Battle Command Systems (ABCS)	$7,808,500	$7,233,500	$5,638,100	$6,458,800	Provides enhanced situational awareness via a suite of systems that receive and transmit C4ISR information.
Standard Army Management Information System (STAMIS)	$25,727,920	$20,550,610	$21,595,610	$15,953,960	Provides logistics management/automation systems an electronic information exchange capability via both tactical and commercial networks.
Unmanned Aerial Vechicle - SHADOW	$15,000,000	$15,000,000	$15,000,000	$15,000,000	Without funding the ARNG will be unable to provide commanders superior situational awareness, information flow, and adequate Force Protection in urban and conventional tactical environments.
Communications					
HF Radios / Equipment	$16,288,475	$17,445,135	$15,435,815	$18,785,815	Provides secure, long-range voice and data capability.
Aviation					
Helicopters - Hoists/Mounts	$953,016	$1,191,270	$1,191,270	$1,191,270	Required to support HLD/HLS, state, domestic and other contingency operations.
Helicopters - NAVSTAR GPS Aviation Sets	$1,235,130	$1,235,130	$1,370,130	$1,370,130	Provides modern equipment and interoperability to ARNG aircraft.
Civil Support Teams and Force Protection					
NBC Shelters	$5,502,000	$6,288,000	$7,860,000	$7,860,000	Provides a contamination free and environmentally controlled work area for medical personnel.
NBC - Joint Services Transportable Decontamination System Small Scale (JSTDS-SS)	$990,000	$990,000	$1,155,000	$1,320,000	Without funding the ARNG will be cascaded outdated and no longer in production models of the M17 LDS from the Active Component.
NBC Radiation/Chemical Detectors	$682,160	$682,160	$816,990	$910,740	Provides the capability to monitor and record the exposure of individual personnel to gamma and neutron radiation.
Engineer					
Heavy Construction Equipment - Horizontal (Dumps, Graders, Excavators)	$16,151,889	$11,927,933	$12,579,096	$11,957,388	Replaces overaged systems that are in critical need of modernization and incapable of full mission support.
Heavy Construction Equipment - Vertical RTCH, ATLAS)	$19,004,075	$16,755,970	$19,505,970	$22,255,970	Primary container/material handling equipment required to support and sustain ARNG units.
Logistics					
Generators - Small/Medium	$5,348,830	$5,839,690	$5,839,690	$5,783,445	Critical requirement during natural disaster or state emegency. Provides electrical power as needed to support mission requirements.
Liquid Logistics - Water Purification	$6,451,500	$8,070,000	$8,047,500	$10,707,500	Replaces existing 600 GPH reverse osmosis water purification systems with a 1500 GPH capability.
Liquid Logistics - Tank Water	$4,840,000	$4,840,000	$4,840,000	$5,550,000	Provides a bulk water delivery/distribution/storage systems.
Maintenance					
STAMIS - Standard Army Maintenance System (SAMS)	$967,458	$942,780	$983,910	$1,557,590	Mission critical system required to support unit-level maintenance support requirements.
Medical					
HMMWV Ambulance	$13,455,000	$14,490,000	$14,490,000	$13,455,000	Provides patient transport/evacuation capability.
Security					
Small Arms - Shotgun	$264,610	$299,860	$332,525	$377,845	Critical for security operations in urban environments.
Night Vision - Driver's Vision Enhancers (DVE)	$4,926,825	$4,926,825	$5,038,310	$5,474,250	Provides a thermal night vision capability to drivers enabling continuous mission operations.
Transportation					
HMMWV - Un Armored	$101,590,000	$107,800,000	$107,800,000	$106,765,000	
HMMWV - Up Armored	$31,598,000	$38,003,000	$38,003,000	$35,868,000	Critical enabler for the ARNG to perform all mission and support requirements, domestic or combat.
FMTV - Trucks	$60,451,326	$61,580,790	$60,966,638	$60,451,326	Replaces obsolete, non-deployable trucks. Critical enabler for the ARNG to perform all mission and support requirements.
HTV - HEMTT Tanker / Wrecker / LHS	$42,833,720	$52,628,720	$51,203,720	$50,637,440	Provides line and local haul, resupply, and recovery capability to sustain operations.
HTV - PLS Truck / Trailer / Bed / CHU	$56,768,600	$56,768,600	$56,768,600	$56,768,600	Primary component of the maneuver-oriented ammunition distribution system. Also performs local-haul, line-haul, unit re-supply and other transportation missions.
MTV - M916A3 Light Equipment Transporter	$11,350,000	$11,350,000	$11,350,000	$11,350,000	Prime mover for pulling the M870 series trailer and heavy engineer equipment.
MTV - Tactical Trailers	$11,510,000	$11,510,000	$10,540,000	$10,540,000	Required for transport of heavy engineer equipment, ISO containers, and other cargo.
Total	$500,000,000	$500,000,000	$500,000,000	$500,000,000	

NGB-ARQ

Mr. LEAHY. Mr. President, I suggest the absence of a quorum, with the time to be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, I ask for the yeas and nays on the pending judicial nomination.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays are ordered.

Mr. LEAHY. Mr. President, the Senate continues to make significant progress today with another confirmation of another lifetime appointment to the Federal bench. The judicial nomination we consider is Debra Ann Livingston of New York, who has been nominated to the United States Court of Appeals for the Second Circuit. That is the circuit for New York, Connecticut and, of course, Vermont. Professor Livingston has the support of both her home State Senators. I thank Senator SCHUMER for chairing the confirmation hearing at which she appeared.

Professor Livingston is the Paul J. Kellner Professor of Law and vice dean of the Columbia Law School, where she has been a professor for 13 years, teaching criminal procedure, evidence, and national security law. She previously taught at the University of Michigan Law School. Prior to her academic career, Professor Livingston served as a Federal prosecutor and deputy chief of appeals for the U.S. Attorney's Office for the Southern District of New York and worked in private practice for the Wall Street law firm of Paul, Weiss, Rifkind, Wharton & Garrison. I congratulate Professor Livingston and her family on what I am sure will be her confirmation today.

Coincidentally, this is the anniversary of the date 6 years ago, in 2001, on which this President began his assault upon the courts by announcing his first list of nominees. With the help of Senate Republicans, this President has sought to pack the courts and tilt them decidedly in one direction. To a great extent, he has succeeded. After Republican Senators stalled President Clinton's nominees to the Fourth, Fifth, Sixth, D.C., and other circuits, the Senate proceeded to confirm this President's nominees to the very vacancies that had previously been maintained by pocket filibuster in the Senate.

In my time as chairman from mid-2001 to the end of 2002, I worked hard to reach out to this President and tried hard to change the tone and get the confirmation process back on track. We succeeded in confirming 100 nominees in 17 months, including 17 to the circuit courts. But I could not change the tone alone. This White House chose, instead, to use judicial nominations to divide and to seek political gain in the ensuing confrontations.

I have tried, again, this year to restore order and civility to the process. In spite of all our progress and all our efforts, we are still confronted by shrill complaints. More ominous are the signals and rumors that the White House is, again, gearing up to nominate more extreme nominees and more who do not have the support of their home State Senators. That is wrong. It may be the good politics to appeal to the Republican base, but it is wrong to use our courts in that way—just as it is wrong to corrupt the law enforcement responsibilities of the Department of Justice.

Some will undoubtedly repeat the current Republican ''talking point'' that the Senate must confirm 15 circuit judges this Congress, this year and next, because that is a ''statistical average'' of selected years. Well, during the 1996 session the Republican-led Senate refused to confirm a single circuit court nominee, not one. That meant that in the 104th Congress, in 1995 and 1996 combined, only 11 circuit nominees were confirmed.

It is true that during the last 2 years of this President's father's term, a Democratic-led Senate confirmed an extraordinary number of circuit nominees—20—in fact. That action was not reciprocated by the Republican majority during the Clinton years.

It is true that during the last 2 years of the Reagan administration, a Democratic-led Senate confirmed 17 circuit court nominees. That action was not reciprocated by the Republican majority during the Clinton years.

Instead, the last 2 years of President Clinton's two terms witnessed a Republican-led Senate confirming only 11 circuit nominees and then, with vacancies skyrocketing to historic highs, 15 circuit nominees in the 106th Congress.

Thus, to get to the supposed ''historical average'' that Republicans like to talk about, they take advantage of the high confirmation numbers during Democratic-led Senates and thereby inflate and excuse their own actions from the Clinton years.

There are three more factors that the Republican talking point ignores: The first is the number of vacancies. The second is adding additional judgeships by congressional action. The third is the number of qualified circuit nominees.

The last Congress of the Reagan administration, the one in which a Democratic-led Senate confirmed 17 circuit nominees, the circuit court vacancies went down from 13 to 8 during the course of the Congress. Seven circuit nominations were returned to the President without action. In fact, in addition to filling vacancies that were arising in the regular course, the Democratic-led Senate was working to fill many of the 24 additional circuit judgeships created in 1984. By the end of the Reagan Presidency all circuit vacancies, those from existing judgeships and those created during his Presidency, were reduced from a high of 25 down to 8.

During the last Congress of the first Bush administration, the one in which a Democratic-led Senate confirmed 20 circuit judges, the circuit vacancies again went down, from 18 to 16. Again, the Senate was filling both existing and newly created vacancies. In 1990, during President Bush's term, Congress authorized an additional 11 circuit judgeships. That was why vacancies at the beginning of the 102nd Congress rose to 18.

By contrast, during the last Congress of the Clinton administration, the one in which a Republican-led Senate confirmed 15 circuit judges, circuit court vacancies skyrocketed from 17 to 26. This rise in circuit vacancies had nothing to do with Congress creating additional circuit judgeships, however. Unlike during the Reagan administration and during the Bush administration, during the Clinton administration the Republican-led Congress refused to act in accordance with the previous 6-year cycle for reviewing needed judgeships. Not a single new circuit judgeship was created during the Clinton administration that I can recall. Instead, the Republican-led Senate engaged in strenuous efforts to keep circuit judgeships vacant in anticipation of a Republican President. Indeed, at the end of the 106th Congress, the last in the Clinton Presidency, 17 circuit court nominees were returned to President Clinton without action. More circuit nominees were returned without action that Congress than were acted upon by the Senate for the first time in modern history.

Likewise, during the last Congress of the first term of President Clinton, the one in which a Republican-led Senate confirmed only 11 circuit judges, circuit court vacancies went up, from 16 to 19. Again, this was without the addition of new circuit judgeships.

Despite the carping and the clamor, the vacancies on the circuit courts have gone from 26—where a Republican-led Senate forced the circuit vacancies at the end of the Clinton administration—steadily downward during the Bush administration. With the confirmation of Judge Livingston, circuit vacancies will be at half that amount today 13—and approaching a historic low.

Judge Livingston will be the third circuit court nomination confirmed this year. It is only May, but we have already equaled the total circuit nominees confirmed in the entire year of 1993. We have far surpassed the total confirmed during the entire 1996 session when the Republican majority would not consider or confirm a single circuit nomination of President Clinton's.

This will be the 20th circuit court nomination confirmed while I presided as Judiciary chairman. It is a little

known fact that during the more than 6 years of the Bush Presidency, more circuit judges, more district judges and more total judges have been confirmed while I served as Judiciary chairman than during either of the two Republican chairmen working with Republican Senate majorities.

This will be the 18th judicial confirmation this year. It is spring and we have already confirmed more judges than were confirmed during the entire 1996 session when President Clinton's nominees were being reviewed by a Republican Senate majority. This is the 118th judicial confirmation while I have served as Judiciary chairman. That exceeds by more than a dozen the confirmations Senator HATCH presided over during the more than 2 years he was Judiciary chairman.

The Administrative Office of the U.S. Courts lists 47 judicial vacancies, yet the President has sent us only 24 nominations for these vacancies. Twenty-three of these vacancies—almost half—have no nominee. Of the 15 vacancies deemed by the Administrative Office to be judicial emergencies, the President has yet to send us nominees for six of them. That means more than a third of the judicial emergency vacancies are without a nominee.

This is the third factor I mentioned above, the lack of nominees.

This President has shown that he would rather pick politic fights than good judges. I was encouraged at the beginning of this Congress that a few of the most controversial nominees from the last Congress were not renominated. That sensible approach seems to have ended, however, and this White House seems to be returning to its old, bad habits.

Despite the harping and the criticism, the Judiciary Committee has been working hard to make progress on those nominations the President has sent to us. Of course, when he sends nominees that he knows are unacceptable to home State Senators, it is not a formula for success. Sadly, that is what appears to be happening, again.

Before the consideration of the Second Circuit nominee today, we had already proceeded with committee and Senate consideration of the nominations of Randy Smith and Thomas Hardiman. They were confirmed to the Ninth and Third Circuits, respectively.

Some may recall that I had been working for more than a year to make progress on the Smith nomination. When the President finally renominated Judge Smith for an Idaho vacancy, we were able to make quick progress with that nomination.

Our circuit court confirmations so far this year are in addition to the 15 lifetime appointments to the Federal district courts we have proceeded to confirm. During the entire 1996 session only 17 judges were confirmed. We are doing pretty well with 18 confirmations before the middle of May.

With respect to circuit nominees, after this confirmation there will be only 13 vacancies. Eight of those are without a nomination. Of the five remaining current circuit nominees, one was only nominated a few weeks ago. Having consulted with the home State Senators from Mississippi, I have scheduled our next judicial confirmation hearing to be held tomorrow to include Judge Leslie Southwick of Mississippi.

All three of the other circuit nominations are renominations that were not considered last Congress with a Republican majority. Two are renominations that the White House made knowing full well that they did not yet have the support of their home State Senators. When I previously chaired the committee, I was able to break the blockade of Sixth Circuit nominations that was established by the Republican majority when it pocket filibustered several of President Clinton's outstanding nominations to the Sixth Circuit. Once we broke through with two Sixth Circuit confirmations in 2002, President Bush was left with seven appointments to the Sixth Circuit during his term in office. Given the White House's unwillingness to work with the home State Senators of the two current nominees, however, it will be very difficult to make more progress.

With respect to the nomination of Peter Keisler, that renomination is controversial. He was previously nominated in June of 2006 but was not considered by the Republican majority then in control. The Republican majority did not seek to proceed with this controversial nomination at that time. In fact, the President and the Republican Senate majority insisted, instead, to proceed over the last several years on other nominations to the important D.C. Circuit, which were, themselves, highly controversial. The nominations of Janice Rogers Brown, Thomas Griffith and Brett Kavanaugh were each apparently a higher priority for this White House and the Republican majority than the nomination of Mr. Keisler. The others have each been confirmed to lifetime appointments on this very important court. At the end of the last Congress, the Keisler nomination was returned to the President without action in accordance with Senate Rules.

The Republican Senate majority pocket filibustered more than 60 of President Clinton's qualified and moderate judicial nominees. I have proceeded on more judicial nominees far faster than Republicans did on President Clinton's nominees.

With the cooperation of the President, with his working with Senators from both parties in making his nominations, with the cooperation of the committee and the Senate, we can continue to make progress.

I will yield the floor and reserve the remainder of my time.

Mr. SPECTER. 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. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. SPECTER. Mr. President, I yield the Senator from Texas 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized for 10 minutes.

Mr. CORNYN. Mr. President, we are into the fifth month of the 110th Congress. Even before this Congress convened in January, observers were predicting that judicial nominations would be one of the most contentious issues that we face. But I think by taking a forward-looking approach, the Senate managed to avoid an unnecessary confrontation. I think, by and large, we have started off on the right foot.

Earlier this year, the Washington Post and the Los Angeles Times both applauded the President for the difficult concessions he made in not choosing to renominate certain previous nominees who generated intense opposition. While I thought some of that opposition was mostly unfair and unwarranted, I respect the President's decision to extend an olive branch to the new Democratic majority in the Senate. Those two newspapers also encouraged the new Democratic majority to reciprocate with cooperation and fairness.

In that spirit of cooperation, Senate Republicans received assurances earlier this year from the Democratic majority of a fair and reasonable pace for the confirmation of nominees to the U.S. courts of appeals. I was pleased to hear the majority leader pledge his cooperation and leadership to help this Congress ''at least meet the standards of Congresses similarly situated as ours.'' We saw progress in the first couple of months of this year, with the confirmation of two circuit court nominees.

Today, the Senate will vote to confirm a Third Circuit judge. I welcome today's vote and hope it will be an indication of the majority's intent to keep working with us on the pace necessary to meet the historical average that the majority leader has endorsed.

Yesterday, the distinguished chairman of the Judiciary Committee commented on how he views this progress. I would like to briefly discuss the historical analogy he cited. First, I should note I am proud to continue to closely work on several significant pieces of legislation with the senior Senator from Vermont, Mr. LEAHY. He and I have found common ground on, among other things, historic changes to the Freedom of Information Act and much needed reforms to the U.S. patent system. I look forward to working with the chairman to help make these important bills become law.

The chairman and I tend to part ways on some issues related to judges. I just want to take a moment to comment on the remarks he delivered yesterday on the pace of judicial confirmations. In particular, I am wondering why he chose the year 1996 as the appropriate measuring stick for progress on judges made by this Congress. Of course, there is one obvious parallel between 1996 and the present year, and that parallel is divided government.

In 1996, President Clinton, a Democrat, sat in the White House, and the Senate majority was held by Republicans. But I submit we ought to be in the business of comparing apples with apples. We must look at Congresses similarly situated to this Congress. Point in fact: Looking to ''similarly situated'' Congresses is the very comparison cited by the majority leader.

Mr. President, you will recall the majority leader's commitment to judicial nominations—in his own words—to ''at least meet the standards of Congresses similarly situated as ours.''

Mr. President, by any reasonable measure, the proper comparison—and the one the majority leader has apparently endorsed—is not with a single year but with an entire Congress; specifically, with a Congress the final 2 years of a Presidency and a Senate majority of the opposing party. In fact, we are fortunate to be able to look to historical parallels during the last three Presidencies, not just one.

The landscape we face in the 110th Congress was similarly faced by President Clinton in 1999 and 2000, during the 106th Congress. President Clinton worked with the Republican-controlled Senate during the final 2 years of his Presidency to confirm 15 circuit court judges.

In 1991 and 1992, the 102d Congress, President George Herbert Walker Bush worked with a Democrat-controlled Senate during the final 2 years of his Presidency. President Bush and the Democrat-controlled Senate confirmed 20 circuit court judges in 1991 and 1992.

Finally, in 1987 and 1988, President Reagan finished out his Presidency opposite a Democrat-controlled majority in the Senate. President Reagan and the Democrat-controlled Senate worked together to confirm 17 circuit court judges.

Again, I submit we have to compare apples to apples. When we do that, we see somewhere between 15 and 20 circuit court judges were confirmed during each of those final two years of our last three Presidents. That is the standard that is relevant to this discussion.

The facts are what they are. This Congress has confirmed two circuit court nominees. We will shortly confirm our third, and that is a good thing. But the fact is, we are not yet back on pace to reach the output of the last 2 years of the Clinton Presidency—when a 55-member Republican majority in the Senate confirmed 15 circuit court nominees.

There is no satisfactory reason I have heard as to why no circuit court nominees were confirmed in April, or even reported out of committee. The reasons that have been offered—the vacancy rate is not that bad, the President needs to nominate more circuit court judges, and President Clinton was treated worse—are all irrelevant to the majority leader's representations on the Senate floor that this Senate will ''at least'' hit the historical average.

I urge my colleagues on the other side of the aisle to work with us, as we must, and work with the President to get back on track. That is our constitutional duty.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, while the Senator is still on the floor, I wish he had heard my statement. I can assure him that neither the chairman of the Judiciary Committee nor the majority leader intends to emulate what the Republicans did, with a pocket filibuster of more than 60 of President Clinton's nominees. I know of nobody on this side of the aisle who expects the Democrats to do a pocket filibuster of 60 of President Bush's nominees, as the Republicans did of President Clinton's.

It is interesting, when I hear this talk about historical averages, they weren't only—when you bring up the number of times there was a Democratic majority with a Republican President, a Republican President was treated far better than the Republicans treated a Democratic President. At no time were the Democrats ever pocket-filibustering 60 of the President's nominees.

There has been talk about President Bush withdrawing some of these nominees he had last year. I point out he had a Republican majority throughout the year, and they didn't pass through many. One was opposed by organizations that had never taken a position on a judge before—the Wildlife Federation—and all the Native American councils. Another one was not only involved in running the torture memos, but after swearing under oath and telling us information, he broke that oath by never giving or bringing the information. That was a person who would not have gotten a majority under a Republican-controlled committee. He would not have gotten out of committee because both Republicans and Democrats would have opposed him. So no big deal withdrawing people who were not going to go forward. In fact, in one instance, because somebody was nominated in the wrong State for a circuit court, that person was withdrawn. We moved very quickly to put the next nominee in that came from the right State.

I remember once that I got criticism from the White House, Karl Rove, and Vice President CHENEY for holding up because a person asked about a nominee. I must admit, to their credit, they withdrew his name after he was indicted and pled guilty to fraud. They are probably kind of happy I didn't let him go forward.

The Senator from Texas says we should compare. I wish he would stay with me one more moment. If the Senator from Texas doesn't want to listen and we have closed minds, I can't do anything about it.

I will say this: I have been chairman for 21 months during President Bush's Presidency. During that time, counting today's, we have confirmed 20 circuit judges and 98 district judges. One of the other chairmen was there for 2 years, there were 18 circuit judges. They were there longer than I have been with less judges; 85 district judges compared to my 98 in less time. Another chairman, 16 circuit judges compared to my 20; 35 district judges compared to the 98 we put through.

What we have done, of course, is the distinguished ranking member, as chairman, put together strenuous debate on two Supreme Court nominees. I think he knows full well the Democrats cooperated with him, whether they supported the nominee or not, to get them through.

Frankly, I am tired of misstatements of the record, and I will take time—I probably will have to have time on every single judge that comes up—to correct that. So people understand, we will not do as the Republicans did and pocket filibuster 60 or more of President Bush's nominees and, secondly, obviously we know when the Republican rule, the Strom Thurmond rule, kicks in next April, that changes all the rules.

I will point out, the proof is in the pudding. In less than 2 years, with the Democrats in control, we have moved faster on the President's nominees than during comparable times with Republicans.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the subject matter at hand is the confirmation of Ms. Debra Ann Livingston for the U.S. Court of Appeals for the Second Circuit, and I urge my colleagues to confirm her. She has an excellent, outstanding academic and professional record.

She was a superb graduate of Princeton, magna cum laude, 1980, Phi Beta Kappa; a graduate of the Harvard Law School in 1984, again, magna cum laude. She was editor on the Harvard Law Review, a law clerk to Judge Lumbard of the Court of Appeals for the Second Circuit. She practiced law with the prestigious firm of Paul, Weiss, Rifkind, Wharton and Garrison. She was an assistant U.S. attorney in the Southern District of New York. She was a commissioner for the New York City Civilian Complaint Review Board for some years, 1994 to 2003, and has been on the Columbia Law School faculty since 1994 as an associate professor, a professor in the year 2000, and

vice dean from 2005 to 2006. She has been rated unanimously well qualified by the American Bar Association. I believe she is an extraordinary prospect to go to the Court of Appeals for the Second Circuit.

There has been conversation, discussion, about the confirmation process. I commend the distinguished chairman for what he has done to date. We work together very closely. In the 109th Congress, he was ranking member. I liked it better when he was ranking member and I was chairman, but we have had bipartisan teamwork.

The record for confirmations of circuit judges in the last 2 years of a Presidential term, when the control of the Senate is in the opposite party, has been in the 15 to 17 range. I am hopeful, perhaps even optimistic, that we can get there this year.

A good bit remains to be done by the administration in submitting nominations. We have some 8 vacancies on the court of appeals which do not have nominations from the White House. Toward that end, there has been a leadership meeting with the White House counsel. We have tried to structure a plan which would enable us to go forward to confirm more circuit judges and to fill the vacancies of district court judges.

Many of these courts are in the category of judicial emergencies. As a practicing lawyer for many years, I can attest firsthand to the importance of having judges on the bench so that litigants can have a speedy disposition of their trials.

There is an adage: Justice delayed is justice denied. I think that is very true.

I ask unanimous consent that the full text of a prepared statement be printed in the CONGRESSIONAL RECORD following my extemporaneous remarks and that the specific text of my introduction be printed in the RECORD. Sometimes comments are made extemporaneous and then the written statement appears in the RECORD. If anybody reads the CONGRESSIONAL RECORD, they must wonder why there is so much repetition, so I would like to have an explanation included.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT ON THE NOMINATION OF DEBRA LIVINGSTON TO THE U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT AND CALLING FOR A FAIR CONFIRMATION PROCESS

(Senator Arlen Specter)

Mr. President, I seek recognition today as the ranking member on the judiciary committee to discuss the state of judicial nominations in the 110th Congress and the nominee pending before the Chamber today.

Today, the Senate will confirm Professor Debra Livingston to the U.S. Court of Appeals for the Second Circuit. She was first nominated over 300 days ago to a vacancy judged to be a ''judicial emergency'' by the nonpartisan Administrative Office of the Courts. She is a very fine choice for this important court and I am glad she will soon bring her much needed skills to the Second Circuit.

Before discussing judicial nominations more generally, I would like to say a few words about Professor Livingston's impressive background as an accomplished attorney, prosecutor, and legal scholar.

She graduated magna cum laude from both college and law school: Princeton University in 1980 and Harvard Law School in 1984. At Princeton, she was elected to Phi Beta Kappa. At Harvard, she was the Editor for the Harvard Law Review. Following law school, Professor Livingston worked as a law clerk to the Honorable J. Edward Lumbard of the U.S. Court of Appeals for the Second Circuit. In 1985, after her clerkship with Judge Lumbard, she joined the firm of Paul, Weiss, Rifkind, Wharton and Garrison as an associate, where she worked on a variety of State and Federal litigation.

The following year, Professor Livingston joined the Office of the U.S. Attorney for the Southern District of New York as an Assistant U.S. Attorney. Her work in the U.S. Attorney's Office focused on criminal trials and appeals. In 1990, she was elevated to serve as Deputy Chief of Appeals, an assignment that had her handling appeals before the Court to which she is now nominated.

After a successful career in the public sector, she briefly returned to Paul Weiss in 1991 before leaving the following year to become a law professor. She worked as an assistant professor at the University of Michigan Law School until 1994, when she joined the faculty of Columbia Law School as an associate professor. She became a full professor in 2000 and in 2004 became the Paul J. Kellner Professor of Law. Her principal areas of teaching at Columbia have been criminal investigations and evidence and she has published numerous articles in the area of criminal law and co-authored the casebook Comprehensive Criminal Procedure.

Professor Livingston has received a unanimous ''well qualified'' rating from the American Bar Association, the highest rating that organization gives. I'm sure she will enjoy a strong positive vote today.

Chairman LEAHY must be commended for working with Senators on both sides in order to get us off on the right foot during this Congress. Professor Livingston will be the 18th judge, and the third circuit court judge, confirmed this year. This is, admittedly, a much more auspicious beginning than that made by the Republican controlled Congress during President Clinton's final 2 years in office. That said, much work remains to be done.

The average for similarly situated Congresses in recent times is 17 circuit court confirmations. Despite its slow beginning, even the 106th Congress ultimately confirmed 15 men and women to the circuit courts and a total of 73 article III judges. And this was a historical low point. At the very least, the 110th Congress should meet or exceed this standard.

On several occasions, members of the majority have indicated that we can expect a dramatic slow down in confirmations in the latter part of next year. While I do not agree that historical record supports any kind of ''rule'' in this regard, we do know that the press of a Presidential election has a tendency of slowing down work in the Senate. If nothing else, we can expect the Congress will be in recess for a substantial portion of the second half of next year.

Therefore, in order to meet the standards set by similar Congresses in recent times, it will be necessary for us to confirm approximately one circuit court judge for every month we are in session.

There are five circuit court nominees currently pending before the Judiciary Committee. Three of these nominees are to vacancies designated as ''judicial emergencies'' by the Administrative Office of the Courts. Some of these nominations are being delayed by home state Senators who have not returned blue slips. It has generally been the practice of the Senate to not proceed without the consent of home state Senators. I have urged these Senators to return these blue slips and allow the process to go forward.

Although there is an understandable focus on the circuit courts, it should also be noted that there are 18 district court nominees pending in the Committee, eight of whom have been pending over 120 days, and 14 of whom are awaiting a hearing. These nominations also deserve prompt action.

I said before that Chairman LEAHY deserves to be commended for the progress made so far. The President also deserves to be commended for acknowledging the reality of a Democratic controlled Congress and withdrawing nominations that the other side has adamantly opposed. This was a very productive step that was rightly commended by Senators of both parties and the editorial pages of major newspapers including the Washington Post and the Los Angeles Times.

I have urged the President to build on this precedent by consulting with Senators of both parties as he moves to fill additional vacancies on the federal courts. As of today, eight circuit court and fifteen district court vacancies still do not have nominees. Three additional circuit court vacancies are imminent. In addition, 15 district court vacancies await nominees. The Senate cannot fulfill its duty to provide advice and consent until the President first sends us nominees. I am hopeful he will do so soon.

It will take both Republican and Democratic Senators, and the White House, working together to ensure an orderly confirmation process. Both sides have ample reason to complain about past grievances over the last two decades. But we cannot continue settling old scores. The partisan tit-for-tat over judges got so bad that it virtually paralyzed this body during the last Congress. This environment is deleterious to the Senate, to the nominees, and ultimately to litigants who wait for justice as judgeships go unfilled.

I believe the 110th Congress provides an opportunity to turn the page. Today's confirmation is further evidence that we are off to a good start. I look forward to working with Chairman LEAHY, and all my colleagues, in this effort.

IMMIGRATION

Mr. SPECTER. Mr. President, I now intend to take some of the time allocated for the judicial issue to talk very briefly about the immigration question which is front and center in the Congress today. It is second only to the concerns about the Iraq war and the current funding impasse which we have in the constitutional confrontation between the Congress and the President, and the sustaining of a veto and our efforts to try to work that out.

I believe there is a universal agreement that the immigration situation in the United States today is an unmitigated disaster. Strong language, but not strong enough for what is going on with immigration. We have a porous border and undocumented immigrants are coming into the United States. They pose a security risk. Terrorists are free to wander across our borders and come into our country and pose potentially grave threats to our national security.

We find a significant number of incidents of crime among undocumented immigrants. Crime does not have a sole source, but it is a problem. We definitely need to get a handle on immigration.

We worked very hard in the 109th Congress in the Senate. I give my colleagues in the House of Representatives credit for working very hard too. We produced a bill out of the Judiciary Committee. It was reported to the floor, and it passed the Senate. It was comprehensive reform, which is what was called for by the President, a bill which would deal with the 11 million undocumented immigrants, would provide for a Guest Worker Program, and would, as a preliminary to secure our borders, provide for employer sanctions if employers hired illegal immigrants.

The House of Representatives chose a different course to provide only for border security, and it was embarrassing, in my judgment, that we were unable to have a conference and pass an immigration bill last year with both Houses—the Senate and House of Representatives—controlled by the Republicans and President Bush, a Republican in the White House. But we find ourselves this year with the unmitigated disaster of immigration, worse now than ever.

There have been major efforts to try to find consensus legislation to present to the Senate for consideration. The first meeting was held on February 13 of this year, and the meetings have been held continuously right up to the present time, almost 3 laborious months. These were not abbreviated meetings. These meetings were held every Tuesday, Wednesday, and Thursday from 4 to 6 o'clock. They were attended by an average of 8 to 10 to 12 Senators. They were attended also by the Secretary of Commerce and the Secretary of Homeland Security, signifying the President's deep concern and deep interest in the issue.

They started off with Republicans meeting separately, and then we moved into bipartisan meetings. Last week, illustratively, we had 12 Senators meeting off the Senate floor for 2½ hours. It is pretty hard to keep 12 Senators in one room for 2½ hours, but we did.

We have come to what has been categorized as a ''grand bargain.'' That is a term one of our most active participants, Senator LINDSEY GRAHAM, gave to it because we had the overall structure of an immigration bill. We did not have all the aspects of it worked out, but we were proceeding to provide for real border security—border security which would increase the number of border guards from 12,000 to 18,000 and border security which would encompass a fence. We cannot have one across the entire border, but we can have a fence to secure our major metropolitan areas, illustratively San Diego and southern Arizona.

We have worked laboriously to craft identification so an employer would know whether an applicant for a job was legal or illegal. When an employer has the opportunity to be certain of the legal status of those he hires, then the stage is set for tough sanctions on employers so that we can reduce the magnet to bring people to the United States for jobs when they are not legally in the United States.

We have provided the mechanism for dealing with the 11 million undocumented immigrants. We have structured a program so it would not be fairly or accurately characterized as amnesty. The requirements of that program are that immigrants learn English, that the immigrants have roots in the United States, that they have held a job for a protracted period of time, that they pay a fine, and that there be a so-called touchback provision. It is still not decided as to the issue of back taxes, but that is a consideration which is on the table. We have provided for a Guest Worker Program which is what it says; that is, people come to the United States for the purpose of filling jobs and then will return to their native homes.

We provided that if there are people living in the United States legally, citizens or legal immigrants, they would have the first opportunity at these jobs.

We have held some 23 meetings over the course of the past 3 months. So I was a little surprised to see the statement by the majority leader at a press conference yesterday. Perhaps it was said partially in jest, but Senator REID pointed out that there had been notice for some 2 months that the immigration bill would be taken up in the last 2 weeks before the Memorial Day recess. Then he said:

> And anyone who thinks that 2 months is not enough time to get ready should get another occupation.

Maybe he said it in humor, but certainly I would fit into that category of looking for another occupation. The distinguished chairman of the committee has elected to have the matter go through the negotiating process which I have just described, so he doesn't have to seek another occupation. But there are many people on both sides of the aisle, under the Reid dictum, who now must seek another occupation.

I think it is a fair representation to say we have worked tenaciously. The problem we face now is that the so-called stakeholders all want more than can be divided from what is available. There are stakeholders who want more green cards and who want the advantages of family admission on a widespread basis, and if it were left up to me alone I would be in favor of the broadest reach of family unification. But if we are to find the realism of enough green cards to accommodate the undocumented immigrants who are going to come through the process at the end of the line, there has to be some give somewhere.

The critics of the immigration bill are descending on us from all sides before we even have an immigration bill. The Hill publication reports today of opposition from Members of the House of Representatives for Senate legislation when we don't even have legislation in existence. One Member of the House is quoted as saying:

> It is important that the Senate knows there will be strong bipartisan opposition to amnesty.

Well, we don't even have a bill that could be accused of having included amnesty, and the outline which we are considering and contemplating is certainly not amnesty by any fair interpretation.

The majority leader has said he intends to file under rule XIV today and go to the legislation on Monday. As I said yesterday, there is strong opposition to such a practice, at least on this side of the aisle. It is my hope that we will not face a contested motion to proceed. It is my hope we will not face the threat of a filibuster against the motion to proceed, which would doom immigration reform.

We have encapsulated our views in a letter, following the majority leader's news conference of today, where a number of us are asking that we rethink the schedule we have. If we bring last year's Senate-passed bill to the floor, it is going to have substantial opposition. That has already been announced on both sides of the aisle. Both Democrats and Republicans who supported it last year are opposed to it. If we start there, the floor action is likely to be a free-for-all.

I understand the problems of Senate scheduling, but I also understand the vicissitudes, problems, and pitfalls of proceeding where you don't have the structure of a bill which can be reasonably and realistically debated, with amendments, and then decided upon. We don't even have 2 weeks. We have to act on the supplemental before the Memorial Day recess if we are to provide the troops with the funding they need.

So it is my hope the current process can be allowed to continue. There has been a massive good-faith effort by Republicans and Democrats meeting for very protracted periods of time to come to agreement on a bill and to reduce it to written form. I will concede that there has been a lot of wheel spinning in the process which we have undertaken. Perhaps it was an error to abandon the traditional committee process. But that is where we are, and we need more time to flesh out the grand compromise, the grand bargain which we have structured so far.

If we are not able to legislate, we are not going to be able to provide for people who are interested in bringing 11 million undocumented immigrants out of the shadows, which is the main benefit that comes from those who want to proceed in the traditional American way to welcome the immigrants under a systemized plan. If we don't have comprehensive reform, we are not going to provide the border controls and the employer sanctions to stop illegal immigration.

It may be this is our last best chance. I would urge all sides to take a deep breath and to rethink positions on all sides and try to find a rational, bipartisan way to proceed.

Mr. President, how much time remains on my side?

The ACTING PRESIDENT pro tempore. The Senator has 58 minutes remaining.

Mr. SPECTER. Fifty-eight minutes remaining.

Mr. LEAHY. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The Senator from Vermont has 49½ minutes.

Mr. LEAHY. Mr. President, I know the Senator from Pennsylvania has the floor, but the Senator from New York wants to speak briefly, and I have also been advised there are a number of Republicans who want to go to a burial service. So just so people can plan, as soon as the Senator from New York has finished his speech, which will be very brief, I am prepared to yield back our time to accommodate those who wish to go to the burial service.

Mr. SPECTER. Mr. President, do I understand the Senator from Vermont, the distinguished chairman, is proposing a grand bargain?

Mr. LEAHY. No, sir.

Mr. SPECTER. A grand bargain which would allocate 1 minute to Senator SCHUMER, and then all time yielded back?

Mr. LEAHY. I am told the Senator wishes 2 minutes.

Mr. SPECTER. Sounds excessive to me, but I will go along. When he finishes his speech, if we are prepared to yield back time, I will consider the proposal for the grand bargain.

The ACTING PRESIDENT pro tempore. The Senator from Vermont yields time.

Mr. LEAHY. Mr. President, I yield to the grand marshal.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank my colleagues, and Raskolnikof as well, since he made the grand bargain once before. It didn't work out so well, so I would say to my colleague from Pennsylvania, I hope his grand bargain works out better than Raskolnikof's grand bargain.

Anyway, I rise to speak on our nominee, the confirmation of Debra Livingston. She is a legal superstar from my home State of New York, and she is nominated to the Second Circuit Court of Appeals.

Let me just say we in New York have a system in place for nominating Federal judges that works. The President and I work together to name highly qualified consensus candidates to the Federal bench. There is often rancor when it comes to judges from other parts of the country, but there has been very little when it comes to New York. It shows that when both sides wish to compromise, we can probably get there. That is because in New York we have an effective and bipartisan way to select qualified and, almost without exception, moderate candidates for the bench.

Ms. Livingston is squarely in that mold. Her career so far has spanned private practice, criminal prosecution, and academia, so she has a deep understanding of the law gained from many perspectives, from the courtroom to the classroom. Ms. Livingston is a graduate of Princeton University, received her J.D. from Harvard Law School—also my alma mater—where she served as an editor of the Harvard Law Review.

From 1986 to 1991, Ms. Livingston was an assistant U.S. attorney in the Southern District, where she prosecuted public corruption cases and served as deputy chief of appeals. Before and after her time as a prosecutor, Ms. Livingston was an associate at one of the very prestigious law firms in New York, Paul, Weiss, Rifkin, Wharton, and Garrison. She is currently the vice dean and Paul J. Kellner professor of law at Columbia University, where she focuses on criminal procedure, evidence, and national security.

I think it is great that we will have an appellate judge who has both a scholarly mind and practical courtroom experience. It is a perfect combination, in my view, for an appeals court judge. I hope my colleagues will join me in voting for her confirmation.

In keeping with the prelude to the grand bargain, I yield the floor.

Mr. LEAHY. Mr. President, I am prepared to yield back time.

Mr. SPECTER. Sealing the grand bargain, I, too, yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded, the question is, Will the Senate advise and consent to the nomination of Debra Ann Livingston, of New York, to be U.S. circuit judge for the Second Circuit? On this question the yeas and nays were previously ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON), the Senator from Michigan (Mr. LEVIN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN) would vote ''yea.''

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Idaho (Mr. CRAPO), the Senator from North Carolina (Mrs. DOLE), the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from North Carolina (Mrs. DOLE) would have voted ''yea.''

The PRESIDING OFFICER (Mr. SANDERS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 158 Ex.]

YEAS—91

Akaka	Dorgan	Menendez
Alexander	Durbin	Mikulski
Allard	Ensign	Murkowski
Baucus	Enzi	Murray
Bayh	Feingold	Nelson (FL)
Bennett	Feinstein	Nelson (NE)
Biden	Graham	Obama
Bingaman	Grassley	Pryor
Bond	Gregg	Reed
Boxer	Hagel	Reid
Brown	Harkin	Salazar
Bunning	Hatch	Sanders
Burr	Hutchison	Schumer
Byrd	Inhofe	Sessions
Cantwell	Inouye	Shelby
Cardin	Isakson	Smith
Carper	Kennedy	Snowe
Casey	Kerry	Specter
Chambliss	Klobuchar	Stabenow
Clinton	Kohl	Stevens
Coburn	Kyl	Sununu
Cochran	Landrieu	Tester
Coleman	Lautenberg	Thomas
Collins	Leahy	Thune
Conrad	Lieberman	Voinovich
Corker	Lincoln	Warner
Cornyn	Lott	Webb
Craig	Lugar	Whitehouse
DeMint	Martinez	Wyden
Dodd	McCaskill	
Domenici	McConnell	

NOT VOTING—9

Brownback	Johnson	Roberts
Crapo	Levin	Rockefeller
Dole	McCain	Vitter

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid on the table.

The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

Mr. GREGG. 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. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2008

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senate proceed to the House message to accompany S. Con. Res. 21, the budget resolution; provided further that the motion to disagree to the House amendment be agreed to, the motion to agree to the request of the House for a conference be agreed to, and the motion to authorize the Chair to appoint conferees be agreed to; provided further that prior to the appointment of conferees, the following motions to instruct conferees be in order and that no amendments be in order to the motions: No. 1, Senator KYL, relating to the estate tax; No. 2, Senator GREGG,

relating to the extension of certain tax cuts; No. 3, Senator CONRAD, alternative to Senator GREGG's extension of certain tax cuts; No. 4, Senator CORNYN, relating to the point of order on increasing tax rates; No. 5, Senator DEMINT, relating to the increase of taxes; and No. 6, Senator STABENOW, relating to energy.

I further ask consent that each motion be limited to 60 minutes equally divided in the usual form, that there be an additional 1 hour of general debate equally divided between the chairman and ranking member; further, that following the use or yielding back of time on each motion, the motion be set aside and that the votes occur in a stacked sequence this evening, Wednesday evening, beginning at 7:30 p.m., with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I thank the ranking member for his courtesy in working out this matter so we can complete action on the naming of conferees today. I think we have done this in a way that will give all Senators a right to express themselves on issues that are before the conference.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I thank the chairman of the committee for his cooperation. Obviously, he wants to get to conference. He wants to complete the conference on the budget. Although we disagree with the budget that was passed here—and I am sure we will disagree with the final product that is produced, regrettably—I think it is important the process go forward. It is not our intention to be dilatory, to try to slow this process down. That certainly is something we could do, but we certainly have no intention of doing that. Rather, we just want to be able to have a fair opportunity to make the points which we think are important relative to the budget.

So I appreciate the chance to work with the Senator and the chairman's willingness to work with us to reach an accommodation that seems to be constructive, which is constructive, and which will hopefully move the process along.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent that when the items are considered for a vote, there be 2 minutes equally divided before each vote, and that after the first vote, the votes be limited in duration to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the resolution (S. Con. Res. 21) entitled ''Concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012'', and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

The PRESIDING OFFICER. The Senate disagrees to the House amendment, agrees to the conference requested by the House, and authorizes the Chair to appoint conferees.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, it would now be in order for the Senator from Arizona to proceed with his motion. Again, I want to thank all Senators. These things are difficult. They are always last-minute considerations. But I think we have worked out a reasonable accommodation.

I thank the Presiding Officer and again thank the ranking member, and I believe now Senator KYL's motion is in order. I also thank Senator KYL for his patience as we worked through some of these procedural hurdles that cropped up at the last minute.

I say to Senator KYL, we thank you for your patience.

The PRESIDING OFFICER. The patient Senator from Arizona.

Mr. KYL. Thank you, Mr. President. I compliment both the chairman of the Budget Committee and the ranking member, who both have to have the patience of Job to work with all of their colleagues—all of them who have a little different idea of how things should proceed. I appreciate the comments.

MOTION TO INSTRUCT CONFEREES

Mr. President, I send a motion to instruct conferees to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] moves that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 21 (the concurrent resolution on the budget for fiscal year 2008) be instructed to insist that the final conference report include the Senate position to provide for a reduction in revenues, sufficient to accommodate legislation to provide for permanent death tax relief, with a top marginal rate of no higher than 35%, a lower rate for smaller estates, and with a meaningful exemption that shields smaller estates from having to file estate tax returns, and to permanently extend other family tax relief, so that American families, including farmers and small business owners, can continue to enjoy higher after-tax levels of income, increasing standards of living, and a growing economy, as contained in the recommended levels and amounts of Title I of S. Con. Res. 21, as passed by the Senate.

Mr. KYL. Mr. President, let me take a few moments to discuss what this motion to instruct conferees embodies.

The subject is the death tax, the tax which requires millions of American families and small businesses to spend millions of dollars preparing against the possibility that they will have to pay very large amounts of money to the Federal Government upon the death of the person in the family who is responsible for that small business or who owns the property.

For a long time, there has been a bipartisan understanding that this death tax is not a good thing. The Gallup poll and other polls consistently show that at least 60 percent of the American people think it is an unfair tax, that we should not be taking money from people at the time of death. They have already paid income taxes on it, frequently capital gains and dividends taxes, and yet again they are taxed at the time of death on an amount of asset that remains.

But just as pernicious as that tax is the planning, and the expensive planning, that has to go into trying to prepare for the possibility that the tax will be imposed—if you have a very large estate, frankly, trying to avoid having to pay a large amount of taxes into that estate because that frequently means you have to sell the small business, the farm, in order to liquidate assets to pay the tax.

This is not a theoretical proposition. A good friend of mine from Phoenix, AZ, who was one of the great contributors to eleemosynary concerns in Phoenix—especially the Girls and Boys Clubs; he has one named after him—moved from New York City to Phoenix and with another person started a printing company. Years later, they had over 200 employees. They were a great printing company in Phoenix. When Jerry died, his family could not afford the death tax liability because most of the money in the business was in the equipment. In that business, you have to constantly get new equipment to stay up with your competitors. They took out a small amount each year in salaries, but the rest of it was tied up in the business. So he did not have the liquidity to pay the substantial death tax that would be required. The business was sold.

Interestingly enough, as to the argument that we have a death tax to prevent the concentration of wealth, it was sold to a big corporation. By the way, corporations do not pay death taxes. Also, this corporation has not contributed, as far as I know, a nickel to any of the great charity causes in Phoenix that Jerry contributed to every single year. It was really a shame when he died. More than the head of that household passed away at that time.

What we are trying to do is to permanently reform the death tax. Now, in the past we have tried to repeal it. What this motion to instruct conferees does is embodies concepts that have been agreed to by both Democrats and Republicans to reform the death tax so that most people do not have to worry about it, they just do not have to go to the lawyers and the accountants, the estate planners, they do not have to pay money for insurance to get around it because they know the way we have constructed it, they are not going to have to pay it. It is still there for the very large estates, but most people would be exempted from it.

Specifically, the motion to instruct conferees would call on Senate conferees to insist that the final budget

resolution provide for a reduction in revenues relative to the baseline sufficient to allow Congress to approve meaningful death tax relief, defined as follows: A top marginal rate of no higher than 35 percent with a lower rate for smaller estates, and an exemption level that is sufficient to shield smaller estates from having to file a death tax return. While the motion does not specify that amount, an exemption of $5 million per estate indexed for inflation is what is contemplated.

As I said, I think repeal of the death tax is the best option. I have been trying to find some agreement on reform since we haven't been able to get the votes for repeal. It is a nightmare for families now, and that is why I want to see if we can find a bipartisan way to do that this year. America's small business owners, farmers, and ranchers deserve this kind of certainty now.

I might say, this might be a bonanza for insurance companies, but I think they have plenty of other ways to offer products to us. There is plenty to insure against. They can still make a very comfortable living without putting us through the burden to invest without insurance to avoid paying much of the death tax. This concept, by the way, would be sufficient to accommodate the death tax reform similar to the proposal introduced by the senior Senator from Louisiana last year and which was endorsed by the junior Senator from Arkansas on his Web site.

I might say I have worked with other Members of the majority party now, and I thought last year we were very close to having an agreement that might have been achieved in a bipartisan way. In particular, the Landrieu bill provides for a $5 million exemption indexed for inflation, which is great, a family business carve-out, a top rate of 35 percent, as I mentioned, and it recaptures the benefit of the $5 million exemption for estates valued at over $100 million.

The motion to instruct does not specify any revenue offsets. We don't believe extensions of existing law should require that. Indeed, this would be a retreat from existing tax law. It would be less generous to taxpayers, and none of our provisions last year contemplated an offset. We don't offset extensions of existing mandatory spending, and we don't think this extension of tax relief should be offset either.

Some have said we should freeze the 2009 law in place. That provides for a $3.5 million exemption and a gift tax exemption that would be separate, a 45-percent rate, but a 45-percent rate means the Government takes almost half your property above the exempted amount, and that is frankly not acceptable to most small businesses or farmers. Forty-five percent is a rate most Americans deem to be unfair. So what we would suggest is a proposal that would be able to accommodate no higher than the 35-percent rate.

Now, a couple of final points here. We all know budget resolutions don't dictate policy of the Finance Committee. It would be my intention to work with the Senators whom I have mentioned here, in addition to Senator LINCOLN, who worked very hard on this the last couple of years, and others, to craft an estate tax reform proposal that would provide for this $5 million exempted amount indexed for inflation, a lower rate for the smallest estates, and it provides for a top marginal death tax that is no higher than 35 percent. I would love to see it lower than that. The Joint Tax Committee tells us anecdotally that a rate any higher than 35 percent would drive families into aggressive tax planning to avoid the tax. That is what we are trying to avoid here, the extra expense of planning. I might add that the last study done that I know of determined that the amount spent on trying to avoid the payment of the death tax each year is almost exactly the same amount that is collected by the U.S. Government. So in effect, we have a double tax here. People are paying maybe $30 billion, roughly, in these taxes to the Government, and spending another $30 billion to try to avoid paying the tax. That is $30 billion that could be going to much more productive activities than paying lawyers, accountants, and insurance folks.

I conclude by saying it is important to provide the lowest rate for the smallest estates, because we don't want to have to have them go to the trouble of trying to protect their assets against the payment of the tax. We could accommodate that through a high exempted amount and a very low rate. That means they simply wouldn't have the incentive to go pay the money to the accountants and the lawyers.

There is much more I could say about this. Right now I know the distinguished chairman of the committee might have something to say.

I am happy to reserve the balance of the time on this side, subject to the ranking member's concurrence with that.

Mr. CONRAD. Mr. President, I again thank the Senator from Arizona for his motion to instruct which he has offered. I ask our colleagues to resist this motion to instruct. I ask our colleagues to resist it on two grounds. No. 1, we have already provided for estate tax reform in the budget resolution that passed the Senate. I will do everything I can, as chairman of the Senate delegation and chairman of the conference, to uphold the Senate position, which is to reform the estate tax.

The motion of the Senator from Arizona is not paid for. It will blow a hole in the budget. We are trying very hard to balance this budget by 2012. Our budget and what will come back from conference does balance by 2012. But if we adopt the Senator's amendment, we will not balance.

Let me say what the budget resolution that passed the Senate did. All of us know, first, there is no death tax. It is good language, but it is not accurate. There is no death tax. Nobody pays a specific tax on death in America. We do have an estate tax on larger estates. In fact, in 2009, only two-tenths of 1 percent of estates will pay any tax. That means 99.8 percent of estates will pay zero. So this talk about a death tax—I am reminded of a colleague of ours who was in Missouri and was stopped by a baggage handler and he told him: You have to stop this death tax. He said: My family is so worried about that death tax. That gentlemen wasn't going to pay any death tax. Mr. President, 99.8 percent of Americans are going to pay no death tax, because there is no death tax. There is an estate tax on larger estates. Right now, it applies to estates of over $4 million a couple. Under $4 million, you pay nothing. It is going up. In 2009, the it will be $7 million a couple who will be exempt. So in 2007, the year we are in now, there is a $4 million exemption per family. You pay nothing if you have an estate of less than $4 million. In 2008, it is $4 million. In 2009, it goes to $7 million. In 2010, there is no estate tax. Then in 2011, it goes back to $2 million a couple. That makes no sense. It goes backward. It goes from a $7 million exemption in 2009 to no estate tax in 2010. In 2011, it goes back to $2 million per couple. We don't permit that in this budget resolution. We stay at the $7 million exemption per couple, index it for inflation, so as values go up, the estate tax exemption will go up. We have covered this out of the resources of the budget so we are able to balance the budget by 2012.

Now, the Senator from Arizona is absolutely well-intended. He has been very persistent on this. I give him high marks for that. He is absolutely dedicated to this cause. I give him high marks for that. The problem is he doesn't pay for it. Unfortunately, what he would do is throw the budget out of balance in 2012. I think that is a mistake.

In the budget resolution we have passed, beyond providing for a $7 million exemption indexed for inflation, $7 million for couples, anybody who has an estate of $7 million or less will pay zero, will pay no estate tax, which means, again, 99.8 percent of estates in our country will pay zero, nothing, not a penny. We have paid for it. In addition, we have provided a reserve fund that says if you want to go further, you can if you pay for it. The difference, the big difference we have is the Senator from Arizona doesn't want to pay for it. He wants to put it on the charge card. He wants to stack it on the debt. He wants to shove it off on our kids, let them pay. No. That shouldn't be the way we go. We have stacked up enough debt during this administration. This administration has added $3 trillion to the national debt, and if they have their way over the next 5 years, they are going to stack another $3 trillion on the debt.

Where are they getting the money from? They are taking it from Social Security. That is what they are doing. They have already taken over $1 trillion of Social Security money and used it to pay other bills, and they are getting ready to take another $1 trillion of Social Security money and use it to pay other bills. If you were in any other organization and you tried to take the retirement funds of your employees and use it to pay operating expenses, you would be on your way to a Federal institution, but it would not be the Congress of the United States, it would not be the White House—you would be headed to the big house, because that is the violation of Federal law. What the Senator from Arizona is doing by refusing to pay is he is going to take the money from Social Security. He is going to take Social Security money and use it to pay other bills. I think that is a mistake.

We have provided for fundamental estate tax reform in the budget. We ought to continue to support that, but we paid for it. Let's not go back to the bad old days of doing things around here and not paying for them.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, let me make three quick comments and then I would like the ranking member to respond as well.

It is true the budget already provides for some form of death tax relief. The problem is that form is a 45-percent rate—45 percent. Almost half of your estate would be paid to the Federal Government. I want a show of hands for everybody who believes that is fair.

Let the RECORD show one person in the Chamber raised his hand.

Second, the idea of the chart which the chairman pointed out showing the irrational treatment of the death tax, I totally agree with that. It is irrational, and there is a reason why it is irrational: because Democrats would not agree to cause the death tax relief to be permanent. All they would do is agree to the budget window, which at the time was a 10-year budget window. After that, it is done. That is why you have this crazy system where we have a declining rate. In the year 2010 it goes away, and in the year 2011 it comes right back again. We are all for making it rational by making it permanent. All in favor of that, raise your hands. The problem is, we can't get 60 Senators to vote for that, which is why we are stuck with this irrational system.

Finally, the most irrational thing of all, the idea—and this is an odd concept if you stop to think about it. The Government takes citizens' money in taxes, and then if we decide to let people keep more of their hard-earned money, they have to pay for that. We decide you should be able to keep more of your money because you know how to spend it better than Washington, but this odd concept on the other side of the aisle is: We can't let people keep more of their own money unless they ''pay for it.'' Pay who for it? Pay Washington for it. In effect, we are going to raise your taxes in some other way to make up for the relief in taxes we are providing here. That is what the American people are stuck with under the Democratic budget's idea of a good time, of what is fair. That is not good policy, and it is not fair. When we decide it is good policy to let the American people keep more of their hard-earned money, they shouldn't have to ''pay Washington an equivalent amount in some other kind of taxes.''

We wish to instruct conferees to pass a budget that can accommodate real relief from the death tax. I think the way we have laid this out is the best way to provide that kind of relief, as evidenced by the fact that several of our colleagues on the other side of the aisle have joined with us in proposing precisely that.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, let me correct one matter of history here. The Senator from Arizona says this bizarre circumstance with the estate tax ending in 2010 and then coming back in 2011 with lower exemption amounts is the fault of the Democrats. Whoa, whoa, whoa, whoa. That is a whopper. That is a double whopper. As the Senator knows, we weren't in charge when that tax policy was put in place. Our friends on the other side were in charge. They controlled the Senate, they controlled the House, they controlled the White House. They wrote this tax policy. Why? They did it because they wanted to put more tax cuts into the bill than they could afford, so they played an old Washington game and an old Washington trick.

They sunsetted their tax provision at the end of the period to reduce its cost. They are the ones who constructed this monstrosity. It is their responsibility, and we are fixing it. We are fixing it in this budget resolution and we are paying for it. That is a fundamental American value.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I have one last comment regarding the ''whopper,'' as the Senator put it. It is absolutely true that Republicans were in charge when we passed the lower tax rates for Americans to help Americans out. We had 55 votes at the top amount; to make tax policy permanent, we needed 60. We could not get enough of our Democratic friends—not even six or seven of them—to join us to make the tax policy permanent; we could not get 60 votes so we could eliminate that irrational system.

So it wasn't a ''whopper'' that I told; it was the truth. Republicans were in charge. If we had about seven more votes, we could have had a rational tax system rather than the one we have today.

Mr. CONRAD. Mr. President, look, let's be absolutely direct with those who are watching and with our colleagues. Democrats did not construct this estate tax charade that takes us up to a $7 million exemption in 2009 and then goes to no estate tax in 2010 and comes back in 2011 with a $2 million exemption. That was a construction totally and completely of our friends on the other side of the aisle.

The Senator says we did not support the tax cuts that were disproportionately extended to the wealthiest among us and that plunged us into debt. He is absolutely right, we did not. Unfortunately, it has proven to be extraordinarily expensive to this country. We will pay for this for a very long time because the debt of the country exploded as a result of that policy.

Look, we supported tax reductions; we supported a more modest package of tax reductions—about half as much as they passed—and reserved the rest of the money to strengthening Social Security, getting us back into a situation where we weren't raiding the Social Security piggy bank around here to pay other bills. I am proud of that. We did the right thing.

I am happy to yield 5 minutes to the Senator from Florida.

Mr. GREGG. Mr. President, is this a morning business speech?

Mr. CONRAD. Does the Senator wish to talk on the estate tax matter?

Mr. NELSON of Florida. Both.

Mr. GREGG. I am going to be here for a while, so we can let the Senator from Florida go ahead.

Mr. CONRAD. I thank the Senator from New Hampshire for his courtesy.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, we have a saying in the South: being between the devil and the deep blue sea. That somewhat illustrates the position this Senator is in regarding the estate tax, for this Senator has been a sponsor of the elimination of the estate tax for the last 7 years. The problem—as I have conferred with colleagues here, including the Senator from North Dakota, as well as colleagues on the other side—is finding the 60 votes out of 100 Senators in order to be able to pass some form of estate tax relief.

The fact is we have Senators who are all over the lot. There are some Senators who don't want to have any estate tax relief, and there are others on the opposite side of the spectrum who think there should be a total abolition of the estate tax and nothing short of that is any good.

Well, the truth is, if we had been able to eliminate the estate tax back in 2001, when the Federal Government had a healthy surplus, we would not be facing what we are today, which is trying to eliminate the estate tax, or part of it, when we have a drastic shortage of revenue, the consequences of which keep running up the red ink of the Federal Government and continued deficit

financing. Of course, you know who is buying our debt: the banks in China and Japan.

So earlier this year, when we crafted a compromise, with Senator BAUCUS in the lead, having a $3.5 million exemption and lowering the estate tax on that above $3.5 million per person, or a $7 million exemption for a couple, lowering that tax rate from 55 to 45, that seemed to be the compromise by which we could get the 60 votes.

I ask the chairman of the committee to confirm that what this Senator is saying is correct—having been able to get that 60 votes, then if we go off onto something else, what is going to happen is that those of us who want some relief for the family farms and the family businesses are not going to be able to make that stick. You cannot have it all. This Senator's attitude is to get something if you cannot have it all. I ask the chairman, the Senator from North Dakota, if the reasoning this Senator has laid out in the compromise that was crafted, to give some estate tax relief, if that is correct?

Mr. CONRAD. The Senator is entirely correct. As a valuable and valued member of the Senate Budget Committee, he knows, with great precision, how difficult it was to put this package together. He also knows if we go the route of Senator KYL, we will jeopardize the middle-class tax relief that is in this resolution. We provided full relief for the marriage penalty. We provided full relief for the 10-percent bracket. We provided full relief for the child tax credit.

If Senator KYL's amendment is adopted, one of two things will happen: It will reduce the funds available for the middle-class tax relief to transfer the money to the wealthiest among us or it will stick it on the debt. There are only two possibilities. I think it would be unfortunate to do either. I think it would be a mistake to reduce the middle-class tax relief in our budget resolution. I think it would be a mistake to reduce the child tax credit. I think it would be a mistake to reduce the cut in income taxes that are provided for by the 10-percent bracket. I think it would be a mistake to reduce the marriage penalty relief that is here in order to stack more benefits on the estate tax or to put it on the charge card and add it to the debt.

Mr. NELSON of Florida. Mr. President, I will conclude with this thought: Naturally, the vote that this Senator will cast on Senator KYL's motion to instruct conferees is a very uncomfortable one because, for this Senator, if I had my druthers, would I want the estate tax lowered? The answer to that is yes. I have been a sponsor of eliminating the estate tax. But the question is: What is the doable deal? What is the deal that will avoid this ridiculous outcome that is going to occur in 2010, when the estate tax will go away completely in one year and the next year come roaring back—back to its original position in the law back in 2000? That is the compromise we have crafted that is in the budget resolution.

I want anybody who is within earshot to understand the position of this Senator in supporting the budget resolution.

Mr. CONRAD. Mr. President, I ask unanimous consent that the following remarks of Mr. NELSON of Florida be moved so as to not interrupt the flow of debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

(The remarks of Mr. NELSON of Florida are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Republican leader is recognized.

IMMIGRATION

Mr. MCCONNELL. Mr. President, based on comments we have heard from some of our colleagues on the other side over the last 2 days, there is some genuine concern that the bipartisan immigration compromise that Members and staff have been working on so diligently over the last 2 months might be brushed aside in favor of last year's unsuccessful bill. I strongly urge all of our colleagues to reconsider this approach, if, indeed, it is the one they plan to take.

This exercise needs to be a bipartisan one or it will not—it will not—succeed. That is an indisputable fact. Any effort to move legislation on this issue that isn't the result of an ongoing bipartisan discussion would be a clear signal from the Democrats they are not yet serious about immigration reform.

So I urge my colleagues on both sides of the aisle to stay at the table. Let this bipartisan working group finish its work so we can achieve immigration reform this year. Scrapping their work now will only end in frustration and defeat for both sides.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I thank the Republican leader for reminding us how we should be approaching the immigration issue, which is in a rational way.

I wish to respond to a few comments that have been said, and then I want to offer the motion to instruct, which I have reserved in the order that has been entered into, and then yield to the Senator from South Dakota for his comments, and then, obviously, the Senator from North Dakota, I presume, will want to respond, if that is acceptable to the Senator from North Dakota as the procedure.

To begin with, there has been a lot of references to what is going on in the area of tax policy and what the implications are, both relative to the death tax—and I did find it ironic that the Senator from North Dakota said it wasn't a death tax. Well, the only way you can pay it is if you are dead, or the only way your relatives can pay it. That is the only way this kicks in is to be hit by a truck. I think ''death tax'' is a fairly reasonable explanation of what it is.

Regarding the issue of the tax cuts which are obviously at the essence of much of the debate relative to this budget, this chart reflects the underlying question of what these tax cuts have accomplished. The Senator from North Dakota correctly reflects the fact that revenues fell off as the tax cuts originally were put in place. That is correct. Why did they fall off? They fell off because we were coming out of the largest bubble in the history of organized cultures, an economic bubble, where the Internet bubble of the nineties exploded on us, caused a significant contraction in the economy, which obviously caused a contraction in revenues. That was coupled with the attacks of 9/11, which disrupted the economy to a degree that our economy has never been disrupted, except for the Great Depression and probably World War II. So those two events created a huge retardation of revenue.

It was actually quite fortunate in the middle of that disruption, and a little bit prior to that, we had put in tax cuts during President Bush's first term which would stimulate the economy. As a result of those tax cuts going into place—yes, initially there was a revenue reduction, but that revenue reduction was in large part due to the bubble burst and the 9/11 contraction in the economy.

Since that time, we have seen those tax cuts energize an economic recovery which has truly been historic and extraordinary, and it has done a great deal for our country from the standpoint of creating jobs, which is the bottom line most important thing we can do but also generating revenue to the Federal Government.

We have now had 3 years of the largest growth in revenue in the history of our country, the largest growth, year after year. We are seeing revenues explode literally at the Federal level. They went up 11 percent in 2005 and 18 percent in 2006. They are projected to grow 18 percent in 2007. These growth rates are truly extraordinary. And revenues not only have grown year to year in an extraordinary way, but they have grown in a relationship to the overall historic burden of revenues paid by the American people to the Federal Government.

Historically, the American people have paid 18.2 percent of the gross national product to the Federal Government. That is represented by the blue line on the chart. We are actually well above that now so that we are seeing a rate of income to the Federal Government of about 18.6 percent of GDP. That means we are actually generating more revenues to the Federal Government than we have on average generated to the Federal Government.

We have a tax law in place which is doing a number of things. It is generating huge revenues, and it is generating revenues that exceed what has

been the historical norm for this Nation, and it is a tax law which is creating jobs and causing the economy to expand.

We have now had 22 straight quarters of economic expansion as a result of tax cuts, and we have had 44 consecutive months of expansion in jobs, 7.8 million jobs created. Those are massive expansions, people getting work.

In addition, two of the essential elements of this tax cut, the capital gains and dividends rates, have actually generated a huge explosion of economic activity in this country because they have unlocked, in the instance of the capital gains area, funds which have been locked up for years in relatively unproductive assets have now been sold, the revenue has been turned over, and people have reinvested, entrepreneurs and risk takers, in items that have created more return, which has had two effects: It has created more jobs and more revenue to the Federal Government.

The tax cuts have been good for this country from the standpoint of creating jobs, from the standpoint of economic growth, and from the standpoint of revenues to the Federal Government. Yes, one can look at this period from 2001 to 2003 and say revenues dropped. Yes, they did, but I would argue that was a function of the bursting of the internet bubble and 9/11 more than the tax cuts. But if you look at the most recent period, one cannot argue with the fact that we are seeing an explosion in revenues to the Federal Treasury, which has dramatically, in addition to the other two things, caused economic growth, jobs creation, the revenues, and has dramatically reduced the deficit of the Federal Government. In fact, we projected the deficit of the Federal Government. It was projected 3 years ago that it would be somewhere in the $350 billion range. It looks as if it is going to be under $200 billion, and significantly under $200 billion. And on a $3 trillion budget, you are basically talking a deficit number, which is really getting well under what has been the historic deficit of the Federal Government and, more importantly, had we not had the Katrina catastrophe where we had to spend over $150 billion approximately on that, and were we not at war, a war which we did not ask for when we were attacked on 9/11, we would be in surplus, significantly in surplus.

These tax cuts have been good for this economy. They have been good for the country. They have been good for employment. They have been good for economic growth. They certainly have been good for the Federal Treasury.

On the specific issue of the death tax, which is the motion which is pending, the motion by Senator KYL, I think the point Senator KYL makes is the one on which people should focus, which is what his proposal says is, we are going to put in place a compromise proposal on the death tax which was, ironically, a compromise proposed from the other side of the aisle. I think it was the senior Senator from Louisiana, Ms. LANDRIEU, who basically came up with this idea, which is we would have a higher rate for bigger estates, 35 percent, and for little estates, small businesses, farmers, ranchers, we would have a lower rate, and you would have an exemption of I believe about $5 million.

This proposal makes a lot of sense. There is no reason why it should be a taxable event to die. A taxable event should involve economic activity. It should be you went out, made some money, and as a result you got taxed.

But the way the death tax works is, the taxable event is that you, unfortunately, die. You end up getting hit by a truck, fall off your motorcycle, you get some serious disease, and as a result, your family gets hit with a tax bill. In many instances, if you are a small businessperson or you are running a farm or some other thing that involves one person and is the essence of the whole operation, that death is a huge, traumatic economic event, to say nothing, obviously, of the personal trauma that is involved. But that is a huge, traumatic event, if somebody runs a restaurant and he is the cook, the bottle washer, and maitre d', or runs a gas station, runs a small business or a farm; that person is usually the key person. When they die, that business is in extreme distress usually. That distress should not be multiplied and dramatically increased by having the tax man come in and say: I'm sorry, we are going to take half the value of your business, which is the way the law works now.

So this proposal, which was a compromise worked out among a variety of people around here, and actually the essence of it was put forth by the Senator from Louisiana, makes a lot of sense. So what Senator KYL has said is let's do it. Let's put it in the budget.

The argument is, that is going to increase the deficit. That is a fairly specious argument because it is the essence of that argument: If you let people keep their own money, you are making a mistake. The Federal Government should take the money and then they should have to pay money to get their money back. They should have to pay more in taxes. It makes no sense at all.

In addition, let's remember this proposal of the Democratic budget, as it left the Senate, had over a $700 billion tax increase in it. As it left the House, it has over a $900 billion tax increase in it. That is on the American people. What Senator KYL is suggesting is you take a very small percentage of that huge tax increase that is in this budget and use it to basically put in place proper procedures and policies relative to the death tax.

MOTION TO INSTRUCT CONFEREES

And that brings me to my motion to instruct. I ask unanimous consent that the pending motion be set aside and that my motion be ordered.

Mr. CONRAD. Reserving the right to object, one thing we have to do is make sure we have the time figured out because we have an hour on the Kyl matter. I will want some time to respond to the Senator's comments, and Senator THUNE wants to apparently talk about the Senator's motion. So we would be reserving our time on the Kyl motion while we go next to the Senator's motion?

Mr. GREGG. That is fine to me, or yield it back and use the time altogether.

Mr. CONRAD. It will all wash out. Let's do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the motion.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. GREGG) moves that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 21 (the concurrent resolution on the budget for fiscal year 2008) be instructed to reject the House amendment that assumes a $916 billion tax increase, the largest tax increase in U.S. history, and insist that the final conference report include in the recommend levels and amounts in Title I of S. Con. Res. 21, reductions in revenues commensurate with extending the existing tax policy:

$1,000 child tax credit;

marriage penalty relief;

10% income tax bracket—so those earning $15,000 or less continue to benefit from low tax rate;

lower marginal rates for American families and small businesses (15%, 25%, 28%, 33%, and 35%);

Earned Income Tax Credit relief for military families;

adoption tax credit;

dependent care tax credit;

college tuition deduction;

deduction for student loan interest;

$2,000 Coverdell Ed. IRA;

15% rate on capital gains and dividends; and death tax repeal.

Mr. GREGG. Mr. President, I will speak quickly to this because I know the Senator from South Dakota has been courteous and is waiting, and I know he wants to speak to it. So I will highlight a little and then come back to the substance of it.

The essence of this motion is that the $916 billion tax increase, the largest tax increase in history, which is in the House budget, be rejected; that the $700-plus billion tax increase in the Senate budget—again, that would be the largest tax increase in history were the House not outbidding us—be rejected; and that instead we extend a series of tax breaks which are already in place and which are very beneficial to the American people, including the $1,000 child credit, the marriage penalty relief, the 10-percent income tax bracket, the lower marginal rates for American families and small businesses, the earned-income tax credit for military families, the adoption tax credit, the dependent care tax credit, the college tuition deduction, the deduction for student loan interest, a $2,000 Coverdell education IRA, the 15-percent rate on capital gains and dividends, and essentially the Kyl death

tax proposal. That is what this instruction would do.

I would ask that, instead of increasing taxes by the largest amount in history on the American people, we continue tax policies which have produced this huge economic expansion.

I yield to the Senator from South Dakota for his comments.

Mr. THUNE. Mr. President, I wish to thank the Senator from New Hampshire for yielding and also to just elaborate on some of the things he talked about with regard to his motion. I congratulate him on offering this motion to instruct because I believe it gets at the heart of this issue, which is whether we are going to continue this economic expansion, the job growth that has come with it, the explosion in Government revenues associated with the tax relief that was enacted in 2001 and 2003 or whether we are going to go down the opposite path and increase taxes by, as he said, the largest amount in American history.

Now, up until this last year, this budget we are talking about today, the largest tax increase in American history happened in 1993. That was $293 billion in increased taxes that was put through the Congress in that year. What has been proposed this year, through the budget process in the other body, in the House of Representatives, was a $916 billion tax increase, and, as the Senator from New Hampshire has noted, here in the Senate it is a $700 billion tax increase.

The only question really before us is whether this conference committee which is going to meet is going to adopt the House version, which is triple the largest tax increase in American history, or adopt the Senate version, which is double the largest tax increase in American history. Either way, whether we adopt the Senate-passed budget or the House-passed budget, we will be adopting the largest tax increase in American history—if we adopt the House version, three times the largest tax increase in history and, if we adopt the Senate version, more than two times the largest tax increase in American history.

So the gentleman from New Hampshire, the Senator who has proposed a motion that would instruct the conferees who will be meeting, the Senate conferees who will be meeting with the House conferees to work out and reconcile the differences between these two budget resolutions—one, as I said, is the House, which is triple the largest tax increase, or the Senate version, which is double—his motion would essentially instruct the Senate conferees to go into that conference with a position that doesn't accept the House tax increase or the Senate tax increase; rather, it allows these existing tax cuts to stay in law—in other words, not to allow them to expire.

I have a chart here which illustrates a little bit about what I am speaking of today, and this chart essentially shows what is included in that $900 billion tax increase. As I said earlier, the Senate, in its budget resolution, adopted a position that restored about $180 billion of the tax relief that would expire under the House-adopted budget resolution. As we can see, this is the amount taxes will go up if this budget is adopted. This is the amount the Senate said we will put back with the Senate budget resolution here, which our colleagues on the other side were able to get through the Senate. It puts back $180 billion.

I will give the House credit because the House voted yesterday on a motion to instruct their conferees to adopt the Senate language. That makes sense because I think they heard what a lot of people said when they went home and met with their constituents; that is, we don't want to see the largest tax increase in American history. We don't want another $900 billion in taxes imposed on the American economy at a time when the economy is growing and expanding and creating jobs.

Just look at the last few years here: 7½ million new jobs, unemployment at 4.5, 4.6 percent, the lowest historical average in the last three decades, 21 consecutive quarters of economic growth.

This is the counterintuitive part about this because, as was pointed out back in 2001 and 2003 when these tax cuts were being debated, if we reduce taxes the revenues are going to go down. Well, in fact, the opposite has happened. What has happened is what has happened throughout the course of history—under the Harding administration in the 1920s, the Kennedy administration in the 1960s, the Reagan administration in the 1980s, and now currently; that is, when you reduce marginal income tax rates, capital gains income rates, what happens? People take their realizations, they pay their taxes, they reinvest, and you get not less Government revenue but more Government revenue—in this case, dramatically more Government revenue.

Between 2004 and this year, we have seen Government revenues increase by $300 billion; that is, revenue coming into the Federal Treasury between 2004 and 2005 was up almost 15 percent, 14.7 percent; between 2005 and 2006, around 13 percent; and in this current fiscal year, the first 7 months of this current fiscal year, Government revenues are up 11.3 percent over last year. In fact, in the month of April, we have $70 billion more Government revenue than April a year ago.

These tax cuts are working not only to stimulate the economy and to create jobs but, as I said before, miraculously, to generate more Government revenue. We have $300 billion more Government revenue coming in as a result of reducing taxes, which again proves the historical fact that when you reduce marginal income tax rates and capital gains tax rates on the American people, they take their realizations, they pay taxes, they invest, they create more jobs, the economy continues to expand, and you get not less Government revenue but more Government revenue.

So I think what is happening here in the Senate is an attempt to provide a fig leaf of cover when it comes to this issue of taxes. The problem with that is this particular cover is a cover not for the taxpayers in this country, it is perhaps a cover for the tax raisers in this country. It is a small cover, however, because if you take $180 billion of tax relief that is restored under the budget resolution adopted here in the Senate, you can cover some of this stuff.

What they propose is that we are going to put back some of the marriage penalty that would come back into play under the House-passed version, and we are going to restore some of the 10-percent tax rate—the lowest tax rate, which applies to people making $15,000 and less—and we are going to provide some death tax relief. We will lower the top death tax rate from 55 percent to 45 percent. Well, what does that do? What do you do, then, about the alternative minimum tax, which is going to hit 20 million additional taxpayers if this budget is adopted? What about the child tax credit, which under the Democratic plan is slashed from $1,000 back to $500? What about lower tax rates throughout the rest of the rate schedule? Even if you fix, as they attempt to do with this small amount of tax relief, the 10-percent tax bracket, the lowest tax bracket, you still have tax increases in every other tax rate on the schedule. In fact, those who are paying 25 percent taxes are now going to go up to 28 percent. Those who were paying at the 28-percent rate currently will see their tax rate going up to 31 percent. Those paying at the 33-percent rate are going to see their tax rates go up to 36 percent. Those fortunate few paying at the 35-percent rate, the highest marginal tax rate today, are going to see their tax rates go up to 39.6 percent.

My point is, you can provide a fig leaf to say that we are doing something to allow for some of these tax cuts, this tax relief which has benefited our economy and the American people into the foreseeable future, but what about the rest of all these tax breaks that are going to expire, which means the largest tax increase in American history?

If we look at what the motion of the Senator from New Hampshire does, it says we want to extend these tax breaks to include the deduction for student loan interest. There are a lot of working families trying to put their kids through college who are taking advantage of that tax break.

How about the earned-income tax credit, which is helping a lot of our military families, many of them serving in Iraq and Afghanistan?

As I said before, the child tax credit is being slashed from $1,000 down to $500, essentially cutting in half the amount of credit a working family can get for their children when they file their tax returns. That was something

which was put in place to help working families.

I can go right down the list. Let's take senior citizens' dividend income—currently taxed at the capital gains rate of 15 percent, but under this proposal it goes up to 39 percent. We have a lot of seniors in this country who have invested and now have dividend income, capital gains income. Their capital gains income rates are going to go up as well. If they have capital gains income they are going to show, that will go up from 15 percent to 20 percent.

My point very simply is that if you pay taxes in America today, the prescription in this budget resolution which was adopted here by the Senate, put forward by our colleagues on the other side and the one adopted by the House, has one prescription: higher taxes. Every working American who pays taxes today is going to see their tax bill go up. In fact, in my State of South Dakota, which I will use as an example, the average tax increase on a working family in South Dakota would be $2,596 under this budget, with 2,840 jobs being lost and $262 million lost in our economy. That is in my State of South Dakota, and probably, if you take any other State, you would find the numbers to be dramatically higher in terms of job loss, in terms of the loss to the local economy and the impact it is going to have on taxpayers.

Again, just in an attempt to summarize what I am saying here, the Democrats have attempted, in the form of a fig leaf, to provide some amount of tax relief cover in this budget. What they do not tell us is that the amount of tax relief does nothing to cover the increase in taxes that will occur under this budget. They take about $180 billion off the table and say to the American people: Keep that. But they are still going to be raising taxes by over $700 billion, even if the Senate version of this budget resolution is adopted in conference. If the House version ends up being adopted, it will be over a $900 billion tax increase—the largest tax increase in American history by three times in the House, over two times in the Senate.

Again, if you take this amount, this fig leaf, and you say: We are going to put the 10-percent rate back, we are going to do something to provide some marriage penalty relief because we think married couples ought not to be penalized for being married, which I happen to agree with, and that was part of the tax relief passed in 2001 and 2003, and I think they realize that is a popular piece of tax relief, so they are going to attempt to restore some of these things—that still doesn't do anything about capital gains and dividends, which will hit seniors, or anything about R&D tax credits or the per-child tax credit or anything on the rate structure, the rates which go from 25 percent up to 28, from 28 to 31, from 33 to 36, and from 35 to 39.6. Every rate on the rate schedule is going up under this particular proposal.

So I am here today to support the motion of the Senator from New Hampshire to instruct the conferees as they go into conference between the House and the Senate to leave these tax cuts alone. Don't allow them to expire. Don't permit the largest tax increase in American history at a time when the economy is growing and expanding and creating jobs and we are seeing not less Government revenue but dramatically more Government revenue, to the tune of a $300 billion increase in Government revenues just in the past 3 years alone.

These tax cuts are working. They are having their desired effect. They are accomplishing what was intended in the first place when this Congress, in its wisdom, enacted these tax cuts in 2001 and 2003. It would be a shame to take a fig leaf and try to say to the American people, to the taxpayers of this country, that we are going to provide a little bit of cover for the tax raisers here in the Congress, but we aren't going to do anything to provide cover for the American taxpayer, those people who are going to pay higher rates in all these areas if this budget is passed and if the conference report comes back either with the Senate version or the House version, both of which increase taxes, it is just a question of by how much.

So I hope we can adopt and get the votes necessary to pass the motion of the Senator from New Hampshire to instruct our conferees to allow these tax cuts to stay in place. Don't allow them to expire, don't raise taxes, don't do something that would harm our economy and the jobs being created by passing the largest tax increase in American history.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, this is the most amusing chart that has been presented in the Senate this year. The biggest block of the Senator's chart is about alternative minimum tax relief. He is talking about the Gregg amendment. Read the Gregg amendment. There is no mention of alternative minimum tax relief. That chart—I am glad he is taking it down because it is a complete concoction. It has no relevance to anything that is being suggested here.

The Senator says the biggest tax increase in history—not true. There is no tax increase in the proposal before us. Here are the facts.

The President, when he produced his budget, said, through his agency of Office of Management and Budget, an agency he completely controls, that his budget would produce $14.826 trillion of revenue over the next 5 years. That is what the President said his budget would do. What does the budget I have presented do, according to the Congressional Budget Office? It produces $14.827 trillion of revenue. That is $1 billion of difference on an almost $15 trillion base. And they are talking about the biggest tax increase ever? Come on.

It is a great speech. It is the same speech the Republicans have delivered for 20 years. They are so used to it, they keep giving it. It doesn't matter what the facts are or what the budget is before us. There is no big tax increase that is in this budget. In fact, there is no tax increase that is contained in this budget.

I don't know what the Republicans are going to say next year when there has been no tax increase, after all these speeches about the biggest tax increase in history. What are they going to say? I can hardly wait until next year. I am looking forward to that.

There is a little more revenue in our plan. As I say, the President said his budget would produce $14.826 trillion of revenue. The CBO says ours will produce $14.827 trillion. That is virtually no difference.

On a straight CBO score, apples-to-apples comparison, there is a 2-percent difference between our budget and the President's budget. Our friends on the other side come here with no budget—none. They have no budget for the country this year. Amazingly enough, they had no budget last year. They never agreed on a budget. They never agreed on a budget the year before. So they come here complaining about a budget that actually will exercise some discipline. It is pretty easy to be here with no budget, but of course they produced no budget when they controlled everything. They controlled the House of Representatives, they controlled the Senate, they controlled the White House—no budget. It is no wonder the debt is up, up, and away.

According to a CBO analysis of the two budgets, the President's budget and our budget, there is a 2-percent difference in revenue.

How could you get 2 percent more revenue with no tax increase? That is a good question. That is a fair question. I submit it is pretty easy to do. First, we have a tax gap in this country that the Internal Revenue Service says in 2001 was $345 billion. Today that tax gap, I believe, is in the range of $400 billion a year. That is the difference between what is owed and what is paid.

To collect taxes that are already owed is not a tax increase. That is simply insisting everybody pay what they legitimately owe. That is the first place we ought to look. Now $400 billion a year times 5 years of this budget is $2 trillion. We would only need 15 percent of that to get the revenue that is called for in this budget with no tax increase.

But it does not stop there, because the Permanent Subcommittee on Investigations says we are losing another $100 billion a year to offshore tax havens. I have showed this building before. This building is in the Cayman Islands. It is a five-story building. This building is the home to 12,748 companies that say they are doing business

out of this building. That is the most efficient building in the world. Are they really doing business out of this little building? Twelve thousand companies? No. They are engaged in an enormous tax dodge out of this building. We ought to shut that down. That is $100 billion a year, according to the Permanent Subcommittee on Investigations.

It does not stop there. Here is what the Permanent Subcommittee said:

Experts have estimated that the total loss to the Treasury from offshore tax evasion alone approaches $100 billion per year, including $40 to $70 billion from individuals and another $30 billion from corporations engaged in offshore tax evasion.

If our friends on the other side of the aisle want to protect these abusive tax havens, let them do it. Let's see what the American people say about that. Let's see what the American people think about having wealthy individuals and wealthy corporations avoiding what they legitimately owe in this country by going off to these tax havens and claiming they are doing business out of this five-story building down in the Cayman Islands—12,700 companies—come on.

It doesn't end there. I say go onto the Internet. If you wonder whether this thing is real on tax havens, enter in ''offshore tax planning,'' Google it, and what do you get? You get 1,260,000 hits. What do you find out there? Here is my favorite:

Live worldwide on a luxury yacht, tax free.

That is what our friends over here are defending.

Live worldwide on a luxury yacht, tax free . . . Live tax free and worldwide on a luxury yacht . . . Moving offshore living tax free just got easier . . . Live tax free and worldwide on a luxury yacht—exciting stuff.

Indeed it is. It is costing us $100 billion a year, and it doesn't end there. We have these other scams that are going on.

I guess this is my favorite. This is a sewer system. It is a sewer system in Europe. What does that have to do with the budget? It turns out it has a lot to do with the budget. Why? Because we have now learned through an investigation that wealthy investors, corporations in the United States, have bought European sewer systems and are depreciating them on the books in the United States to reduce their tax obligation here and then leasing them back to the countries that paid for them in the first place.

This assertion that there is a big tax increase here is mumbo jumbo. There is no tax increase here.

Yes, we do have modestly more revenue, 2 percent more—although in the President's estimates we have virtually no change in revenue. But let's take the CBO numbers we use here in Congress. We have 2 percent more revenue. We say let's go after the tax gap, let's go after these tax havens, let's go after these abusive tax shelters.

My colleague from New Hampshire talked about the explosion of tax revenue, but he didn't tell the whole story. He didn't go back to when this story started, in 2000, because here is the whole story. The revenue of the United States back in 2000 was just over $2 trillion for the year. Then we had big tax cuts put in place in 2001 and revenue went down. Revenue went down the next year. Revenue went down the next year. Revenue stayed down in 2004—which is the fifth this year. Revenue stayed down in 2005.

Only in 2006, 6 years later, did we get back to the real revenue base we had all the way back in 2000. Is it any wonder the debt of the country exploded? Is it any wonder?

When they talk about the extraordinary economic performance of this administration, that is not the record I see. Let's compare it to the previous administration. The previous administration, in the first 75 months, produced 18.7 million new jobs. This administration in the same period of time: 5.2 million, less than one-third the job creation of the previous administration in the same period.

But it doesn't end there. If you compare this economic recovery to the nine recoveries since World War II, here is what you see. On job creation, the dotted red line is the average of all of the recoveries, the major recoveries since World War II. That is the dotted red line, job creation.

The black line is this recovery. It is lagging 7 million private sector jobs compared to the average recovery since World War II. That is job creation.

On business investment, again the dotted red line is the average of the nine largest recoveries since World War II. The black line is this recovery. In every one of these you see the same pattern: This recovery is tepid compared to every one of the other major recoveries since World War II.

Here on business investment we are 69 percent below the average recovery.

It doesn't end there. If you look at revenues, revenues lag by $127 billion, the average of the nine major recoveries since World War II.

If you look at real median household income—why is it our friends on the other side talk about how good things are, yet the significant majority of the American people say things aren't so good? The big reason is people at the top, all of us, we have done very well. The people at the top in this society—and, of course, there are many who are far above us who have done really well. But you know the majority of people in this country have not done really well. Their position has stagnated. For many of our countrymen, their position has dropped. And this shows it.

Here is real median household income from 2000—it was $47,599—to today, it is $46,326. That is why people, when they are asked, say they don't see this economy performing in the splendid fashion described by our friends on the other side.

It has been splendid for the top 1 percent in this country. The top 1 percent has seen an explosion of their income. They have also enjoyed a disproportionate share of the tax cuts granted by our friends on the other side. That is what has happened.

Ms. STABENOW. Will the Senator yield for a question?

Mr. CONRAD. I am happy to yield.

Ms. STABENOW. Mr. President, I first thank our esteemed budget chairman for raising what is so important in the context of this debate. I thank him for raising the chart that actually shows the majority of Americans are not seeing their incomes go up. They are seeing them go down.

As the chairman knows, we have lost 3 million manufacturing jobs in the last few years under this administration—3 million good-paying jobs with health care and with pensions. The reality is that, in listening to the debate with my colleagues on the other side, I don't know what they are describing. They certainly are not describing what is happening to the majority of Americans.

I did also want to thank the chairman for bringing up a building in the Cayman Islands he has shown us a number of times, a picture of a five-story building where there are over 12,000, I believe, different businesses that have filed that they are part of that building. In the Finance Committee, I used the chairman's chart and asked—I don't know if the chairman will remember this, but in the Finance Committee I actually asked the IRS and the Treasury if they had sent anybody down to look at that building. Has anybody walked through that building?

We have seen our distinguished leader on Budget point out a specific address, a specific address where we know there are not 12,748 different companies in that building. Yet, Mr. Chairman, to your knowledge, has anybody taken any legal action on this even now? You have raised this time and again.

This is the way we ought to be focusing on what happens on taxes. But the majority of people see their incomes going down, and what do we see? Ships, yachts where people can go offshore to live to avoid paying their taxes and avoid contributing to the war and the economy and schools and roads and everything that is important to us.

Then you have a building. I don't know if the chairman would want to speak to this. Has there, to the Senator's knowledge, been any action taken on this building and what is happening with over 12,748 companies?

Mr. CONRAD. Well, the Senator asked the witnesses before the committee. They seemed totally flummoxed by the question. It was pretty amazing. Here we have this building in the Cayman Islands, this five-story building. We have got 12,748 companies that claim it as their home.

Now, why did they do that? They do it because the Cayman Islands has no taxes. So guess what they do. They have subsidiaries in the United States

that report no earnings in the United States. Then they sell to a subsidiary in the Cayman islands at a reduced price, and they show their profits in the Cayman Islands.

When I was tax commissioner, I found this kind of tax abuse going on repeatedly. It was quite amazing. This was 20 years ago that companies were engaged in this kind of activity. It has absolutely exploded. That is what the Permanent Subcommittee on Investigations is telling us, that we are losing $100 billion a year to this kind of scam. Of course, the abusive tax shelters are on top of that. The tax gap, the difference between what is owed and what is paid, is on top of that.

But when you ask the relevant officials: Have you audited these companies to see if they really are doing business out of this building? Well, you got sort of—they were sort of in a trance. They had no answer.

I would say let's go after these people who are not paying what they owe legitimately and fairly in this country.

Ms. STABENOW. Well, I just want to thank the chairman again. I am very proud of this budget because it focuses on hard-working, middle-class families, people I represent in Michigan who will get the tax cuts in this budget. It addresses the kind of things we are talking about here. I am not interested in a tax policy that rewards this kind of tax evasion or folks moving offshore in their yacht to avoid being part of America and contributing to our way of life. I just want to thank the chairman.

Mr. CONRAD. Let me make one other point, if I can, that is with reference to the Gregg amendment. I will provide an alternative that insists on the tax relief that is provided in the budget resolution and asks our Senate conferees to fight for the tax relief that is provided. The tax relief that is in the budget resolution that passed the Senate provides for every dime required to extend the middle-class tax cuts, the 10-percent tax bracket, the child credit, the marriage penalty relief. Every dime of those middle-class tax cuts is provided for in the resolution that passed the Senate.

In addition, we provided for reform of the estate tax, to have $7 million a couple exempt from any estate tax. We index it for inflation. That will exempt 99.8 percent of the estates in America from paying any estate tax.

In addition, we provided for extension of the adoption tax credit, the dependent care tax credit, the treatment of combat pay for purposes of the earned-income tax credit. In addition, we insist that the Senate conferees support section 303 of the Senate resolution that provides for additional tax relief, including extensions of expiring provisions and refundable tax relief provided that such relief would not increase the deficit over the period of the total fiscal years 2007 to 2012.

In other words, we provide for all of the middle-class tax relief. We provide for estate tax reform. We provide for the appropriate treatment of combat pay. We provide for the dependent care tax credit, the adoption tax credit. And we say: You can have other tax relief if you pay for it. There is an interesting idea. Start paying for things around here.

The difference between my amendment and the amendment of the Senator from New Hampshire is he puts another $250 billion on the charge card, adds to the debt, sticks it on our kids. We say: No, let's start paying for things. That is the difference. We insist on the Senate position that any additional revenues meet these tax policies that are achieved by closing the tax gap, shutting down abusive tax shelters, addressing offshore tax havens, and without raising taxes. That is the resolution that passed this body. That is the resolution that is before the conference committee. It does not raise taxes by one thin dime.

MOTION TO INSTRUCT CONFEREES

Mr. President, I call up my motion.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two houses on the House amendment to the concurrent resolution S. Con. Res. 21 (setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012) be instructed to—

(A) insist on the Senate amendment with regard to to relief, which cuts taxes in the resolution by $180 billion to provide for extension of the child tax credit, marriage penalty relief, and ten-percent bracket; reform of the estate tax to protect small businesses and family farms; extension of the adoption tax credit, dependent care tax credit, treatment of combat pay for purposes of EITC; and other tax relief;

(B) insist on Section 303 of the Senate resolution that provides for tax relief, including extensions of expiring tax relief and refundable tax relief, provided that such legislation would not increase the deficit over the total of the period of fiscal years 2007–2012; and

(C) insist on the Senate position that any additional revenues to meet these tax policies are achieved by closing the tax gap, shutting down abusive tax shelters, addressing offshore tax havens, and without raising taxes.

Mr. CONRAD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I have referred to this as the Wizard of Oz budget because there is someone behind the curtain somewhere on the other side of the aisle who is going to pay for all of those proposals they have put into the budget. No matter how you do the numbers, it works out that this budget has in it, as proposed by the Democratic Party, the largest tax increase in the history of the country.

It is interesting that the Senator from North Dakota continues to bring forward the chart that says his tax revenues are about the same as the administration's, failing to mention—well, he did mention it, he just did not highlight it—that he is using one accounting scheme to get to one number, and another one to get to the other.

But when you do compare apples to apples and oranges to oranges, you realize that under CBO scoring the difference is very significant between the two. Under OMB scoring the difference is significant between the two.

The fact is, there is a dramatic increase in taxes in both packages. In the Democratic package, if you score it consistently the difference is about $300 billion if you do not take into effect the AMT. So you have got a $300 billion tax increase in this bill.

Now, if it were not there, why would they have cut taxes to begin with as their first amendment? Their first amendment was a $180 billion revenue reduction. They were at the House number of $900 billion in new taxes. They cut that by $180 billion, which the Senator from South Dakota has ably laid out in his chart with his fig leaf, that $180 billion was their first amendment out of the box.

They obviously needed that amendment to reduce the tax burden which they had in their budget. Yet they claim they don't have a higher tax burden in their budget. Totally inconsistent on its face. Not defensible. If they were at the House number, which they were when they originally proposed the budget, they had a $900 billion tax increase. They are now at the new number, which is a $700 billion tax increase. If you take out the AMT number, they are at a $300 billion tax increase.

If it looks like a duck and walks like a duck, talks like a duck, it is a duck. This is a tax increase. This budget has a major tax increase. It is incredible to me that they can argue they do not have a tax increase and then oppose my motion, which basically says do not increase taxes. If they are not increasing taxes, they did not have to oppose my motion. They should be supporting it on its face. So the inconsistency is palpable. Palpable.

Then the idea that they are going to cover this $300 billion of new taxes, plus the AMT, of an extra $500 billion out of one building in the Grand Caymans—oh, yeah, that is where it is. That is where all of the money is. They are going to get $1 trillion dollars of new taxes out of this building.

Granted, we all accept the fact that there is obviously something wrong, when you have 12,000 companies filed there, and they are in a tax haven. But to represent that they can generate this type of revenue by closing tax loopholes on overseas tax activity is absurd on its face; or that they can collect this from unpaid taxes is absurd on its face.

The Commissioner of the IRS came to us, the Commissioner. He said the most they can collect over what they

are already collecting over the next 5 years is about $20 to $30 billion of unpaid obligated taxes. They have obviously put in place, they believe, a very robust effort to try to collect unpaid obligated taxes.

They think the incremental increase they can get, no matter how much more money it gave them, would be $20 to $30 billion, not $300 billion, not $700 billion. That was the testimony before the committee.

The Senator, the former chairman and present ranking member of the Finance Committee, came down and spoke at length about the effort to close overseas loopholes and what they have been able to recover. Yes, there may be more dollars there, but there is nothing in the realm of $300 billion, $700 billion, which is what this tax bill—what this tax bill, which is what you should call this budget; it is a tax bill—proposes.

No, this is a budget which has in it a huge tax increase. That is simply the way it is. If it did not, people would not be opposing my motion. They would be accepting it, taking it, because it is a reasonable motion. My motion continues tax cuts for the child credit, for the marriage penalty, 10 percent bracket, the lower marginal rates for Americans and small business, earned-income tax credit, relief for military families, adoption tax credit, dependent care tax credit, college tuition deduction, deductions for student loans, $2,000 Coverdell IRAs, 15 percent capital gains and dividend rate, and the Kyl-Landrieu death tax reform.

It is a very reasoned approach. It is what we should be doing. We should not be raising taxes on the American people. Now, the argument is that raising taxes won't have an effect on the economy; that passing this budget, if it were put in full operation, will not have an effect on the economy. Of course, it will. It will have a dramatic effect on the economy.

You cannot put $700 billion of new taxes on this economy and not expect this economy to adjust rather dramatically to a slowdown as a result. You cannot ask people who are entrepreneurs, who are taking risks, who are creating jobs, you cannot say to them: We are going to raise your capital gains rate up to 30 percent. We are going to raise your dividends rate, potentially, up to 39 percent. You cannot say that to them and not expect there to be a reaction in the marketplace.

People are going to stop taking risks. One thing we have learned in this economy is, if you give people a fair tax system, one where they are taxed at a rate that is reasonable, they will go out and take risks. That is the great genius of the American economy.

But, if you give them a tax rate which is unreasonable, they are going to take action to avoid that tax rate, which will mean ineffective use of dollars, inefficient use of capital. It will also mean a lot more people thinking of ways like going to the Cayman Islands to try to avoid taxes.

The practical effect of that is you slow the economy, you contract the economy. This proposal will do that. This proposal increases spending over the period of 5 years by, I think it is $147 billion.

They have to pay for that, so they raise taxes. It is the old approach. I don't know why it is denied by the other side of the aisle. Why don't they simply admit they like to spend money; they like to take tax dollars and spend money? That is what they are going to do, take people's taxes and spend on it their priorities. Our philosophy is, let people keep their money and they get to spend it on their priorities. They usually do a better job. It is more efficient. They create more jobs, and they create more economic activity. I thought the chart of the Senator from South Dakota was one of the better ones we have seen. It was a pretty good example of what the problem is. I call it the Wizard of Oz budget, where there is somebody behind a curtain who will pay for this. He calls it a fig leaf.

Mr. THUNE. Will the Senator yield for a question?

Mr. GREGG. I am many happy to yield.

Mr. THUNE. I understand my colleague from North Dakota. We both come from an area of the country where we have a lot of hard-working, plain-spoken people. They get this. If you have a bunch of tax cuts that are in law today and you allow them to expire, which is what this budget does, that constitutes a tax increase. People in my part of the country get that. If you are not trying to hide something, why would you put a fig leaf on it? The amendment offered to the budget by our colleagues on the other side said: We will take the more popular things, and we will allow those tax cuts to be extended, which to me and those I represent very simply implies that the ones you aren't extending are going to expire, which constitutes a tax increase. We can talk about whether that is $300 billion or whether, if you include the AMT, it is $700 billion. But the fact is, the House budget resolution allows the tax cuts to expire to the tune of $916 billion. The Senate said: We are going to put a fig leaf on that, and we are going to allow $180 billion in tax relief, which to me implies they understand exactly what they are doing. They are trying to hide this tax increase by putting a fig leaf on it.

To the people in my State and the people of New Hampshire and the people of North Dakota, this is a very simple thing. They get this. They understand what they tried to accomplish when this was debated in the Senate during the debate on the budget resolution was simply to put a fig leaf on this to offer up some tax cuts, some tax relief, and they wouldn't have had to do that, if they weren't raising taxes by $916 billion. It is pretty straightforward.

The motion of the Senator from New Hampshire is very straightforward. All it says is: Let's allow these tax cuts to be extended because they have created jobs, 7.5 million new jobs, 21 consecutive quarters of economic growth, 4.5-percent unemployment rate, and $300 billion in additional Government revenue over the past 3 years. Government revenues have not gone down. They have gone up. We have not less Government revenue; we have more as a result. Why would you fix something that is not broken? That is something people in the part of the country I represented understand clearly. If you are allowing tax cuts to expire, if you are not extending them, you are raising taxes.

Mr. GREGG. That was an excellent question. I appreciated that.

Mr. THUNE. I am not sure it was a question.

Mr. GREGG. Why would you fix it, if it is not broken?

Mr. CONRAD. Under the rules, it has to be a question. We will permit a very generous reading of the rules.

Mr. GREGG. I wished to comment on a couple other points. We went through this when we debated the budget and the Senator from North Dakota used his charts and I responded with an occasional chart, not quite as many. But I think it is important to make these points in a couple of areas.

He says there is a 2-percent difference now between his tax revenues and the President's tax revenues over the 5 years. When he brought the budget out, it was 3 percent; 3 percent came out to $½ trillion. He is at the 2 percent number now because he has factored in the fact that they reduced taxes or they at least allowed some of the tax extenders to go forward with the Baucus amendment which, basically, by accepting that amendment as a first amendment, the Senator from North Dakota made our argument for us, which was that they were raising taxes. That 2 percent would translate into about $300 billion today, a lot of money. If you decide you are going to create a chart and you use small enough incrementals, you can end up with those two lines being together, but $300 billion is big-time dollars. That is the American taxpayer having to pay a lot of money in order to cover new spending under the Democratic proposal.

In addition, this whole issue of economic expansion, the Senator from North Dakota pooh-poohs the last few years of economic expansion. He says it is not that good compared to the Clinton years. Nearly eight million jobs is a lot of jobs; 22 continuous quarters of economic growth is a lot of economic growth. Equally important, is the fact that we now have a revenue stream which exceeds the national average. Let's put that chart up there again because that is one of the most important charts we have. We have a revenue stream which exceeds the historic average of what we generate for revenues to the Federal Government. That is a critical issue and a critical point. We

have a tax law which has actually gotten lower rates in a lot of areas for working families, for families with children, for people who have dividend income and take capital gains and, thus, take risk. By the way, senior citizens who are on fixed incomes are by far the biggest receivers as a group of dividend income. When you start raising the rate on dividend taxes, you are hitting seniors who are on a fixed income.

The fact is, with these lower rates, which we put in place, we are generating revenues to the Federal Government today—we have been for the last 3 years—which dramatically exceed the amount of revenues which have historically been generated to the Federal Government. As a result, the deficit is coming down precipitously. We will be in balance. I said Humpty Dumpty could balance the budget by 2011. In fact, under CBO's scoring, the budget goes into a dramatic surplus by 2011. They don't take into account a couple of major issues, but it doesn't matter. The fact is, you can get to balance because revenues are coming in dramatically. Why are they coming in dramatically? Because we have a tax law that works today. What does the other side want to do with that? They want to throw it out. They want to go back to the old ways, when you just significantly increase the taxes on productive America, on working Americans, on Americans who unfortunately die and run small businesses and their families get wiped out. Why does the other side of the aisle want to do that? Why does the other side of the aisle want to say to a family who has a death, who runs a small restaurant or a small farm or small business: We are going to put you out of business; we are going to hit you with a 45-percent tax rate? That makes no sense at all. Why not agree to the Kyl motion which was a balanced approach, worked out by both sides of the aisle, a fair, bipartisan approach? Why not be willing to extend the capital gains and dividends rate which has generated so much revenue, so much economic activity?

In fact, capital gains has actually been a net winner for us. By reducing rates, we have now generated significantly more income from capital gains taxes than we did when the rates were higher. Why is that? It is called human nature. If you own an asset, a stock, a bond, a piece of real estate, and you know you are going to be taxed at 25 percent or maybe 30 percent, the odds of your selling that asset and realizing the gains are pretty slim. Maybe you are figuring, I will hold onto it. But when that tax rate went down to 15 percent, there was an immediate incentive for Americans to go out and sell those locked-up assets. What was the effect of that? The first effect was they got cash, which they then reinvested in something that was much more efficient. They put their capital into a better working situation so they created more economic activity. It is human nature that they would go out and invest to try to earn more money, which means they are basically investing in taking maybe more risk or creating more opportunity for jobs.

In addition, they generated a huge windfall to the Federal Government which we are continuing to receive because those assets which were not going to get sold under the higher tax rates were getting sold. We were getting the revenues. The proceeds were being reinvested, and that generated more jobs, more economic activity, which generated additional revenues. That is why we have seen this dramatic increase in Federal revenues. In fact, the vast majority of the Federal revenue that we have seen jump has been a function of capital gains revenue. That is where most of this new revenue comes from. Yet the other side doesn't want to extend the rates on capital gains, doesn't want to extend the rates on dividends. They want to kill that goose that has been laying significant revenues for the Federal Government and giving people an incentive to be productive and helping senior citizens who are on a fixed income meet the challenges of living on a fixed income.

It makes no sense to me that they would oppose this amendment, if their argument is they have no tax increases in their budget. The only way you can oppose my motion is if you do have tax increases in your budget because the only way my motion has any impact is to address tax increases. So if you didn't have any tax increases in your budget, you would have to support my motion. If that is their position, that there are no tax increases in their budget, then my motion should be a nonevent and should be supported. But it appears they do have tax increases in their budget because they are opposing my motion. In fact, if we go back to the chart that shows the actual calculation of tax increases, the 3 percent chart or the apples to apples, it is true. There is a $300 billion tax increase over and above the AMT, even after the Baucus language, and there is, in addition, an issue of where that $300 billion is going to come from. The concept that it is going to come out of a building in the Grand Caymens or from uncollected taxes is not valid in the face of the testimony before our committee and the history of our attempts to try to close those, to address those two issues.

No more than 10 percent of that tax increase could possibly be gained out of those two accounts. The rest will have to come out of working Americans who today are benefitting from the tax cuts which are in place and using those tax cuts to significantly expand this economy and, as a result, generate significantly more revenues to the Federal Treasury.

That is obviously why I put this motion forward. The Senator has put forward his alternative, which is responded to by the summary I have given of mine and speaks to the fact that his third paragraph, which is you are going to get the money from the tax gap and abusive tax shelters is not credible in the face of the facts and the situation. Although we certainly want to get as much as we can from those two accounts, we are not going to get anywhere near what is proposed, nowhere near the $300 billion. Of course, he held up my motion. He said: It doesn't address the AMT to the Senator from South Dakota. I would note that his also does not address the AMT. At least we are consistent on that point.

It is my understanding that Senator CORNYN is going to be back in 10 minutes to offer his motion.

I yield the floor.

The PRESIDING OFFICER (Mr. OBAMA). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have enjoyed this presentation so much. It is perhaps the most creative presentation I have heard on the Senate floor. The Senator wonders why we aren't going along with the policies of this administration. Here is why. Here is what our friends on the other side never want to talk about. You will never hear this word leave their lips—debt. They don't want to talk about debt because that is what they have been running up. They have run up the debt of the country by $3 trillion in 5 years. If their policy is followed, they will run it up another $3 trillion, doubling the debt and doing it all before the baby boomers retire, putting us in a deep hole.

Here is the record. The debt at the end of the first year of this administration stood at $5.8 trillion, the gross debt of the United States, $5.8 trillion.

At the end of this year, the gross debt of the United States is going to be up to $9 trillion because of the policies that our friends on the other side put in place. But you will never hear them talk about that part of the record. You will never hear them talk about where it is headed if we continue with their policies. They are going to add another $3 trillion. You will never hear my colleague say the motion he has presented will cost another $250 billion that is not paid for—not a dime of it. He will not tell you that our budget balances in 2012, but if we adopt his motion, it will not because he does not want to have to be under the constraints of making things add up.

I admit, it is tough. It is very hard to actually balance the budget. But our friends have not even had a budget for the last 2 years for the United States of America. Hard to believe, isn't it? They had been in charge of everything, and they didn't have a budget.

Mr. GREGG. Will the Senator yield for a clarification?

I will acknowledge there was no budget last year. But 2 years ago, there was a budget, if you recall, and it actually had a reconciliation instruction in it—a very significant instruction.

Mr. CONRAD. Yes, 3 of the last 5 years there has been no budget.

Mr. GREGG. I want the Senator to be correct. Was the third year the year you were in charge when we did not have a budget?

Mr. CONRAD. No. That was when we had split responsibility and could never reach agreement because we would not go along with running up the debt. I am proud that we would not go along with it. No, we insisted on having budgets that actually balance, which is a novel idea around here.

Let me show what the results have been of the fiscal policy that our friends on the other side have engaged in.

I have pictured on this chart all the other Presidents of the United States—all 42 of them—because it took all these Presidents pictured 224 years to run up $1 trillion of debt held by foreign countries, and this President has exceeded them. This President, alone, in 6 years, has exceeded all the foreign debt run up by the previous 42 Presidents over 224 years.

Now, this is a fiscal record they are proud of? I would not be proud of that. What is the result of this? The result of this is, we owe the Japanese over $600 billion. We now owe the Chinese over $400 billion. We owe the United Kingdom over $100 billion. We owe the oil-exporting countries over $100 billion. We owe the Caribbean banking centers over $60 billion. That is their record. Their record is plunging this country into deeper and deeper debt.

Now, let's go back to this question of taxes. I have heard over and over from the other side that somehow I have compared apples to oranges in the OMB scoring and the CBO scoring of the revenue of our proposals. Let me say this to you. I think it is relevant because the President said about his budget—nobody else's claim; it is his statement about his budget—that it would raise $14.826 trillion over the next 5 years. Do you know what my budget will raise over the 5 years? Virtually the identical amount: $14.827 trillion.

Now, my friends on the other side say there is going to be an economic calamity because I am raising virtually the identical amount the President called for. I do not think so. Was the President calling for an amount of revenue that would derail the economy? Was he? I do not think the other side would make that assertion. But the President's own statement about what his budget would raise said it was going to raise $14.826 trillion over the next 5 years. My budget raises $14.827 trillion.

The one thing I probably should do is reduce our revenue by $1 billion. Then we would have absolutely the same amount of revenue the President said his budget would raise. Now, the point the Senator makes that has validity is that if you use Congressional Budget Office scoring on both, there is a 2-percent difference. I have 2 percent more revenue. Why? Because I actually want to balance the budget. The President's budget does not balance. Mine does. We have 2 percent more revenue, although according to the President's estimates, we have almost identical revenue streams over the 5 years.

But under CBO scoring, we have 2 percent more revenue. I say, without hesitation, we can raise that amount of revenue with no tax increase. Why? Let's do the math. The tax gap—that is the difference between what is owed and what is paid—the tax gap is roughly $2 trillion over 5 years.

Then we have the tax havens. The Permanent Subcommittee on Investigations said we are losing $100 billion a year there. So $100 billion times the 5 years of this budget is another $500 billion. That is $2.5 trillion of revenue that is out there that could be recovered with no tax increase—none—$2.5 trillion. We would only need about 10 percent of that in my budget—about 10 percent—and you would have all the revenue you need to balance and to provide the middle-class tax relief and to provide the estate tax reform and to provide the increase to veterans health care that so desperately is needed and to provide the kind of investment in education that is critical to secure our future and to provide for law enforcement.

The President's budget cuts the COPS on the street program by over 90 percent. Why would we do that? Why would we cut the COPS Program 94 percent? We do not agree with that.

We also think that veterans, who have served so gallantly and at such great personal cost, deserve to have the promise kept to them about their health care. Our budget does that. You can do this without any tax increase—none.

The Senator from New Hampshire says: Well, the Revenue Commissioner says he can only recapture $20 billion of the $2 trillion that is out there. What is that percentage?

Mr. GREGG. Will the Senator yield for a question?

Mr. CONRAD. It is 1 percent. We have a Revenue Commissioner who acknowledges you have $2 trillion out there that is not being collected. He says he can collect 1 percent of it. I would say, we better get a new Revenue Commissioner. In fact, the Revenue Commissioner is leaving. Maybe we can get a Revenue Commissioner who can do better than 1 percent. We ought to get a Revenue Commissioner who can do better than 1 percent. But that is one factor.

The tax havens: $100 billion a year that is leaking out the backdoor because of these tax havens. That is not acceptable. We ought to close that door. If we closed that door, if we shut it halfway, we would provide for the revenue here.

There are no tax increases in the budget—none. In fact, there is dramatic tax relief. Of course, the reason we left AMT out of my motion is because AMT relief is in our budget. We do not have to put it in my motion. It is in our budget. We provide for 2 years of AMT relief. The President provided for only 1.

If you were going to apply the same argument to the President's budget that they are applying to my budget, here is what you would find. You would find the President has a big tax increase in his budget. If you apply their same logic to the President's budget, what you find is the President has a $500 billion tax increase in his budget. He has 1 year of AMT tax relief, which means he does not have any for the 4 following years. That would constitute a tax increase of $328 billion. By our friend's logic, that means the President has a $328 billion tax increase in the alternative minimum tax.

For the tax extenders, it is the same way. It provides for just 1 year. So you have $104 billion in the succeeding 4 years he does not provide for. Under their logic, that is a tax increase.

His health tax proposal is another $52 billion.

If you add it all up, the President has, according to their logic, a $500 billion tax increase. Do you know what the Secretary of the Treasury said when we confronted him with this? He said: That is the law. That is the law. I guess I could give that same flip answer here. I do not do that. Instead, I provide in the budget that we would provide for the middle-class tax relief, we would provide for estate tax reform, and we would pay for it so we can balance this budget and stop the explosion of debt in this country. That is exactly what we should do.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, to respond quickly, we have been over this ground many times in our discussions, but I do think it is important to reinforce the differences.

First off, I ask unanimous consent to have printed in the RECORD the letter from Director Portman which reflects the fact that CBO scores the administration revenues significantly different than what is used as a chart by the Senator from North Dakota and reflects the fact there is a $300 billion increase in the proposal of the Senator from North Dakota.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, March 16, 2007.

Hon. JUDD GREGG,
U.S. Senate,
Washington, DC.

DEAR JUDD: You asked for a comparison of the revenue levels in the Senate-reported budget resolution and the President's Budget under the Administration's economic and technical assumptions.

The Senate-reported budget resolution uses the Congressional Budget Office's (CBO) economic and technical assumptions and makes a policy assumption that tax relief enacted in 2001 and 2003—the child credit, marriage penalty relief, the 10 percent bracket, and other tax relief—ends in 2010,

unless offset by other tax increases. In addition, the resolution does not reflect the impact of other revenue proposals contained in the President's Budget. With these assumptions, the Administration has developed an estimate of the revenue levels in the Senate-reported budget resolution.

The table below compares the revenue levels in the President's Budget to the Senate-reported budget resolution based on the Administration's and CBO's economic and technical assumptions. While the resolution also includes 22 ''reserve funds,'' a procedure that allows revenues to be increased above the levels set forth in the resolution for higher spending, the estimates below do not include higher revenue levels that could result from these reserve funds.

COMPARISON OF PRESIDENT'S BUDGET & SENATE-REPORTED RESOLUTION

[FY 2008–2012; revenue in billions]

	Administration	CBO
President's Budget	14,826	14,568
End 2001/2003 tax relief	+374	+392
Drop other Administration revenue proposals	+225	+43
Other changes	.....	+4
Subtotal	+599	+439
Senate-reported budget resolution	15,425	15,007

Please let me know if you have any additional questions.

Sincerely,

ROB PORTMAN.

Mr. GREGG. He holds up the wall of debt chart. Let me hold up the wall of taxes chart which the Senator from North Dakota is showing in his budget. He is basically proposing dramatic increases in the tax burden on the American people. He claims it is going to come from this Grand Cayman building and that the Commissioner of Revenue is not doing his job in collecting the funds that are owed and obligated.

But the fact is, the Commissioner has aggressively pursued this. We have given him more money. He will continue to aggressively pursue this. Yes, there is more that can be collected, but the numbers are nowhere near what the Senator from North Dakota has represented they might be.

Mr. CONRAD. Mr. President, will the Senator yield on this chart?

Mr. GREGG. Not right now.

Mr. CONRAD. The Senator does not want to be able to answer questions on this chart?

Mr. GREGG. I will answer questions in a second.

Mr. CONRAD. I would look forward to the opportunity to ask a question about that chart.

Mr. GREGG. Well, let me finish my statement on the points which I am making; which is that the Grand Cayman building is not going to pay for the tax increases in the Senator's budget.

Now, the Senator says he has a 2-percent increase in the tax burden. Two percent translates into about $300 billion. That has to come from somewhere. Do you know why that tax increase is in this budget? Because he spends the money. He spends that money.

In all the numbers that are being thrown out here on the floor, all the different ideas, all the different arguments about OMB and CBO and this and that and this and that and Grand Cayman buildings, the bottom line is that the budget of the Senator and the Democratic Party increases spending. In the discretionary accounts, the Democrats' budget is about $145 billion above the President's request over the 5 years. It increases mandatory spending by nearly $460 billion. It increases taxes, above the AMT issue, by about $300 billion over 5 years. It does not extend those tax cuts and rates which have generated the huge explosion in revenue for this Government; specifically, things such as the dividend and capital gains tax rates and the rates that assist working Americans. So it is not necessarily—if it did extend those rates, you would think there wouldn't be so much resistance to my motion. You can't make the argument that you are not raising taxes on Americans and then oppose my motion, which essentially says: Don't raise taxes on Americans. That is the bottom-line inconsistency of the Senator from North Dakota's arguments when you get beyond all the numbers.

I will yield to the Senator from Iowa, but the Senator from North Dakota had a question, and I look forward to his question. Remember, it has to be a question.

Mr. CONRAD. Mr. President, I am ready with a question. I say to the Senator, I look at this ''Building a Wall of Taxes'' and the numbers don't match the visual. The Senator's chart shows under our budget that taxes would be 18.6 percent of GDP in 2007 and 18.8 percent of GDP in 2012, and it shows visually this huge increase in taxes. By his own chart, there is almost no difference. I would ask the Senator, how can it be that the Senator shows a chart that makes it look as though there is some big increase in taxes, when by the Senator's own designations, it is 18.6 percent of GDP in 2007 and 18.8 percent in 2012?

Mr. GREGG. Well, because—

Mr. CONRAD. How does this chart accurately depict the change?

Mr. GREGG. Because the tax burden is going up in the billions on the side there, the x-axis. Does my colleague see that on the side? It is the amount of tax in billions—the actual taxes you are taking from people, the tax burden, that is the problem.

Look at it this way: If you are taking $2.5 billion from people today and then at the end of your budget you are taking $3.15 billion from people, that is all coming out of those tax numbers.

Mr. CONRAD. But as the Senator's chart demonstrates, if you adjust that for inflation, what your GDP figure does, there is virtually no difference in tax burden—virtually none. There is 18.6 percent in GDP tax burden in 2007 and 18.8 percent in 2012.

Mr. GREGG. Mr. President, if I may reclaim my time, the Senator has made my argument for me. My motion should not be opposed because my motion would accomplish what the Senator wishes, which is to maintain a reasoned tax law in this country and a tax burden on the American people which would be consistent. If you oppose my motion, you are saying you have to raise taxes. By definition you do.

Mr. CONRAD. Mr. President.

Mr. GREGG. I reclaim my time, Mr. President. As much as I would like to hear from the Senator from North Dakota, I have told the Senator from Iowa I would grant him some time.

Mr. CONRAD. But the Senator can't hand off the floor. This Senator enjoys the first right of recognition, Mr. President.

Mr. GREGG. But I have the floor.

Mr. CONRAD. If the Senator is yielding, at that point I will ask for recognition to respond. The Senator cannot hand off recognition, as the Senator knows, under the rules of the Senate.

Mr. GREGG. Well, I believe I control the time.

Mr. CONRAD. The Senator cannot hand off recognition from himself to another Senator. That violates the rules of the Senate.

The PRESIDING OFFICER. The Senator can only yield time. He cannot hand off the floor.

Mr. GREGG. Well, I believe the Senator from Iowa had a question.

The PRESIDING OFFICER. The Senator from New Hampshire controls the time.

Mr. GREGG. I believe the Senator from Iowa had a question. I heard him say he wanted me to yield for a question.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. GREGG. I am sure the Senator from North Dakota has some succinct comment he wants to make before we turn to the Senator from Iowa.

Mr. CONRAD. I thank the Senator.

The good thing is we debate strenuously, but we do it in good humor and we like and respect each other. I might say I even extend that to the Senator from Iowa, the esteemed ranking member of the Finance Committee, whom I have grown fond of.

Let me say this: We don't have any tax increase in our proposal. The reason we resist the motion of the Senator from New Hampshire is because we would have a budget that would not be in balance. Our budget is in balance by 2012; with his motion it would not be. He has $250 billion of tax expenditures not paid for. In our budget, we provide for the middle-class tax cuts, we provide for estate tax reform, and we say if you want to have additional tax cuts, you can have them, but you have to pay for them.

I thank the Senator for his courtesy.

Mr. GREGG. I yield to the Senator from Iowa such time as he may consume.

The PRESIDING OFFICER. The Senator from New Hampshire controls 1 minute on this motion.

Mr. GRASSLEY. I can only speak for 1 minute? Is that what you are saying? There is no point in my speaking if I only have 1 minute.

The PRESIDING OFFICER. The Senator also has 30 minutes of general time.

Mr. GREGG. I yield to the Senator from Iowa as much time as he may consume.

Mr. CONRAD. Mr. President, let me say to my colleague, I know Senator GREGG has another matter he has to attend to, and I have time remaining. We will try to be fair and work things out so people don't get shut out.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I speak in favor of the motion by the Senator from New Hampshire, the ranking member of the Budget Committee, to make sure we continue existing tax policy throughout the period of time of this budget resolution.

Considering the issue of taxes and this budget, press reports have indicated we may be in the ninth inning of this budget season. The President sent his budget to Capitol Hill 3 months ago. The Senate Budget Committee marked up a budget resolution. It passed the Senate. That resolution lays out the Democratic leadership's fiscal priorities for the next 5 years. As everyone knows, the American people spoke last November and as a result of that election, we have a new Democratic majority in both Houses of Congress. So for the first time in 12 years, Democrats have the privilege, but also the responsibility, for our budget.

The Senate spoke very clearly in support of some tax relief. The voice came in the form of Senator BAUCUS and his amendment. My friend, the chairman of the Finance Committee, secured $180 billion to prevent part of the big tax increase that will go into effect January 1, 2011. Although the Baucus amendment only provides 44 percent of the tax relief room that is actually needed to keep existing tax policy in place so there is no tax increase, it is, in fact, far superior, though, to the position on the same issue by the other body, because the House position is zero tax relief. That is right: zero tax relief. What does zero tax relief mean? It means a total tax increase of $936 billion over 5 years. That, in fact, is the largest tax increase in history, and it is a tax increase that will occur automatically without a vote of Congress. Of course, it is inconceivable that people say: Well, we aren't responsible for a tax increase. If you like the tax policy we have today and you don't do anything to stop it, and you automatically have a tax increase, then the people who let it automatically happen are responsible for increasing taxes—the biggest tax increase in the history of the country.

That tax increase means real dollars out of the wallets of real middle-income families. I have a chart here. The chart shows a wall of tax increases. The chart shows a family of four at $40,000 a year average income—the national average—will face a tax increase of $2,052. Now, for a lot of my rich liberal friends, that may not seem like a lot of money, but for a hard-working family of four in my State of Iowa, a $2,052 increase in taxes without even a vote of the Congress happening on January 1, 2011 is a lot of money, and it matters. That is why that wall of tax increases ought to be clear to everybody, and we ought to do everything we can to bring down that wall.

As a senior Republican member of the Budget Committee, I have not been consulted on the budget by our chairman, but I have made my views clear to our distinguished chairman. What I know about the budget I have learned from press reports. If those reports are true, I would encourage the chairman and the Senate leadership to stand strong for the Senate position, which is taking care of some of the tax increase that would have taken place—44 percent of it—not as good as it ought to be, but it is surely better than the other body.

Press reports indicate that the Democratic Budget Committee chairmen are working on a compromise that would condition the tax relief on a surplus. That is, the Baucus amendment would be subject to a trigger.

Now, what is a trigger? Well, I have another chart. This chart deals with perhaps the most famous trigger. The chart shows, as my colleagues can see, Trigger, the cowboy actor Roy Rogers' horse. You can see from the chart that Trigger is a pretty impressive looking horse. We would definitely like to have such a Trigger on my farm to help with the chores, and I am sure my grandkids would enjoy a ride with Trigger were he stabled on my farm. He is a beautiful horse.

As western movie buffs know, Trigger is no longer with us. Trigger is stuffed and on display at the Roy Rogers-Dale Evans Museum in Branson, MO. Although Trigger was an impressive looking horse, this trigger device the Democrat leadership is looking at is far from impressive. The trigger notion is something that has a long history with Democratic leadership. Back in 1996, as an example, the Clinton administration and the Democratic leadership argued for a trigger for the $500 per-child tax credit and other family tax relief issues. They took this position after President Clinton had vetoed the bill containing the family tax relief proposals. If the Clinton administration and the Democratic leadership had prevailed, millions of American families would have received the $500 per-child tax credit perhaps in 1999 through 2001—only in those years. If President Clinton and the Democratic leadership had won and the trigger were in place, then millions of families would have lost the child tax credit in the years 2002 until now. So why would anybody in Congress want to be so antifamily and put in a trigger policy, as the practice was at that time, that would deny families with children the child tax credit? It doesn't make sense, but that is the way triggers work.

The same dynamic occurred in 2001. With surpluses, the Democratic leadership opposed broad-based, bipartisan tax relief, including a doubling of the $500 per-child tax credit. One of the ideas the Democratic leadership flirted with at that time was the trigger. There were a few Republicans attracted to the idea as well, I have to confess.

The trigger was debated somewhat, but it was never found to be workable. It wasn't workable. So if it wasn't workable 6 years ago, why are they bringing it out of the attic now for consideration? Because a trigger is a complicated matter. It could be suggested that the mechanics of a broad-based tax trigger are a little bit like trigonometry. Trigonometry is a division of mathematics that deals with triangles. It is simple on its face, but you can see from this textbook, it can become pretty complicated pretty easily. Look at this. That is complicated.

Interweaving the complexities and uncertainties of triggered tax relief with the vast American economy could lead to a new term. That new term would be ''trigonomics.'' As much as folks complain about the uncertainty and complexity of the tax policy, I don't think the Democratic negotiators should want us to take us to the land of trigonomics.

To some degree, the current law sunset of 2001 and 2003 is a de facto trigger. If you look at those in opposition to permanence of the bipartisan tax relief, you will find that it is, with very few exceptions, the same folks who like triggers.

The tax system is a very complex, very pervasive force in our society.

It affects real Americans, all Americans, and it affects all economic activity. So creating conditional tax relief through a trigger mechanism would destabilize an already unwieldy tax system. How are families, how are businesses, how are investors supposed to plan their affairs with a trigger hanging over their current tax law rules that keeps taxes low? Think about that. What would we be doing to the hard-working American taxpayers?

Now, as an aside, those taxpayers, by the way, are sending record amounts of revenue to the Treasury Department. This very day, it is reported in the Wall Street Journal that more taxes came in in April than we have ever had in the history of our country—because the bipartisan tax relief plans of 2001 and 2003 are growing the economy. They are the goose that laid the golden egg, for 3 years in a row, bringing in massive amounts of revenue into our Federal Treasury, to a point where, by the end of this fiscal year, the annual deficit will be less than 1 percent of gross national product. When you are dealing with a $13 trillion economy, 1 percent up or down is about as good as you can do 12 months ahead in planning a budget and tax policies for this

great country of ours. So the American taxpayer is doing his or her part to reduce the deficit.

I ask unanimous consent to have printed in the RECORD a couple of articles from the BNA Daily Report for Executives, one dated May 3, 2007, another dated May 7, 2007.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Daily Report for Executives, May 3, 2007]

ROBUST REVENUES LEAD TREASURY TO DROP THREE-YEAR, CONSIDER BUYING DEBT AGAIN

The U.S. Treasury Department said May 2 it was scrapping sales of the three-year note and that it has discussed with Wall Street representatives the issue of debt buybacks, a finance management tool last seen when the government was in surplus, as tax collections continue to come in at a healthy pace.

''As you all know, receipts have been strong and largely consistent with our forecasts. Based on this and other factors, we're announcing this morning our decision to discontinue the issuance of the three-year note,'' Anthony Ryan, Treasury assistant secretary for financial markets, said at the department's quarterly press briefing. The change will allow Treasury to ensure auctions of remaining issues are large enough to attract active bidding, help balance its portfolio of debt and ''manage the improving fiscal outlook,'' Ryan said.

The three-year note was revived in May 2003 after being discontinued previously when the government began posting surpluses from 1998 through 2001.

TALKS WITH ADVISORY PANEL

The discussion of debt buybacks was held with the Treasury's Borrowing Advisory Committee, a panel of private sector representatives from the securities industry. Treasury officials meet quarterly with the group to receive input on issues facing Treasury's debt managers, who aim to sell U.S. Treasuries to finance government borrowing at the lowest possible cost over time.

Treasury had asked the TBAC to address ''what practices Treasury and market participants should consider in a significantly improving fiscal or surplus environment, given volatility in budget forecasts and the Administration's long-term plan to balance the budget,'' according to minutes of the meeting released by Treasury.

Ryan called the talks ''an initial discussion'' that did not signal any decisions and intended merely to broach the issue.

''We asked this question in an attempt to continue to be proactive and forward-looking,'' he said. ''Given some of the volatility associated with our projections, it can't hurt to be prepared.''

RECENT SWINGS VOLATILE

Budget swings over the past decade have been particularly volatile. In 1997, a Democratic White House and a Republican Congress reached agreement on a 5-year plan to bring the budget into balance. Thanks in large part to surging capital gains revenues, balance was reached in 1998.

On the other hand, few analysts expected the sharp drop-off in revenues that followed the relatively light 2001 recession and the enactment of President Bush's tax cut plan. Revenues have surprised on the upside in recent years, and that trend is expected to continue this year, according to analysts watching the early data on April tax returns, which bring in a sizeable chunk of the government's overall annual revenue.

A Treasury chart prepared for the TBAC showed the possible range of borrowing outcomes if historic ranges of forecast error, either positive or negative, occurred. If the surprises kept to the positive side, the chart showed a potential need for a large paydown of debt as soon as 2010.

Asked if that implied a budget surplus in 2010, 2 years ahead of what Congress and the White House have targeted for a surplus, Matthew Abbott, deputy assistant secretary for federal finance, said, ''What the chart illustrates is that it's possible. Not that it's expected, but that's possible.''

'PREMATURE' TO DISCUSS EARLIER SURPLUSES

A Wall Street economist also warned that reaching surplus ahead of 2012 was unlikely, given uncertainty about what the government will do about the Alternative Minimum Tax as well as the temporary tax cuts that expire in 2010.

''I think it would be premature to think about buybacks because of expected budget surpluses,'' said Michael Moran, chief economist with Daiwa Securities. However, he said buybacks could be used instead as a tool to affect the maturity of outstanding debt, a factor that influences interest costs.

Moran also said the ''excellent inflows in April'' on the tax side were likely to lead him to revise downward his deficit forecast from $175 billion in 2007.

HOYER HOPEFUL ON BUDGET

Democrats in Congress are continuing to work on hammering out the framework for a budget resolution that can pass both chambers of Congress and reach balance in 2012. With an informal deadline of May 15 for completing action on the budget, the House has yet to name members of a conference committee for its side.

Majority Leader Steny Hoyer (D-Md.) remained optimistic, telling reporters May 2, ''We want to move ahead on the budget. The answer to your question is I'm hopeful we'll move the budget in the next couple of weeks, that we think that's important to do.''

A House Democratic aide said conferees may not be named in the April 30 week, as had been expected, but could instead be named early in the May 7 week. ''We can see our way to get there'' to a resolution, the aide told BNA.

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[From the Daily Report for Executives, May 7, 2007]

CBO LOWERS PROJECTION OF 2007 DEFICIT TO $150–$200 BILLION RANGE ON TAX RECEIPTS

The Congressional Budget Office said May 4 that the projected 2007 federal budget deficit could come in much lower than had been expected at the beginning of the year, possibly as low as $150 billion, based on continued strength in tax revenues.

''Revenues have risen by about 11 percent compared with receipts in the same period of 2006, only slightly more than CBO anticipated when it prepared its most recent budget estimates in March; outlays have grown by only 3 percent,'' the CBO said in its projection issued ahead of the monthly financial statement to be released by the Treasury Department on May 10.

''CBO now expects that the government will end 2007 with a deficit of between $150 billion and $200 billion, assuming enactment of pending supplemental appropriations,'' the agency said.

In March, the agency had projected about a $214 billion deficit, assuming an Iraq war supplemental is passed by Congress. In 2006, the deficit totaled $248.2 billion.

FURTHER RECEIPT GROWTH SEEN

Healthy tax revenues were cited May 2 by Treasury Department officials in their decision to eliminate sales of the three-year note from their regular auctions of government debt (85 DER EE–2, 05/3/07). Treasury officials also disclosed they had discussed the issue of debt buybacks with an advisory committee made up of private sector experts. While debt buybacks were seen when the government last ran a surplus, Treasury officials said the discussions with the panel were only made in an effort to be forward-looking and proactive.

Prior to the CBO release, Rob Portman, director of the White House's Office of Management and Budget, said the budget was benefiting from a healthy economy.

''Solid economic growth is pushing Federal tax receipts up, and will drive the deficit down even faster as we move toward balance,'' he said in a statement.

''We've just seen a record-breaking April tax collection, and the outlook is for further growth in tax receipts. That's good news for our federal budget, and underscores the need for making the pro-growth tax relief permanent and having spending restraint in place.''

LAWMAKERS AIM FOR BALANCE IN 2012

On Capitol Hill, lawmakers are struggling to close the differences between House- and Senate-passed versions of the 2008 budget blueprint. Democrats have said they are aiming for a budget that can pass both chambers of Congress by May 15 and reach balance by 2012. However, negotiators have been stuck on several issues, including whether to allow room for extending some temporary tax cuts.

In its report, the CBO said it expected the government to post a $176 billion surplus in April, well above the $119 billion surplus seen in April 2006. Because of the mid-month deadline for individual tax payments, April is a crucial month for government revenues. If the April projection is correct, the year-to-date deficit will be about $83 billion, or about $101 billion less than in the first seven months of fiscal 2006, the said.

CBO said receipts from individual income taxes were up by about $105 billion, or 17.5 percent, through April compared with the same period in the previous year, while payroll taxes were up by $27 billion, or 5.5 percent in the same time frame.

''About 85 percent of the growth in total receipts through April occurred in receipts from individual income and payroll taxes, the two largest sources of revenues,'' the agency said. It noted, however, that some nonwithheld receipts appeared to be booked earlier by Treasury in 2007 than in 2006, shifting some receipts from May to April. If that factor is adjusted for, the agency said, overall receipts would have been up by closer to 9 percent, ''only slightly more'' than CBO had projected in March.

Mr. GRASSLEY. So then why trigger tax increases when the current law tax levels are bringing plenty of revenue into the Federal Treasury? Why would you want to mess with a policy that is bringing in what would now have to add up to $750 billion more than what we anticipated would be coming into the Federal Treasury from that tax policy when we adopted it? And in the process, we would be punishing the American taxpayers, who are already working hard and paying additional revenue at a lower level of taxation, as we passed it in 2001 and 2003.

The biggest problem I have with a trigger is that it creates yet another budget process bias for higher Federal spending. If Congress decides to spend more than planned, the trigger gives the American taxpayer the shaft. Spending taxpayers' money then trumps future promised tax relief if a

trigger is in place. The American taxpayer need look no further than the budget resolution conference report that we are debating now to see triggered future tax relief's futility.

After winning the November elections by claiming to enforce fiscal discipline, Democrats have done three things with the budget in conference: One, they have guaranteed new spending of at least $205 billion over the budget baseline. Secondly, with multiple reserve funds, they have set up many arenas of new spending and new taxes. Thirdly, for the first time in 6 years—I emphasize this—with a new majority in Congress, a tax hike on virtually every American taxpayer is built into the budget in future years. Now, did the American people know this was how the term ''fiscal discipline'' would be defined after the votes were counted last November? Higher taxes and higher spending. Did the American people vote for this definition of ''fiscal discipline'' after the last election? My guess is the answer is the American taxpayers didn't think ''fiscal discipline'' meant higher taxes and higher spending.

If fiscal discipline were the real goal of the new Democratic leadership, they would employ a trigger, then, on the new spending they baked into this budget cake. How about that. The new spending in this budget would only be triggered if the Federal budget were in surplus. Do I have any takers among the Democratic budget negotiators on that issue?

Before the Democratic leadership rolls out its budget, I challenge them to show a proposal with a single dollar of spending restraint dedicated to deficit reduction. It is a challenge I have issued for several years since bipartisan tax relief has been attacked on fiscal discipline grounds. My challenge has not been met. If you go back a decade, you will not find a proposal for spending restraint from the Democratic leadership. Check the record. You won't find anything on the spending side of the ledger.

The use of a trigger is more evidence of this obsession with higher taxes and more spending. Instead of accepting the Baucus amendment, which is supported by a strong bipartisan vote in both bodies because it passed here with only one dissenting vote and it had more than two-thirds on a motion to instruct in the House of Representatives—so instead of accepting the Baucus amendment, which is supported strongly by bipartisan votes in both Houses, the Democratic negotiators are taking a different path, ignoring the overwhelming votes of both the Senate and the House. They want to use a trigger as cover. The trigger will mean that future Democratic spending proposals will gut future tax relief, thereby guaranteeing a tax increase on virtually every American taxpayer, without even a vote of the people, because it is automatically going to happen.

I don't think it is too late. I suggest that if the Democratic budgeteers want to talk the talk of fiscal discipline, then walk the walk of fiscal discipline, apply the trigger to spending, but apply it to the $205 billion in brandnew spending. Don't build a wall of tax relief on the American people; build a wall of fiscal discipline against runaway Federal spending. In other words, we will tear down that wall of tax increases that are automatically going to happen.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, it is hard to debate the Senator from Iowa, the ranking member of the Finance Committee, because he has been a really good colleague and he has strong feelings about these issues. In many of these matters, I find myself in agreement with him.

I want to say to those who are listening that we don't believe there is any tax increase in our proposal. We believe there is significant fiscal discipline because we are balancing the budget by 2012. There has been no balancing of budgets around here during the 6 years of this administration. They have run up record deficits. They have run up record debt. It is not a matter of speculation, what they have done.

If you look at the record of this administration on debt, it is just as clear as it can be. This is what happened on their watch. They have been in control of everything—the House, the Senate, and the White House.

This is what has happened. They took the debt of the United States from $5.8 trillion at the end of the President's first year—we don't hold him responsible for the first year because he was operating under the previous administration's budget. But look at what he is responsible for. He has taken this gross debt of the United States from $5.8 trillion to $9 trillion, and if his fiscal policies are pursued the next 5 years, he will have taken the debt to $12 trillion. He will have more than doubled the debt of the United States.

One of the major consequences of that is, increasingly, this funding is from abroad. We are dependent upon the kindness of strangers. It took 42 Presidents 224 years to run up a trillion dollars of debt held by foreigners. This President, in just 6 years, has more than doubled that amount. Now, that is a fiscal train wreck, and this administration is responsible, along with his party in the House and the Senate. It is undeniable. They controlled things here, not the Democrats. It wasn't the Democrats who ran up this debt, it was the Republicans.

I don't like to be partisan, but the fact is, when I hear the other side claim that we are going to do something, they have already done it. It is not a matter of projection or of conjecture; it is a matter of fact. That is the debt they have run up. We are left to try to clean up the mess.

How do you clean up the mess? You spend less money. That is what we have tried to do here. We have controlled spending. We have a chart that shows this. Here is the spending under the budget resolution. We go from 20.5 percent of GDP in 2008 down to 18.8 percent of GDP in 2012. It is by having spending discipline that we get this budget moving in the right direction and we are able to balance the budget by 2012 and we are able to stop this dramatic expansion of the debt.

Here is what happens. Under our resolution, the debt, as a percentage of the GDP—which economists say is the best way to measure it—goes down each and every year after 2009. Finally, we get the debt going down instead of jumping up. That is what we should do. That is what is so defective about the Gregg motion. If it is adopted, the budget will not balance in 2012 because he has $250 billion of tax expenditures not paid for. So he is, once again, going to return to the bad old days of borrow and spend, borrow and spend, borrow and spend.

Look, the spending on their watch has gone up dramatically. The revenue, as I have shown before, stagnated. All their revenue charts on which they talk about revenue increasing have one big problem: They only show the revenue from 2004 to now. They don't show the revenue in the previous years. Here is a chart here. Spending has gone up, and revenue has been stagnant. Look at all their charts. They only show the revenue from 2004. They want you to forget about these years. Yes, if you look at 2004, revenue has gone up since then. But go back to 2000. Quite a different picture emerges when you give people the whole story, when you give them all the years, not just a few of the years. No, no, no, give them all the years, tell them all the story, give them all the facts. Then you see something quite different.

We are just getting back now to the real revenue level we had 6 years ago. Yet spending under our friends has gone up more than 40 percent. The result has been to explode the debt of the United States.

We are going in a different direction. We are going to balance this budget, but not if the motion of the Senator from New Hampshire is adopted. Then there will be no balance. Then we will be right back in the same old deficit-and-debt ditch that we have been in for 6 years.

Let's climb out of that ditch. Let's stop it. If we are going to have spending on this war, let's pay for it. If we are going to spend money, as we should, to take care of our Nation's veterans, let's pay for it. If we are going to have educational initiatives to assure that America remains the dominant force in the world, let's pay for it. If we are going to insure children in this country so that every child has health insurance, and we should, let's pay for it. That is what our budget is about. It is about the values of the American people.

I can tell my colleagues, in my State, they believe if you are going to spend money, you ought to cover the spending and not just put it on the charge card.

I thank the Chair and yield the floor. My colleague is here, and I understand there is some time left on the Republican side. I recommend we use that, and then if Senator CORNYN comes, if we are out of time, I will extend time to him so he has time to present his motion.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I thank the Senator from North Dakota. I always appreciate his ability to find charts and give excellent explanations. We both have degrees from the George Washington University. My speech will not be nearly as adequate as his because I just have an undergraduate degree, whereas he has a graduate degree. I am sure that is where they covered the chartmaking. I usually don't use very many charts.

Mr. CONRAD. Madam President, I would be glad to lend some to the Senator.

Mr. ENZI. I don't think the ones the Senator has have quite the spin on them that I prefer. That is what we do during this process of the budget. I am always fascinated with the budget process anyway because the President sends us a bunch of suggestions on how we ought to spend money. I know the people back in Wyoming think that is the way it is all going to come out.

In Wyoming, we have just one process, and it is called the budget process. It is really the appropriations process. When the budget is done, balanced, and the money is spent, they think that is the point we are at right now instead of just suggestions from the President. We all know that Senators are going to change, and we are the ones in charge of making those changes. They really don't understand that the federal budget process puts in place some constraints on spending, some areas of spending, and some suggestions on spending that the Appropriations Committee may or may not pay any attention to anyway. But discipline can come from this part of the process.

I commend everybody on the Budget Committee for all the diligence they put in to covering a variety of issues. There is some good debate we have over issues, where we are, where things were, and where things are going.

I do note when the President came into office, he had no idea that September 11 was going to happen or that Katrina was going to happen. Both of those events put major dents in the budget.

There was also a little recession that was happening about the time he took office, which is one of the reasons there is a dip in revenue. We tried to figure out how to reverse that dip in revenue. If we have more revenue, unfortunately, we do more spending. It really is spending that is the problem.

It would be fascinating to see how the Democratic side of the aisle deals with that situation. I have noticed quite a change in rhetoric. People at one time were talking about No Child Left Behind, how it had a tin-cup budget. I hear those same people now saying: Yes, No Child Left Behind has to have a few targeted resources to make a difference. That is quite a bit different wording, and when you are in charge of spending it, it hits a little bit different than when you are on the criticism side of the spending. I am sure those in charge will appreciate that as time goes by.

I wish to address the way the Democrats balance the budget, though. This budget, as it is showing coming down to a more balanced position and even a little faster than what the President showed, does that because of the way the taxes are handled.

Without dealing with taxes at all, taxes for Americans will go up. There needs to be an extension of certain tax provisions or taxes will go up. When taxes go up, will that increase revenue? I don't think so. That is one of the problems with which we have to deal with.

We found that with the tax cuts, revenue has gone up, and it has gone up in excess of what was projected. That means the American people are excited over the ability to spend their own money for what they want to spend it on, and the spending of their money also results in additional taxes.

I have a chart that shows the projections—they are in blue—and the actual revenue. The growth in revenue is in red. In 2004, they projected a 2-percent increase and came in at 5.5 percent; 2005, 9.4 percent, came in at 14.6 percent; 2006, 7.3 percent, came in at 11.7 percent; 2007, the projection is 5.2 percent; to date it is 11.3 percent.

I am sure somebody else has mentioned this article earlier today, but the Wall Street Journal has an editorial titled ''April Revenue Shower.'' It says:

> Here's the ''surge'' you aren't reading about: the continuing flood of tax revenue into the Federal Treasury. Tax receipts for April were $70 billion above the same month in 2006, and April 24 marked the single biggest day of tax collections in U.S. history, at $48.7 billion, according to the latest Treasury report.

It goes on and explains that the IRS did process more returns than usual this year. Does that mean more people are paying taxes? Let me put up another chart. The tax cuts also resulted in additional jobs. The employment expanded for 44 consecutive months, generating 7.8 million jobs. People who have jobs pay taxes. More returns, more people working. I think that is one of our goals. We would like to have more people working, and we would like to have people who are working make more money. Then, of course, we would like them to keep a bigger percentage of the money they earn to spend the way they think it ought to be spent.

I mentioned there is more money coming in than what we had expected, than what was projected. That does affect the deficit. The more money we get beyond what was expected is a reduction in deficit, unless we spend it.

There are more ways of figuring out how to spend money around here than there are ways to save money. The President has had a number of proposals for different programs that have been evaluated. There is a process by which we do expect different programs and agencies to set their own goals, and then to report how they did on their own goals. The White House followed up on that process to see how they did on the report and how they did on their own goals and found 160 programs that were not doing what they said they would do. That is according to their own goals. He asked us to eliminate those programs.

We kind of did four. Now ''kind of did'' means they are still in existence, and they are flat lined. It doesn't mean we eliminated what was being spent on them because every program in the Federal Government has a constituency. Every time, even in the President's suggested budget, that he shows cutting an agency, all of us in this body have dozens of people come to our office to show how important that program is to them personally. A lot of them are the ones who work in that program. They have a job in that program, and if the program disappeared, they would have to get a job somewhere else. So they are definitely involved in the program and concerned with the program and feel the need to sell the program.

I have had experience with some of those programs in Wyoming. When the President says in his budget he is going to cut a program, they gang up on us at home, too. One of the programs dealt with children's preschool education. The moms and the kids showed up, and they visited with me a little bit. I asked them what they would be losing if the program went away. The answer was their daytime babysitting service.

The program in question was designed for an hour or two a week in conjunction with the parent, not with the parent absent from the program. It is a little bit of instruction on parenting education, as well as child education, preschool education. This is how the goals get a little skewed. They serve a purpose; it just doesn't happen to be the purpose we are funding. Probably the other purpose could be funded with a lot less money than with the requirements we have for education.

It is the spending that gets us into problems. The way we are going to balance the budget under the Democratic budget proposal, of course, is to allow decreases we have had in effect because they have a limited amount of time in place. It allows them to go up. For instance, there will be an increase in taxes of 33 percent for families earning less than $15,000. It cuts the child tax

credit in half to $500. It cuts the standard deduction by $1,700 for married couples. It puts that marriage penalty back into effect.

For a family of four with $50,000 in earnings, the tax bill for a family of four with $50,000 in earnings would see their taxes go up 132 percent to $3,675 in 2011 if the President's tax relief is not made permanent. Those taxes will reduce take-home pay by more than 6 percent.

Let's talk about a single parent with two children and about $30,000 in earnings. The tax bill for a single parent with two children and $30,000 in earnings will see their taxes go up by 67 percent in 2011 if the President's tax relief is not made permanent. Those taxes will reduce take-home pay by more than 4 percent.

So a family of four with $50,000 in earnings, their take-home pay is reduced by 6 percent. A single parent with two children with $30,000 in earnings, their take-home pay will be reduced by more than 4 percent.

What about the average family? What are they going to forego if the current tax policy is not extended? Some of the tax cuts have not been extended to 2011.

I am also distressed with the way the scoring happens on taxes versus spending because there is a lot of assumption built into the process. If they were corporate assumptions, the directors of the corporation would be in a lot of trouble.

For the average family under the current tax policy, if it is not extended, they might have to forego $3,347. That could be spent on groceries, or a year's worth of home heating oil and electricity. It would be $2,927 or almost 2 years of gasoline for two cars, $3,196, and that was before last week's increases, and, yes, we need to be concerned about that issue. There are some policies that we can do that will make a difference in that situation.

It will also mean more than a year's worth of health spending, which is $2,574 for the average family. Again, there needs to be some things done in the health area. Most of those cost money and those will add to the deficit too.

So it will be interesting to see how everyone gets around to balancing the budget in whatever number of years we talk about because all the spending happens in the next year. We are working on the 2008 spending right now, but we are spending the 2007 budget that went into effect last October and extends until this October. So there are some timelines that get into this that make it a little confusing.

It is wrong to balance the budget by increasing taxes on middle America, who is feeling the squeeze. The burden is placed onto low-income people. So I hope we will not balance the budget by eliminating the tax relief that has been put in place by the Republicans, which increased the number of jobs and brought the revenues back up.

I yield the floor, and 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. CONRAD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Madam President, I am told Senator CORNYN is on his way, but I would ask my colleague, Senator STABENOW, if she would like to take a few minutes at this time to address her motion and then if we could have an agreement that when Senator CORNYN comes, we could interrupt your presentation at a reasonable point in time and then go to the Cornyn motion.

That is the order, but I think it would be unwise for us to waste any time here, given the fact we are very close to out of time. Would that be acceptable?

Ms. STABENOW. Yes.

Mr. CONRAD. Why don't we do that, and I thank Senator STABENOW very much for allowing us to proceed in that manner.

MOTION TO INSTRUCT CONFEREES

Ms. STABENOW. Madam President, I rise to offer a motion to instruct conferees to include section 307 of the Senate-passed budget resolution in the conference report.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW] moves to instruct conferees on S. Con Res. 21, the concurrent resolution on the budget for fiscal year 2008, to insist on including in the conference report the Deficit-Neutral Reserve Fund for Energy Legislation in Section 307 of S. Con. Res. 21 as it passed the Senate which would provide for legislation to reduce our Nation's dependence on foreign sources of energy and lower gas prices.

Ms. STABENOW. Madam President, this provision will clear the way for the Senate to pass legislation that will ultimately lower gas prices. This is an issue right now of great concern, I know, to people throughout Michigan and throughout the country, as we see prices going up and up and up. This provision does that by putting into place a reserve fund that will reduce our Nation's dependence on foreign sources of energy and expand production and use of alternative fuels and alternative fuel vehicles.

This is a very important part of the budget resolution, and I wish to commend the chairman for putting aside a reserve fund so we can create revenues to do a number of things that will create energy independence and that will create competition, frankly, for the oil companies in this country so we can lower gas prices.

Today, in Michigan, the average price of a gallon of gas is $3.15, and it goes up as high as $3.24. I know it is going to go up and up. We are constantly hearing, of course, it is not arbitrary, that it is all based on competition. Yet I will bet you that right before Memorial Day, in Michigan—a great tourism State, and people want to have an opportunity to travel and see our Great Lakes—the prices are going to continue to go up even further. This summer, again because we are a great tourism State, prices are going to go up, and they will go down when it is not a peak season for driving. We all know that this is a serious issue, and, frankly, it affects every single family in their wallet or in their pocketbook.

A couple years ago, I offered, successfully, a provision in the Energy bill that required the Federal Trade Commission to do a study, an investigation into whether there was price gouging. They came back basically and said there wasn't and that they didn't have the authority because we didn't define what price gouging was. I am pleased to say that as a result of our presiding officer and her legislation, we can address what is happening as it relates to the definition of price gouging, which anyone in Michigan can tell you what it is, and also to be able to give the authority to the FTC to do something about it.

I see my colleague on the floor whom I basically jumped ahead of, so I think if he is ready, I will turn it over to him and will later proceed to talking about gas prices and how we are going to bring them down and how the budget resolution lends itself to that.

I yield to my colleague from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

MOTION TO INSTRUCT CONFEREES

Mr. CORNYN. Madam President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] moves that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 21 (the concurrent resolution on the budget for fiscal year 2008) be instructed to insist that the final conference report include the supermajority point of order against consideration of any bill, resolution, amendment, amendment between Houses, motion, or conference report that includes a Federal income tax rate increase, in order to protect the pocketbooks of working and middle-class families, college students, seniors, farmers, small business owners and entrepreneurs, and to promote the elimination of government waste, fraud, and abuse to reduce the deficit and offset new spending, as contained in section 210 of S. Con. Res. 21, as passed by the Senate.

Mr. CORNYN. Madam President, this motion to instruct conferees should sound familiar to my colleagues. This actually was an amendment to the budget resolution that received 63 affirmative votes in a bipartisan show of support for what I believe is a commonsense provision. This provision says that before we raise income taxes, we need to have a 60-vote point of order to do that.

This made so much sense that my colleague, the distinguished chairman of the Budget Committee, said he would be willing to accept the amendment by voice vote, although we went ahead and had a vote. I thought the vote was necessary to demonstrate, and did demonstrate, the broad bipartisan support for this amendment. This amendment, which was section 210 of the Senate-passed budget, creates a 60-vote budget point of order against any legislation that raises income taxes on taxpayers, including, of course, hard-working, middle-class families, college students, entrepreneurs, and you name it.

As I pointed out, this was a bipartisan vote, which is an insurance policy of sorts so that Congress can look and make sure any increase in income taxes is justified and that it would require a vote of 60 Senators to overcome the budget point of order before proceeding. The reason I thought this was a good idea in the first place is that before we look at raising taxes on hard-working American taxpayers, we ought to look at ways to eliminate Government waste, fraud, and abuse.

We all know the power to tax is the power to destroy, and, indeed, it is a powerful tool at Congress's disposal but one we ought to use advisedly. This point of order puts in place a safeguard that will protect the pocketbooks of all of us.

Some, though, are now advocating that we pull the rug out from under our economy and roll back the kind of tax relief and low taxes—progrowth policies—that have resulted in an incredible blossoming and blooming of the American economy. The last thing we should do would be to throw a wet blanket over this kind of economic growth that has created so much prosperity, so much opportunity, and so many new jobs over the last few years.

The progrowth tax relief has helped this economy grow and particularly in the small business sector, which has created a lot of jobs. We should view this as a matter of great pride because it is one of the good things that this Congress has done in the last 4 years. These progrowth tax policies are working. As a matter of fact, we have some charts that demonstrate 22 straight quarters of growth and almost 7.9 million new jobs. That is nothing to be sneezed at. There have been almost 7.9 million new jobs over the past 44 consecutive months, with 22 quarters of growth.

As we move forward, the last thing we should consider doing is reversing the policies that have helped bring about America's booming economy, which has reduced the deficit by producing more money for the Federal Treasury and also put more money in the pockets of hard-working American taxpayers.

As a matter of fact, I think we ought to take a further step and make these tax relief provisions, which are set to expire unless we fail to act, I think we ought to make them permanent. If we don't, we will not only jeopardize future economic growth but also the financial well-being of millions of Americans, all of whom will face higher tax bills unless we act.

Not making this tax relief permanent will result in a tax increase for every American taxpayer. For example, a family of four, with two children, making $50,000 in annual income would see an increase of $2,092 in their tax bill or a 132-percent increase.

This point of order will not hinder our efforts to close down illegal tax shelters or close perceived loopholes in the IRS Code, a concern that I know the chairman expressed. In the colloquy we had when the amendment was passed, I think I was able to satisfy him that we would still be able to do what we both agree needs to be done but not see a tax increase on American taxpayers virtually assured.

The point of order covers the tax tables contained in the 1040 form the IRS sends to taxpayers every year. It will not hinder efforts to overhaul the IRS Code. I support efforts to overhaul the IRS Code by making it fairer, flatter, and simpler. Any tax simplification and reform efforts will need bipartisan support in the Senate, so I ask my colleagues to support my motion to instruct the conferees to include the point of order against raising income taxes on hard-working taxpayers through the budget conference committee.

I might add, in closing, I have had conversations with the distinguished chairman of the Budget Committee. I know he has concerns as a result of conversations he has had with the Parliamentarian. There has been some suggestion that to include this provision in the conference report would render the conference report unprivileged. I believe there was demonstration of broad bipartisan support for this provision, which enjoyed a 63-to-35 vote on the Senate floor. While I certainly understand the budget chairman's desire to maintain a special privileged status for the budget resolution, I think in this case it would be warranted.

Including this provision will act as an insurance policy against undesirable and unnecessary tax increases, especially until such time as we do our dead level best to reduce the waste, fraud, and abuse that, unfortunately, is present in Government today and to try to save money there before we begin raising taxes. It is particularly important because we have this silent tax increase that is, unfortunately, included in this framework that will now occur if we do nothing. This will be the only tax increase I am aware of that will actually happen if we fail to act, but that is what, unfortunately, we are on course to do with this budget resolution.

So I would respectfully ask my colleagues to support the motion to instruct conferees on this matter.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, let me first thank my colleague for his service on the Budget Committee. He has been a valuable member there. We do not always agree, but he has been a very constructive member of the Budget Committee. He comes with a point of view and he does his homework. All of us appreciate that, I and the other members of the committee. I thank the Senator from Texas.

Let me say it would be fine with me that we adopt this motion because there is no contemplation in this budget resolution of a tax rate increase. There just is not. I want to make that clear.

We do have a problem. I want to be very direct with colleagues. This motion will not survive the conference committee. It will not. It has nothing to do with its merits. It has to do with the procedural ramifications of bringing this back from the conference. We have been informed by the Parliamentarian, if the conference agreement reflects this motion, the budget resolution would be in danger of losing its privileged status on the floor. That would be a very serious matter for all of us. That would be a serious matter for this institution.

We have a hard enough time getting a budget. If it were to lose its privileged status on the floor, I suggest to my colleague, we would never reach conclusion on a budget. That is in none of our interests. It is not in the interests of the country, it is not in the interests of the Senate, it is not in the interests of the House.

I regret that is the reality we confront, but it is. I don't want anybody to be under any misapprehension about that. It is fine with me if we adopt that as an instruction to the conferees because it reflects the will of the Senate. We voted very clearly: 63 votes, as the Senator has indicated.

I say to my colleagues, there is absolutely no intention in this budget of increasing tax rates, which is what the Senator is trying to guard against. But I do have to emphasize if we were to bring it back from conference, we have been informed that would put at risk the privileged nature of the budget resolution, and we simply cannot do that. If we did that, we truly will never agree on a budget here.

Does the Senator seek more time?

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, if I can respond briefly to the distinguished chairman of the Budget Committee, I appreciate his willingness to take this motion to instruct because he said it will not survive; it will not see the light of day; it is going to be killed in the dark recesses of the conference committee room.

Mr. CONRAD. Even in the lighted room.

Mr. CORNYN. So it is a very strange process we are engaged in here. I respect the distinguished chairman, but I

remind him, at the time we voted on this, to quote him, the distinguished chairman of the Budget Committee said, ''It certainly will not do any damage to this resolution if it were to pass.''

I understand there was a subsequent conversation with the Parliamentarian that raised this issue. But I suggest in most proceedings that I am familiar with, there is some notion of waiver, that you have a responsibility to speak early, rather than to create a false impression that we are going to do something here to keep taxes low, to create a 60-vote budget point of order, rather than lay low and then raise an issue late in the game that could have been raised and addressed earlier.

None of that is to impute any bad faith to the distinguished chairman of the Budget Committee. It is just to say this is a very strange process, one I think the American people, anybody who happens to be listening or watching, would say: This must be a Washington, DC phenomenon where we suspend reality, we accept amendments by a bipartisan vote and now a motion to instruct, only to ignore them even though they represent the will of the Senate. I think that does not enhance the image of the Senate or the Congress in the eyes of the American people. The fact is, if we do raise taxes, it will be like a wet blanket on the American economy.

I want to allude briefly to an article that was in the Wall Street Journal today that I think demonstrates my point. It is entitled ''April Revenue Shower.'' It says:

> Tax receipts for April were $70 billion above the same month in 2006, and April 24 marked the single biggest day of tax collections in U.S. history, at $48.7 billion.

It is the low taxes and the progrowth policies that this Federal Government has embraced since roughly August of 2003 which has generated the economic activity which has resulted in a windfall to the Treasury. As a matter of fact, this article goes on to say:

> The deficit this year could tumble to $150 billion, or an economically trivial 1 percent of GDP.

That is the kind of benefit—one of the kinds of benefits—I think low taxes have produced. I think it would be a crying shame to raise taxes and jeopardize job growth and economic development in this country.

I understand what the Senator says, that he doesn't intend that there is going to be a tax increase, but we have seen proposals for dramatic increases in spending. The money has to come from somewhere. We have adopted a pay-as-you-go provision which has a built-in bias against tax cuts because it says before you can have a tax cut, you are going to have to have some way to balance it out, a revenue raiser, which means in the end we are going to see a dramatic increase in taxes, whether—and I take him at his word that is not his intention. But we are on a dangerous course to seeing a huge tax increase, perhaps one of the biggest in our Nation's history. That, I believe, is against the best interests of the American people in this big economy.

I accept what the Senator has to say. He is willing to accept my motion to instruct, but it will not be to any effect. It will be ignored. I guess that is the way it is. But I think the American people, and particularly the hard-working taxpayers, are the losers. I think that is a shame.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, let me say to the Senator, I know he doesn't intend to impugn my motives. I hope that impression hasn't been left, because I operated in absolute good faith in the committee. I told him his motion would do no harm because there was no intention of increasing rates in this budget resolution. There truly is not.

I only learned subsequent to that that there was a procedural problem. As soon as I learned, I think the Senator will acknowledge, I came to him on the floor, some weeks ago, and told him of what we had learned and urged him to send his staff to the Parliamentarian to verify that what I was saying was in fact the case. I have been in communication with him subsequent to that, to confirm that he had heard the same thing. In fact, he told me that on the floor late this afternoon.

I regret that I told him it would do no harm. I absolutely believed that was the case when I told the Senator that. It was only subsequently that I learned from my staff that the Parliamentarian advised us of that. I should have known it. In the back of my mind I was worried about the Budget Committee overstepping its bounds.

It is very important for people to understand, we tell the Finance Committee how much money to raise. We do not have the authority to tell them how. Unfortunately, the motion of the Senator crosses that line.

We tell the Appropriations Committee how much money they have to spend. We do not have the authority to tell them how to spend it. If we exceed our authority, there are consequences.

I must say I was concerned at the time of the Senator's amendment in the committee that maybe we were crossing that line, and in fact it turns out we were. That is the fact of the matter. That is what we confront here. I say to the Senator, I hope he would acknowledge I have tried to communicate with him, as soon as I knew it, that these are the facts we confront.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. I said it once and I will say it again. The distinguished chairman of the Budget Committee, I am confident, is shooting as straight as he could possibly do with me. I do not question his motive or his actions. I express my profound regret that an amendment that reflects the will of 63 Senators, that is bipartisan, and one that is so important to maintaining the prosperity of this Nation and relieving the burden on hard-working American taxpayers will not see the light of day in this budget resolution. I am expressing my regret to him. But he has been nothing but straight to me.

Mr. CONRAD. Madam President, I thank the Senator very much for that. I say I have so many regrets, as we go through this budget process, that we do not have authority that one might assume the Budget Committee does. But we simply do not. We are in this role of telling the Finance Committee how much money to raise, but we cannot tell them how to do it. We tell the appropriators how much money they spend, but we do not have the authority, as much as we might like it, to tell them how to spend it. If we cross that line, there are real consequences.

In any event, I very much appreciate the Senator from Texas.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I express my support for the efforts of the Senator from Texas. I understand the parliamentary situation. It has been ruled that if his amendment were accepted and finds it way through the entire process—it is going be accepted, but if it were to come back, it would put in jeopardy the privileged status of the budget and that is obviously not appropriate.

But the fact is this amendment highlights an essential point. Even though it may not come back, it is important that we be on record as having supported it, as the 63 people did, and as we will be when we adopt this amendment in this motion to instruct, because it makes the statement, which the Senator from North Dakota has agreed with, that rates should not be increased.

Unfortunately, the structure of this budget, in my humble opinion, militates toward increasing rates. I do not see how it does anything else in the final analysis. That, of course, is why I have offered my own motion to instruct here, so the rates will not be increased, or at least we will have that statement.

But I think the Senator from Texas has hit the nub of the issue, which is we should not be increasing tax rates on the American people. No matter what the structure of this budget is when it comes back, even if it doesn't have this language, there will be a pretty clear statement by this Senate that rates should not be increased, and should at some point down the road there be a bill brought to the floor, which will be, I am afraid, reflective of the priorities of this budget, which does increase rates—or fails to maintain the rates which are presently in place and thus in the alternative is increasing rates—we can turn to the excellent amendment of the Senator from Texas and say that was not the position of this Senate. The position of the Senate was that would not happen.

I think his amendment, even if it may not return from conference because of the effect it would have on the privileged status of the budget resolution, is still a very effective statement and one that needs to be made.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, would it be appropriate at this moment to take the motion of the Senator?

Madam President, could we then consider the Cornyn motion on a voice vote?

The PRESIDING OFFICER. If all time is yielded back, the question will be put on the motion.

Mr. CONRAD. We yield back our time on this side.

Mr. CORNYN. We likewise yield back our time on this motion.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the motion.

Ms. STABENOW. Madam President, I have a question. The yielding back is time on this motion only?

Mr. CONRAD. Yes. We would not be yielding the good Senator's time.

Ms. STABENOW. I thank the Senator.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I would ask if we could have a report on the time remaining on the motion of the Senator from Michigan.

The PRESIDING OFFICER. The sponsor of the motion has 27 minutes remaining, and the opposition has 30 minutes remaining.

Mr. CONRAD. We have a problem. We have less time left than time allocated because the vote has been set at 7:30. So we will try to be reasonable so that both sides have a fair shot at the remaining time.

Madam President, I ask unanimous consent that on the motion of the Senator from Michigan, we divide the remaining time 15 minutes apiece before the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Ms. STABENOW. Madam President, first, following the debate we have just been engaged in, let me say that I am very proud of this budget resolution because we are not only not raising taxes, but we are focused on lowering taxes, tax cuts for the middle class. That is what I am most proud of in this budget. Our budget is focused on middle-class families, what families need who are feeling the crunch at every turn right now in their lives. So we specifically focus on tax cuts for middle-class families.

We also focus on what I want to talk about now as it relates to the motion to instruct; that is, an energy reserve fund that puts in place a set of policies and allows us to move forward to lower gas prices. I mean, ultimately, that is what it is about. Let's get off of foreign oil. Let's become energy independent. Let's focus on alternatives.

We have a whole range of things we can and should do together, but the bottom line is what people are asking me about right now in Michigan is why in the world gas prices today are $3.15 per gallon on average. They ask it in the context of another very important question; that is, since this President, President Bush, has taken office, gas prices in my State have increased by $1.75 per gallon—$1.75 per gallon, an increase of 123 percent. This is according to the Federal Highway Administration. Right now in Michigan, families, businesses, farmers will spend $789 million more this month than they did in January of 2001. That is according to the Department of Energy motor gasoline consumption, price, and expenditures.

Now, what is happening, though? What is wrong with this picture? While I have been seeing my constituents, and I know the Chair shares this concern, that while we see these prices going up, what has happened on the other side with the oil companies? Well, last year, ExxonMobil had $39.5 billion in profits, the largest annual corporate profit in U.S. history, the largest corporate profit in U.S. history, while the people in my State—the farmer planting in the fields, the businesspeople who are doing their jobs, the families, the folks going back and forth to work, taking the kids to childcare, the students trying to go back and forth to school—saw their gas prices go up.

In fact, they will go up higher right before Memorial Day. I will bet you they are going to go up higher in a beautiful State like Michigan, where we want everyone to come in and swim in our Great Lakes and boat and fish and enjoy what is beautiful about Michigan. When the tourism season comes—you can count it on your watch—gas prices are going to go up.

We hear all about how there is competition when, in fact, we know there is not competition. When you are driving down the road, this gas station says one thing and the one on the other side says the same thing.

Now, this has to stop. We are seeing, not only last year—I am speaking about ExxonMobil, but let me just say there are others. Chevron had an 18-percent increase in the first quarter this year—an 18-percent increase. But we are seeing with Exxon that they kicked off a 10-percent rise in profits, the best ever first quarter, ever, in net profit. To put it another way, with Exxon, their take-home pay equals $1,080 every time the second hand ticks on your clock—every second, $1,080—while the folks in Michigan today are paying $3.15. If you happen to be up north, it is $3.24. This is not right. I know you agree with this. This is not right.

There are a number of things we need to do about it. In the short run, we need to make sure the Federal Trade Commission has the authority—and understands that we expect them to use it—to define price gouging.

Now, in the Energy bill that passed in 2005, a requirement that I offered was put into the Energy bill that the FTC had to investigate price gouging. They came back and said they did not have the authority, we had not defined what it was. They made some general statements that really did not reflect what was going on. So now I am very pleased that Senator CANTWELL from Washington State and others have introduced legislation that will clearly define what price gouging is, although I have to say, after years and years of witnessing it, if it walks like a duck and quacks like a duck, I think most people in Michigan, anyway, would call it a duck. So we find ourselves in a situation where the FTC says they do not have the authority or the definitions to use. So we want to give them that. We want to give them that in the short run to make sure they can address what is clearly an unfair situation.

Families are seeing increases on all sides, not just gas prices; it is the cost of college; it is the costs that relate to health care in my State. In fact, I should just remind folks that when we hear about all of the rosy pictures in the last 6 years, we have lost 3 million manufacturing jobs since this President has taken office—3 million. Those were good-paying jobs with health care and pensions, and those families now, those workers, are out working other kinds of jobs. Maybe it is two jobs now to try to make up that salary or maybe it is three jobs. They are paying more for health care, if they have it, and worrying about whether they will have their pension.

So that is the backdrop to what I see now happening as it relates to gas prices. One more time, people see those prices going up as they are trying to get to work, as they are trying to take care of their families. This motion to instruct focuses on the fact that we have put aside a reserve fund that gives us the opportunity to address it throughout the budget.

In addition to the fact that we have legislation to stop price gouging right away, and that is very important, I am very pleased our majority is focused on going after those who are price gouging and bringing down gas prices, but we also know we have to look more long term.

There is some wonderful work being done in the Senate by our Energy Committee, Environment Committee, and Finance and Agriculture Committees as it relates to the farm bill and what can be done with alternative fuels, and so on. We are committed to that as well. The structure of this budget allows us to be able to do those things without procedural motions and hoops getting in the way to stop us from going forward. We all know we need to invest more in ethanol and cellulosic ethanol and biodiesel. We want to be

able to say: Buy your fuel from Middle America, not the Middle East. That is what I am hoping. I know we are committed to doing that.

We also know there is much we can do to together, and, in fact, there are many exiting things that are already happening. I am very proud of our American domestic auto companies that are moving very aggressively. In less than 5 years, we expect that our alternative-fuel vehicles will constitute more than 50 percent of the vehicles that are being produced. That is very positive. I commend them for that.

GM has installed displacement-on-demand technology where the cylinders shut off when not needed, consuming less fuel. DaimlerChrysler has taken the lead on clean diesel and biodiesel. There is excellent work being done in Michigan. Next Energy and other critical research organizations are doing excellent work that would deliver 20 percent to 40 percent more fuel efficiency than conventional automobiles. The Ford Escape hybrid and the work that is being done through hybrids is very significant. Our plug-in hybrids, technology we see being worked on that relates to plug-in electric vehicles, and so on, that is so important. I am excited about the Volt by GM, which will be configured in a way that it will be able to run on electricity, gasoline, E85, or biodiesel. The work goes on on hydrogen and other kinds of things.

But we know that in the end, in addition to focusing on these long-term strategies which are very significant, very important to the environment, to address climate change, to address energy independence, we have an issue right now we have to address; that is, the fact that we continue to see, quarter by quarter, record profits by the oil companies because of the lack of competition. We are seeing, quarter by quarter, increases that end up with those increases and profits, that do not cause them to lower prices for people. They are making more dollars. They do not lower the price. The price goes up as the profits go up.

More and more of our families, our workers, our businesses are feeling squeezed on all sides. We have to make sure the FTC has the ability to call price gouging for what it is, that it is defined and they are given the authority to do something about it.

The American people, unfortunately, are forced to be in a situation right now of choosing between stations and pumps where the prices look awfully much the same. We need to create more competition. We are going to do that in the long run. We are going to create competition in the short run. We need to start putting consumers first, our consumers first. That is what we do in this budget.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY.) The Senator from New Hampshire.

Mr. GREGG. Mr. President, how much time remains?

The PRESIDING OFFICER. The sponsor has 3 minutes 4 seconds; the Senator from New Hampshire has 14 minutes 30 seconds.

The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, let me say that we expect to accept this amendment. The issue of energy and its cost in this country is a pretty complex issue. It is not simple. There is no magic wand to resolve it. Obviously, the things which the Senator mentioned—alternative-fuel cars, lowering consumption, renewables—these are all a big part of the energy resolution. But it is a complex matrix.

One of the essences of it, which was not mentioned, is supply. The fact is that the world demand for energy has increased dramatically, especially as China and Southeast Asian countries have begun to have very robust economies. The demand for the supply is such that the price of oil has increased dramatically.

We in this country are going to have to accept the fact that we are going to have to look for other sources of energy. I regret that in the past domestic supply has been curtailed. For example, the opportunity to get supply from the northwest slope of Alaska or the opportunity to search for potential supply States which are willing to accept having oil exploration off their coasts—all of these opportunities to get more supply are being resisted, especially from the other side of the aisle. Yet this has to be part of the equation of how we resolve the energy issue. There is more than one element to the formula of resolution.

The bottom line is that we should do everything we can to get off of our dependance, as much as possible, on foreign sources of oil. We find ourselves purchasing oil from countries which have antipathy toward us and which create problems for us.

It would be good if we could supply the oil domestically or at least within the Western Hemisphere and not have to go beyond the Western Hemisphere in the manner we do. Another proposal is to get ethanol brought to the east coast out of Brazil. There is a 24-percent tariff on that ethanol. The last time we tried to repeal that tariff, it was opposed, opposed on both sides of the aisle but especially from the other side of the aisle. So there are a lot of different elements to the matrix of how we resolve the energy problem. I certainly am able to support the Senator's motion, but I don't think the answer is simply one or two items. It is a long list of items.

On the underlying bill, there is still this fundamental issue, which is going to be raised by three of the motions that were offered, of the effect on revenues and tax policy on the American wage earner of this budget. There has been a lot of representation, a lot of numbers thrown out. The bottom line is pretty simple. Beginning in the year 2010, a number of tax rates which benefit Americans who create jobs and take risks and especially benefit senior citizens who live on fixed incomes, benefit people who have gone out and been entrepreneurs and created jobs, benefit people who have fixed incomes because they are living off of dividends to a large degree and they are retired, a number of these rate structures are going to expire, and the cost to those people who benefit from that rate structure is going to go up dramatically. Of course, it is always characterized by the other side that this is just a benefit to the wealthy. It is not.

More than 75 percent of those who claim dividend and capital gains income earn less than $100,000. Yet under this budget, their taxes will double on those dividends and capital gains income. Thirty percent of tax-paying seniors claim capital gains income, and more than 50 percent of tax-paying seniors claim dividends income. Almost all those seniors are living on a fixed income. They are not extremely wealthy. They just happen to be at a point in their life where they are cashing in their assets in order to live. They have capital gains as a result. They sell their home. They sell their stock. Yet under this budget, their taxes are going to double on those items. In fact, dividend income accounts for 11 percent of the total income of seniors who earn less than $30,000 and 14 percent of the earnings of those who earn $30 to $50,000. For moderate-income seniors, they are dependent on a dividend in many instances.

That is not unusual. Our society encourages people to invest in the stock market. Even though we have heard about the gloomy economic situation in this country, while we have added 7.4 million jobs and have had 22 quarters of recovery and we have had tax revenues exceeding historic levels, the stock market is now at a historic high and continues to go up. Obviously, some people don't think it is all that gloomy. The fact is, a lot of seniors throughout their earning career invest, either through an IRA account or a pension account. They invest in assets which are now subject to the benefit of a capital gains and dividends rate, which is very helpful to them in making ends meet because it is a fair rate. Yet those people's taxes are going to go up under this budget.

Fifteen million seniors would see their taxes increased if the current tax policy is not extended. This budget makes no room for the extension of the capital gains or dividend tax rate. That is an important point to remember. Equally important is the underlying philosophical difference. There is a belief on the other side that the Government should be able to take more money out of people's pockets and decide how to spend it. That is why the discretionary spending in this budget is significantly over the President's level, $18 billion in the first year of the budget. It is why there is no effort in this

budget at all to discipline entitlement spending, which is clearly the most serious issue we face as an economy and as a society after the threat of Islamic terrorism, the problem of confronting the baby boom generation and the demands it will put on our society economically, to say nothing of the social change of having the largest retired population in the history of the country.

There is no attempt at all to get into that issue of how we are going to handle this fiscal meltdown we are facing if we don't address the impending retirement of the baby boom generation.

Those philosophical differences are very large. What we have tried to do through the motion to instruct is to highlight those differences, the fact that we believe these tax rates which benefit so many Americans should be extended, that we do not believe the spending should be increased well above the proposal of the President—and the President was rather generous, to say the least, in his increase in discretionary spending.

We also believe there should be an effort made to address expansion of entitlement spending, which is going to be a function of the retirement of the baby boom generation, and the fact that will simply overwhelm our capacity to support those programs in their present form, and our children and our children's children will be put in a position of having to pay so much in increased costs for the burden of the Government that they will be unable to benefit from the good life we have benefited from. They will have trouble sending their children to college, buying their first home, doing the discretionary things people want to be able to do with discretionary money because most of that discretionary money will have to be used to support the entitlement programs to support the retired baby boom generation which will double the number of people retired in this country. None of that is addressed in this budget. We think that is a failure that is unfortunate.

These are some of the concerns that remain at this time. However, I would be happy to ask unanimous consent that the motion of the Senator from Michigan be accepted and that the time remaining be divided between myself and the Senator from North Dakota so he can get some more time to respond to my comments which I am sure he will want to do.

The PRESIDING OFFICER. Is all time yielded back on this particular motion to instruct?

If so, the question is agreeing to the Stabenow motion.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. GREGG. Did we also agree that the time between now and 7:30 would be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me indicate, on the motion just adopted, the strategy in the reserve fund is not just one item, as the Senator referenced, but involves all of these things—expanding production and use of alternative fuels and alternative-fuel vehicles to promote renewable energy development, to improve electricity transmission, to encourage responsible development of domestic oil and natural gas resources, and to reward conservation and efficiency. There is a production component of what is in the reserve fund. I want to emphasize that and thank the Senator from Michigan for her constructive proposal.

I also want to take a moment to respond to a number of points made by my colleague from New Hampshire. Once again, there is no tax increase in this proposal. The fact is, what the President said his budget would produce in revenue is virtually identical to what is in this budget. In fact, there is virtually no difference between what the President said his budget would produce in revenue over the 5 years. He said his budget would produce $14.826 trillion of revenue. My budget produces $14.827 trillion of revenue, virtually no change. If you look at a CBO basis, there is a 2-percent difference. We believe that can be easily accommodated with no tax increase by going after the tax gap, by going after abusive tax havens and fraudulent tax shelters.

When the Senator asserts there is no long-term savings, that is not accurate. We have $15 billion of Medicare savings, and we have a reserve fund on health information technology and other health savings. Just on health information technology, the Rand Corporation estimates that if that were employed, we would save $81 billion a year. We also have another health care reserve fund that relates to looking at best practices around the country so that we can ensure savings in the health care accounts in that way and many other proposals to address the long-term fundamental imbalances we have.

We all understand the only way those long-term entitlement challenges are going to be fully addressed is in a bipartisan approach outside a 5-year budget resolution because those are much longer term challenges.

How much time do we have on this side?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. CONRAD. Mr. President, I thank all my colleagues for participating in this debate. These instructions to the conferees will have attention paid to them, and we will do our level best to bring back a budget that will reflect the will of this body.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. How much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes 25 seconds.

Mr. GREGG. Mr. President, of course, there is a lot of back and forth. So many numbers are thrown out, nobody can keep up. The $15 billion in Medicare savings is a nice number. The only problem is, it is coupled with about $30 billion of new spending in the SCHIP program and, as a result, it is a net loss. So the long-term savings are not there. In fact, they are a long-term cost. Of course, the health care proposals, if they score, that would be great, but they don't score. So when you throw out a number of $81 billion, you are throwing out a number that CBO won't support. If it did support it, we would immediately capture those funds and use them constructively to reduce the deficit or to give people a tax benefit. As a practical matter, they don't score so the number is not relevant.

I want to speak quickly to the Senator's response to my motion. My motion says: These tax reductions which are very important, which address issues which are important to the American people and which are not covered by the proposal which we have before us, unfortunately, need to be continued. These tax reductions cover the $1,000 child credit, the marriage penalty, the 10-percent income tax bracket, all of which the Senator has said are going to be picked up by the Baucus amendment—maybe, maybe not—the lower marginal rates, definitely not. The earned-income tax credit relief for military families does not appear to be in here. The adoption tax credit is not in here. The dependent care tax credit is not in here. The college tuition deduction for student loan interest for $2,000, Coverdale IRA, and the 15-percent rate on capital gains and dividends, which as I just went through, is very critical to seniors and to the economy generally and has been a huge revenue windfall for us as a government, and adjusting the death tax so that it properly reflects fairness to small businessmen and farmers, those are not in here.

All of those are not in the proposal of the Senator from North Dakota.

In addition, there is the operative language of the Senator's proposal which essentially is the fig leaf or the Wizard of Oz approach which says we are going to get this money from somewhere—we really don't know where, the tax gap or some building in the Cayman Islands—when, in fact, the practical effect is, you are going to have to raise taxes on the American people to accomplish what the Senator from North Dakota is proposing with his motion.

That is why I will be opposing this. I suspect some of my colleagues will support it because obviously the Baucus language makes sense, although it doesn't go far enough.

In light of that, I guess the time is probably used up, isn't it?

The PRESIDING OFFICER. It is.

The Senator from North Dakota has 10 seconds.

Mr. CONRAD. Mr. President, I would like to correct the record and indicate the motion I have offered, and which supports the underlying resolution, does contain the adoption tax credit, does include the dependent care tax credit, does include the $1,000 child tax credit, the marriage penalty relief, the 10-percent income tax bracket and estate tax reform. So it is all in there.

Mr. GREGG. Mr. President, how much time do I have remaining? I don't have 10 seconds? I could fit everything into it.

Mr. President, I ask unanimous consent that the motions be voted in the following order and that the provisions relating to debate—I guess this is something you ask, I say to the Senator. It was just handed to me. You ask that.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank my colleague. I thank him for his good humor and for working through this as we have proceeded to be ready to vote.

Mr. President, I ask unanimous consent that the motions be voted in the following order and that the provisions relating to debate time and vote time limitation remain in effect: the Kyl motion to instruct regarding estate tax, the Conrad motion to instruct regarding certain tax cuts, the Gregg motion to instruct regarding certain tax cuts.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, when I indicated that the vote time limitation remain in effect, I think we should probably send that signal to our colleagues. There will be 2 minutes equally divided on each of the motions, and after the first vote, the next two votes will be 10-minute votes.

Mr. GREGG. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the Kyl motion and all the other motions.

Mr. CONRAD. All three motions?

Mr. GREGG. All three motions.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask for the yeas and nays on all the motions.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on the motion to instruct conferees offered by the Senator from Arizona, Mr. KYL.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, we have in the resolution estate tax reform. Mr. President, $3.5 million a person, $7 million a couple is completely exempt from any estate taxation. That will exempt 99.8 percent of the estates, and it is paid for. The Kyl motion is not paid for, would blow a hole in the deficit, would take us back to a failure to balance the budget.

I hope our colleagues will support what is in the resolution, what passed the Senate and which does reform the estate tax but does so in a fiscally responsible way.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the Kyl motion is a bipartisan proposal, or at least it was. Actually, the original language came from the Senator from Louisiana. It basically sets a rate of 35 percent—the proposal of the Senator from North Dakota sets a top rate of 45 percent—it sets that rate on estates, and on small estates and small businesses it sets a lower rate. It exempts estates of $5 million or less. It is an extremely reasonable approach to the death tax.

People should not be taxed because they die, to begin with. But if we are going to tax them, let's not put them out of business. Let's allow families with small businesses to survive. That is what the Kyl motion does.

The PRESIDING OFFICER. Is all time yielded back on the motion?

If so, the question is on agreeing to the Kyl motion to instruct conferees. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—54

Alexander	Dole	Martinez
Allard	Domenici	McConnell
Baucus	Ensign	Murkowski
Bayh	Enzi	Nelson (NE)
Bennett	Graham	Pryor
Bond	Grassley	Roberts
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burr	Hatch	Smith
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Specter
Cochran	Isakson	Stevens
Coleman	Kyl	Sununu
Collins	Landrieu	Tester
Corker	Leahy	Thomas
Cornyn	Lincoln	Thune
Craig	Lott	Voinovich
DeMint	Lugar	Warner

NAYS—41

Akaka	Clinton	Kerry
Biden	Conrad	Klobuchar
Bingaman	Dodd	Kohl
Boxer	Dorgan	Lautenberg
Brown	Durbin	Levin
Byrd	Feingold	Lieberman
Cantwell	Feinstein	McCaskill
Cardin	Harkin	Menendez
Carper	Inouye	Mikulski
Casey	Kennedy	Murray
Nelson (FL)	Salazar	Webb
Obama	Sanders	Whitehouse
Reed	Schumer	Wyden
Reid	Stabenow	

NOT VOTING—5

Crapo	McCain	Vitter
Johnson	Rockefeller	

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided on the motion to instruct offered by the Senator from North Dakota, Mr. CONRAD.

Mr. CONRAD. Mr. President, if I could prevail on colleagues to be quiet for 1 more minute. They can speak on my colleague's time.

I ask colleagues to support this motion. It says to the conferees: Let's insist on those provisions that are in the budget resolution to provide for extension of the $1,000 child tax credit, the marriage penalty relief, the 10-percent bracket, the reform of the estate tax to protect small business and family farms, the extension of the adoption tax credit, the dependent care tax credit, and the treatment of combat pay for EITC purposes.

It also insists on section 303 which provides for tax relief, including extensions of other expiring tax provisions if they are offset.

This is a tax relief amendment. I hope my colleagues will support commonsense tax relief for middle-income taxpayers and for basic estate tax reform.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, this amendment is essentially a cover amendment, and it is to cover up the fact that it is the Wizard of Oz at work on the Democratic budget, and it doesn't work. If you spread pixie dust over this by Tinker Bell, it still wouldn't fly. The fact is, you cannot produce these funds in the manner in which the Senator from North Dakota has suggested by some building in the Cayman Islands and other proposals.

If you want to extend the tax cuts and you want to be concerned about the middle-income American who is benefiting from those tax cuts, you should vote for the next motion to instruct.

The PRESIDING OFFICER. The question is on agreeing to the Conrad motion to instruct.

The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), and the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER (Mr. SALAZAR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 44, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—51

Akaka	Dorgan	Mikulski
Baucus	Durbin	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Inouye	Obama
Boxer	Kennedy	Pryor
Brown	Kerry	Reed
Byrd	Klobuchar	Reid
Cantwell	Kohl	Salazar
Cardin	Landrieu	Sanders
Carper	Lautenberg	Schumer
Casey	Leahy	Snowe
Clinton	Levin	Stabenow
Coleman	Lieberman	Tester
Collins	Lincoln	Webb
Conrad	McCaskill	Whitehouse
Dodd	Menendez	Wyden

NAYS—44

Alexander	Domenici	Martinez
Allard	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Feingold	Roberts
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burr	Gregg	Smith
Chambliss	Hagel	Specter
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Corker	Inhofe	Thomas
Cornyn	Isakson	Thune
Craig	Kyl	Voinovich
DeMint	Lott	Warner
Dole	Lugar	

NOT VOTING—5

Crapo	McCain	Vitter
Johnson	Rockefeller	

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on the motion to instruct offered by the Senator from New Hampshire, Mr. GREGG.

The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, this motion is the opportunity to speak out on behalf of seniors, working Americans, families, and children in this country. If you believe the tax rates should stay in place, which include the $1,000 child tax credit, marriage penalty relief, the 10-percent income tax bracket, the lower marginal rates for working American families and small businesses, the earned income tax credit for military families, the adoption tax credit, independent care tax credit, the college tuition deduction, the deduction for student loan and interest, the $2,000 Coverdell——

The PRESIDING OFFICER. The Senate will be in order.

Mr. GREGG. Mr. President, the next two are important—the 15-percent capital gains dividend rate, which helps seniors and people on fixed income and gives our economy a boost, and revenues to the Federal Government a boost, and the death tax, structured along the lines of what Senator KYL's motion put forward—if you believe in those proposals, you will want to vote for this motion to instruct the conferees.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, if you like debt, this is your amendment. This will add $250 billion to the debt. If you don't want to balance the budget in 2012, vote for this amendment, because we have a balanced budget in 2012 now. If you pass this amendment now, we will not.

The Senator says it is like the Kyl amendment on the estate tax. No, it is not. He preserved part of the estate tax for those at the very highest income level. This eliminates the estate tax.

Please, we have made so many strides to balance the budget by 2012. Let's not have another unbalanced budget, one that adds to the debt.

The PRESIDING OFFICER. The question is on agreeing to the Gregg motion to instruct. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), and the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 51, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—44

Alexander	DeMint	Lugar
Allard	Dole	Martinez
Bennett	Domenici	McConnell
Bond	Ensign	Murkowski
Brownback	Enzi	Roberts
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Smith
Coburn	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Thomas
Corker	Isakson	Thune
Cornyn	Kyl	Warner
Craig	Lott	

NAYS—51

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Biden	Inouye	Obama
Bingaman	Kennedy	Pryor
Boxer	Kerry	Reed
Brown	Klobuchar	Reid
Byrd	Kohl	Salazar
Cantwell	Landrieu	Sanders
Cardin	Lautenberg	Schumer
Carper	Leahy	Snowe
Casey	Levin	Stabenow
Clinton	Lieberman	Tester
Conrad	Lincoln	Voinovich
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	Wyden

NOT VOTING—5

Crapo	McCain	Vitter
Johnson	Rockefeller	

The motion was rejected.

The PRESIDING OFFICER. Under the previous order, the Chair appoints Mr. CONRAD, Mrs. MURRAY, Mr. WYDEN, Mr. GREGG, and Mr. DOMENICI conferees on the part of the Senate.

MORNING BUSINESS

Mr. CONRAD. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Florida is recognized.

NATIONAL GUARD EQUIPMENT

Mr. NELSON of Florida. Mr. President, it is timely for me to make these remarks because there has been a conversation that has occurred in Kansas today between the Governor of Kansas and the President of the United States over the question of the adequacy of the National Guard and its equipment.

The reason I am making these remarks is that this Senator from Florida has sounded this alarm bell several weeks ago on the basis of a GAO report of the inadequacy of the equipment of the National Guard in each of the States. In my State of Florida, the GAO report says they only have 53 percent of their equipment. In the State of New Mexico, they only have 33 percent of their equipment. You now heard the commentary from both the Governor of Kansas, as well as the head of the National Guard, the adjutant general of Kansas, who state they are short of equipment.

I can tell you that, in Florida, we are 500 humvees short. We are 600 trucks short—that is both 5 ton and deuce and a half. We are 4,400 night vision goggles short. Why I am saying this today as a follow-on to sounding this alarm several weeks ago is we are not far from June 1, which is the beginning of hurricane season. The Florida National Guard is the best trained as a National Guard but especially so for taking care of the aftermath of a hurricane. If we only have category 1, 2, and 3 hurricanes, the Guard tells me they have the equipment. But if the big one hits—the big one being a category 4 or 5 hitting from the water—a highly densely urbanized area of the coast, they will be short. Then the Guard would rely on their compact with other Guard units to supply equipment.

For example, Pennsylvania is one of those States in the compact. But Pennsylvania is short of equipment as well. We are trying to put additional appropriations in this war funding bill for equipment for our National Guard units, but as Lieutenant General Blum, the head of the National Guard for the country, said, they are $40 billion short of equipment. I will read you a statement from the Florida National Guard in case there is any doubt in anybody's mind:

It is true that we are short of equipment. We need these pieces of equipment to speed up our response to local emergencies and to help save lives.

And he continues:

They can draw on these additional units and equipment through that compact.

But in the case of a major hurricane—

And I continue to quote the Florida National Guard—

we plan to have these other assets prepositioned prior to landfall or moving to Florida as soon as possible. However, we cannot afford any additional significant losses of equipment. Losing more equipment from Florida to support our active duty mobilization sites will put us at risk to respond effectively to our State during a time of great need.

We have to be serious all over this country about the equipment needs for our National Guard when it is called on to respond to that aspect of their job, which is to be activated by the Governor of the respective States under statewide emergencies.

HONORING OUR ARMED FORCES

CAPTAIN JONATHAN DAVID GRASSBAUGH

Mr. GREGG. Mr. President, I rise today to pay special tribute to U.S. Army Ranger CPT Jonathan David Grassbaugh of Hampstead, NH. Sadly on April 7, 2007, while supporting Operation Iraqi Freedom, this brave 25-year old leader and three of his fellow soldiers gave their lives for our Nation when an improvised explosive device detonated near their patrol in Zaganiyah, Iraq. Captain Grassbaugh was assigned to Headquarters and Headquarters Troop, 5th Squadron, 73rd Cavalry Regiment, 82nd Airborne Division, out of Fort Bragg, NC, and was protecting our country in his second deployment to Iraq.

Jonathan, or Jon to family and friends, was born in Ohio, but his family moved to Hampstead, NH, when he was in the third grade. He attended Hampstead Central School, graduated from Hampstead Middle School, where his mother Patricia is principal, went on to Phillips Exeter Academy, where he was a 4 year honor student, and then to Johns Hopkins University, where he studied computer science, graduating in 2003. While at Johns Hopkins University he was a distinguished member of the Army ROTC program and Pershing Rifles, served as captain of the Ranger Challenge Team, commanded the ROTC Battalion during his senior year and won the National two-man duet drill team competition.

Following completion of the arduous U.S. Army Ranger School in April 2004, Captain Grassbaugh was assigned to the 7th Cavalry in the Republic of South Korea. He was later assigned to the 3rd Battalion, 505th Parachute Infantry Regiment where he assumed another leadership position serving as an antitank platoon leader. Jon also served as an aide de camp for the 82nd Airborne deputy commanding general, scout platoon leader, and logistics officer for the 5th Squadron, 73rd Cavalry. In July of 2006, he was deployed for a second tour of duty in Iraq in support of Operation Iraqi Freedom. Friends say Jon was laser focused, never questioned his service or his need to be in Iraq, cared deeply for the soldiers in his command, and always put a 110 percent effort into everything.

Captain Grassbaugh's awards and decorations serve as testimony to his stellar character and performance. They include the Bronze Star Medal, Purple Heart, Meritorious Service Medal, Army Commendation Medal, 4 Oak Leaf Clusters, Joint Service Achievement Medal, Army Achievement Medal, National Defense Service Medal, Iraq Campaign Medal, Global War on Terrorism Service Medal, Korean Defense Service Medal, Army Service Ribbon, Overseas Service Ribbon, Parachutist's Badge, Combat Action Badge, and the Ranger Tab.

Patriots from the State of New Hampshire have served our Nation with honor and distinction from Bunker Hill to Zaganiyah, Iraq—and U.S. Army Ranger CPT Jonathan Grassbaugh served, led, and fought in that same fine tradition.

My sympathy, condolences, and prayers go out to Jon's wife Jenna, his parents Mark and Patricia, brother Jason, and to his other family members and many friends who have suffered this most grievous loss. All will sorely miss Jon Grassbaugh, the caring husband, dedicated son, loyal brother, good friend, outstanding Ranger. Laid to rest at Arlington National Cemetery, Captain Grassbaugh joins his fellow heroes in eternal peace at our military's most sacred place. In the words of another son of New Hampshire, Daniel Webster may his remembrance be as long lasting as the land he honored. God bless Jonathan David Grassbaugh.

ADDRESSING THE DROPOUT EPIDEMIC

Mr. KENNEDY. Mr. President, education has long been the key to opportunity, progress, and prosperity in America. Our schools and teachers prepare young Americans to compete and succeed in an ever-changing economy. Good schools shape the character of our citizens. They train Americans to participate in our democracy, and to serve our country and our communities. And a strong education system helps protect our national security. Above all, it's a force to move America forward. It is the engine of the American dream.

When we enacted the No Child Left Behind Act 5 years ago, we sought to modernize and reform our public schools, and reaffirm the original commitment made in the Elementary and Secondary Education Act in 1965. The No Child Left Behind Act sets lofty goals for all schools to meet, and requires States to establish strong standards, a rigorous curriculum, and reliable assessments.

Congress should not abandon those fundamental goals as it works to reauthorize the law this year.

Nevertheless, we must acknowledge that too many of America's students still don't receive all that is needed to engage and succeed in school, learn to high standards, and graduate on time. Each year, approximately 1 million students do not finish high school in time to graduate with their peers.

The Nation's dropout rate is more than a problem—it is a national crisis—and one that a Nation so deeply committed to the fundamental value of equal justice and opportunities for all cannot afford to ignore.

In 1963, President Kennedy decried the fact that four out of 10 fifth graders did not finish high school. At that time, he called it ''a waste we cannot afford.''

Forty-four years later, the statistics on high school graduation rates are still staggering. About 1,000 high schools across the country only graduate half their students. Among African Americans and Latinos, only 55 percent graduate on time. Every day, 7,000 young Americans drop out of school.

Reaching these dropouts—and giving them a chance to get back on track—is a national imperative. We have a moral commitment and an obligation to children, to parents, and to our communities to provide each and every one of our students with the chance to attend an excellent public school and graduate with a diploma. Delivering on that basic commitment is a measure of our strength as a democracy, and it's an expression of our values and our belief as a nation that our children are our future.

Reducing the dropout rate in our schools is not just the right thing to do. This epidemic has very real consequences for our country, and addressing it is an economic necessity.

High school dropouts earn, on average, $260,000 less than high school graduates over the course of their lifetime, and nearly $1 million less than individuals with a college degree. If each student who dropped out of the class of 2006 had graduated, America's economy would have been $309 billion stronger in future years.

If the approximately 1.2 million young people who are estimated to drop out of school in the United States this year could earn high school diplomas instead, States could save more than $17 billion in costs under Medicaid and expenditures for uninsured care over the course of these young people's lifetimes.

Curbing the dropout rate requires a comprehensive solution. Our high schools clearly need greater assistance in supporting and retaining their students.

We must recognize, however, that this problem does not begin in high school. Intervention should start in the elementary and middle school years, when standards and expectations are set. Children who do not learn to read or do basic math in these grades will fall farther and farther behind, and find it increasingly difficult to catch up in the faster-paced high school grades.

Research shows that we can identify students who are most at-risk for not

completing high school as early as sixth grade. With early intervention, quality teachers, small classes, and data-driven instruction, we can ensure that these students make progress, stay in school and succeed.

Once students reach high school, we must do more to engage them in the learning process. States and cities across the country are already taking steps to address this challenge, such as offering extra help during the school day, extending learning time, and adopting other school-based interventions.

In Massachusetts, Boston public schools are working with private partners to create smaller learning communities, improve instruction, and strengthen professional development for teachers. Our high schools are undergoing a transformation to focus on business, technology, health professions, arts, public service, engineering, sciences, international studies, and social justice. In many of them, students can prepare for future opportunities after they graduate, by enrolling in courses for college credit or pursuing hands-on experience in a career that interests them.

We must all work in Congress to help more districts like Boston mount significant efforts to address these issues and make progress in reducing the dropout rate.

I have joined my colleagues on the HELP Committee—Senator BINGAMAN and Senator BURR—in introducing the Graduation Promise Act, which would fund state efforts that target resources and reforms to turn around high schools with low graduation rates. 15 percent of America's high schools produce half of our dropouts. In these schools—some of which have as many as 400 students in a freshman class—8 out of 10 of the students start high school already having repeated a grade, or are special education students, or are two years or more below grade level.

It's very clear that these schools need more assistance in supporting and retaining these students, and that's what we hope to provide.

We must also do more to better connect schools with the communities around them, and provide the safety-net of services that at-risk students need to help them stay in school. The Keeping PACE Act would provide federal funds for these efforts.

Supporting the social, emotional, intellectual, and physical development of our youth is a key strategy for breaking down the barriers to learning.

Finally, in order to target reforms, we must accurately measure and track graduation rates throughout the country. Today, in some districts, students who leave school are counted as dropouts only if they have registered as dropouts. In other districts, a promise to earn a GED is all it takes to be counted as a ''graduate.'' That's unacceptable. Obtaining reliable data is the only way to identify and target the level of reform and resources necessary to assist schools struggling with high dropout rates.

We have an obligation to encourage these and other creative reforms in our schools, and provide the support structure and safe harbor needed to present students at-risk from dropping out. But we must also back up these essential reforms with real investments.

Today, the federal investment in education at all levels—especially in the middle and high school grades—is not sufficient. Only 8 percent of students who benefit from the federal investment in Title I are in high school. Ninety-percent of high schools with very low graduation rates have high concentrations of low-income students—but only a quarter of them receive federal assistance. We need to dedicate more resources and support for secondary schools to improve academic achievement and ensure that every student has a fair opportunity to graduate. We need to target our efforts, resources, and ideas for effective reform to the schools that need them most.

As we consider ways to strengthen and advance our national commitment to leave no child behind, we have an opportunity to give teachers, schools, districts and states the support they need to ensure a high-quality education for every student.

We can no longer turn a blind eye to the millions of young people who fall through the cracks. Let us demand more of ourselves. Let us recommit ourselves to the spirit and the principles of excellence and equal opportunity that have shaped our historic commitment to improving public education. Above all, let us commit ourselves to the great goal of making this silent but severe epidemic—America's dropout crisis—a thing of the past.

TRIBUTE TO KATE MARTIN

Mr. THUNE. Mr. President, today I rise to recognize Kate Martin, an intern in my Washington, DC, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several months.

Kate is a graduate of Ellendale High School in Ellendale, ND. Currently she is attending the University of North Dakota, where she is majoring in marketing and is pursuing a minor in international business. She is also active in her sorority Kappa Alpha Theta. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Kate for all of the fine work she has done and wish her continued success in the years to come.

ADDITIONAL STATEMENTS

HONORING THE BRIGHT STAR RESTAURANT

● Mr. SHELBY. Mr. President, I wish to honor the Bright Star Restaurant, one of my favorites in Bessemer, AL. The Bright Star celebrated its 100th anniversary last week on May 2, 2007.

I know from personal experience that the Bright Star has endured for a century due to its excellent menu. Though the restaurant has grown from a cafe that served only 25 people to its current size, seating 330 people, the quality of the food has not changed a bit. I attribute this fact to Bill and Pete Koikos, the family-owned restaurant's patriarchs. Bill and Pete immigrated to the United States from Greece in 1923. Two years later they purchased ownership interest in the restaurant. Since 1966, Bill's sons Jim and Nick have owned and operated the business very successfully.

Jim and Nick Koikos are hard workers who are nearly always in the restaurant greeting customers as they walk through the door. Jim and Nick's dedication to keeping customers happy, along with their wonderful menu, account for the Bright Star's longevity.

Although the menu has a wide assortment of delicious dishes, I am partial to the seafood, which is always fresh from the gulf. My personal favorite is the excellent Greek snapper, thought their special gumbo, not to mention the lemon pie, are also stand-outs.

For the last 100 years, the Bright Star has been one of the best restaurants in the South. The emphasis on quality food and service has not changed since the restaurant was founded in 1907, and I sincerely congratulate the Koikos brothers on their anniversary and wish them continued success.●

COMMENDING PAT SEAMANS WALKER

● Mr. PRYOR. Mr. President, it is with great pleasure that I commend an outstanding Arkansan on her birthday for her truly amazing gifts to the State of Arkansas. Mrs. Pat Seamans Walker, a Springdale resident, has always been a leader in Arkansas philanthropy by providing donations for many worthwhile causes, especially healthcare, education and human service organizations.

Mrs. Walker and her late husband Willard founded the Willard and Pat Walker Charitable Foundation in 1986. Since that time, their generosity has touched the lives of thousands of Arkansans. Mrs. Walker is a member of the Foundation Board for the Arkansas Cancer Research Center, and an active member of First Christian Church of Springdale. She also participates in the oversight of the Walker Charitable Foundation.

Pat Walker has received many awards in recognition of her philanthropy, including the 2002 American Heart Association Tiffany Award, the Distinguished Services Award from the Razorback Foundation, the prestigious Arkansas Children's Award, and the University of Arkansas Medical School Distinguished Services Award. She has been recognized as one of the Most Distinguished Women in Arkansas and was named to the Top 100 Women in Arkansas list by Arkansas Business in 1999.

The Willard and Pat Walker Charitable Foundation has made countless donations over the years, including millions to educational institutions in Arkansas, millions to healthcare research and community health centers in Arkansas, and the hundreds of thousands of dollars to build libraries in Arkansas.

I would like to personally thank Mrs. Walker and the members of the Walker family for their unwavering support of the State of Arkansas. It is an honor to stand here before you today and wish such a remarkable person a happy birthday.●

F–117'S ARRIVAL AT HOLLOMAN AIR FORCE BASE

● Mr. DOMENICI. Mr. President, I wish to commemorate the arrival of the first F–117 Nighthawk fighters at Holloman Air Force Base, NM, 15 years ago today.

On May 9, 1992, with the arrival of its first four F–117s at Holloman Air Force Base, the 49th fighter wing became the sole operator of the F–117. The F–117 was the world's first stealth aircraft and is still one of the world's most advanced fighters. Since that date the men and women of the 49th have flown the F–117 with distinction throughout the world. In 1999 the F–117s of the 49th deployed in support of Operation Allied Force, and flew more than 1,000 missions against heavily defended targets in Serbia. The 49th also played a key role in the opening hours of Operation Iraqi Freedom, attacking critical leadership targets.

I would like to take this opportunity to thank all those at Holloman for keeping the F–117 flying, and for their service to our Nation. I am proud New Mexico has been the home to this amazing aircraft and the outstanding individuals who fly them.●

CONGRATULATING DALE B. ENGQUIST

● Mr. LUGAR. Mr. President, today I wish to congratulate fellow Hoosier Dale B. Engquist who will be recognized today with the Department of the Interior's Distinguished Service Award honoring his leadership with the National Park Service as superintendent of the Indiana Dunes National Lakeshore.

Under Dale's leadership the Lakeshore has undergone remarkable changes, including a 15 percent increase in the size of the area being preserved. Dale has also developed an environmental education program that currently serves over 35,000 students per year. Recently Dale worked closely with local and State leaders to design and build the new Dorothy Buell Memorial Visitor Center, a shared resource which welcomes the two million visitors from Indiana and across the nation who come each year to learn about and enjoy the precious natural ecosystem along the southern tip of Lake Michigan which spans northwest Indiana.

I look forward to each opportunity to be with Dale and to learn about the many initiatives he and his staff have undertaken to preserve and share the spectacular beauty of the Indiana Dunes National Lakeshore. I am certain that in the coming years the staff of the Indiana Dunes National Lakeshore will continue Dale's important work to preserve this resource for generations to come.

I congratulate Dale on his recent retirement following a career dedicated to public service, and wish him and his wife JoAnn good health and happiness as they embark upon this new chapter in their lives, together.●

CONGRATULATING ALBERT YARNELL

● Mr. PRYOR. Mr. President, in 1932 Ray Yarnell bought a bankrupt dairy in Searcy, AR, and created the Yarnell Ice Cream Company. At the time, there were 43 ice cream companies in business in Arkansas.

Ray's son Albert began working for the company at the age of 12, riding his bicycle to deliver bills. During World War II, Albert Yarnell left to serve his country as a member of the Army Signal Corps. After his service, he studied dairy production at the University of Missouri and returned to work at the Yarnell Ice Cream Company in 1948. With the passing of his father in 1974, Albert Yarnell became the president of the company. In 1978, he personally created the Nation's first all-natural ice milk, and after becoming chairman of the company in 1985, he led the team that invented the Nation's first nonfat, no-sugar-added ice cream in 1990. He is affectionately known in his hometown of Searcy and at the company as ''Mr. Albert.''

A very successful family business, the Yarnell Ice Cream Company now stands as the only remaining ice cream producer in Arkansas. Albert's son Rogers is the current president of the company and Albert's granddaughter Christina is the treasurer. Albert and his wife Doris both contribute to and are deeply respected in the community they have called home for so many years. Mr. Yarnell also serves on several boards, including Main Street Searcy, the Baptist Health Corporation, the Searcy Chamber of Commerce, as well as the Arkansas State Chamber of Commerce.

Earlier this year, Albert Yarnell was inducted into the Arkansas Business Hall of Fame. He joins other distinguished members such as Sam Walton, Jackson Stephens, Don Tyson, and J.B. Hunt.

Mr. President, I ask that my colleagues join me in congratulating both Albert Yarnell, the patriarch of the Ice Cream Industry, and the Yarnell Ice Cream Company on the company's 75th anniversary.●

HONORING THE INN AT LONG SANDS

● Ms. SNOWE. Mr. President, today I wish to honor and recognize a small business from my home State that has triumphed over adversity in the wake of several major coastal storms. The Inn at Long Sands in York Beach, ME, suffered extensive damage as the result of a devastating storm on Mother's Day weekend of May 2006. With Memorial Day weekend approaching, signaling the unofficial beginning of summer—a busy time for York County's tourism industry—Arline Shea, the Inn's co-owner watched countless hotel and meal reservations get washed away. As a result of the storm, the Inn sustained over $100,000 in damage. This was not a welcome beginning for Arline, who had just purchased the Inn in February 2006.

Although the storm dealt Arline a heavy blow, she exemplified Maine's entrepreneurial spirit by reopening in a matter of weeks. To recover from the damage the Inn had sustained, Arline wisely made good use of the tools available to small businesses in the wake of disasters. She contacted the Federal Emergency Management Agency and the Small Business Administration to find out what kinds of assistance she would be able to receive. Arline's exemplary decision to find out what help was available to her, along with her hard work and dedication, allowed her to reopen the Inn and Long Sands in time for last year's Fourth of July holiday.

Despite all of the tragedy that befell Arline Shea and her employees, her optimistic spirit shined through just a month following the storm, when the Portsmouth Herald interviewed her for a story on the recovery from the storm. ''Nobody died,'' Arline said. ''We all have our health. That and the ice cream cone I have every day from the Village Scoop helps,'' she added with good humor. Arline displayed an entrepreneurial spirit, combined with a sense of humor, that allowed her to prevail following the devastation.

Unfortunately, the nightmare did not stop there for Arline. Just last month, Maine suffered, as did most of the east coast, a crippling storm, known to Mainers as the ''Patriots Day Storm.'' This time, however, Arline was prepared for the storm, with sandbags and new sump pumps. Because of the lessons learned—and her preparation—Arline sustained minimal damage from

a storm that caused major flooding in most parts of the country, and certainly across Maine.

While countless Maine businesses have overcome obstacles and succeeded, Arline's story sticks out as an outstanding example to all Maine business owners. Shortly after purchasing the Inn, Arline's father passed away. She rebounded from this personal tragedy, and from the disaster that beset her business, by utilizing the resources available to her, maintaining an optimistic spirit, and learning how to deal with disaster in the process. Arline's inspiring example shows all Maine business owners that they can persevere from any challenge that they face.

And so, I want to congratulate Arline Shea and the Inn at Long Sands for providing small businesses with a beacon to look forward to. She is truly a small business owner of whom we are all so proud. We wish her future success and offer her, and all of Maine's small businesses, our complete assistance. Maine, and indeed the nation, can benefit from Arline Shea's optimism, determination, and entrepreneurship.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE PRESIDENT

The following message from the President of the United States was transmitted to the Senate by one of his secretaries:

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE BLOCKING OF PROPERTY OF CERTAIN PERSONS AND PROHIBITING THE EXPORTATION AND REEXPORTATION OF CERTAIN GOODS TO SYRIA AS DECLARED IN EXECUTIVE ORDER 13338 OF MAY 11, 2004—PM 12

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the national emergency declared in Executive Order 13338 of May 11, 2004, and expanded in scope in Executive Order 13399 of April 25, 2006, authorizing the blocking of property of certain persons and prohibiting the exportation and reexportation of certain goods to Syria, is to continue in effect beyond May 11, 2007.

The actions of the Government of Syria in supporting terrorism, interfering in Lebanon, pursuing weapons of mass destruction and missile programs, and undermining United States and international efforts with respect to the stabilization and reconstruction of Iraq pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue in effect the national emergency declared with respect to this threat and to maintain in force the sanctions I have ordered to address this national emergency.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 8, 2007.*

MESSAGE FROM THE HOUSE

At 2:50 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrent of the Senate:

H.R. 1294. An act to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe.

H.R. 1595. An act to implement the recommendations of the Guam War Claims Review Commission.

H.R. 2080. An act to amend the District of Columbia Home Rule Act to conform the District charter to revisions made by the Council of the District of Columbia relating to public education.

The message also announced that the House has agreed to the followmg concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 105. Concurrent resolution supporting the goals and ideals of a National Suffragists Day to promote awareness of the importance of the women suffragists who worked for the right of women to vote in the United States.

H. Con. Res. 117. Concurrent resolution commemorating the 400th Anniversary of the settlement of Jamestown.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1025. An act to authorize the Secretary of the Interior to conduct a study to determine the feasibility of implementing a water supply and conservation project to improve water supply reliability, increase the capacity of water storage, and improve water management efficiency in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas; to the Committee on Energy and Natural Resources.

H.R. 1294. An act to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe; to the Committee on Indian Affairs.

H.R. 1595. An act to implement the recommendations of the Guam War Claims Review Commission; to the Committee on the Judiciary.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 105. Concurrent resolution supporting the goals and ideals of a National Suffragists Day to promote awareness of the importance of the women suffragists who worked for the right of women to vote in the United States; to the Committee on the Judiciary.

H. Con. Res. 117. Concurrent resolution commemorating the 400th Anniversary of the settlement of Jamestown; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2080. An act to amend the District of Columbia Home Rule Act to conform the District charter to revisions made by the Council of the District of Columbia relating to public education.

S. 1348. A bill to provide for comprehensive immigration reform and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communication was laid before the Senate, together with accompanying papers, reports, and documents, and was referred as indicated:

EC–1875. A communication from the Secretary of Commerce, transmitting, the report of a draft bill that would reauthorize the Hydrographic Services Improvement Act of 1998; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–79. A resolution adopted by the Senate of the State of Pennsylvania urging Congress to provide equitable funding to the Department of Housing and Urban Development for the operation of quality affordable housing; to the Committee on Banking, Housing, and Urban Affairs.

SENATE RESOLUTION NO. 45

Whereas, Pennsylvania's public housing authorities are essential in the Commonwealth of Pennsylvania; and

Whereas, Pennsylvania is home to 90 public housing authorities serving an estimated 245,819 residents of the Commonwealth of Pennsylvania; and

Whereas, Pennsylvania's public housing authorities provide high-quality affordable housing to residents in the Commonwealth of Pennsylvania through the use of Fedeal programs; and

Whereas, Pennsylvania's public housing authorities have successfully assisted residents of the Commonwealth of Pennsylvania with Moving to Work programs and preapprenticeship training, resulting in greater self-sufficiency and a reduced burden on Commonwealth resources; and

Whereas, developments built by Pennsylvania's public housing authorities have in some instances increased the values of neighboring properties and communities in the Commonwealth of Pennsylvania by as much as 142%; and

Whereas, new funding guidelines developed by the United States Department of Housing and Urban Development may result in reduced funding for the Commonwealth of Pennsylvania, its public housing authorities and the Pennsylvanians who rely on these services; and

Whereas, Pennsylvania's public housing authorities are a major employer in the Commonwealth of Pennsylvania, and funding cuts from the United States Department of Housing and Urban Development may result in drastic layoffs and diminished services to the residents of public housing; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania recognize the importance of the quality services, support and housing provided by Pennsylvania's public housing authorities and respectfully urge the Congress to provide equitable funding to the United States Department of Housing and Urban Development for the operation of quality affordable housing; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-80. A resolution adopted by the Senate of the State of Michigan urging Congress to enact legislation to increase protections for the Great Lakes from Asian carp; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 15

Whereas, two species of Asian carp, not native to the United States, are on the verge of invading the Great Lakes. Silver carp and bighead carp escaped from confinement at southern fish farms in past decades and have migrated up the Mississippi and the Illinois River to within less than 100 miles of the Great Lakes; and

Whereas, Asian carp could become a dominant species in the Great Lakes, threatening the $4.5 billion Great Lakes commercial and recreational fishery and recreational boaters. Asian carp are voracious feeders that compete with native fish and wildlife for food. In addition, silver carp can weigh up to 70 pounds and jump up to 10 feet out of the water when disturbed by boats. Boaters have suffered cuts, blackened eyes, broken bones, back injuries, and concussions from leaping silver carp; and

Whereas, the only thing preventing the movement of Asian carp into the Great Lakes is a temporary electrical barrier in the Chicago Sanitary and Ship Canal operated by the United States Army Corps of Engineers. A permanent electrical barrier is also under construction to replace the temporary barrier; and

Whereas, to date, over $12 million has been spent on construction and operation of the electrical barriers. To help match federal funding, the state of Michigan has contributed nearly $70,000 toward the completion of the permanent electrical barrier; and

Whereas, current funding is insufficient to complete construction of the permanent barrier and only finances operation of the temporary barrier through the first half of fiscal year 2007. In addition, there is no funding to renovate the temporary barrier as a permanent backup to the new barrier; and

Whereas, there are provisions in several measures before the Congress that would provide funds to upgrade the current barrier and complete construction of the permanent barrier. Bills with this language include the Great Lakes Asian Carp Barrier Act (H.R. 553 and S. 336), the Water Resources Development Act of 2007 (H.R. 1495), the National Aquatic Invasive Species Act of 2007 (S. 725), and the Great Lakes Collaboration Implementation Act (H.R. 1350). It is of the utmost importance that Congress protect the Great Lakes by providing the funding and authority for the ongoing operation and maintenance of the barriers, compensate states for their contributions to the project, and provide for research into controlling Asian carp and other exotic species; now, therefore, be it

Resolved by the Senate, That we memorialize the United States Congress to enact legislation to increase protections for the Great Lakes from Asian carp; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–81. A resolution adopted by the Senate of the State of Hawaii urging Congress to propose amendments to the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

SENATE RESOLUTION NO. 33

Whereas, the United States Congress must decide in 2007 whether to reauthorize the No Child Left Behind Act of 2001 or let it die and replace it with a new law; and

Whereas, the No Child Left Behind Act, unprecedented in the history of federal and state roles in public education by the mandated imposition of a federally prescribed, single accountability model for all public schools, undermines the established constitutional role of state and local public education governance; and

Whereas, the No Child Left Behind Act, while purporting to create an accountability system for public schools, has in reality, been an enormous financial and programmatic burden on schools and taxpayers; and

Whereas, even if states and schools are satisfied with their educational programs and outcomes, they are forced to participate in this top-down system in order to continue to receive federal funds for education, such as Title I funds; and

Whereas, the No Child Left Behind Act mandates consequences to schools if just one of thirty seven possible adequate yearly progress calculation outcomes are not met, and makes no distinction in the consequences imposed on schools that did not meet one or did not meet all thirty seven, resulting in dilution of energy, time, and money by mandating the treatment of all such schools to include identical sanctions; and

Whereas, the No Child Left Behind Act employs a view of motivation that is misguided and objectionable, using threats, punishments, and pernicious comparisons to ''motivate'' teachers, students, and schools; and

Whereas, private K–12 schools have chosen not to spend their time or money adopting key elements of the No Child Left Behind Act's intensive testing and accountability regimen; and

Whereas, the No Child Left Behind Act's narrow focus on the ''basics'' has discouraged the implementation of best practices and cutting edge educational research in order to achieve higher test scores; and

Whereas, the No Child Left Behind Act has driven many schools and school systems into a narrowing of curriculum, often focused on only tested subjects, to the detriment of subjects and rich educational experiences, such as the arts; and

Whereas, the goal of achieving one hundred percent proficiency, including special education students, is unrealistic, and the pursuit of which channels millions of dollars into tactically targeted programs that divert limited resources from other critical school programs, professional training, as well as the educational and physical environment of schools; and

Whereas, the requirements of the No Child Left Behind Act penalize schools who enroll students who have inherent educational deficiencies and who, as a group, will continue to remain below ever increasing No Child Left Behind ''annual measurable objectives''; and

Whereas, while there has recently been some interest in the development of so-called ''growth models'' to recognize the contributions of a school to individual students over time, the lack of adequate funding and the prohibition against states developing their own growth models has rendered this initiative almost meaningless; and

Whereas, the No Child Left Behind Act does not provide additional funds for teacher education or training if a school is in ''status'' or under restructuring, which creates a punitive environment with little commitment on the part of the federal government for improving teaching and learning, or for supporting increased school success; and

Whereas, Adequate Yearly Progress does not take into account a school's adoption of meaningful educational innovation or judicious use of research; and

Whereas, the No Child Left Behind Act has channeled countless dollars into high-stake testing, which has largely benefited national private testing companies, but at the expense of ignoring genuine student accomplishments; and

Whereas, the No Child Left Behind Act appears biased towards a one size fits all multiple choice testing system, and tends to ignore other means of engaging and assessing students such as project-based, hands-on, or problem-solving demonstrations of competency; and

Whereas, the United States Department of Education has shown little or no interest in creating incentives among colleges and universities to incorporate innovative portfolios or project-based competencies into their admissions decisions, thus reinforcing the use of high-stake, multiple-choice private contractors; now, therefore, be it

Resolved by the Senate of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2007, That the United States Congress is strongly urged to propose specific amendments to, or recommend the repeal of, the federal No Child Left Behind Act of 2001; and be it further

Resolved, that among the issues and amendments the United States Congress should address are the following:

(1) Improving teacher quality, preparation, and training by:

(A) Building support for a comprehensive incentive program to recruit, place, and retain experienced, well-qualified teachers in high-need schools (e.g., high poverty, or geographically isolated communities);

(B) Providing significant support for teacher education, professional development, in-service training, and career opportunities;

(C) Improving the occupational status and compensation of teaching as a career;

(D) Improving qualifications of teacher candidates at colleges of education;

(E) Providing financial incentives for institutions of higher learning to incorporate portfolios and demonstrations of competency into their admissions decisions;

(F) Strengthening teacher education preparation programs in areas such as science, mathematics, technology, measurement, data analysis, and evaluation;

(G) Recognizing teachers having achieved certification by the National Board for Professional Teaching Standards as ''highly qualified'' in their respective fields; and

(H) Providing flexibility in recognizing certified secondary level special education teachers as qualified teachers in their own right, and removing the unrealistic expectation that such teachers be additionally certified in every single core subject area;

(2) Improving assessment measures and systems by:

(A) Refining student assessment instruments designed specifically for use in improving instruction as well as school accountability;

(B) Encouraging states and school districts to utilize a wider range of useful assessments, including project-based competency and portfolios;

(C) Developing more appropriate means of assessing the academic progress of English Language Learners, special education students, and those with behavioral health issues; and

(D) Supporting the development and implementation of comprehensive statewide data collection and exchange systems that allow for more efficient support for student record keeping and informed educational policy decision making (e.g., electronic student transcript systems, and longitudinal analyses of growth in academic achievement);

(3) Improving accountability models, indicators of performance, and consequences by:

(A) Supporting states and the educational research community in research and development efforts to further the pioneering work required in refining the technology underlying growth (toward standards) analysis models;

(B) Permitting each state to adopt and pilot its own growth model to calculate adequate yearly progress under the No Child Left Behind Act to take advantage of inherent benefits that motivate students at all levels of proficiency;

(C) Supporting wholesale changes to the ''adequate yearly progress'' model for educational accountability that would prov1de for a fairer and more balanced appraisal of school performance and quality;

(D) Replacing punitive, conjunctive ''miss one, miss all'' criteria;

(E) Expanding accountability indicators to reflect performance on standards in other important disciplines and countering unintended consequences such as a narrowing of curriculum;

(F) Allowing for current limitations in reliable and valid assessments of students within a wide range of disability classifications; and

(G) Allowing for deferrals to test new immigrant students with limited English proficiency for up to three years of entering the country;

(4) Augmenting resources to assist states in efforts to accomplish challenging educational initiatives by:

(A) Requiring schools to maintain a broad and comprehensive curriculum to support adopted content and performance standards, including the arts and physical education;

(B) Fully funding special education programs, as once promised;

(C) Providing adequate funding to research and develop multiple and more valid means of assessing student competence, skills and knowledge for use in both improvement and educational accountability; and

(D) Providing funding and training support for data and technology infrastructure requirements;

(5) Supporting innovation, capacity building, and flexibility to address state and local education needs by:

(A) Recognizing schools that demonstrate successful strategies using innovative curriculum and methodologies;

(B) Developing new initiatives for school facilities that do not push educational funding toward ever larger schools and economy-of-scale construction mentality;

(C) Avoiding simplistic ''one size fits all'' solutions for assessment, accountability, and intervention;

(D) Addressing unique needs of ''high-need'' schools (e.g., high poverty, high immigration, extreme geographic isolation); and

(E) Allowing states to determine which and how many grade levels are best to test; and

(6) Returning to the original intent and purpose of the Elementary and Secondary Education Act (ESEA) by:

(A) Restoring the foundational precepts of ESEA and its focus on equity in educational attainment despite disadvantages stemming from socio-economic background;

(B) Allowing states to ''opt out'' of requirements that impact schools that do not receive ESEA entitlements, without loss of federal funds;

(C) Promoting strategies that directly reduce achievement gaps through better instruction, such as incentives for experienced, well-qualified teachers to accept positions in high-need schools and for reducing class size;

(D) Resolving to build the best public education system and teacher work force in the world, rather than promoting lofty rhetoric and ploys that undermine and divert public funds to private schools; and

(E) Returning policy setting and curriculum and teaching decision making control back to states, school districts and local communities; and be it further

Resolved, That certified copies of this Resolution be transmitted to the President of the United States, the Vice President of the United States, the President pro tempore of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's Congressional delegation.

POM–82. A joint resolution adopted by the Legislature of the State of Washington urging Congress to raise the authorized funding levels of the No Child Left Behind Act to cover the costs that states and districts will incur to carry out its recommendations; to the Committee on Health, Education, Labor, and Pensions.

SUBSTITUTE SENATE JOINT MEMORIAL 8011

Whereas, Washington State supports, believes in, and has been diligently working on the attainment of the goals of the No Child Left Behind legislation, all students achieving at high levels; and

Whereas, the state welcomes the additional support No Child Left Behind has brought to focus on quality education, the improvements needed to reach all children, and the urgency nationwide to close achievement gaps; and

Whereas, the state supports a fair, feasible, and creditable accountability system; and;

Whereas, Washington State has attached approval and is in compliance with the requirements provided in the regulations; and

Whereas, the reauthorization of the No Child Left Behind legislation will provide the opportunity for essential changes to be made to reach the goals and purposes of the law; and

Whereas, students with limited English proficiency are in a program because they cannot speak, read, or write English and they must be provided appropriate and valid measures for accountability that are not included in the overall accountability until such students develop English academic language proficiency, for a period of not more than three years; and

Whereas, students with disabilities need appropriate assessments that meet the requirements of the Individuals with Disabilities Education Act (IDEA), are aligned with their individual educational plans, and tested according to students' ability and not limited to their grade level; and

Whereas, all students, all schools, and all districts do not improve on a uniform basis across any state as required by the state uniform bar, so the state uniform bar should be replaced with realistic requirements for continuous growth and improvement based on required yearly percentage increases in performance at the school, district, and state levels, which would provide fairness to accountability and an increased motivation for very low and very high performing schools; and

Whereas, the Act imposes a significant testing burden on states, schools, and districts and unless appropriate federal funding is provided for administering and scoring quality large scale assessments in the new grade levels required, states should be allowed to continue to assess students annually in selected grades in elementary schools, middle schools, and high schools and even if funding is provided for these assessments in the new grade levels, states should be able to use that funding to assess students in a variety of ways that would inform improvements in instruction but would not have to meet the extensive technical standards now required; and

Whereas, the adequate yearly progress provisions are overly prescriptive and rigid, and they identify too many schools ''in need of improvement'' by creating too many ways to fail, which reduces the opportunities and funding to assist schools that truly are in need of improvement; and

Whereas, the Act requires all teachers to be highly qualified regardless of state systems of certification and licensure in place, states must continue to have authority to use flexibility in meeting these requirements so that the educational needs of the students and the diverse conditions in the state are met; and

Whereas, career and technical education teachers are often hired from industries in which a bachelor's degree is not the preferred level of certification; and

Whereas, the Washington State Legislature passed legislation in 2006 that recognizes credit for core academic subjects learned through career and technical education, but if the teacher does not have a bachelor's degree the school district must report them to parents as ''not highly qualified,'' which places these teachers at a disadvantage in school districts; and

Whereas, positive changes in the definition of highly qualified teachers will assist in the awarding of equivalency credits and remove the stigma surrounding industry-certified teachers; and

Whereas, providers of supplemental services instruct students and are funded with federal funds, therefore these providers must meet the same safety and qualification standards required of public school educators; and

Whereas, supplemental services are most appropriately provided by public schools,

public school educators should be allowed to offer supplemental services to qualifying students; and

Whereas, the Act imposes significant costs on the state and local school districts, teachers, and paraprofessionals; and

Whereas, these costs include the administration of newly required assessments, and the costs of staff development, certification upgrades, and coursework; now, therefore, your Memorialists respectfully request that the President and Congress of the United States work together with state legislatures and the United States Department of Education to raise authorized funding levels of the No Child Left Behind Act to cover the costs that states and districts will incur to carry out these recommendations, and fully fund the law at those levels without reducing expenditures for other education programs and to improve language in the Act and regulations concerning its implementation, to make improvements to address the issues raised in this Memorial, and to grant the time, flexibility, and changes that will ensure successful nationwide implementation of the No Child Left Behind Act; be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, each member of Congress from the State of Washington, and the Governor of the State of Washington.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN (for herself, Ms. COLLINS, Mr. KOHL, Mr. KERRY, Ms. MIKULSKI, Mrs. CLINTON, Mrs. BOXER, and Mr. CASEY):

S. 1340. A bill to amend title XVIII of the Social Security Act to provide Medicare beneficiaries with access to geriatric assessments and chronic care coordination services, and for other purposes; to the Committee on Finance.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1341. A bill to provide for the exchange of certain Bureau of Land Management land in Pima County, Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN:

S. 1342. A bill to improve the health of Americans and reduce health care costs by reorienting the Nation's health care system toward prevention, wellness, and self care; to the Committee on Finance.

By Mrs. CLINTON (for herself and Ms. COLLINS):

S. 1343. A bill to amend the Public Health Service Act with respect to prevention and treatment of diabetes, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY:

S. 1344. A bill to designate the Department of Veterans Affairs outpatient clinic in Wenatchee, Washington, as the Elwood ''Bud'' Link Department of Veterans Affairs Outpatient Clinic; to the Committee on Veterans' Affairs.

By Mr. AKAKA (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEVIN, Mr. LEAHY, Mr. FEINGOLD, and Mrs. CLINTON):

S. 1345. A bill to affirm that Federal employees are protected from discrimination on the basis of sexual orientation and to repudiate any assertion to the contrary; to the Committee on Homeland Security and Governmental Affairs.

By Ms. MIKULSKI (for herself, Mr. CARDIN, Mr. WARNER, Mr. BIDEN, Mr. ROCKEFELLER, Mr. CARPER, and Mr. WEBB):

S. 1346. A bill to amend conservation and biofuels programs of the Department of Agriculture to promote the compatible goals of economically viable agricultural production and reducing nutrient loads in the Chesapeake Bay and its tributaries by assisting agricultural producers to make beneficial, cost-effective changes to cropping systems, grazing management, and nutrient management associated with livestock and poultry production, crop production, bioenergy production, and other agricultural practices on agricultural land within the Chesapeake Bay watershed, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. FEINSTEIN:

S. 1347. A bill to amend the Omnibus Indian Advancement Act to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust and to provide for the conduct of certain activities on the land; to the Committee on Indian Affairs.

By Mr. REID (for himself, Mr. LEAHY, Mr. KENNEDY, Mr. MENENDEZ, and Mr. SALAZAR):

S. 1348. A bill to provide for comprehensive immigration reform and for other purposes; read the first time.

By Mr. DURBIN (for himself, Mr. WARNER, Mrs. MURRAY, Mr. OBAMA, Mr. GRAHAM, Mr. WEBB, and Ms. CANTWELL):

S. 1349. A bill to ensure that the Department of Defense and the Department of Veterans Affairs provide to members of the Armed Forces and veterans with traumatic brain injury the services that best meet their individual needs, and for other purposes; to the Committee on Armed Services.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. WEBB, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 22, a bill to amend title 38, United States Code, to establish a program of educational assistance for members of the Armed Forces who serve in the Armed Forces after September 11, 2001, and for other purposes.

S. 185

At the request of Mr. SPECTER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 185, a bill to restore habeas corpus for those detained by the United States.

S. 261

At the request of Ms. CANTWELL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 261, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 309

At the request of Mr. SANDERS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 309, a bill to amend the Clean Air Act to reduce emissions of carbon dioxide, and for other purposes.

S. 326

At the request of Mrs. LINCOLN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of S. 326, a bill to amend the Internal Revenue Code of 1986 to provide a special period of limitation when uniformed services retirement pay is reduced as result of award of disability compensation.

S. 430

At the request of Mr. LEAHY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 430, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

S. 439

At the request of Mr. REID, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 439, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation.

S. 600

At the request of Mr. SMITH, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 600, a bill to amend the Public Health Service Act to establish the School-Based Health Clinic program, and for other purposes.

S. 602

At the request of Mr. PRYOR, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 602, a bill to develop the next generation of parental control technology.

S. 604

At the request of Mr. LAUTENBERG, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 604, a bill to amend title 10, United States Code, to limit increases in the certain costs of health care services under the health care programs of the Department of Defense, and for other purposes.

S. 625

At the request of Mr. TESTER, his name was added as a cosponsor of S. 625, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

At the request of Mr. CORNYN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 625, supra.

S. 644

At the request of Mrs. LINCOLN, the name of the Senator from Missouri

(Mrs. MCCASKILL) was added as a cosponsor of S. 644, a bill to amend title 38, United States Code, to recodify as part of that title certain educational assistance programs for members of the reserve components of the Armed Forces, to improve such programs, and for other purposes.

S. 648

At the request of Mr. CHAMBLISS, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 648, a bill to amend title 10, United States Code, to reduce the eligibility age for receipt of non-regular military service retired pay for members of the Ready Reserve in active federal status or on active duty for significant periods.

S. 691

At the request of Mr. CONRAD, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 691, a bill to amend title XVIII of the Social Security Act to improve the benefits under the Medicare program for beneficiaries with kidney disease, and for other purposes.

S. 755

At the request of Mr. SCHUMER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 755, a bill to amend title XIX of the Social Security Act to require States to provide diabetes screening tests under the Medicaid program for adult enrollees with diabetes risk factors, to ensure that States offer a comprehensive package of benefits under that program for individuals with diabetes, and for other purposes.

S. 790

At the request of Mr. LUGAR, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 790, a bill to amend the Richard B. Russell National School Lunch Act to permit the simplified summer food programs to be carried out in all States and by all service institutions.

S. 805

At the request of Mr. DURBIN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 805, a bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes.

S. 829

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 829, a bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes.

S. 831

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 831, a bill to authorize States and local governments to prohibit the investment of State assets in any company that has a qualifying business relationship with Sudan.

S. 878

At the request of Mr. KOHL, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 878, a bill to prevent anti-competitive mergers and acquisitions in the oil and gas industry.

S. 879

At the request of Mr. KOHL, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 879, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 961

At the request of Mr. NELSON of Nebraska, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of S. 961, a bill to amend title 46, United States Code, to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II, and for other purposes.

S. 969

At the request of Mr. DODD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 969, a bill to amend the National Labor Relations Act to modify the definition of supervisor.

S. 1060

At the request of Mr. BIDEN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1060, a bill to reauthorize the grant program for reentry of offenders into the community in the Omnibus Crime Control and Safe Streets Act of 1968, to improve reentry planning and implementation, and for other purposes.

S. 1087

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1087, a bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes.

S. 1146

At the request of Mr. SALAZAR, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1146, a bill to amend title 38, United States Code, to improve health care for veterans who live in rural areas, and for other purposes.

S. 1164

At the request of Mr. CARDIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1164, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. 1229

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1229, a bill to amend the Agricultural Marketing Act of 1946 to provide for the application of mandatory minimum maturity standards applicable to all domestic and imported Hass avocados.

S. 1237

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1237, a bill to increase public safety by permitting the Attorney General to deny the transfer of firearms or the issuance of firearms and explosives licenses to known or suspected dangerous terrorists.

S. 1263

At the request of Ms. CANTWELL, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1263, a bill to protect the welfare of consumers by prohibiting price gouging with respect to gasoline and petroleum distillates during natural disasters and abnormal market disruptions, and for other purposes.

S. 1276

At the request of Mr. DURBIN, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1276, a bill to establish a grant program to facilitate the creation of methamphetamine precursor electronic logbook systems, and for other purposes.

S. 1308

At the request of Mr. DORGAN, the names of the Senator from Missouri (Mrs. MCCASKILL) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 1308, a bill to prohibit the Secretary of Agriculture from allowing the importation of certain cattle and beef from Canada until the implementation of country of origin labeling requirements.

S. 1332

At the request of Mr. KENNEDY, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Ohio (Mr. BROWN), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Illinois (Mr. OBAMA) were added as cosponsors of S. 1332, a bill to amend the Public Health Service Act to revise and extend projects relating to children and violence to provide access to school-based comprehensive mental health programs.

S.J. RES. 4

At the request of Mr. BROWNBACK, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S.J. Res. 4, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies

by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 26

At the request of Mrs. CLINTON, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Con. Res. 26, a concurrent resolution recognizing the 75th anniversary of the Military Order of the Purple Heart and commending recipients of the Purple Heart for their courageous demonstrations of gallantry and heroism on behalf of the United States.

S. CON. RES. 27

At the request of Mrs. CLINTON, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Con. Res. 27, a concurrent resolution supporting the goals and ideals of ''National Purple Heart Recognition Day''.

S. CON. RES. 29

At the request of Mr. NELSON of Florida, the names of the Senator from Michigan (Mr. LEVIN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. COLEMAN), the Senator from Wisconsin (Mr. KOHL), the Senator from Illinois (Mr. DURBIN), the Senator from Washington (Ms. CANTWELL), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. Con. Res. 29, a concurrent resolution encouraging the recognition of the Negro Baseball Leagues and their players on May 20th of each year.

At the request of Mr. SALAZAR, his name was added as a cosponsor of S. Con. Res. 29, supra.

S. RES. 171

At the request of Ms. COLLINS, the names of the Senator from Missouri (Mrs. MCCASKILL) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. Res. 171, a resolution memorializing fallen firefighters by lowering the United States flag to half-staff on the day of the National Fallen Firefighter Memorial Service in Emmitsburg, Maryland.

AMENDMENT NO. 998

At the request of Mr. GRASSLEY, the names of the Senator from Connecticut (Mr. DODD), the Senator from Maine (Ms. SNOWE) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of amendment No. 998 proposed to S. 1082, an act to amend the Federal Food, Drug, and cosmetic Act and the Public Health Service Act to reauthorize drug and device user fees and ensure the safety of medical products, and for other purposes.

AMENDMENT NO. 1039

At the request of Mr. GRASSLEY, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Ohio (Mr. BROWN), the Senator from Maine (Ms. SNOWE) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of amendment No. 1039 proposed to S. 1082, an act to amend the Federal Food, Drug, and cosmetic Act and the Public Health Service Act to reauthorize drug and device user fees and ensure the safety of medical products, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1341. A bill to provide for the exchange of certain Bureau of Land Management land in Pima County, Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, today I am pleased to be joined by Senator MCCAIN to introduce the Las Cienegas Enhancement and Saguaro National Park Boundary Adjustment Act of 2007. This legislation directs a land exchange between the Bureau of Land Management, BLM, and the Las Cienegas Conservation, LLC in southeastern Arizona. A similar bill was introduced last year, and it passed the House of Representatives. Unfortunately, the Senate was unable to pass it before the session ended.

We can turn this disappointment into a success. The bill we introduce today adds to the exchange a highly sought after private parcel, the ''Bloom Property.'' The Bloom Property would be added to Saguaro National Park. State and local officials, conservationists, and other stakeholders have worked together to include the Bloom Property in this bill and to structure an exchange that is fair and in the public interest.

Let me explain the details of the exchange. The land to be transferred out of Federal ownership, approximately 1,280 acres, is referred to as the ''Sahuarita property.'' This property is BLM-managed land south of Tucson near Corona de Tucson. The land is low-lying Sonoran desert and has been identified for disposal by the BLM through its land-use planning process.

The private land to be brought into Federal ownership consists of two parcels. The first parcel is approximately 2,392 acres of land referred to as the ''Empirita-Simonson property.'' This property lies north of the Las Cienegas National Conservation Area managed by the BLM. The Empirita-Simonson property lies within the ''Sonoita Valley Acquisition Planning District'' established by Public Law 106–538, which designated the Las Cienegas National Conservation Area. The act directed the Department of the Interior to acquire lands from willing sellers within the planning district for inclusion within the conservation area. The idea was to further protect lands with important resource values for which the national conservation area was designated.

The second parcel, the Bloom Property, is approximately 160 acres of land that was identified for inclusion in the Saguaro National Park during a boundary study conducted by the National Park Service in 1993. In 1994, using the data from the study, Congress enacted legislation expanding the park and changed Saguaro's designation from monument to park. At that time, the Bloom Property did not have a willing seller. I am pleased to say circumstances have changed, and we are able to include it in this exchange. The Bloom Property, which lies just south of the Sweetwater Trail in Saguaro Park West, is a prime example of Sonoran desert important to maintain corridors for wildlife like the mountain lion.

Although this bill is centered on the land exchange I just described, it also accomplishes two other important objectives: addressing water withdrawals at Cienegas Creek and providing road access to a popular recreation destination, the Whetstone Mountains controlled by the Forest Service.

Let's talk about water. Arizonans understand that protecting our water supply is crucial to the State's future. For this reason, we continually seek ways to promote responsible use of our limited water supply. This bill promotes responsible use. There is a prior claim to a well site on the private land that will be exchanged. That prior claim would allow a developer to withdraw 1,600 acre-feet of water a year. Pima County and the community at large are concerned about the future of Cienegas Creek and the entire riparian area if these water withdrawals occur.

To address this concern, the land exchange is conditioned on Las Cienegas Conservation, LLC conveying the well site to Pima County and relinquishing those water rights it controls. The net result is a water savings of 1,050 acre-feet per year. This is a significant benefit to this riparian area.

Overall, this bill allows us to accomplish important environmental and conservation objectives while managing our development. It is a bill with broad support that includes Pima County, the city of Tucson, and many others. I urge my colleagues to work with me to approve this legislation at the earliest possible date.

By Mrs. CLINTON (for herself and Ms. COLLINS)

S. 1343. A bill to amend the Public Health Service Act with respect to prevention and treatment of diabetes, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, today, Senator COLLINS and I will be introducing the Diabetes Treatment and Prevention Act, legislation to help our Federal, State and local governments address the growing epidemic of diabetes across our Nation.

According to the Centers for Disease Control and Prevention, CDC, the number of Americans with diagnosed diabetes has doubled over the past 15 years.

Over 20 million Americans are currently living with this disease, but 6 million of them have not yet been diagnosed. Another 54 million are classified as ''pre-diabetic,'' with a high risk of developing this condition. Diabetes accounts for over $92 billion in direct medical costs every year, and these numbers are only likely to increase.

Last year, the New York Times published an insightful series on diabetes that highlighted the obstacles faced by health care providers and institutions seeking to prevent complications from diabetes. The system will pay tens of thousands of dollars for amputations, but not a low-cost visit to the podiatrist that could have saved the foot. Hospitals struggle to provide preventive treatment and rehabilitation in the Byzantine system of reimbursements. The incentives inside our health care system are backwards, and the payment system is upside-down: too often paying for costly and debilitating treatment but not for low-cost prevention.

We know what works. The landmark Diabetes Prevention Program, a government funded clinical trial, found that moderate diet and exercise interventions helped to delay and prevent the onset of type 2 diabetes in persons at high risk for developing the condition. Indeed, the study was so successful that it was ended a year earlier than planned. Yet despite the success of this study, we still haven't found a way to implement these interventions in our communities.

The Diabetes Treatment and Prevention Act would provide additional support for the Federal, State and local programs that are working to fight this epidemic. Our legislation would codify the Division of Diabetes Translation at the Centers for Disease Control and Prevention, CDC, giving them definitive authority to carry out activities in diabetes surveillance, translational research, and education efforts. It would direct the CDC to continue its work in coordinating the National Diabetes Education Program, in conjunction with the National Institutes of Health, NIH, and would increase support for its diabetes control and prevention efforts at the State level.

This bill would also establish several demonstration projects. One would help to translate the interventions identified as effective by the Diabetes Prevention Program into clinical interventions that can be replicated at the State, local and provider level. Another would allow academic centers, in conjunction with state and local health departments, to examine ways to improve overall health outcomes in people living with diabetes and other cooccurring chronic conditions, such as heart disease, mental illness, or HIV. Finally, the bill would support efforts to increase surveillance and education at the State and local level.

The epidemic of diabetes has the potential to place great burdens on our health care system, but it doesn't have to. We can prevent diabetes, we can manage diabetes, and we can reduce the health care costs associated with care and treatment for this condition. The Diabetes Treatment and Prevention Act will help us take necessary steps to supporting our public health infrastructure in dealing with this crisis, and I would urge all of my colleagues to cosponsor this legislation.

By Mrs. MURRAY:

S. 1344. A bill to designate the Department of Veterans Affairs outpatient clinic in Wenatchee, Washington, as the Elwood ''Bud'' Link Department of Veterans Affairs Outpatient Clinic; to the Committee on Veterans' Affairs.

Mrs. MURRAY. Mr. President, I rise today to speak about legislation that my colleague from Washington, Congressman DOC HASTINGS, and I are introducing to name the soon-to-be-opened Community-Based Outpatient Clinic in Wenatchee, WA, after Elwood ''Bud'' Link. Bud provided both the inspiration and the energy necessary to make this project a reality, thereby fulfilling a longstanding and serious need for his community.

Bud, a World War II veteran and an active member of Veterans of Foreign Wars Post 10445, recognized the need for better, more accessible veteran medical services for those veterans living in north central Washington. Like countless others, Bud suffered from health problems attributed to his service in the Navy, where he bravely served aboard the USS *Tracy* escorting convoys throughout the South Pacific and protecting medical personnel after the deployment of the atomic bomb.

When Bud returned to the States, he, like so many other veterans, relied on the VA for health care. In order to receive the necessary treatment from the VA, however, Bud was forced to make a 3-hour drive in each direction to the VA medical center nearest to his home.

Realizing that this was the case for veterans all over his community, Bud, his wife of over 50 years, Helen, and his fellow VFW Post 10445 members, helped by the American Legion and other veteran service organizations, mobilized the community to work toward the creation of a new, more accessible outpatient veteran center.

I was proud to contribute to this effort. After several years of hard work, I stood with Congressman Doc Hastings at the Cashmere VFW hall on March 20, 2006 to announce the VA's final decision to create the Community-Based Outpatient Clinic in Wenatchee, WA.

Although Bud sadly passed away before this exciting announcement was made, the creation of this facility in Wenatchee represents the culmination of Bud and his fellow veterans' efforts to make veterans' medical care more accessible and, in turn, to hold the Federal Government accountable for fulfilling its promises to the veteran community.

Bud dedicated his time and energy to addressing this and other veteran needs as an advocate, a leader, and a concerned citizen. Due in large part to Bud's work, the new CBOC, set to serve six counties in north central Washington, is likely to make over 25,000 visits by veterans more accessible next year.

Bud's life of service and activism, coupled with this final victory, reaffirms a valuable lesson for all Americans: even a single citizen can see a problem and fix it.

Bud Link dedicated his time and energy to helping other veterans, and now that the clinic he fought for is going to open, we have a chance to honor his lifetime of service. My bill will ensure that Bud's efforts and good example will not be forgotten, but rather, that the new CBOC will carry on Bud's legacy.

I ask my colleagues to join me in honoring the work that Bud Link and his fellow veterans have done to make this new CBOC a reality.

By Mr. AKAKA (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEVIN, Mr. LEAHY, Mr. FEINGOLD, and Mrs. CLINTON):

S. 1345. A bill to affirm that Federal employees are protected from discrimination on the basis of sexual orientation and to repudiate any assertion to the contrary; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, as we celebrate Public Service Recognition Week and the dedication and professionalism of Federal employees, I rise today to introduce legislation to reassert protections for Federal employees and applicants for Federal employment against discrimination based on one's sexual orientation. The Clarification of Federal Employment Protection Act will spell out the protections that Federal employees currently have but have been denied by the Office of Special Counsel, OSC. I am pleased that Senators LIEBERMAN, COLLINS, LEVIN, LEAHY, FEINGOLD, and CLINTON are cosponsoring this important legislation and that Representative HENRY WAXMAN, CHAIRMAN OF THE HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE, IS INTRODUCING A COMPANION BILL IN THE HOUSE.

When Congress passed the Civil Service Reform Act of 1978, it established a list of prohibited personnel practices, personnel actions that were clearly not in line with the Merit System Principles and were subject to prosecution by OSC. Examples include personnel actions, such as hiring, firing, and changes in pay, against employees based on a whistleblower disclosure, nepotism, or off-duty conduct.

The prohibition on personnel action based on off-duty conduct, found in section 2302(b)(10) of title 5, United States Code, has been interpreted for years to prohibit the taking of personnel actions against employees and applicants

for employment based on their sexual orientation. In 1980, Mr. Alan Campbell, Director of the Office of Personnel Management, OPM, at the time, wrote a memorandum to the heads of all executive branch agencies advising that, under 5 U.S.C. 2302(b)(10), employees and applicants were to be protected against inquiries into or actions based upon non job-related conduct, including religious or community affiliations, or sexual orientation. The position by OPM has been reaffirmed time and again, most recently by the current OPM Director, Linda Springer, in her responses to questions posed by the Homeland Security and Governmental Affairs Committee in relation to her nomination for the position. In fact, to this day, OPM's website contains a guide to Federal employee rights which states that section 2302(b)(10) has been interpreted by OPM to prohibit discrimination based upon sexual orientation.

OPM is not alone in this interpretation. The previous Special Counsel also interpreted 2302(b)(10) to protect against discrimination based on an individual's sexual orientation. For example, in 2003, OSC secured corrective and disciplinary action against a Federal supervisor who discriminated against Federal job applicant because he was gay in violation of section 2302(b)(10). In 2004, following the debate spurred by OSC over the interpretation of this provision, White House spokesman Trent Duffy said the president ''believes that no Federal employee should be subject to unlawful discrimination, and Federal agencies will fully enforce the law against discrimination, including discrimination based on sexual orientation.''

Upon the nomination of Scott Bloch to be the new Special Counsel, I asked the nominee about his interpretation of the laws protecting Federal employees and applicants against sexual orientation discrimination. When asked if he would support the interpretation of 2302(b)(10) by OPM and OSC, he said that he would not fail to enforce a claim of sexual orientation discrimination before OSC that shows through the evidence that the statute has been violated.

Nonetheless, after being in office for only a few months, Special Counsel Bloch conducted a review of the discrimination statute and claimed that section 2302(b)(10) only provides protection against discrimination based on conduct, including sexual conduct, but not one's sexual orientation. Instead, Mr. Bloch claims that for discrimination based on status, referring to sexual orientation, it would have to be listed under section 2302(b)(1), which protects employees from discrimination based on race, gender, religion, or marital status. This departure from the long-standing interpretation of (b)(10) by OSC and OPM is illogical. When a supervisor who dislikes gays or lesbians refuses to hire an applicant who the supervisor believes is gay or lesbian, it follows that the supervisor is basing the personnel action on disapproval of the applicant's presumed sexual conduct. In other words, in the context of sexual orientation discrimination, status implies conduct.

I believe that Congress must act to guarantee the protections it has provided to Federal employees and applicants for Federal employment. We cannot allow one administration official's opinion to undermine the merit system or the rights and protections Federal workers. The legislation I am introducing today would affirm that sexual orientation is protected by section 2302(b)(10) but also make it a clear protected status under section (b)(1). I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1345

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 ''Clarification of Federal Employment Protections Act''.

SEC. 2. DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION PROHIBITED.

(a) REPUDIATION.—In order to dispel any public confusion, Congress repudiates any assertion that Federal employees are not protected from discrimination on the basis of sexual orientation.

(b) AFFIRMATION.—It is the sense of Congress that, in the absence of the amendment made by subsection (c), discrimination against Federal employees and applicants for Federal employment on the basis of sexual orientation is prohibited by section 2302(b)(10) of title 5, United States Code.

(c) AMENDMENT.—Section 2302(b)(1) of title 5, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (D);

(2) by inserting ''or'' at the end of subparagraph (E); and

(3) by adding at the end the following:

''(F) on the basis of sexual orientation.''.

By Mrs. FEINSTEIN:

S. 1347. A bill to amend the Omnibus Indian Advancement Act to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust and to provide for the conduct of certain activities on the land; to the Committee on Indian Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Lytton Gaming Oversight Act of 2007, a bill seeking to ensure that Native American tribes follow the regular process under Federal law prior to establishing and operating gaming facilities.

I believe this approach provides a good step forward as it has the support of both the local community and the Lytton tribe.

I am pleased to have worked closely with representatives of the local community, such as California Assemblymember Loni Hancock, D-Berkeley, as well as my colleague Senator SPECTER in crafting this piece of legislation.

I introduced similar legislation in the 108th and 109th Congresses, but these bills would have effectively required closure of the casino operations, until a point when and if the Lytton successfully completed the two-part determination process.

This legislation, however, stalled. The legislation introduced today breaks that stalemate and seeks to prevent a massive expansion of gaming in the Bay Area.

The bill requires that the Lytton Band of Pomo Indians follow critical oversight guidelines laid out in Section 20 of the Indian Gaming Regulatory Act, IGRA, before engaging in Class III gaming.

This legislation would amend language inserted into the Omnibus Indian Advancement Act of 2000.

That language mandated that the Secretary of Interior take a card club and adjacent parking lot in the San Francisco Bay Area into trust for the Lytton tribe as their reservation and backdate the acquisition to October 17, 1988, or pre-IGRA.

This backdating was done expressly with the goal of allowing the Lytton tribe to circumvent IGRA's ''two-part determination'' process, an important step that requires both Secretarial and Gubernatorial approval, in addition to consultation with nearby tribes and the local community and its representatives.

The legislation that I have introduced would simply return the Lytton tribe to the same status as all other tribes seeking to pursue Class III, or Nevada-style gaming, on lands acquired after the passage of IGRA in 1988.

It would allow the tribe to continue operating its Class II gaming facility provided it follows all IGRA regulations regarding gaming on newly acquired lands going forward.

Finally, it would also preclude any expansion of the facility used by the Lytton for Class II gaming.

I would like to emphasize what the bill would not do. It would not: Remove the tribe's recognition status; Alter the trust status of the new reservation; or take away the tribe's ability to conduct gaming through the normal IGRA process.

This legislation was solely crafted to restore IGRA's rightful oversight of the gaming process, just as Congress intended.

Section 20 of the Indian Gaming Regulatory Act provides clear guidelines for addressing the issue of gaming on so-called ''newly-acquired'' lands, or lands that have been taken into trust since the enactment of IGRA in 1988.

Most importantly, in my opinion, IGRA's ''two-part determination'' process provides for both Federal and State approval, while protecting the rights of nearby tribes and local communities.

Circumventing this process creates a variety of serious and critical multi-jurisdictional issues, issues which can negatively affect the lives of ordinary citizens and deprive local and tribal governments of their ability to effectively represent their communities.

Without passage of this bill, the Lytton could take the former card club and the adjacent parking lot that is now their reservation and turn it into a large gambling complex outside the regulations set up by the Indian Gaming Regulatory Act. In fact, this is exactly what was proposed in the summer of 2004.

While the tribe announced that it was dropping its pursuit of a sizable casino, it could reverse these plans at any time and proceed with Class III gaming without first going through the regular process.

Allowing this to happen would set a dangerous precedent not only for California, but every State where tribal gaming is permitted.

I do not think it is asking too much to require that the Lytton be subject to the regulatory and approval processes applicable to all other tribes by the Indian Gaming Regulatory Act.

This bill would do just that.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1347

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

SECTION 1. LYTTON RANCHERIA OF CALIFORNIA.

Section 819 of the Omnibus Indian Advancement Act (Public Law 106–568; 114 Stat. 2919) is amended—

(1) in the first sentence, by striking ''Notwithstanding'' and inserting the following:

''(a) ACCEPTANCE OF LAND.—Notwithstanding'';

(2) in the second sentence, by striking ''The Secretary'' and inserting the following:

''(b) DECLARATION.—The Secretary''; and

(3) by striking the third sentence and inserting the following:

''(c) TREATMENT OF LAND FOR PURPOSES OF CLASS II GAMING.—

''(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, the Lytton Rancheria of California may conduct activities for class II gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) on the land taken into trust under this section.

''(2) REQUIREMENT.—The Lytton Rancheria of California shall not expand the exterior physical measurements of any facility on the Lytton Rancheria in use for class II gaming activities on the date of enactment of this paragraph.

''(d) TREATMENT OF LAND FOR PURPOSES OF CLASS III GAMING.—Notwithstanding subsection (a), for purposes of class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the land taken into trust under this section shall be treated, for purposes of section 20 of the Indian Gaming Regulatory Act (25 U.S.C. 2719), as if the land was acquired on October 9, 2003, the date on which the Secretary took the land into trust.''.

By Mr. DURBIN (for himself, Mr. WARNER, Mrs. MURRAY, Mr. OBAMA, Mr. GRAHAM, Mr. WEBB, and Ms. CANTWELL):

S. 1349. A bill to ensure that the Department of Defense and the Department of Veterans Affairs provide to members of the Armed Forces and veterans with traumatic brain injury the services that best meet their individual needs, and for other purposes; to the Committee on Armed Services.

Mr. DURBIN. Mr. President, traumatic brain injury is the signature injury of the Iraq war. The widespread use of Improvised Explosive Devices, IEDs, has taken a terrible toll. Even those who have walked off the battlefield without visible scars often find they have suffered the internal trauma of a traumatic brain injury.

Today, I am introducing legislation, along with Senators WARNER, MURRAY, GRAHAM, OBAMA, WEBB, and CANTWELL, to create a Traumatic Brain Injury Program, operated jointly by the Department of Defense and the Department of Veterans Affairs, to ensure that those servicemembers who suffer a brain injury receive all the services they need. The legislation establishes a standard of care for each individual found to have suffered a brain injury, improves the coordination of care, strengthen the rights of brain injury patients, and expands brain injury research in the Departments of Defense and Veterans Affairs.

This legislation will reduce the number of our wounded soldiers who fall through the cracks and are left to fend for themselves as they struggle to recover from a traumatic brain injury. I am pleased to have the support of Veterans for America for this legislative effort.

We have made tremendous progress in battlefield medical care. During Vietnam, one in three servicemembers who were injured died. In Iraq and Afghanistan, 1 in 16 who are injured die. But with the changes in warfare and in medical technology, more of our servicemembers are coming home with serious brain injuries from Iraq and Afghanistan than from any other recent conflicts we've known.

For some of these wounded warriors, the greatest battle comes at home when they seek care. Many of these returning troops need long-term treatment and rehabilitation long after their discharge from active duty, as they fight to overcome the severe disabilities that a traumatic brain injury can cause.

For others, there is a different story. Some servicemembers don't even realize they suffered a traumatic brain injury until long after their discharge, because we don't do a very good job of identifying and treating those who may have suffered a brain injury.

Fortunately, many of those who suffer a brain injury are able to recover fairly quickly. But for some, the experience is life-altering, even life-shattering. We must not fail them in their time of need.

Consider the case of Sgt. Eric Edmundson. Eric left my home state of Illinois to serve in Iraq. In October 2005, he suffered a severe head concussion when a roadside bomb exploded near him. He was cared for at Walter Reed Hospital, then was transferred to a VA facility where he and his family felt he was not receiving the kind of treatment that would allow him to continue to make progress in rehabilitation.

He would have been stuck there if the family had not found a creative way to obtain the care he needed. The family found a way to ensure that Eric could receive treatment and rehabilitation at one of the premiere rehabilitation hospitals in the nation: the Rehabilitation Institute of Chicago. He is making great progress there and hopes to walk out of the hospital some day soon.

We need to use private hospitals more. In fact, we should use them whenever they are the best option for our returning soldiers who are wounded. In the case of traumatic brain injury, they often have the special expertise needed, because the leading facilities in this field deal with brain injuries day in and day out as a result of construction accidents and car crashes.

Now consider the case of Sgt. Garrett Anderson of Champaign, Illinois. Garrett went to Iraq with the Illinois National Guard. After 4 months there, an IED exploded next to his armored Humvee in Baghdad. The blast tore off his right arm below the elbow, shattered his jaw, severed part of his tongue, damaged his hearing, and punctured his body with shrapnel.

He spent 7 months at Walter Reed, where he received excellent care in Ward 57, the famous amputee ward. However, the outpatient care that followed has been filled with paperwork and red tape. It was months before the VA recognized that Garrett had suffered a traumatic brain injury. He has not received the kind of treatment for brain injury that could make a significant difference in the trajectory of his rehabilitation.

We need to change the way we handle patients with traumatic brain injury, so that they receive the care they need at the time they need it.

The legislation I am introducing takes a comprehensive approach to dealing with the traumatic brain injuries that plague our troops and veterans.

First, this legislation would establish a Traumatic Brain Injury Program, run by DOD and the VA, to provide treatment and rehabilitation to servicemembers and veterans who have suffered a service-connected traumatic brain injury.

Second, this bill would establish a standard of care for the participants in the TBI Program. Specifically, each individual in the program shall be provided ''the highest quality of care possible based on the medical judgment of qualified medical professionals in facilities that most appropriately meet the specific needs of the individual. ''And they shall be rehabilitated to the fullest extent possible using the most up-to-date medical technology, medical rehabilitation practices, and medical expertise available.''

That's the standard of care we should provide to these injured troops who gave so much of themselves for us. They should receive the best we have to give.

Third, the measure would direct the Defense Department to develop and administer a standardized cognitive pretest, which would be administered to all military personnel prior to deployment and again upon return from deployment to determine if they have suffered a brain injury.

It also would require DOD and the VA to refer any servicemember or veteran for TBI screening if it is found, in the course of later treatment or contacts, that the servicemember or veteran may have suffered a service-connected brain injury.

Anyone found to have suffered a traumatic brain injury would be enrolled in the TBI program and receive the care they need.

One of the things the families of TBI patients complain most about is the confusion that surrounds their efforts to ensure that their loved one received all needed care. The fourth thing this measure would do is to direct DOD and the VA to assign each patient a lead case manager to ease the stress on the patient and family, facilitate navigation through the DOD and VA systems, ensure proper care, present options for care outside of DOD and the VA, and ensure consistent guidance. Additionally, DOD and the VA would assign to each patient a lead primary care physician to coordinate and oversee the care provided to the patient, including all treatment, rehabilitation, and medications.

Another complaint of families and TBI patients is that they are sometimes blocked from receiving the care they need due to their status as either a veteran or an active duty member. DOD and the VA have different health benefit options. In some cases, servicemembers have found that, because they accepted a discharge, they lost access to benefits that would help them.

Our bill addresses this problem by establishing, for these TBI patients, a temporary overlap of benefits. The participants in the TBI Program will be allowed, for 2 years, to receive any of the benefits available to veterans and to active duty members, regardless of their active duty status. This will help ensure they receive the best care and rehabilitation available, wherever it may be.

Our bill would spell out some other rights that are important for the rehabilitation of TBI patients. First, DOD and the VA would be required to provide a referral to a medical professional outside of DOD and the VA when requested by a TBI patient. This will allow patients to determine whether there is better care in the private sector that is not being provided to that patient. They would also have a right to an appeals process to challenge any failure to provide the standard of care required in the TBI Program.

In some cases, undiagnosed traumatic brain injuries may contribute to behavior resulting in other than honorable discharges. Upon the request of a servicemember who served since 2001 and was discharged under other than honorable conditions, the DOD would be directed to review the discharge to determine whether a brain injury might be the root cause of the actions that precipitated the adverse discharge, with fair reconsideration of the discharge if such evidence is found.

Similarly, the VA would be required to make available, upon request, an appeals process to update the disability rating of a veteran who is found to have suffered a traumatic brain injury.

Finally, this measure authorizes additional funding for research related to traumatic brain injury both in DOD and in the VA, to improve screening, diagnosis, treatment, and rehabilitation for traumatic brain injury.

This is a comprehensive effort to improve the treatment of our Nation's wounded servicemembers who have suffered a traumatic brain injury. I can't imagine the anguish that must be associated with such an injury, but I can imagine the kind of medical system I would like to have in place if it were my son or daughter struggling to recover from such an injury. This legislation reflects that vision.

I thank my cosponsors, Senators WARNER, MURRAY, GRAHAM, OBAMA, WEBB, and CANTWELL, and I urge all of my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1349

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military and Veterans Traumatic Brain Injury Treatment Act''.

SEC. 2. PROGRAM OF SERVICES FOR TRAUMATIC BRAIN INJURY FOR MEMBERS OF THE ARMED FORCES AND VETERANS.

(a) TRAUMATIC BRAIN INJURY PROGRAM REQUIRED.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly establish a program meeting the requirements of subsections (c) through (f) under which each member of the Armed Forces or veteran who incurs a traumatic brain injury during service in the Armed Forces—

(1) is enrolled in the program; and

(2) receives, under the program, treatment and rehabilitation meeting the standard of care specified in subsection (b).

(b) STANDARD OF CARE.—The standard of care for treatment and rehabilitation specified in this subsection is that each individual who is a member of the Armed Forces or veteran who qualifies for care under the program established under subsection (a) shall—

(1) be provided the highest quality of care possible based on the medical judgment of qualified medical professionals in facilities that most appropriately meet the specific needs of the individual; and

(2) be rehabilitated to the fullest extent possible using the most up-to-date medical technology, medical rehabilitation practices, and medical expertise available.

(c) REFERRALS.—

(1) IN GENERAL.—If a member of the Armed Forces or a veteran participating in the program established under subsection (a) determines that care provided to such participant by the Department of Defense or the Department of Veterans Affairs, as the case may be, does not meet the standard of care specified in subsection (b), the Secretary of Defense or the Secretary of Veterans Affairs, as the case may be, shall, upon request of the participant, provide to such participant a referral to a public or private provider of medical or rehabilitative care for consultation regarding the care that would meet the standard of care specified in subsection (b).

(2) LIMITATION ON REFERRALS.—The Department of Defense shall bear the cost of referrals under paragraph (1), except that the Secretary of Defense shall not be required to pay for more than one referral for each participant in any consecutive three month period.

(d) SCREENING FOR TRAUMATIC BRAIN INJURY.—

(1) PROTOCOLS FOR DETECTION AND DIAGNOSIS OF TRAUMATIC BRAIN INJURY.—

(A) IN GENERAL.—The Secretary of Defense shall, in cooperation with the Secretary of Veterans Affairs, establish protocols for the detection and diagnosis of traumatic brain injury, including the use of various types of screening tools as appropriate.

(B) FREQUENCY.—The protocol required by subparagraph (A) shall provide that examinations shall be administered at least once to each member of the Armed Forces—

(i) before deployment to a combat theater; and

(ii) during the period beginning on the 30th day after the member returns from such deployment and ending on the 90th day after the date on which such member returns to the member's permanent duty station after such deployment.

(C) PROTOCOL FOR DETERMINATION OF BASELINE COGNITIVE FUNCTIONING.—The protocols required by subparagraph (A) shall include a protocol—

(i) for the assessment and documentation of the cognitive functioning of each member of the Armed Forces before each such member is deployed in a combat theater, in order to facilitate the detection and diagnosis of traumatic brain injury of such member upon return from such deployment; and

(ii) for the comparison of the cognitive functioning determined under clause (i) with the cognitive functioning of the member upon return from deployment.

(D) ADMINISTRATION OF COMPUTER-BASED EXAMINATIONS.—The protocol required by subparagraph (C) shall include the administration of computer-based examinations to members of the Armed Forces.

(2) INCIDENTAL DETECTION.—If, while delivering health care services to a member of the Armed Forces or a veteran who is not a participant in the program established under subsection (a), the Secretary of Defense or the Secretary of Veterans Affairs, as the case may be, discovers that such member or veteran may have incurred a service-connected traumatic brain injury, the Secretary concerned shall test such member or veteran for traumatic brain injury.

(3) REFERRALS.—If the Secretary of Defense or the Secretary of Veterans Affairs receives a referral for the testing of a member of the Armed Forces or a veteran for traumatic brain injury, the Secretary concerned shall test such member or veteran for traumatic brain injury expeditiously.

(4) ENROLLMENT.—If a member of the Armed Forces or a veteran is diagnosed under this subsection with a traumatic brain

injury that was incurred during service in the Armed Forces, such member or veteran shall be enrolled in the program required by subsection (a).

(e) OUTREACH.—

(1) OUTREACH TO MEMBERS OF THE ARMED FORCES AND VETERANS.—The Secretary of Defense and the Secretary of Veterans Affairs shall conduct a program of outreach to members of the Armed Forces and veterans to inform such members and veterans of—

(A) the program required by subsection (a);

(B) the availability of screening for the diagnosis of traumatic brain injury under subsection (d);

(C) the consequences, with regard to the treatment and care of traumatic brain injury, of separation, discharge, and retirement from the Armed Forces; and

(D) the rights of such members or veterans described in subsection (f).

(2) JOINT MANUAL OF BENEFITS.—As part of the program of outreach under paragraph (1), the Secretary of Defense and the Secretary of Veterans Affairs shall annually and jointly publish and distribute a manual explaining the benefits available to participants in the program required by subsection (a) and their families.

(f) RIGHTS OF MEMBERS OF THE ARMED FORCES AND VETERANS WITH TRAUMATIC BRAIN INJURY.—The Secretary of Defense and the Secretary of Veterans Affairs shall inform members of the Armed Forces and veterans with traumatic brain injury and their families of their rights with respect to the following:

(1) The receipt of medical care from the Department of Defense and the Department of Veterans Affairs.

(2) The options available to such members and veterans for treatment of traumatic brain injury.

(3) The options available to such members and veterans for rehabilitation.

(4) Referrals under subsection (c)(1).

(5) The right to any administrative or judicial appeal of any agency decision with respect to the program established under subsection (a).

(6) Reviews of decisions under section 4.

(g) COORDINATION OF CASE MANAGEMENT AND HEALTH CARE SERVICES FOR PROGRAM PARTICIPANTS.—

(1) LEAD CASE MANAGERS.—The Secretary of Defense and the Secretary of Veterans Affairs shall assign a qualified lead case manager to each member of the Armed Forces or veteran, as the case may be, that participates in the program required by subsection (a). Each lead case manager shall, with respect to a participant in the program under subsection (a) to whom the lead case manager has been assigned—

(A) coordinate the work of any other case managers associated with such participant;

(B) help the participant and the family of such participant manage the stress associated with receiving treatment and rehabilitative services for traumatic brain injury;

(C) present the participant with options for the receipt of medical and rehabilitative care, including options for such care outside the Department of Defense and the Department of Veterans Affairs, that meet the standard of care specified in subsection (b);

(D) help the participant find and receive the care, including care from outside the Department of Defense and the Department of Veterans Affairs, to which the participant is entitled under subsection (a); and

(E) ensure that providers of care to participants in the program required by subsection (a) provide consistent guidance to such participants.

(2) PRIMARY CARE PHYSICIANS.—The Secretary of Defense and the Secretary of Veterans Affairs shall assign a lead primary care physician to each member of the Armed Forces or veteran, as the case may be, who participates in the program required by subsection (a). Such lead primary care physician shall coordinate and oversee the care provided to the participant, including all treatment, rehabilitation, and medications.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall report to Congress on the steps taken to coordinate care, as required by this subsection, along with recommendations, if any, for legislation to improve such coordination.

(h) RESOURCES.—

(1) FACILITIES.—The Secretary of Defense and the Secretary of Veterans Affairs may provide treatment and rehabilitation in accordance with subsection (a) in any of the facilities as follows:

(A) Facilities of the Department of Defense.

(B) Facilities of the Department of Veterans Affairs.

(C) Public or private medical facilities accredited or otherwise qualified to provide treatment and rehabilitation.

(2) ACCESS TO EQUIPMENT.—The Secretary of Defense and the Secretary of Veterans Affairs shall ensure, by procurement, contract, or agreement, that the program established under subsection (a) has access to all specialized programs, services, equipment, and medical expertise required to ensure that each participant receives the standard of care specified in subsection (b).

(3) COOPERATIVE AGREEMENTS, CONTRACTS, OR PARTNERSHIPS WITH PRIVATE AND PUBLIC MEDICAL CENTERS.—The Secretary of Defense and the Secretary of Veterans Affairs shall, separately or jointly, enter into cooperative agreements, contracts, or partnerships with private or public medical centers with expertise in the treatment or rehabilitation of individuals with traumatic brain injury to provide consultation, treatment, or rehabilitation to members of the Armed Forces or veterans as required by subsection (a).

(4) TRAINING PROGRAM.—The Secretary of Defense and the Secretary of Veterans Affairs shall, separately or jointly, provide grants to, or enter into contracts or agreements with, private or public medical centers with expertise in the treatment or rehabilitation of individuals with traumatic brain injury to provide training, education, or other assistance to personnel of the Department of Defense and the Department of Veterans Affairs to ensure that such personnel are consistently using the most up-to-date and best practices and procedures for the screening, treatment, and rehabilitation of members of the Armed Forces and veterans with traumatic brain injury.

(5) OVERLAP OF BENEFITS.—

(A) IN GENERAL.—During the 24-month period beginning on the date that a member of the Armed Forces or a veteran is enrolled in the program required by subsection (a), the member or veteran shall be entitled to all of the benefits otherwise available to a veteran (in the case of a member) or member (in the case of a veteran), including participation in the TRICARE program under chapter 55 of title 10, United States Code, and care provided in a facility of the Department of Defense, the Department of Veterans Affairs, or other public or private facility, regardless of the active duty status of such member or veteran.

(B) ALLOCATION OF COSTS.—Costs associated with the provision of care under subparagraph (A) shall be borne by the Department of Defense.

SEC. 3. FACILITATION OF CONTINUITY OF CARE FROM DEPARTMENT OF DEFENSE TO DEPARTMENT OF VETERANS AFFAIRS.

The Secretary of Defense and the Secretary of Veterans Affairs shall establish protocols to ensure that members of the Armed Forces receive, with regard to health care benefits and services from the Department of Veterans Affairs and otherwise, a continuity of care and assistance during and after the transition from military service to civilian life, including protocols for the following:

(1) The expeditious transfer of medical records from the Department of Defense to the Department of Veterans Affairs.

(2) Continuity of health care services, treatment, and coverage for members of the Armed Forces who are transitioning to civilian life, with particular emphasis on providing continued health care to participants in the program required by section 2.

(3) The development of a specific, individualized transition plan for each member, prior to discharge or release from the Armed Forces, outlining the member's seamless continuity of care.

SEC. 4. REVIEW OF CERTAIN DECISIONS OF THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF VETERANS AFFAIRS.

(a) REVIEW OF OTHER THAN HONORABLE DISCHARGE STATUS FOR FORMER MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY.—

(1) REVIEW REQUIRED.—The Secretary of Defense shall, upon the request of any former member of the Armed Forces who served in the Armed Forces after October 6, 2001, and has been discharged from the Armed Forces under other than honorable conditions, conduct a review (including a medical evaluation) to determine whether a traumatic brain injury was a cause of the actions of the member that precipitated the discharge under other than honorable conditions. Such request may also be made by an authorized representative of the member.

(2) RECONSIDERATION.—If the Secretary of Defense determines under this subsection that the traumatic brain injury of a member was a cause of the actions of the member that precipitated the discharge under other than honorable conditions, the Secretary shall reconsider the discharge and redesignate the status of such discharge if such action is warranted.

(b) REVIEW OF DECISIONS OF SECRETARY OF VETERANS AFFAIRS AFFECTING VETERANS WITH TRAUMATIC BRAIN INJURY.—Upon the request of any veteran diagnosed with a traumatic brain injury, the Secretary of Veterans Affairs shall review and adjust as the Secretary considers appropriate, the disability rating of such veteran.

SEC. 5. TRAUMATIC BRAIN INJURY RESEARCH.

(a) RESEARCH REQUIRED OF DEPARTMENT OF DEFENSE.—The Secretary of Defense shall conduct research—

(1) to improve the screening, diagnosis, and treatment of traumatic brain injury;

(2) to improve rehabilitation of members of the Armed Forces with traumatic brain injury;

(3) to improve best practices for the activities described in paragraphs (1) and (2); and

(4) to identify the mechanisms of brain injury and ways to prevent or ameliorate secondary effects of brain injuries.

(b) RESEARCH REQUIRED OF DEPARTMENT OF VETERANS AFFAIRS.—Section 7303 of title 38, United States Code, is amended—

(1) in subsection (a)(2), by inserting ''traumatic brain injury research,'' after ''mental illness research,''; and

(2) by adding at the end the following new subsection:

''(e) Traumatic brain injury research shall include research—

''(1) to improve the screening, diagnosis, and treatment of traumatic brain injury;

''(2) to improve rehabilitation of veterans with traumatic brain injury;

''(3) to improve best practices for the activities described in paragraphs (1) and (2); and

''(4) to identify the mechanisms of brain injury and ways to prevent or ameliorate secondary effects of brain injuries.''.

(c) GRANTS OR COOPERATIVE AGREEMENTS.—In conducting the research required by subsection (a) or in accordance with section 7303(e) of title 38, United States Code, the Secretary of Defense and the Secretary of Veterans Affairs may provide grants to, or enter into cooperative agreements with, private or public medical centers with expertise in research on traumatic brain injury, including the treatment or rehabilitation of individuals with traumatic brain injury.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to the Secretary of Defense, $20,000,000 to carry out the provisions of subsection (a); and

(2) to the Secretary of Veterans Affairs, $20,000,00 to carry out the amendments made by subsection (b).

SEC. 6. REPORT.

Not later than December 15 of each year, the Secretary of Defense shall, in conjunction with the Secretary of Veterans Affairs, submit to Congress a report that contains, with respect to the fiscal year ending in the year such report is submitted, the following:

(1) Descriptions of the activities, accomplishments, and limitations of the program on traumatic brain injury established under section 2.

(2) Recommendations of the Secretary of Defense and the Secretary of Veterans Affairs, if any, for improving the program established under section 2.

(3) Information on the following:

(A) The number of members of the Armed Forces and veterans tested for traumatic brain injury by the Department of Defense and the Department of Veterans Affairs under section 2(d).

(B) The number of members of the Armed Forces and veterans diagnosed with a traumatic brain injury.

(C) The number of members of the Armed Forces and veterans enrolled in the program on traumatic brain injury established under section 2.

(D) The types of treatment and rehabilitation provided as part of the program established under section 2.

(E) The types of facilities in which services were provided under section 2 and how such facilities were chosen to meet the individual needs of individual patients.

(F) The mechanisms used by the Department of Defense and the Department of Veterans Affairs to ensure continuity of care for members of the Armed Forces as they transition from receipt of health care services from the Department of Defense to the receipt of such services from the Department of Veterans Affairs.

(G) The number and nature of any cooperative agreements engaged in under section 2(h).

(H) The outreach activities carried out under subsections (e) and (f) of section 2.

(4) A description of the expenditures associated with the outreach, screening, diagnosis, treatment, rehabilitation, and other services provided to members of the Armed Forces and veterans under sections 2 and 3.

SEC. 7. DEFINITION OF TRAUMATIC BRAIN INJURY.

In this Act, the term ''traumatic brain injury'' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to trauma. The Secretary of Defense and the Secretary of Veterans Affairs may jointly revise the definition of such term as the Secretaries determine necessary, after consultation with the following:

(1) The Secretary of Health and Human Services.

(2) Representatives of any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code.

(3) Such public or nonprofit private entities that the Secretary of Defense or the Secretary of Veterans Affairs considers appropriate.

NOTICE OF HEARING

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. KERRY. I would like to inform the Members that the Committee on Small Business and Entrepreneurship will hold a public markup of S. 1256 ''Small Business Lending Reauthorization and Improvements Act of 2007'' on Wednesday, May 16, 2007, at 2:30 p.m. in room 428A of the Russell Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session of the Senate on Wednesday, May 9, 2007, at 9:30 a.m. in 328A, Russell Senate Office Building. The purpose of this committee hearing will be to consider Energy and Rural Development issues for the Farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Wednesday, May 9, 2007, at 2:30 p.m., in room 253 of the Russell Senate Office Building. The purpose of the hearing is to review all-terrain vehicle, ATV, issues and possible legislative approaches to obtaining ATV safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 9, 2007, at 9:30 a.m. to hold a hearing on climate change.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 9, 2007, at 2:30 p.m. to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Wednesday, May 9, 2007, at 10 a.m. in Dirksen Room 226.

Agenda

I. Bills: S. 221, Fair Contracts for Growers Act of 2007, (Grassley, Feingold, Kohl, Leahy, Durbin); and S. 376, Law Enforcement Officers Safety Act of 2007, (Leahy, Specter, Grassley, Kyl, Sessions, Cornyn).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. DURBIN. I ask unanimous consent for the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, May 9, 2007, to hold a hearing on pending benefits legislation. The hearing will take place in room 562 of the Dirksen Senate Office Building beginning at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. DURBIN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, Wednesday, May 9, 2007, from 3 p.m.–5 p.m. in Dirksen 106 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PRIVATE SECTOR AND CONSUMER SOLUTIONS TO GLOBAL WARMING AND WILDLIFE PROTECTION.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works Subcommittee on Private Sector and Consumer Solutions to Global Warming and Wildlife Protection be authorized to meet during the session of the Senate on Wednesday, May 9, 2007.

Agenda

Technologies and practices to reduce greenhouse gas emissions.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES READ THE FIRST TIME—S. 1348 AND H.R. 2080

Mr. CONRAD. Mr. President, I understand there are two bills at the desk, and I ask for their first reading, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1348) to provide for comprehensive immigration reform and for other purposes.

A bill (H.R. 2080) to amend the District of Columbia Home Rule Act to conform the District charter to revisions made by the Council of the District of Columbia relating to public education.

Mr. CONRAD. Mr. President, I ask for a second reading en bloc, and I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bills will be read for the second time on the next legislative day.

THANKS TO STAFF

Mr. CONRAD. Mr. President, I thank all my colleagues for their cooperation today. I especially thank the ranking member of the Senate Budget Committee for his help and assistance and for his continuing graciousness as we consider the budget resolution, as well as all the Members who participated in the debate. I thought it was a very helpful debate—animated at times but genuine, sincere, and in the best traditions of the Senate.

I also wish to take this moment to thank the staffs, especially staff on my side, for unbelievable hours and devotion to getting a final product passed, and one we can be proud of. This staff has worked night and day, weekends, over and over, and I want to thank them publicly and commend them for it.

We should also acknowledge the staff on the other side, who have also worked long hours and have conducted themselves in the best tradition of the Senate.

ORDERS FOR THURSDAY, MAY 10, 2007

Mr. CONRAD. Mr. President, there is some additional business we have been asked to handle.

I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Thursday, May 10; that on Thursday, following the prayer and pledge, the morning hour be deemed expired and the time of the two leaders reserved for their use later in the day; that the Senate then resume consideration of the motion to proceed to Calendar No. 128, H.R. 1495, the Water Resources Development Act, and that the time until 9:45 a.m. be equally divided and controlled between the chair and ranking member of the Environment and Public Works Committee; that at 9:45 a.m., without further intervening action or debate, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CONRAD. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 8:38 p.m., adjourned until Thursday, May 10, 2007, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 9, 2007:

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

MAJ. GEN. KEVIN J. SULLIVAN, 0000

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. RANDALL M. FALK, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JUAN A. RUIZ, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. RONALD L. BURGESS, JR., 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. KENNETH F. MCKENZIE, JR., 0000

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

ANIL P. RAJADHYAX, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

DAREN S. DANIELSON, 0000
COLLEEN M. FITZPATRICK, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be lieutenant colonel

BRET R. BOYLE, 0000

To be major

MICHAEL C. PAHANG, 0000
DIANA STANSBURY, 0000
CHAD A. WEDDELL, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be lieutenant colonel

LILLIAN C. CONNNER, 0000

To be major

MARVIN CONRAD, 0000
JONATHAN L. RONES, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be lieutenant colonel

NANCY J. S. ALTHOUSE, 0000
JAMES B. COWAN, 0000
MARY B. DURBIN, 0000
FRANKLIN H. HAUGER, 0000
SUSAN G. MARKEL, 0000
HENRY D. VAUGHAN, 0000

To be major

MICHAEL M. DUNN, 0000
BEVERLY J. EARLEY, 0000
SABRI Z. IBRAHIM, 0000
PHICK H. NG, 0000

IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

GLEN L. DORNER, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

SHIRLEY S. MIRESEPASSI, 0000

To be major

SCOTT L. DIERING, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 6221:

To be captain

GEORGE N. THOMPSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

STEVEN D. BROWN, 0000
MICHAEL E. DORY, 0000
KALAS K. MCALEXANDER, 0000
MICHAEL J. PARISI, 0000
MARK G. STEINER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

RICHARD K. GIROUX, 0000
REX A. GUINN, 0000
DEAN W. LEECH, 0000
JEFFREY P. LUSTER, 0000
JAMES M. RYAN, 0000
ROBERT A. SANDERS, 0000
SUSAN C. STEWART, 0000
DENISE E. STICH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

MARK A. ADMIRAL, 0000
JULIENNE E. C. ALMONTE, 0000
PAUL D. ASHCRAFT, 0000
JOSEPH M. CHENELER, 0000
JAMES E. FANELL, 0000
DAVID C. FOLEY, 0000
WILLIAM P. HAMBLET, JR., 0000
DARYL R. HANCOCK, 0000
CRAIG O. HAYNES, 0000
MICHAEL T. ORTWEIN, 0000
STEPHEN E. ROBERTS, 0000
ROBERT D. SHARP, 0000
CHRISTOPHER M. STRUB, 0000
ERIC A. TAYLOR, 0000
DANIEL F. VERHEUL, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

MICHAEL D. ANDERSON, 0000
GREGG W. BAUMANN, 0000
RICHARD P. BLANK, 0000
JEFFREY A. BURCHAM, 0000
TIMOTHY J. CORRIGAN, 0000
PATRICK COSTELLO, 0000
KURTIS W. CRAKE, 0000
JEFFREY R. DUNLAP, 0000
KENNETH L. FRACK, JR., 0000
GLENN D. HOFERT, 0000
PERNELL A. JORDAN, 0000
MICHAEL L. MALONE, 0000
BRIAN R. MCGINNIS, 0000
KEVIN R. PETERSON, 0000
MIGUEL G. SANPEDRO, 0000
RICKY A. SERAIVA, 0000
MICHAEL H. SMITH, 0000
STEVEN L. STANCY, 0000
JAMES E. STEIN, 0000
ERIC A. TAPP, 0000
BRUCE C. URBON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

SCOT K. ABEL, 0000
TITO M. ARANDELA, JR., 0000
JAMES R. BREON, 0000
SILVESTER R. DELROSARIO, 0000
ROBERT W. DESANTIS, 0000
DANIEL P. HENDERSON, 0000
JOHN R. JONES, 0000
PETER R. LINTNER, 0000
JESUS A. MATUDIO, 0000
KEVIN K. NELSON, 0000
PATRICK B. SHEPLER, 0000
LELAND D. TAYLOR, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

MICHAEL J. CERNECK, 0000
DAVID D. DAVISON, 0000
TIMOTHY J. DUNIGAN, 0000
ANTHONY J. FERRARI, 0000
JAMES A. GLASS, 0000
HENRY M. JACKSON, 0000
DAVID P. JOHNSON, 0000
JOHN K. MARTINS, 0000
TIMOTHY J. MOREY, 0000
JOHN C. NICHOLSON, 0000
MICHAEL L. PEOPLES, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JOHN W. CHANDLER, 0000
ROBERT D. GOODWIN, JR., 0000
JACQUELINE R. KOCHER, 0000
PATRICK K. LEARY, 0000
KATHERINE A. MAYER, 0000
STEPHANIE L. ONEAL, 0000
WILLIAM T. RICH, 0000
MARK A. SANFORD, 0000
DAVID M. SERBER, 0000
JAMES A. SULLIVAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ARNE J. ANDERSON, 0000
THOMAS A. BALCOM, 0000
STEVEN L. BANKS, 0000
ELIZABETH G. BEAZLEY, 0000
KRIS M. BELLAND, 0000
PATRICK H. BOWERS, 0000
DAVID M. BURCH, 0000
DOUGLAS N. CARBINE, 0000
WILLIAM D. CRAIG, 0000
THOMAS P. DAVIS, 0000
GERALD D. DENTON, 0000
JAMES R. DUNNE, 0000
KENNETH L. EISENBERG, 0000
LARRY A. EVANS, 0000
JAMES P. FLINT, 0000
DANIEL A. FREILICH, 0000
THOMAS G. GAYLORD, 0000
BRENDON L. GELFORD, 0000
MARTHA K. GIRZ, 0000
LISA A. GLEASON, 0000
GARY S. GLUCK, 0000
ELISE T. GORDON, 0000
PAUL HAMMER, 0000
AMIR E. HARARI, 0000
SCOTT W. HELMERS, 0000
MICHAEL E. HOFFER, 0000
MICHAEL A. ILLOVSKY, 0000
LISA INOUYE, 0000
ROBERT A. IZENBERG, 0000
BETH R. JAKLIC, 0000
JOHN L. KANE III, 0000
PAUL D. KANE, 0000
ERIC J. KUNCIR, 0000
DAVID M. LARSON, 0000
JEFFREY T. LENERT, 0000
IVAN K. LESNIK, 0000
EDGAR M. LEVINE, 0000
MARK A. MALAKOOTI, 0000
GAIL H. J. MANOS, 0000
ROBERT W. MARTIN, 0000
MICHAEL A. MAZZILLI, 0000
JOSEPH A. MCBREEN, 0000
ELIZABETH A. G. MCGUIGAN, 0000
NALAN NARINE, 0000
JOHN T. NEFF, 0000
DANIEL F. NOLTKAMPER, 0000
LACHLAN D. NOYES, 0000
OTTO W. OHM II, 0000
LOUIS D. OROSZ, 0000
CARY A. OSTERGAARD, 0000
ERIC L. PAGENKOPF, 0000
JOHN F. PERRI, 0000
JACK S. PIERCE, 0000
ROBERT T. RULAND, 0000
MARGARET A. RYAN, 0000
DONALD R. SALLEE, 0000
THEODORE W. SCHAFER, 0000
MICHAEL S. SCHLEGEL, 0000
DANIEL P. SHMORHUN, 0000
TIMOTHY R. SHOPE, 0000
EDWARD D. SIMMER, 0000
DAVID J. TANZER, 0000
JOHN S. THURBER, 0000
DANIEL J. VALAIK, 0000
DARIN K. VIA, 0000
DAVID K. WEISS, 0000
LOYD A. WEST, 0000
WADE W. WILDE, 0000
ROBIN M. WILKENING, 0000
KEVIN E. ZAWACKI, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

LEIGH P. ACKART, 0000
ROBERT J. BESTERCY, 0000
MICHAEL B. BOHN, 0000
ROBERT L. BRUNSON, JR., 0000
JOHN F. COUTURE, 0000
GEORGE DEVRIES, 0000
BRIAN T. DRAPP, 0000
ROBERT A. GANTT, 0000
ERIC L. GLASER, 0000
JEFFREY K. GRIMES, 0000
SCOTT L. HAWKINS, 0000
DAVID K. HENDERSON, 0000
RODERICK R. HUBBARD, 0000
DAVID R. KLESS, 0000
TRACY A. LARCHER, 0000
TAE H. LEE, 0000
DOUGLAS C. NEWELL, 0000
TIMOTHY J. OBRIEN, 0000
MICHAEL P. PATTEN, 0000
JOHN P. POLOWCZYK, 0000
WILLIAM C. POWER, 0000
CHRISTOPHER J. RAY, JR., 0000
KEVIN D. REDMAN, 0000
JOYCELIN ROBINSON, 0000
MARK E. SEMMLER, 0000
JOHN D. TITUS, JR., 0000
TIMOTHY S. VARVEL, 0000
ROLAND G. WADGE, 0000
KURT E. WAYMIRE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

PIUS A. AIYELAWO, 0000
JEFFREY M. ANDREWS, 0000
THEODORE P. BRISKI, JR., 0000
DERRIK R. CLAY, 0000
GILDA M. COLLAZO, 0000
ROBERT E. FULLER, 0000
BRENDAN K. GLENNON, 0000
RACHEL D. HALTNER, 0000
DEXTER A. HARDY, 0000
MICHAEL N. HENDEE, 0000
CHRISTINE L. HOWE, 0000
SCOTT R. JONSON, 0000
KEVIN R. KENNEDY, 0000
DAIZO KOBAYASHI, 0000
JOHN D. LARNERD, JR., 0000
DAVID R. LESSER, 0000
PATRICK S. MALONE, 0000
RONALD N. MCLEAN, 0000
DAVID L. MCNAMARA, 0000
JULIE L. MIAVEZ, 0000
TAMMY M. NATHAN, 0000
JONATHAN P. NELSON, 0000
MATTHEW E. NEWTON, 0000
BUHARI A. OYOFO, 0000
EDGARDO PEREZLUGO, 0000
JEAN T. SCHERRER, 0000
ALAN V. SIEWERTSEN, 0000
DAVID R. STREET, JR., 0000
PENNY E. WALTER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

WENDY M. BORUSZEWSKI, 0000
ROBERTO J. CABASSA, 0000
BRENT J. CALLEGARI, 0000
RICHARD P. CAMPBELL, 0000
CHARLES L. ELLIS, 0000
ARTHUR T. GEORGE, 0000
KEITH C. KEALEY, 0000
JEFFREY N. KORSNES, 0000
JOANNE R. LEAL, 0000
WILLIAM J. LEONARD, JR., 0000
MARK B. LYLES, 0000
ROBERT H. MITTON, 0000
MONA M. MOOREMEAUX, 0000
KEVIN J. OTTE, 0000
MICHAEL L. POTTER, 0000
MARK S. QUAGLIOTTI, 0000
ANDREA L. SHORTEREVANS, 0000
MICHAEL A. STEINLE, 0000
PATRICIA A. TORDIK, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

CHERIE L. BARE, 0000
JOSEPH COSENTINO, JR., 0000
LAWRENCE J. DUANE, 0000
CONSTANCE J. EVANS, 0000
LORI S. FRANK, 0000
COLLEEN K. GALLAGHER, 0000
LINDA J. GRANT, 0000
DEBORAH L. HILL, 0000
GAYLE S. KENNERLY, 0000
LORI A. LARAWAY, 0000
ANNE M. LEAR, 0000
REGINA K. MERCADO, 0000
JOEL L. PARKER, 0000
NANCY L. PEARSON, 0000
LAURA E. PISTEY, 0000
CHRISTOPHER J. PRATT, 0000
JACQUELINE D. RYCHNOVSKY, 0000
CARLA J. STANG, 0000
KATHRYN A. SUMMERS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DARIUS BANAJI, 0000
BENJAMIN J. BARROW, 0000
DAVID A. BERCHTOLD, 0000
SCOTT A. BERNOTAS, 0000
FREDERICK F. BURGESS III, 0000
JOSEPH A. CAMPBELL, 0000
JOHN CORONADO, 0000
CRAIG A. FULTON, 0000
CLAYTON O. MITCHELL, JR., 0000
BRANT D. PICKRELL, 0000
ERICA L. SAHLER, 0000
DAVID J. SASEK, 0000
DAVID M. SMITH, 0000
JOHN T. SOMMER, 0000
MICHAEL D. WILLIAMSON, 0000

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

DEA BRUEGGEMEYER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be commander

NEAL P. RIDGE, 0000

To be lieutenant commander

RALPH L. RAYA, 0000

CONFIRMATION

Executive nomination confirmed by the Senate Wednesday, May 9, 2007:

THE JUDICIARY

DEBRA ANN LIVINGSTON, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO WENDY ADAMS

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. PORTER. Madam Speaker, I rise today to honor Wendy Adams who has distinguished herself as an outstanding and devoted professional in her field as a Registered Nurse.

Wendy began her nursing career in Salt Lake City, Utah in 1967 as a nurse's aide at Holy Cross Hospital while completing her education. In 1971, Wendy completed her studies and began her tenure as a staff nurse at Sunrise Hospital Medical Center. Wendy was hired by Valley Hospital Medical Center as a staff nurse in 1974 and was subsequently named a Charge Nurse. In 1980, she returned to Sunrise Hospital Medical Center and worked as a Head Nurse until 1983. Wendy was asked to return to Valley Hospital in 1983 and has worked continuously as a Head Nurse, Manager, and Director.

Wendy's entire nursing career has been defined by a commitment to excellence and dedication to serving the patients first. Wendy balances good patient care with fiscal responsibility and ensure that all her patients are satisfied.

Madam Speaker, I am proud to honor Wendy Adams. Her professional expertise and caring nature have greatly enriched the lives of those in the Las Vegas community. I commend Wendy for her efforts and commitment to her patients and to our community.

IN SPECIAL RECOGNITION OF KURT J. DOYLE ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. GILLMOR. Madam Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Kurt J. Doyle of Defiance, Ohio has been offered an appointment to attend the United States Military Academy at West Point, New York.

Kurt's offer of appointment poises him to attend the United States Military Academy this fall with the incoming cadet class of 2011. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Kurt brings an enormous amount of leadership, service, and dedication to the incoming class of West Point cadets. While attending Defiance High School in Defiance, Ohio, Kurt attained a grade point average which placed him near the top of his class. While a gifted athlete, Kurt has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Kurt has been a member of the National Honor Society, Honor Roll, High School Marching Band and has earned numerous awards and accolades as a scholar and an athlete.

Outside the classroom, Kurt has distinguished himself as an excellent student-athlete. On the fields of competition, he has earned varsity letters in swimming and soccer where he served as the captain of the varsity team. He also remained involved in his community by serving as a camp counselor for middle school students and as a tutor for elementary students. Kurt's dedication and service to the community and his peers have proven his ability to excel among the leaders at West Point. I have no doubt that Kurt will take the lessons of his student leadership with him to West Point.

Madam Speaker, I ask my colleagues to join me in congratulating Kurt J. Doyle on his appointment to the United States Military Academy at West Point. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Kurt will do very well during his career at West Point and I ask my colleagues to join me in wishing him well as he begins his service to the Nation.

RECOGNIZING DR. PAT TAYLOR FOR HIS 34 YEARS OF SERVICE TO THE STUDENTS AT ST. PAUL'S EPISCOPAL SCHOOL IN MOBILE

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. BONNER. Madam Speaker, it is with great pride and pleasure that I rise to honor Dr. Pat Taylor for his many years of service to the students of St. Paul's Episcopal School in Mobile.

Pat has dedicated the past 34 years of his life to the students and community of St. Paul's, serving as a teacher, division director and assistant headmaster, and his presence will certainly be missed as he leaves St. Paul's to be the new headmaster of Jackson Academy in Mississippi.

Pat's contributions to education are numerous, but perhaps he will be remembered most for his role in founding Mobile's Underage Drinking Task Force—a citizens group that has publicized the problem of underage drinking and works to educate students about the dangers of alcohol.

Mobile's Press-Register even editorialized about Pat saying he "will leave in Mobile a legacy of caring about teens that will be a guide for others in the future."

Madam Speaker, it is my great honor to recognize Dr. Pat Taylor and to commend him for his hard work and dedication to the students of Mobile. He is an outstanding example of the quality individuals who have devoted their lives to education, and I ask my colleagues to join with me in congratulating him on the occasion of his new position as headmaster. I know Pat's family and many friends join me in praising his accomplishments and extending heartfelt thanks for his efforts on behalf of the citizens of Mobile and Alabama's First Congressional District.

HONORING THE MEMORY OF JANEE ARMSTRONG FRIEDMANN

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. NEAL of Massachusetts. Madam Speaker, it is my honor today to pay my respects to my friend Janee Armstrong Friedmann, who passed away on March 21. Janee was an outstanding and generous woman whose dedication to the Greater Springfield community will continue to be felt for years to come.

I submit for the CONGRESSIONAL RECORD today a biography of Janee Armstrong Friedmann to honor her memory and to preserve her many accomplishments and contributions in the annals of our Nation's history. She is sorely missed by all who knew her.

JANEE ARMSTRONG FRIEDMANN, JANUARY 11, 1937–MARCH 21, 2007

Arts and social service organizations in Greater Springfield owe a tremendous debt of gratitude to Janee Armstrong Friedmann.

Not only was Janee a generous supporter in her own right, she inspired others to give as well. Janee's reputation as a fundraiser was such that, when she called a potential donor, they answered with their checkbook in hand.

During her many years as a volunteer and trustee with the Springfield Library & Museums Association, Janee always took a leadership role in fundraising efforts. It was during her tenure as Chairman of the Board of Trustees that the Association launched the most ambitious fundraising effort in its history—the $11 million Quadrangle Capital Campaign for improvements to Springfield's four museums and nine libraries. She was part of the team that brought in the successful campaign nearly $3 million over its goal. She served on and chaired the Association's Development Committee, inspiring other volunteers to actively participate in fundraising. She chaired the Society of William Rice, the Association's highest category of private donors, and has solicited most of its 123 members personally, raising more than $160,000 annually for more than a decade.

Janee was born in Wilkes-Barre, Pennsylvania, on January 11, 1937, the daughter of the late F. Thoburn and Sara Northrup Armstrong. She was educated at Wyoming Seminary in Kingston, Pennsylvania, and

furthered her education at Bryn Mawr College, where she received her Bachelor of Arts Degree in History, with Magna Cum Laude distinction. Janee later obtained her Master's Degree in Education at Temple University and another Master's Degree in International Relations from the University of Pennsylvania.

Janee is survived by her devoted husband of 45 years, Dr. Paul Friedmann, of Longmeadow, her two daughters, Pamela Erica Armstrong Friedmann, of Washington, DC, and Cynthia Armstrong Friedmann Campbell and her husband Robert, of Columbia, South Carolina. Janee is also survived by her adored grandson, Fitzwilliam Colin Campbell.

Larry A. McDermott, publisher of The Republican, said that with Friedmann's passing, the region has lost a devoted and impassioned voice for the arts and education.

''Janee, the epitome of grace and intellect, had a strength matched only by her wisdom and compassion. We are grateful for her efforts to make Western Massachusetts a better place in which to live.''

Joseph Carvalho III, President and Chief Executive Officer of the Springfield Museums, said Friedmann had touched every aspect of the Museums from fundraising for Capital Campaigns to assisting with gallery collection upgrades. ''She was probably one of the most incredible life forces that we had here at the museum. Her energy, enthusiasm and tireless work in trying to help the community and help the museum was unparalleled. ''

David Starr, president of The Republican, recalled working with Friedmann on assorted civic and community boards over a span of 30 years. ''Janee and I worked together on so many campaigns, raising money to refurbish the Springfield Museums, to build new libraries, to buy new high-definition equipment for WGBY, to help the Springfield Symphony stay alive and well. She did it all with such verve and grace and elegance. She was a stunning woman who was always ready to roll up her sleeves and pitch in and work for the good causes she believed in.''

Janee was very active in the community, serving as the President of the Junior League of Greater Springfield, the Richard Salter Storrs Library of Longmeadow, the Early Childhood Center of Springfield, the Springfield Symphony Orchestra, the Springfield Public Forum, the Longmeadow Gardeners, and Vice-President of the Maple Hill Cemetery Association of Wilkes-Barre, Pennsylvania. She also served as the Chairman of the Board of the Springfield Museums Association.

Mrs. Friedmann received numerous awards for her work, including the Mary Alice Rogers Award for Volunteerism from public television station WGBY–TV, Channel 57, in 2006, and the YWCA Women of Achievement Award in 1998. In 2001, Janee received the William Pynchon Award, Western Massachusetts' highest civic honor.

PAYING TRIBUTE TO ELLIE POWELL

HON. JON C. PORTER–

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. PORTER. Madam Speaker, I rise today to honor Ellie Powell who has distinguished herself as an outstanding and devoted professional in her field as a Registered Nurse.

Ellie has a long and distinguished career as a nursing professional. Her career in nursing started in 1959 as an Operating Room Nurse at Fitzgerald Mercy Hospital in Darby, Pennsylvania. In 1960, Ellie became an Operating Room Heart Scrub Nurse at Geisinger Medical Center in Danville, Pennsylvania. Following a short time at Geiringer, Ellie became a United States Air Force Nurse, serving at both Cannon Air Force Base and Royal Air Force Weathersfield until 1963. In 1964, she moved to Sumter, South Carolina and began working as a Medical/Surgical Staff Nurse at Toomey Medical Center. Ellie again relocated to Liberal, Kansas in 1966, where she became a Medical/Surgical Charge Nurse at Southwest Medical Center and subsequently became a staff nurse then a nursing supervisor. In 1977, Ellie moved to Colorado Springs, Colorado where she began her tenure as a staff nurse and eventually became a nursing supervisor at Penrose Community Hospital. While at Penrose, Ellie taught the first Nursing Diagnosis Class in Colorado Springs. She also served as Chairperson of the Policy and Procedures Committee. Ellie moved to Valley Hospital Medical Center in 1989 to become a Medical Surgical Staff Nurse and is presently still serving in a number of different capacities at Valley Hospital. Over the course of her tenure at Valley Hospital, Ellie has served as Clinical Director of Ancillary Services, Clinical Director of Medical/Surgical Services, and Nursing Supervisor. Ellie has also served on a number of committees during her time with Valley Hospital Medical Center including the Performance Improvement Clinical Committee, the Performance Improvement Operational Committee, the Ethics Committee and the Patient Safety Council.

Over the course of her distinguished nursing career Ellie has received a number of accolades. In 1995, she was a Nurse of the Year Runner-up, in October 2004 she received the Service Excellence Silver Star from Valley Hospital Medical Center and the Service Employee of the Quarter Award. Ellie was also named the March of Dimes ''Distinguished Nurse of Southern Nevada'' in 2006. In addition to her numerous professional awards and honors, Ellie has been published twice and is very active in a number of professional associations.

Madam Speaker, I am proud to honor Ellie Powell. Her professional expertise and caring nature have greatly enriched the lives of those in the Las Vegas community. I commend Ellie for her efforts and commitment to her patients and to our community.

RECOGNIZING CHARLOTTE KATHRYN WOODWARD

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. GRAVES. Madam Speaker, I proudly pause to celebrate the birth of Charlotte Kathryn Woodward. Charlotte was born on Thursday, January 11, 2007, to her proud parents, Travis and Sarah Woodward of Bowie, Maryland. Charlotte entered the world at 6:33 a.m. at Anne Arundel Medical Center in Annapolis, Maryland, weighing a healthy 8 lbs. 11½ oz. and 20.8 inches long.

Charlotte also has proud grandparents, Lewis and Kathy Rice, of Maryville, Missouri, and Cheryl and Duane Farmer of Sidney, Nebraska, as well as Bruce Woodward of Maryville, Missouri, to spoil her. Charlotte is also the niece of Ryan and Kristin Woodward of Stafford, Virginia; Nathan Woodward of Maryville, Missouri; Robert and Sarah Rice of Chillicothe, Missouri; and Nathaniel Rice, of Maryville, Missouri.

Madam Speaker, I proudly ask you to join me in celebrating the birth of Charlotte Kathryn Woodward. I see great things in Charlotte's future considering her parents' and grandparents' great emphasis on family values, public service and patriotism. I wish Charlotte the best life has to offer.

IN SPECIAL RECOGNITION OF DOUG A. DETTER ON HIS APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. GILLMOR. Madam Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Doug A. Detter of Defiance, Ohio has been offered an appointment to attend the United States Air Force Academy at Colorado Springs, Colorado.

Doug's offer of appointment poises him to attend the United States Air Force Academy this summer with the incoming cadet class of 2011. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. It is one of the most challenging and rewarding undertakings of their lives.

Doug brings an enormous amount of leadership, service, and dedication to the incoming class of Air Force cadets. While attending Defiance High School in Defiance, Ohio, Doug attained a grade point average which placed him at the top of his class. While an accomplished athlete, Doug has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Doug has been a member of the National Honor Society, the Quiz Team, Honor Roll and has earned awards and accolades as a scholar.

Outside the classroom, Doug has distinguished himself as an excellent student-athlete by earning varsity letters in golf and track. Doug's dedication and service to the community and his peers have proven his ability to excel among the leaders at the Air Force Academy. I have no doubt that Doug will employ the lessons of his student leadership as he excels among the leaders at the United States Air Force Academy.

Madam Speaker, I ask my colleagues to join me in congratulating Doug A. Detter on his appointment to the United States Air Force Academy at Colorado Springs. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Doug will do very well during his career at the United States Air Force Academy and I ask my colleagues to join me in

wishing him well as he begins his service to the Nation.

RECOGNIZES THE ACADEMY AT THE FARM SCHOOL FOR EDUCATIONAL SUCCESS

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today to recognize the Academy at the Farm School, a Pasco County, Florida charter school that is being recognized for academic achievement at the National Press Club in Washington, D.C. The Center for Education Reform has selected the School as an Exemplary Charter School for the past year. The Academy at the Farm School is one of six from Florida, 53 nationwide, and was chosen from over 4 thousand eligible charter schools.

Founded in 2002 as an inclusion school for exceptional student education students, the School is designed to place these gifted students in a regular classroom setting. In addition to its focus on academic success, the School also focuses on learning about the environment.

One of the most successful institutions in Florida, the School has a grade of A and has met 100 percent of the criteria required for adequate yearly progress. Additionally, it was one of only four schools in Pasco County to have achieved adequate yearly progress. With a student to faculty ratio of only six to one, there is a strong focus on individual teaching and learning. All the teachers at the School are certified, with 30 percent of them having advanced degrees and a total of over 225 years experience.

The Academy received a letter from former Florida Governor Jeb Bush recognizing the fourth graders as one of the top 100 elementary schools in the State for improvements in writing. They also received a letter from Governor Bush for being named one of the top 50 combination schools in the State that made the most year-to-year progress.

As is the case with many successful educational institutions, the Academy at the Farm School is headed up by strong leaders and administrators. Dr. Michael Rom, the School Administrator, is the former Provost at Pasco Hernando Community College and is highly respected in the education and professional world. He and the seven teachers attending the event in Washington were original staff members of the Academy and have continued their commitment to Pasco County children and families.

Madam Speaker, educational leaders like Dr. Rom and the teachers at the Academy at the Farm School should be recognized for their outstanding accomplishments. Their record of success has proven them worthy of being named an Exemplary Charter School by the Center for Education Reform. I congratulate them on the award and know that they will continue to focus on educational achievement into the future.

HONORING THE MEMORY OF CHESTER ALEXANDER HUNT, SR.

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. BONNER. Madam Speaker, the city of Fairhope and indeed the entire State of Alabama recently lost a dear friend, and I rise today to honor him and pay tribute to his memory. Chester Alexander Hunt, Sr., was an institution at Fairhope's Grand Hotel, serving as a waiter, concierge, official greeter, and historian for more than 60 years.

A native of Jackson, Mississippi, Mr. Hunt spent most of his life in Fairhope with his wife of 65 years, Mary Lewis Hunt, who passed away in February of this year.

On April 18, 1941, Mr. Hunt began his career at the Grand Hotel. He left the hotel to serve in the Army during World War II and returned after the war ended. During his time at the Grand Hotel, Chester welcomed countless guests to the 160-year-old hotel, including former President George H.W. Bush, Secretary of State Colin Powell, former British Prime Minister Margaret Thatcher, Dolly Parton, and Bo Jackson.

It goes without saying that Mr. Hunt was well known throughout southwest Alabama. He conducted regular history tours for the guests and special tours for groups. In 1998, Chester was awarded the hotel chain's J.W. Marriott Award of Excellence.

In addition to his service at the Grand Hotel, Mr. Hunt owned an insurance company in Fairhope for more than 20 years and served on the Eastern Shore Chamber of Commerce Board of Directors.

Madam Speaker, I ask my colleagues to join me in remembering a truly wonderful man, a dedicated community leader and friend to many throughout south Alabama. Chester Alexander Hunt will be deeply missed by his family—his children, Jan Marie Coleman, Julius Hunt, Chester A. Hunt, Jr., Tyrone Hunt, and Kerry Hunt; his brother, Cecil Hunt; 8 grandchildren; and 10 great grandchildren—as well as the countless friends he leaves behind. Our thoughts and prayers are with them all at this difficult time.

IN CELEBRATION OF THE 60-YEAR ANNIVERSARY OF THE 16 ACRE LIONS CLUB

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. NEAL of Massachusetts. Madam Speaker, I wish to celebrate the accomplishments of the 16 Acre Lions Club as well as their 60 years of service to the great city of Springfield, Massachusetts. Below is a brief history of the Club as well as their many accomplishments.

The Springfield 16 Acres Lions Club began on April 25, 1947. The Club's charter night occurred on June 18, 1947. In the beginning, the meetings were held in various buildings, including Belle's, the Old School House, and the Foster Memorial Church. During the 1950s, the Club presented movies for the community in the School House for the price of a dime. All children were welcomed and no child was ever refused for lack of a dime.

Another hallmark of the Club during the 1950s, was the establishment of the Lions Orthopetic Clinic, established by Russell Koch (a past President of the Club) in 1951. The patients of the Clinic were referred by local ophthalmologists and were charged a fee according to their ability to pay. Today the facility remains open and is currently located on Maple Street in downtown Springfield.

Fred Hoare, a past District Governor, formed the sports program. The program included events for soccer, basketball, softball, as well as baseball. The Club held a soccer tournament every year on Memorial Day weekend, with teams from as far away as Virginia participating.

For the past 37 years, the Club has provided food baskets for needy families during the Christmas season. This is coordinated through the local churches. Along with food, presents for children are also included. Money to support this effort has been raised through a raffle ticket sale during the month of November.

The Club has also provided glaucoma and diabetic testing for the community. Eyeglasses as well as eye exams for those in need were provided free of charge through authorized facilities. Other charitable events included an annual Easter egg hunt held the Saturday before Easter at Greenleaf Park. Six local elementary schools participate in the Easer egg hunt every year. The Club also organizes a pancake breakfast at St. Catherine's on Park Street. The proceeds are used for scholarships for graduating high school seniors.

The Club also raises money for funding of the 33Y Lions District Eye Mobile. The mobile will be a fully equipped Winnebago for the testing of diabetes, high blood pressure, and glaucoma. The mobile will be equipped with a special camera to take photos of the retina. The camera will also be equipped with a fax machine that will send the photos to the Massachusetts Eye and Ear in Boston for analysis. This project has taken over eight years to complete and I am happy to report that it will be available this summer for use in any Lions Club in Western Massachusetts.

Fifteen years ago the Club began its participation of a beautification project in the center of 16 Acres. This project was headed by Lion Richard Messier and is now run by Mr. Richard Pond. The Club formed a committee in order to have a Lions Park at the corner of Wilbraham Road and Park Street. Members of the Club contribute by cutting grass, cleaning up the leaves, and planting flowers every spring for the Veterans on Memorial Day. They also place Christmas decorations including a lighted train. The Club has so far spent $3,500 dollars in order to keep the park beautiful.

Our Club has produced four District Governors. The late Robert Scott, Richard Leary, and Fred Hoare have served in this capacity. PDG John Ingalls is still active in the 16 Acres Club. These four men are held in high regard and are well respected for their accomplishments.

Lastly, it is important to note that the success of the many projects that this Club has undertaken is due to the dedication of its members. Lions truly demonstrate their motto, ''We Serve.''

PAYING TRIBUTE TO RYAN PECKHAM

HON. JON C. PORTER–

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. PORTER. Madam Speaker, I rise today to honor Ryan Peckham, who has distinguished himself as an outstanding and devoted professional in his field as a Registered Nurse.

Ryan Peckham has been a Registered Nurse at Summerlin Hospital for three years. Since arriving at Summerlin Hospital as a New Grad RN, Ryan has excelled both as an outstanding nurse and patient advocate. In his three years, he has worked on several committees to help improve patient care and employee life in Southern Nevada including acting as the lead for a committee that overhauled the Triage process in the Emergency Department. Ryan's actions as a key member of this committee were instrumental to implementing new procedures that have helped save countless lives in the Southern Nevada community. He has also worked diligently to make Summerlin Hospital an employer of choice, not only by increasing the desire for Registered Nurses to work at Summerlin Hospital, but by also helping patients receive the highest quality care. Due to his demonstrated proficiency as a Registered Nurse, Ryan has recently been named a Charge Nurse.

Ryan is the epitome of professionalism and dedication. He has contributed to nursing as a whole in many different aspects. He maintains the belief that nursing is an attitude rather than a job.

Madam Speaker, I am honored to recognize Ryan Peckham. His professional expertise and caring nature have greatly enriched the lives of those in the Las Vegas community. I commend Ryan for his efforts and commitment to his patients and to our community.

IN SPECIAL RECOGNITION OF MICHAEL W. HAMPTON ON HIS APPOINTMENT TO ATTEND THE UNITED STATES NAVAL ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. GILLMOR. Madam Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Michael W. Hampton of Waterville, Ohio has been offered an appointment to attend the United States Naval Academy in Annapolis, Maryland.

Michael's offer of appointment poises him to attend the United States Naval Academy this summer with the incoming midshipmen class of 2011. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer.

Michael brings an enormous amount of leadership, service, and dedication to the incoming class at the Naval Academy. While attending Anthony Wayne High School in Whitehouse, Ohio, Michael attained a grade point average which placed him at the top of his class. While a gifted athlete, Michael has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Michael has been a member for the National Honor Society, Honor Roll and has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Michael has distinguished himself as an excellent student-athlete. On the fields of competition, Michael has earned varsity letters in track, swimming and cross country. He was named Captain of the Varsity Cross Country team and served as President of the German Club. Michael's dedication and service to the community and his peers have proven his ability to excel among the leaders at the Naval Academy. I have no doubt that Michael will take the lessons of his student leadership with him to Annapolis.

Madam Speaker, I ask my colleagues to join me in congratulating Michael W. Hampton on his appointment to the United States Naval Academy. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Michael will do very well during his career at the Naval Academy and I ask my colleagues to join me in wishing him well as he begins his service to the Nation.

RECOGNIZING SHAWN GRAYBILL

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Shawn Graybill, a very dedicated and enthusiastic member of my Congressional staff. My office and I greatly value Shawn's hard work and commitment. Constituents have grown to recognize his attention to detail, knowledge of many issues and personal touch. His dedication to the Sixth District of Missouri has shown through over the years, which is evident by the appreciation of all with whom he works.

A native of Tarkio, Shawn began his career within my office as an intern in June of 2002 while completing his undergraduate degree from Park University. He has served admirably whether it was working on constituent casework or as a field representative for Clay County.

Shawn also worked on my re-election campaign as my campaign manager. As anyone in politics knows, these types of jobs involve long hours and time away from your family. I appreciate his wife, Laura, for sharing her husband with me over the last 5 years.

Shawn will be leaving my office to serve as an Assistant Director for the American Truck Historical Society. In addition, Shawn and Laura are about to become first-time parents. It is my understanding that their daughter will share the name of my favorite President, Ronald Reagan.

Madam Speaker, I proudly ask you to join me in congratulating Shawn Graybill for his many important contributions to myself, my staff, all those he has worked with and for all those he has served. It is truly an honor to represent Shawn in the United States Congress.

RECOGNIZES THE 75TH ANNIVERSARY OF THE DEPARTMENT OF AGRICULTURE'S AGRICULTURAL RESEARCH SERVICE AND SUBTROPICAL AGRICULTURAL RESEARCH STATION'S PRESENCE IN THE STATE OF FLORIDA

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today to recognize the United States Department of Agriculture's Agricultural Research Service and Subtropical Agricultural Research Station (STARS) in Brooksville, FL. for the past seventy-five years, STARS has worked in cooperation with the University of Florida to improve animal production. Their hard work to develop superior animal production systems for the subtropical regions of the United States has established them as leaders in beef cattle and water quality research.

STARS began in 1932 with nearly 2,100 acres as a gift to the Federal Government by Colonel and Mrs. Raymond Robins. The STARS program would eventually grow to its current size of 3,800 acres and produce significant research for the categorization and conservation of tropically adapted beef cattle. Their current projects include environmentally focused analysis that will help determine the impact of the cattle on the waters of Florida and their sustainability.

Given its status as the only station located in the South, the STARS program remains a unique and significant research facility. This is extremely significant because of the fact that nearly 40 percent of the entire Nation's cattle herd is located in the southern United States. STARS also serves as a satellite repository to the National Animal Germplasm Program for tropically adapted beef cattle.

Madam Speaker, I applaud all the men and women who have contributed to the success of the STARS program over the past seventy-five years. These individuals exemplify how working tirelessly on animal production and water quality research can greatly enhance the quality of life for America. This program continues to enhance scientific knowledge of beef cattle, and I commend those involved for their efforts to produce research at the forefront of American agriculture.

IN RECOGNITION OF THE NATIONAL SMALL BUSINESS ASSOCIATION'S 70TH ANNIVERSARY

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Ms. VELÁZQUEZ. Madam Speaker, I rise today on the floor of the House of Representatives to honor the National Small Business Association (NSBA) as it celebrates its 70th anniversary. This first-rate organization currently reaches more than 150,000 small-business

owners nationwide—a number that has well surpassed the original group of 160 members. It is with great pleasure that I recognize the commendable service NSBA has provided to this Nation's entrepreneurs over the past 70 years.

As Chair of the Small Business Committee, I am well aware of the unique plight facing this Nation's entrepreneurs. As the oldest small business advocacy group in the United States, NSBA has a strong history of promoting small business growth and educating its members on the impact of Federal policies. The unwavering dedication that this group has shown to fostering the advancement and growth of entrepreneurs is deserving of recognition.

From carpenters to grocers and designers, NSBA represents a broad range of citizens who believe in the free enterprise system. Since joining the Small Business Committee well over a decade ago, this organization has frequently been out front, leading the charge on a number of issues that are of the utmost importance to this Nation's 26 million small businesses. Whether it was advocating for increased access to capital or the Federal marketplace—NSBA has always acted as a steadfast advocate for our entrepreneurs.

Thanks to the leadership of the NSBA—its founder, the late DeWitt M. Emery, Board Members, Executive Director, staff, and supporters—its members are given the opportunity to gather every two years during the ''Small Business Congress'' to learn about the latest happenings impacting their businesses and vote upon their top ten. NSBA subsequently publishes its priority issues booklet listing the results and advocating on the members' behalf. NSBA's contributions that bring to light the everyday matters that are of concern to the main drivers of this economy—small business—are truly commendable.

Madam Speaker, I would like to express my sincerest congratulations to the National Small Business Association in commemoration of its 70th anniversary and express best wishes for a successful future.

IN SPECIAL RECOGNITION OF ALESSANDRA C. BRAUN ON HER APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. GILLMOR. Madam Speaker, it is my great pleasure to pay special tribute to an outstanding young woman from Ohio's Fifth Congressional District. I am happy to announce that Alessandra C. Braun of Fremont, Ohio has been offered an appointment to attend the United States Military Academy at West Point, New York.

Alessandra's offer of appointment poises her to attend the United States Military Academy this fall with the incoming cadet class of 2011. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Alessandra brings an enormous amount of leadership, service, and dedication to the incoming class of West Point cadets. While attending St. Joseph Central Catholic High School in Fremont, Ohio, Alessandra attained a grade point average which placed her near the top of her class. While a gifted athlete, Alessandra has maintained the highest standards of excellence in her academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Alessandra has been a member of the National Honor Society, Honor Roll, Mock Trial and Science Club and has earned numerous awards and accolades as a scholar and an athlete.

Outside the classroom, Alessandra has distinguished herself as an excellent student-athlete. On the fields of competition, she has earned varsity letters in swimming and volleyball where she served as the co-captain of the varsity team. Alessandra's dedication and service to the community and her peers have proven her ability to excel among the leaders at West Point. I have no doubt that Alessandra will take the lessons of her student leadership with her to West Point.

Madam Speaker, I ask my colleagues to join me in congratulating Alessandra C. Braun on her appointment to the United States Military Academy at West Point. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Alessandra will do very well during her career at West Point and I ask my colleagues to join me in wishing her well as she begins her service to the Nation.

PAYING TRIBUTE TO LISA PHILIPS

HON. JON C. PORTER–

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. PORTER. Madam Speaker, I rise today to honor Lisa Philips, R.N., who has distinguished herself as an outstanding and devoted professional in her field as a Registered Nurse.

Lisa Philips has been a Registered Nurse for over 28 years. In 2003, Lisa joined the staff at Summerlin Hospital as a Charge Nurse where she was responsible for incoming patients' ability to see a physician in a timely manner. In 2006, Lisa was promoted to House Supervisor where her responsibilities include maintaining the patient flow of the entire hospital and ensuring that patients receive their needed care. Lisa is a committed and caring nurse who has a unique ability to communicate with physicians, patients, and their families. Lisa also personifies team values and is the embodiment of the Very Important Patient Program recently established at Summerlin Hospital. As a result of her commitment to excellence and outstanding service to her patients and colleagues, Lisa was recognized as Employee of the Year for 2006.

Madam Speaker, I am honored to recognize Lisa Philips, R.N. and her continued excellence at Summerlin Hospital. Her professional expertise and caring nature have greatly enriched the lives of those in the Las Vegas community. I commend Lisa for her efforts and commitment to her patients and to our community.

IN CELEBRATION OF ASIAN/PACIFIC AMERICAN HERITAGE DAY 2007

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. KUCINICH. Madam Speaker, I rise today in celebration of Asian/Pacific American Heritage Day 2007, and to celebrate the contributions of the Asian American and Pacific Islander community to the growth and prosperity of Northeast Ohio.

Held May 15 and May 19, Heritage Day provides us with an opportunity to reflect upon and celebrate the many contributions of Asian Americans and Pacific Islanders to the well-being of Northeast Ohio. I marvel at the beautiful ethnic and cultural diversity that has developed over the years, and I am grateful for the generations of immigrants who have brought to Cleveland the customs and rich heritage from every corner of Asia.

As Clevelanders forge ahead, building new institutions, relationships and bridges, it is my hope that future generations of Asian Americans and Pacific Islanders will continue their invaluable contributions to our social, economic and cultural health.

Madam Speaker and colleagues, please join me in celebrating Asian/Pacific American Heritage Day, and honoring the contributions of Asian Americans and Pacific Islanders to the rich cultural tapestry of Northeast Ohio.

RECOGNIZING THE CONTRIBUTIONS OF PAT AND BILL KESSLER, RECIPIENTS OF THE 2007 ''CIRCLE OF CARE'' AWARD

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. COSTELLO. Madam Speaker, I rise today to ask my colleagues to join me in recognizing Pat and Bill Kessler, a couple who have worked together to improve the quality of life in their community. The Kesslers will be honored on May 31, 2007 as the recipients of the 2007 Circle of Care award from the Riverbend Head Start and Family Services in Alton, Illinois.

Bill Kessler retired last year after 33 years at St. Anthony's Heath Center in Alton, Illinois where he had served as the first lay administrator and longtime CEO of this institution founded by the Sisters of St. Francis of the Martyr St. George. Pat was a registered nurse but has spent the past 35+ years that they have been in the Alton community raising their family of eight children and donating time to many organizations. They have both been willing, despite the significant demands of their work and family lives, to give back to their community and make meaningful contributions to the quality of life for those in the Alton area.

The Kesslers met while Pat was a student nurse and Bill was a college student working as an orderly in St. Louis. They were married in 1968 and spent their first years together overseas, with Bill serving in the U.S. Army after receiving his Masters Degree from St. Louis University. They came back to the St.

Louis area and settled in Alton, Illinois with a new and growing family.

Bill Kessler helped shape St. Anthony's Health Center into a facility that earned a ''Top 100 Hospital'' award and has branched out with a number of community outreach programs and initiatives. Bill has also found time to be involved in over 50 different professional and civic organizations through the years.

Pat Kessler, in addition to raising their eight children, with all the school and sports activities, homework, doctors visits, etc. that is required for such a large family, has also been very involved in a number of religious, educational and civic organizations.

Both Pat and Bill continue to look for ways to serve others. They have both recently completed a master's in Theological Studies Program at Quincy University and look to enhance their role within their church. Their continuing work to help others within their community is being recognized through the 2007 Circle of Care award. The Riverbend Head Start and Family Services has a mission, to ''enable children and families to discover positive solutions to life's challenges.'' Pat and Bill Kessler are living examples of this mission and are therefore very worthy recipients of this award.

Madam Speaker, I ask my colleagues to join me in an expression of appreciation to Pat and Bill Kessler for their dedicated service to their community and to wish them and their family the very best in the future.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

SPEECH OF

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 7, 2007

Mr. HOLDEN. Mr. Speaker, as a co-chair of the Congressional Correctional Officers Caucus, I rise today to honor correctional officers and employees of correctional facilities across our country.

May 6, 2007 kicked off the National Correctional Officers and Employees Week. Throughout the week, correctional officers will be here in Washington to speak with their elected officials, present awards to officers whose exceptional service merits special recognition, and honor the memory of fallen comrades who had made the ultimate sacrifice while on duty.

I am proud to sponsor House Resolution 264, along with my colleagues, the gentleman from New Jersey, Mr. LOBIONDO, the gentleman from Indiana, Mr. ELLSWORTH, and the gentleman from Virginia, Mr. DAVIS. H. Res. 264 is a bipartisan resolution designed to honor correctional officers and employees by acknowledging and supporting the goals and ideals of National Correctional Officers and Employees Week. The resolution directly honors correctional workers at all levels, local, State and Federal, including psychologists, chaplains, teachers, and kitchen staff.

Correctional facilities are a critical component of our public safety and criminal justice systems. We rely on correctional facilities to mend the behavior of certain members of our society. To do that, these facilities must rely on correctional officers and other personnel who are highly trained to work in a challenging and often dangerous environment. Before coming to Congress I had the honor of working alongside these men and women when I served as a probation officer and then Sheriff of Schuylkill County, which houses a Federal and state prison. The respect I gained for these public servants is indescribable and I thank them for the countless ways they benefit our communities.

Correctional officers and staff work each day to protect society from the threat of criminal activity. They risk their lives ensuring that we are safe. They maintain order in a dangerous place and ensure the basic needs of one of the most difficult groups in society are addressed. Mr. Speaker, it is not often that we get the opportunity to thank them for the good work they do and I commend my colleagues in the House or Representatives for passing House Resolution 264.

IN SPECIAL RECOGNITION OF ALESSANDRA C. BRAUN ON HER APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. GILLMOR. Madam Speaker, it is my great pleasure to pay special tribute to an outstanding young woman from Ohio's Fifth Congressional District. I am happy to announce that Alessandra C. Braun of Fremont, Ohio, has been offered an appointment to attend the United States Air Force Academy at Colorado Springs, Colorado.

Alessandra's offer of appointment poises her to attend the United States Air Force Academy this fall with the incoming cadet class of 2011. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Alessandra brings an enormous amount of leadership, service, and dedication to the incoming class of Air Force cadets. While attending St. Joseph Central Catholic High School in Fremont, Ohio, Alessandra attained a grade point average which placed her near the top of her class. While a gifted athlete, Alessandra has maintained the highest standards of excellence in her academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Alessandra has been a member of the National Honor Society, Honor Roll, Mock Trial and Science Club and has earned numerous awards and accolades as a scholar and an athlete.

Outside the classroom, Alessandra has distinguished herself as an excellent student-athlete. On the fields of competition, she has earned varsity letters in swimming and volleyball where she served as the co-captain of the varsity team. Alessandra's dedication and service to the community and her peers have proven her ability to excel among the leaders at the Air Force Academy. I have no doubt that Alessandra will take the lessons of her student leadership with her to the United States Air Force Academy.

Madam Speaker, I ask my colleagues to join me in congratulating Alessandra C. Braun on her appointment to the United States Air Force Academy at Colorado Springs. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Alessandra will do very well during her career at the United States Air Force Academy and I ask my colleagues to join me in wishing her well as she begins her service to the Nation.

HONORING EAGLE SCOUT AWARDEES

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mrs. CAPITO. Madam Speaker, I rise today to recognize four constituents in my district who achieved the distinguished rank of Eagle Scout. As members of the Pendleton County Boy Scouts and the brotherhood, Order of the Arrow, they demonstrate the high standards of Scouting and citizenship. I would like to take a moment to highlight their individual accomplishments:

Mathew Tyler Putz of Franklin, West Virginia achieved the rank of Eagle Scout on February 19, 2006. In addition to Scouting activities; Mathew plays football and track for Pendleton County High School and is a member of the Fellowship of Christian Athletes and the Future Farmers of America.

Jeremy Allen Hottinger was officially recognized as an Eagle Scout on August 2, 2006. He plays football for the Pendleton County Wildcats and is a member of the Upper Tract Volunteer Fire Department.

Julian Achetta Siapno became an Eagle Scout on August 22, 2006. He is currently serving our country in the United States Air Force.

For their final project, Matthew, Jeremy, and Julian worked together to improve a picnic shelter at a local Navy Base in Sugar Grove. Matthew built a wooden bridge across a ravine; while Jeremy made a gravel path at both ends of the bridge. Julian painted and improved the picnic area. They are members of Scout Troop 162 in Franklin, West Virginia.

Travis Allen Day, a member of Troop 499 in Circleville, joined the prestigious league of Eagle Scouts on December 28, 2006. He cleaned and remodeled the United States Forest Service public rifle range at Brandywine, West Virginia. Travis also plays baseball for the Petersburg High School Vikings baseball team.

I would like to congratulate these four young West Virginians for their adherence to the Boy Scouts of America. I want to extend to them my most sincere gratitude for preserving and improving their communities. I look forward to the future accomplishments of these promising young citizens.

PAYING TRIBUTE TO CARROLL JOHNSON

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. PORTER. Madam Speaker, I rise today to honor Mr. Carroll Johnston, who is being honored with the naming of a middle school in his honor by the Clark County School District.

Mr. Johnston has dedicated 37 years to the Clark County School District. After his first year of teaching, Mr. Johnston served in the U.S. Army for 2 years. Following his service to our country, he continued teaching at Western High School where he also coached and advised numerous student sports and activities. Mr. Johnston also served as a school counselor and dean of students. He then worked at various middle schools as Vice-Principle and two district high schools as Principle. Mr. Johnston then had the privilege of opening Green Valley High School, where he worked as principal until retirement.

Mr. Johnston currently serves on the Gaming Policy Committee for the State of Nevada and has been very active in several Boys and Girls Club functions over the years.

Madam Speaker, I am proud to honor Mr. Carroll Johnston and his distinguished career in service to Clark County School district and the State of Nevada. I wish him the best in his retirement and thank him for his dedicated service.

PERSONAL EXPLANATION

HON. KIRSTEN E. GILLIBRAND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mrs. GILLIBRAND. Madam Speaker, I was not present to vote on Wednesday, May 2, 2007, because I was in my upstate New York district, attending the funeral of State Trooper David Brinkerhoff, a State trooper killed in the line of duty.

Had I been present, I would have voted in the following way:

(1) Democratic Motion on Ordering the Previous Question on the Head Start Rule—''yea.''

(2) H. Res. 348—Rule providing for consideration of the Head Start bill—''yea.''

(3) H. Res. 350—Rule providing for consideration of the NIST bill—''yea.''

(4) Will the House, on reconsideration, pass the Iraq Supplemental, the objections of the President to the contrary notwithstanding?—''yea.''

(5) Price (GA) Amendment. Establishes an 8-state Block Grant demonstration of Head Start program which would eliminate Head Start program standards, weaken oversight and accountability, remove local control, and end Head Start as we know it.—''nay.''

(6) Sestak/Tierney/Courtney Amendment. Authorizes a loan forgiveness program for Head Start teachers to support better teacher quality in Head Start programs.—''yea.''

(7) Hirono Amendment. Improves the Early Head Start program by making needed improvements to the training and technical assistance system in Early Head Start.—''yea.''

(8) Mica Amendment. Moves the deadline up by 2 years for when Head Start teachers must have B.A.'s, without providing additional resources to ensure programs would not have to reduce other core services.—''nay.''

(9) Putnam Amendment. Removes the bill's improved accountability measures that include a system of program quality review by requiring all Head Start programs to be re-competed every 5 years regardless oftheir quality; draws funding away from the classroom for greater federal bureaucracy.—''nay.''

(10) Carnahan Amendment. Ensures programs can maintain quality services by allowing grantees to negotiate enrollment levels when appropriations are insufficient to cover COLA.—''yea.''

(11) Shuler/Ellsworth/Loebsack Amendment. Affirms eligibility of faith-based organizations as Head Start grantees and applauds role of community and faith based organizations in the Head Start program.—''yea.''

TRIBUTE TO DR. GRETCHEN SCHUETTE

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Ms. HOOLEY. Madam Speaker, I rise today to recognize and commend Dr. Gretchen Schuette for her distinguished service as the eighth president of Chemeketa Community College in Salem, Oregon. The name Chemeketa is a Kalapuya word meaning ''place of peace.'' Willamette Valley Native Americans would gather at a place they called Chemeketa, today known as Salem. There, they conducted their councils, renewed friendships, and shared old ideas and cultivated new ones.

Dr. Schuette embodies the spirit of Chemeketa and throughout her tenure has brought the institution to new levels of academic achievement and excellence in technical training, workforce development, and business support.

Dr. Schuette has overseen an enterprise that is one of the largest—public or private—in Oregon's Mid-Willamette Valley. Last year more than 57,000 students attended classes at the college that has campuses and centers in Salem, Woodburn, McMinnville, Dallas and the Santiam Canyon. After serving the college as one of its deans until 1992, Gretchen returned as president in July 2001, and she steered Chemeketa through difficult financial times as state resources fell and student populations continued their increase of 31 percent in the last 10 years.

Dr. Schuette has been an education leader at all levels in Oregon, having served as superintendent of the Gresham-Barlow School District and dean of distance education for Oregon State University in addition to her work for three Oregon community colleges.

She has earned degrees in English literature, botany and geological oceanography from Smith College, Central Michigan University and Oregon State University. She remains a dedicated Beaver fan.

In addition to receiving awards from the Oregon Diversity Institute and the American Association for Women in Community Colleges, Dr. Schuette has served on the Marion County Families and Children Commission, the Public Commission of the Oregon Legislature, and the Oregon State Board of Higher Education.

I hope Members will join me in extending my heartfelt gratitude to Dr. Schuette for her leadership of Chemeketa Community College and offer our well wishes as she retires to pursue her next great adventures.

HONORING FRANCIS MIKO FOR HIS SERVICE TO THE U.S. CONGRESS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. DREIER. Madam Speaker, today I would like to recognize and commend Francis Miko for more than three decades of service to the U.S. Congress at the Congressional Research Service. On April 27, 2007, Francis retired as a Specialist in International Relations with the Foreign Affairs, Defense, and Trade Division of CRS, bringing to an end a distinguished career as an expert on both foreign policy issues and our institution.

I have had the pleasure of working with Francis on a number of occasions, particularly in association with two different endeavors that I value among my greatest privileges as a Member of Congress. The first was the Frost-Solomon Task Force, which was established by the U.S. House of Representatives following the collapse of the Soviet Union in order to assist the legislatures in former Soviet-bloc countries. These institutions, which had previously been rubber stamps for a totalitarian regime, were suddenly thrust upon the democratic stage with the responsibility of representing the will of the people. Francis Miko led CRS' efforts on the Task Force, and proved to be a key asset and invaluable expert. In twelve post-Communist countries in Central and Eastern Europe, he coordinated the establishment of parliamentary libraries and research facilities, lent a tremendous amount of technical expertise in legislative functioning and helped to implement the use of information technology.

Nearly 10 years after the Frost-Solomon Task Force concluded its work, its mission was reborn with a global focus in the House Democracy Assistance Commission. Once again, this body has relied enormously on the experience and institutional knowledge that Francis has provided. Since its establishment in 2004, HDAC has embarked upon partnerships with 12 developing and re-emerging democracies around the globe. Francis Miko's work in developing these programs and providing the technical assistance necessary to strengthen these vital institutions has been indispensable.

We will miss his expertise, his dedication, his professionalism and his depth of institutional knowledge. I commend him for his commitment to public service and to the U.S. Congress, and I congratulate him on his well-earned and much-deserved retirement.

TRIBUTE TO KEVIN D. LYONS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. KILDEE. Madam Speaker, I rise today to pay tribute to Kevin D. Lyons the Illustrious Potentate of the Oman Temple Number 72 Ancient Egyptian Arabic Order Nobles of the Mystic Shrine Prince Hall Affiliated. The Temple membership is honoring him at the Potentate's Ball on May 19th in my hometown of Flint, Michigan.

A native of New Jersey, Kevin attended East Orange High School with an emphasis in College Preparatory Music. He graduated from Delaware State University with a major in Music Education and obtained his masters degree at Howard University in Performance and Jazz Studies.

Bringing his love of music to Michigan, Kevin works for the Beecher Community School District as the district-wide assistant director of bands. He also provides private lessons in drum and percussion instruments and is a professional drummer with the music group ''Deep Blue.'' He is a life member of the Kappa Kappa Psi National Honorary Band Fraternity and the Phi Mu Alpha Sinfonia Fraternity of America. He belongs to the Music Educators National Conference, National Association of Rudimental Drummers, the Percussive Art Society International Conference, the Omega Psi Phi Fraternity, and all Prince Hall Masonic Houses.

In addition to being a committed music teacher, Kevin also uses his talent for the worship of Our Lord Jesus Christ. He is a member of Vermont Christian Church and is the Chairman of the Media Ministry. He is the former president of the Christian Men's Fellowship, a former co-sponsor of the Youth Ushers, and a participant on the Finance Team.

Madam Speaker, I ask the House of Representatives to join me in applauding Kevin D. Lyons's devotion to his community, his students, his church, and to congratulate him for his service to the Oman Temple Number 72.

PERSONAL EXPLANATION

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. SCHIFF. Madam Speaker, I was in my Congressional District and unable to be present for votes on May 7, 2007. Had I been present, I would have voted ''aye'' on each of rollcalls Nos. 302, 303, and 304.

PAYING TRIBUTE TO BEVERLY COURNOYER

HON. JON C. PORTER–

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. PORTER. Madam Speaker, I rise today to honor Ms. Beverly Cournoyer, a Registered Nurse, who is a distinguished and devoted professional in her field.

Beverly earned her Bachelor of Science in Nursing from the University of Kansas and her Master's in Business Administration from University of Nevada Las Vegas. She has been a Registered Nurse for over 30 years. Beverly's career in public health care began with work on a Native American Indian Reservation, where she used her expertise to address the specific health care requirements of the population she served. When Beverly moved to Las Vegas, she committed herself to changing the way in which the Las Vegas community is served in regards to understanding the importance of public health care and home health care. Beverly developed and established a program to evaluate the long-term health care needs of extremely ill elderly patients in order to minimize their need for admissions to hospitals or to nursing homes. Her home health care program proved to be not only cost effective, but also dramatically improved the patients' quality of life.

Madam Speaker, I am proud to honor Beverly Cournoyer. Her passion and her love of nursing have improved the lives of countless of patients in Las Vegas. I thank her for her dedication and commitment to the community and wish her the best in her future endeavors.

PERSONAL EXPLANATION

HON. CATHY McMORRIS RODGERS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mrs. MCMORRIS RODGERS. Madam Speaker, I was absent from the House of Representatives last week due to the birth of my son. If I had been able to be present, I would have voted as follows:

H.R. 1868—Technology Innovation and Manufacturing Stimulation Act: rollcall No. 301—''yea''; rollcall No. 300—''yea.''

H.R. 1592—To provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, and for other purposes: rollcall No. 299—''nay''; rollcall No. 298—''yea''; rollcall No. 297—''nay''; rollcall No. 296—''nay.''

H.R. 1867—To authorize appropriations for fiscal years 2008, 2009, and 2010 for the National Science Foundation, and for other purposes: rollcall No. 295—''yea''; rollcall No. 294—''yea''; rollcall No. 293—''nay''; rollcall No. 292—''yea''; rollcall No. 291—''yea''; rollcall No. 290—''yea''; rollcall No. 289—''yea''; rollcall No. 288—''nay''; rollcall No. 287—''yea.''

H.R. 1429—To reauthorize the Head Start Act, to improve program quality, to expand access, and for other purposes: rollcall No. 285—''yea'';

Improving Head Start Act—On Motion to Recommit with Instructions:

Rollcall No. 284—''yea.''

Amendment No. 11: rollcall No. 283—''nay.''

Amendment No. 9: rollcall No. 282—''nay.''

Amendment No. 7: rollcall No. 281—''yea.''

Amendment No. 5: rollcall No. 280—''yea.''

Amendment No. 4: rollcall No. 279—''yea.''

Amendment No. 3: rollcall No. 278—''yea.''

Amendment No. 2: rollcall No. 277—''yea.''

H.R. 1591 Emergency Supplemental Appropriations: rollcall No. 276—''nay''; rollcall No. 275—''nay.''

TECHNOLOGY INNOVATION AND MANUFACTURING STIMULATION ACT OF 2007

SPEECH OF

HON. HARRY E. MITCHELL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 3, 2007

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1868) to authorize appropriations for the National Institute of Standards and Technology for fiscal years 2008, 2009, and 2010, and for other purposes:

Mr. MITCHELL. Madam Chairman, as we find ourselves falling farther and farther behind countries like China and India, which are graduating thousands more engineers and mathematicians than we are, America needs continued technological innovation to remain atop the global economy.

Yet industrial research and development that leads to breakthrough innovation is often expensive, and positive results are often a long time coming.

This can be especially problematic for small businesses. But America cannot afford not to help small business get the technology and training they need to compete in the world market.

I sponsored and supported H.R. 1868 in committee, largely because it includes two programs to help small businesses: the Manufacturing Extension Partnership and the Technology Innovation Program.

The Manufacturing Extension Partnership helps America's small manufacturers improve productivity and competitiveness through technology. The Technology Innovation Program too assists small business to pursue new technology development.

By supporting these programs we are supporting industry and ensuring that our economy continues to lead the world in technological innovation.

I urge my colleagues to vote for H.R. 1868.

HONORING MARK HOWE

HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. MARCHANT. Madam Speaker, I rise today to honor Mr. Mark Howe for receiving the 2007 Distinguished Friend Award from the Grapevine-Colleyville Education Foundation. This nonprofit foundation was created to help support the educational programs and activities for students and staff of the GCISD. Programs to assist students in skill and achievement development, acknowledge staff accomplishments and develop broader involvement within the community are all funded by the Grapevine-Colleyville Education Foundation.

Mr. Howe has served on numerous GCISD advisory committees and for more than 6 years he has been the director for the Education Foundation serving as the Foundation's President for 2½ years. Mr. and Mrs. Howe donated a $25,000 endowment to the foundation in honor of Mr. Howe's mother, Inez Cannon Howe, a retired teacher. The Howe's children have all graduated from the

Grapevine-Colleyville Independent School District.

Madam Speaker, I congratulate Mr. Mark Howe on being recognized with the 2007 Distinguished Friend Award and thank him for his service, support and guidance to the Grapevine-Colleyville ISD and Education Foundation. His numerous contributions to the GCISD have no doubt benefited many and it is an honor to represent him in the 24th District of Texas.

TRIBUTE TO COUNCILMAN JIM SPEHAR OF GRAND JUNCTION, COLORADO

HON. JOHN T. SALAZAR

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. SALAZAR. Madam Speaker, I stand today to pay tribute to Jim Spehar, an outstanding community leader from Grand Junction, Colorado. For eight years he has served the City of Grand Junction as a distinguished and valued member of the City Council. Prior to that, Mr. Spehar served as a Mesa County Commissioner from 1991 to 1995.

Leadership and candor have been a hallmark of his legacy and he has employed both of these qualities in his city and county roles, as well as having served as president of the Colorado Municipal League. In addition, he excelled as the western Colorado representative for the Colorado Water Congress Board of Directors. He currently serves as the director of the Central Rockies office of the Sonoran Institute, where he assists cities in assessing the impact of growth on their communities.

Jim Spehar has always been about the betterment of communities and his decisions have always reflected that thought. Popularity was not his concern—reaching for the good of the populace has been at the heart of his actions. Never one to back down from controversy, Jim has led by example through thoughtful decision making with integrity and fairness. His leadership will be difficult to emulate, and the bar he has set will take extraordinary efforts by those who follow him.

It is my pleasure to acknowledge his contributions to the city of Grand Junction and Mesa County, as well as the entirety of the State of Colorado.

HONORING BOB HUDEK

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Ms. BALDWIN. Madam Speaker, I rise today to pay tribute to the work of a remarkable activist from Wisconsin—Bob Hudek of Citizen Action of Wisconsin.

Bob Hudek is retiring from Citizen Action of Wisconsin after serving 12 years at the helm of an organization that has become a national model for how to engage people in progressive politics. During that time he displayed the strong leadership skills necessary to build Citizen Action of Wisconsin into an effective, statewide organization. It is known throughout the State for its fabulous issue work and serves as one of the best organizing models in Milwaukee.

Bob Hudek's passion for fairness and compassionate public policy spans a broad range of serious issues facing the people of Wisconsin. From education to health care to consumer protection, Bob's commitment to the community and promoting the principles of social justice is truly unbounded.

Bob Hudek served to continue Wisconsin's long history of progressive politics. He worked undauntedly to elect progressive legislators who shared his commitment to the Wisconsin ideal. His leadership furthered the progressive movement at the State and national levels and will have an impact that will reverberate for years to come.

With an unmatched generosity of spirit, Bob Hudek is able to bring together people and organizations with an array of viewpoints and help them to find common ground. This dedication to the issues he holds dear fostered the development of not only Citizen Action of Wisconsin but other organizations as well.

Thank you, Bob, for the years of service you have provided Citizen Action of Wisconsin, the progressive movement, and the people of Wisconsin.

DART CELEBRATES 50,000

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. BURGESS. Madam Speaker, I rise today to celebrate the 50,000th passenger to use the Commuter Express. This is a remarkable milestone for the city of Denton.

On Monday, May 7, 2007, the Denton County Transportation Authority transported its 50,000th Commuter Express passenger. The Commuter Express was launched in May of 2006 and works in conjunction with Dallas Area Rapid Transit (DART) to connect Denton, Lewisville, the DART North Carrollton Transit Center and the Dallas Central Business District.

The Denton County Transportation Authority (DCTA) was signed into law by the governor in 2001. On June 6, 2003, the North Central Texas Council of Governments presented the Regional Cooperation Award to the DCTA. The award is presented to local governments which promote cooperation to solve regional problems; which do not allow jurisdictional boundaries to the be barriers to solutions; and which demonstrate that joint projects can provide better use of resources as well as quality service.

I would like to congratulate the Denton County Transportation Authority and the entire community of Denton County. I am proud to celebrate this occasion with them, and I look forward to working with them in the future as we make our transportation system even more efficient. The people of the 26th Congressional District of Texas are already benefiting from this service, and I know I can expect great things in the future from DART.

ON THE CINCO DE MAYO HOLIDAY

HON. AL GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. AL GREEN of Texas. Madam Speaker, I am proud to honor the historic holiday of Cinco de Mayo.

On May 5, 1862, Mexican forces led by General Ignacio Zaragoza Seguin defeated French occupying forces in the Battle of Puebla, just 100 miles from Mexico City. General Seguin led his brave troops to a spirited victory in spite of the fact that his forces had neither the manpower nor the equipment of their opponents. The Battle of Puebla was instrumental in preserving the right of the Mexican people to self-determination, as it helped prevent the French military from taking long-term control of sovereign Mexican territory.

The heroic actions of General Seguin and his courageous forces not only helped preserve the Mexican government, they also helped preserve the unity of the United States. Had France been able to extend its control over Mexican territory at the Battle of Puebla, France likely would have had sufficient resources and manpower to aid the Confederate States of America in their war against the United States. The tremendous fight put up by the Mexican troops at the Battle of Puebla ensured that such a worrisome scenario did not come to pass and provided President Lincoln with crucial support as the Civil War descended into chaos.

There can certainly be no questioning of the bravery, spirit and patriotism of the thousands of Mexican troops who fought and, all too frequently, gave their lives at the Battle of Puebla. I believe that, as we recognize the efforts and sacrifices of those troops, Cinco de Mayo provides us with a perfect opportunity to recognize the sacrifice for sovereignty, the importance of courage and, above all, the universal yearning for freedom.

The Mexican forces who won the Battle of Puebla should not and will not ever be forgotten. I commend those forces for their spirit and courage and I wish all those celebrating the holiday across Mexico and the United States a happy Cinco de Mayo.

TEACHER APPRECIATION WEEK

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. ORTIZ. Madam Speaker, I rise today to pay tribute to America's teachers and commemorate them for the infinite number of ways they make us a better nation by inspiring our children to think beyond the bounds of home, school and community.

Today is National Teacher Day and this is Teacher Appreciation Week. National Teacher Day, sponsored by the National Education Association, is a time for honoring teachers and recognizing the lasting contributions they make to our lives and to our communities.

While this year's theme for National Teacher Day is "Great Teachers Make Great Public Schools," all of us must also remember that great teachers make a better tomorrow for all

of us. Teacher Appreciation Week is sponsored by the National PTA and is a time to strengthen support and respect for teachers.

One of the top priorities of the fiscally responsible budget recently passed by the House of Representatives was to put our children and families first by increasing investments in education and expanding access to a high-quality education for all of America's children.

Unfortunately, the President's fiscal year 2008 budget cut education funding by $1.5 billion below this year's level—at a time of record school enrollments and the challenging academic requirements of No Child Left Behind.

In sharp contrast, the budget passed by the House reverses the administration's policy of under-investing in education for our children. It rejects the President's proposal to cut funding for the Department of Education by $1.5 billion below the 2007 enacted level and eliminate 44 different programs, instead providing for new investments in vital programs such as Head Start, special education (IDEA), Title I and other programs under the No Child Left Behind Act.

Overall, the House budget provides for investments of nearly $8 billion more for 2008 and 11 percent more over the next 5 years for education and training than the President deemed necessary.

To see the future, we must stand on the shoulders of giants, and giants in our local communities are our school teachers who—despite the many challenges they face in classrooms each day—get up every day to teach and inspire our children.

On this day, let us remember why the House—in our recent budget—invested in our schools to ensure that our teachers have the tools and resources they need. Only when teachers have all they need to teach, can they give our children the high-quality education necessary to succeed in this increasingly competitive global economy.

INTRODUCTION OF THE DIABETES TREATMENT AND PREVENTION ACT OF 2007

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. ENGEL. Madam Speaker, I rise to introduce the Diabetes Treatment and Prevention Act of 2007 with my good friend, VITO FOSSELLA.

There is no question that diabetes is a mounting challenge for our nation's health care system. According to the Centers for Disease Control and Prevention (CDC), the number of Americans with diagnosed diabetes has doubled over the past 15 years. Over 20 million Americans are currently living with this disease, but 6 million of them have not yet been diagnosed. Another 54 million are classified as ''pre-diabetic,'' with a high-risk of developing this condition. The statistics are simply staggering.

Beyond being a public health threat, Diabetes accounts for over $92 billion in direct medical costs every year, and these numbers are only likely to increase. The Diabetes Treatment and Prevention Act would increase our ability to prevent new cases of diabetes and improve disease management.

Our bill would codify the Centers for Disease Control and Prevention's Division of Diabetes Translation and set up demonstration grants to allow for further research on how to translate effective diet and exercise interventions for us in the general populations. It would also increase the ability of state and local health departments to engage in surveillance and education activities, and set up demonstration projects to examine the best ways to treat diabetes when it occurs in conjunction with other chronic health conditions.

I am proud that we have taken a multi-pronged approach in this legislation to attack our mounting diabetes epidemic on two fronts; it will promote research at the Centers for Disease Control so that we may better understand this disease while also funding innovative treatment and education efforts at the state and local level.

This legislation, combined with the Engel/Fossella Gestational Diabetes (GEDI) Act (H.R. 1544), which combats growing rates of Diabetes in pregnant women across the nation will go a long way towards managing and preventing the onset of Diabetes.

I urge my colleagues to co-sponsor this legislation today.

TRIBUTE TO PARTICIPANTS IN 2007 WE THE PEOPLE NATIONAL FINALS MARCH 8, 2007

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. MOORE of Kansas. Madam Speaker, from April 28–30, 2007, more than 1,200 students from across the country visited Washington, D.C., to take part in the national finals of We the People: The Citizen and the Constitution, the most extensive educational program in the country developed to educate young people about the U.S. Constitution and Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that a class from St. Thomas Aquinas High School of Overland Park, Kansas won the Unit Three: Constitution Shapes Institutions Award at this prestigious national event. Six unit awards were presented to the schools achieving the highest scores, based on the first two days of competition in each of the six units of the We the People: The Citizen and the Constitution text. These outstanding students, through their knowledge of the U.S. Constitution, won their statewide competition and earned the chance to come to our Nation's Capital and compete at the national level.

While in Washington, the students participated in a three-day academic competition that simulates a congressional hearing in which they ''testify'' before a panel of judges. Students demonstrate their knowledge and understanding of constitutional principles as they evaluate, take, and defend positions on relevant historical and contemporary issues. It is important to note that independent studies of the We the People program indicate that alumni of this nationally acclaimed program display a greater political tolerance and commitment to the principles and values of the Constitution and Bill of Rights than do students using traditional textbooks and approaches. With various reports and surveys that reveal the lack of civic knowledge and engagement, I am pleased to support such an outstanding program that continues to produce an enlightened and responsible citizenry.

Madam Speaker, the names of these outstanding students from St. Thomas Aquinas High School are:

Elizabeth Berra, Andrew Billam, Hannah Cisper, John Clark, Greg Correia, Lindsey Drilling, John Drouhard, Shanna Gast, Whitney Gremillion, Kyle Hauesser, Brigid Halling, Michael Hare, Thomas Hartung, Jordan Herbert, Kaitlyn Hirt, Kelly Jefferson, Ryan Johnson, Andrea Lickteig, Joseph McGroder, Mason Miller, Helen Mubarak, Andrew Peck, Derek Peterson, Erin Peterson, Andrew Robison, Christopher Sevedge, Dylan Slaven, and Melissa Smith.

I also wish to commend the teacher of the class, Spencer Clark, who is responsible for preparing these young constitutional experts for the national finals. Also worthy of special recognition is Lynn Stanley, the State coordinator, and Ken Thomas, the district coordinator, who are among those responsible for implementing the We the People program in my State.

I congratulate these students on their exceptional achievement at the We the People national finals.

CELEBRATING THE FIFTH ANNIVERSARY OF LA LUZ

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. KIRK. Madam Speaker, I rise to honor La Luz, a weekly bilingual newspaper that serves the English- and Spanish-speaking communities of Lake County, Illinois. This Wednesday, May 9, La Luz will celebrate its fifth anniversary.

The newspaper and its editor, Mr. Ryan Pagelow, provide an invaluable public service to the Latino community of northern Illinois. I have had the pleasure of working with Mr. Pagelow and La Luz since the newspaper's inception on a variety of issues, and I know firsthand the professionalism that the staff displays on a daily basis.

One issue in particular that deserves special recognition is La Luz's coverage of my office's Abuelitas program. Through this initiative, we work with local community members and our embassy in Mexico to bring grandparents of 10th Congressional District residents to the United States. Many of these families have not seen each other for more than 20 years. The Mexican visitors spend 1 month with their loved ones, reconnecting and catching up on years of missed memories.

I credit La Luz with spreading the word about this heart-warming program. By publicizing the issue, we have expanded the Abuelitas program to multiple visits each year. In groups of 20 to 30 people at a time, we are bringing families together.

It is focusing on this and many other issues of importance to Lake County that makes La Luz an indispensable part of the 10th Congressional District. I ask that my colleagues

join me in celebrating their fifth anniversary, in hopes of many more years of continued success.

NATIONAL CHILDREN'S MENTAL HEALTH AWARENESS DAY

HON. JOHN ABNEY CULBERSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. CULBERSON. Madam Speaker, I rise in support of National Children's Mental Health Awareness Day. According to the U.S. Surgeon General's Report on Mental Health, approximately one in five of the children and adolescents in this country will experience the signs and symptoms of a mental health problem this year.

Today, local children's mental health initiatives across the nation will celebrate the strides they have made with children who are experiencing serious emotional and behavioral problems. I congratulate the Harris County Systems of Hope in Houston, Texas, which has been successful in using a family-driven approach to help emotionally disturbed youth become productive, responsible citizens and thrive in their communities, rather than getting caught in the juvenile justice system.

I urge my colleagues to join in celebrating National Children's Mental Health Awareness Day and supporting their local children's mental health initiatives.

CONGRATULATING ROBERT WAPLES

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. TANCREDO. Madam Speaker, dedicated and well-prepared first responders are one of the greatest assets to a community during an emergency. Today, I am honored to recognize Mr. Robert Waples of Rural/Metro Ambulance in Aurora, Colorado. Mr. Waples has been named as a Star of Life Award recipient by the American Ambulance Association for his exceptional service and commitment to the Colorado community.

Mr. Waples has been a member of EMS for the past 30 years, over which time he has sought to improve the standard of medical transportation for the Aurora region. His hard work and efforts are shining examples of leadership and vision, helping the ambulance community better respond to the public.

The Star of Life Award is given to outstanding individuals nationwide within the ambulance service field who have shown above-and-beyond dedication to their profession and society. Recipients are medics, dispatchers, and EMS personnel who have promoted the success of pre-hospital care and the effectiveness of medical transportation. This May, the American Ambulance Association will honor these men and women in Washington D.C., recognizing their heroic, life-saving achievements and contributions to their local communities.

Madam Speaker, please join me in congratulating Mr. Waples for this honor. May he continue to be an inspiration to his organization as well as to the medical transportation community as a whole.

OUTSTANDING HIGH SCHOOL SENIORS FIRST CONGRESSIONAL DISTRICT OF NEW MEXICO

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mrs. WILSON of New Mexico. Madam Speaker, the following graduating high school students from the First Congressional District of New Mexico have been awarded the Congressional Certificate of Merit. These students have excelled during their academic careers and proven themselves to be exceptional students and leaders with their scholastic achievements, community service, and participation in school and civic activities. It is my pleasure to be able to recognize these outstanding students for their accomplishments. Their parents, their teachers, their classmates, the people of New Mexico and I are proud of them.

CERTIFICATE OF MERIT AWARD WINNERS 2007

Daniel Lerma, Robert F. Kennedy Charter High School; Jennifer Roberts, Mountainair High School; Jennifer Johnston, Del Norte High School; James H. Caughren, Sandia Preparatory School; Arthur Chacon, Manzano High School; Siobhan Degnan, Southwest Secondary Learning Center; Abigail Martinez, South Valley Academy; Molly Nelson, Albuquerque Academy; Ashley Marie Maturino, Evangel Christian Academy; Ruby Trujillo, Rio Grande High School; Nicholas A. Maestas, Highland High School; David Aaron Parks, Cibola High School; Kelsey Byrne, Moriarty High School; Mathew Garcia, West Mesa High School; Eric Layer, Sandia High School; and Austin Baker, Temple Baptist Academy.

Angelica Aguilar, Los Puentes Charter School; Amanda Fernandez May, St. Pius X High School; Ashley Hope Darnell, Bernalillo High School; Sara Beth Dunham, Victory Christian School; Geri Lucia Lia, Menaul School; Corina Franco, New Futures School; Kelly Walker, Bosque School; Kelly D. Clingenpeel, Sierra Alternative High School; Audrey Wofford, Hope Christian School; Desiree J. Sandoval, Cesar Chavez Community School; Katie Gilliam, La Cueva High School; James C. Bohnhoff, El Dorado High School; Elizabeth McConaghy, Los Lunas High School; Charles Andres Padilla, East Mountain High School; and Stacy Daniels, Valley High School.

TRIBUTE TO VAL MCCOMIE, FORMER AMBASSADOR OF BARBADOS AND FORMER ASSISTANT SECRETARY GENERAL OF THE ORGANISATION OF AMERICAN STATES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. RANGEL. Madam Speaker, I rise today to pay tribute to Ambassador Val McComie, of Barbados, a consummate professional and diplomat who established a high bar for his nation in the achievements of his illustrious career. I place in the CONGRESSIONAL RECORD a tribute by Ambassador Michael King to Val McComie.

Today, I had the honor and privilege to speak at the funeral service for Ambassador Val McComie. My heart was warmed to see the outpouring of love by his family members and friends who attended the service to pay their final respects to a great man. It was obvious that he touched the lives of many with his wisdom, knowledge, and commitment to public service. He will be missed by many, but he leaves a legacy that will continue to inspire all those who knew him.

I was very encouraged by the tribute to Ambassador Val McComie by Ambassador Michael King, which was read at the funeral service today. I will reflect on the tribute when I think of my friend and his contribution to my life, democracy, and the people of the Caribbean.

TRIBUTE TO THE HONOURABLE VALERIE T. MCCOMIE, C.H.B.

The Honourable Valerie Theodore McComie, C.H.B. was a quintessential Caribbean man. His whole life was spent teaching his students, his colleagues and interlocutors—and anybody with a keen ear—about the dynamics of Caribbean politics and society.

His strong love and appreciation for the Inter-American System played a major role in convincing the Government of Barbados to join the Organisation of American States in 1967 and to service the Permanent Mission with quality staff with the necessary professional and linguistic skills to interact effectively with their colleagues from the rest of the Hemisphere.

Val mentored anyone who was willing to listen to his wise advice and to benefit from his institutional memory. His knowledge of Latin America and the key decision-makers was incredible and one could only marvel at his ability to keep abreast of the rapid changes of government during a period when the word ''democracy'' was not often part of the lexicon of the Region.

He was a stickler for detail and thorough preparation and he always felt that all diplomats should not take the floor to speak unless they had full access to facts and knowledge about the subject. He demanded and expected a certain level of excellence in the area of diplomatic representation.

As Assistant Secretary General from 1980–1990 Val was a major source of advice to several CARICOM leaders on matters related to the Inter-American System. He relished the role like a kid in a candy store. Sometimes his frankness was not appreciated but he never wavered from his strong views.

I had the privilege to be in La Paz in October 1979 when he created history by winning a very close election to the post of Assistant Secretary General. It was not an easy task for him and the delegation of Barbados but there was no doubt that the esteem with which he was held in the Hemisphere was the primary reason for his success. His re-election by acclamation in Brazilia in 1984 bought similar joy to us.

Val loved sports, especially cricket and football. He always reminded me that he was close to selection for the Barbados Cricket Team. I can also recall the joy he felt when he returned from the 1982 Football World Cup in Spain and the attention he paid to subsequent events.

He followed in death by 100 days, his good friend, the Honourable Oliver Jackman, C.H.B., who also had the great honour of serving as Ambassador of Barbados to the

United States of America and the Organization of American States. They were among the first persons selected to represent Barbados immediately following the granting of Independence in November 1966. All of you will agree that Barbados, the Caribbean and the Inter-American System are better off from their leadership and commitment to improving the quality of life and the promotion of justice for all citizens of the Hemisphere.

On behalf of the Government and people of Barbados I wish to express our sincerest expression of sympathy to his wife, Elia and daughter, Gail and the rest of the family.

I wish to end by reading the first verse of the poem ''Los Heraldos Negros'' (Black Messengers) by the great Peruvian, Ceasar Vallejo:

''Hay golpes en la vida, tan fuertes . . . Yo no sé!
Golpes como del odio de Dios; como si ante ellos, la resaca de todo lo sufrido se empozaro en el alma . . . Yo no sé!

In English:

There are in life such hard blows . . . I don't know!
Blows seemingly from God's wrath; as if before them
The undertow of all our sufferings is embedded in our souls . . .
I don't know!

May he rest in peace!

TECHNOLOGY INNOVATION AND MANUFACTURING STIMULATION ACT OF 2007

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 3, 2007

The House in Committee of the Whole House on the State of the Union had under consideration of the bill (H.R. 1868) to authorize appropriations for the National Institute of Standards and Technology for fiscal years 2008, 2009, and 2010, and for other purposes:

Ms. MCCOLLUM of Minnesota. Madam Chairman, I rise today in support of H.R. 1868, the Technology Innovation and Manufacturing Stimulation Act, which will reauthorize the National Institute of Standards and Technology, NIST, for the next 3 years.

H.R. 1868 is the first reauthorization of NIST since 1991. Authorizing $2.5 billion over 3 years, this bill would increase funding for the Manufacturing Extension Partnership Program, which keeps jobs in the United States; creates the Technology Innovation Program, which allows universities partnering with businesses to apply for funding through NIST and speed research in high-risk, high-reward technologies in areas of critical national needs; continue funding NIST on a 10-year path to doubling; and provide necessary construction funding for laboratory upgrades.

Founded in 1901 under the National Bureau of Standards Act, NIST has been in the forefront of innovative technology in areas of public safety, industrial competitiveness and economic growth through standards and measurements. Its mission is to promote U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve our quality of life.

NIST works tirelessly with industry, universities, and other government agencies to address technological innovations that will fundamentally change products and services available in the 21st century. NIST is renowned for working on cutting edge technology. Innovations from this research will ultimately impact our quality of life.

Also supported in this reauthorization would be the Malcolm Baldrige National Quality Award, founded by NIST and given by the President of the United States. The Malcolm Baldrige National Quality Award recognizes businesses for their standard of performance excellence in their business practices. Minnesota has been the recipient of three Malcolm Baldrige National Quality Awards in the past 10 years. Most recently in 2005, Sunny Fresh Foods, Incorporated won its second Malcolm Baldrige National Quality Award for its quality and leadership that continually focuses people and business processes on improving product and services to its customers and stakeholders.

NIST sits at the nexus of science and industry. NIST's unique role is to advance measurements and standards so that the next innovation can be realized and commercialized. In today's global economy, the ability of the United States to remain competitive relies increasingly on our ability to develop and commercialize innovative technologies. I urge my colleagues to support H.R. 1868 in order for National Institute of Standards and Technology to remain as the premier institute for measurements and standards in the world.

RECOGNIZING THE NUCLEAR REGULATORY COMMISSION AS THE ''2007 BEST PLACE TO WORK IN THE FEDERAL GOVERNMENT'' AND AS THE ''BEST DIVERSITY COMPANY

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. VAN HOLLEN. Madam Speaker, I rise today to recognize recent achievements of the Nuclear Regulatory Commission (NRC). The NRC recently captured the top ranking among large Federal agencies in the ''2007 Best Places To Work in the Federal Government'' rankings announced Thursday, April 19, 2007 by the Partnership for Public Service and the American University Institute for the Study of Public Policy Implementation.

This recognition is a great honor for all of the men and women at the NRC. Agency employees are clearly committed to the mission of licensing and regulating the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, promoting the common defense and security, and protecting the environment. As evidenced by this award, the NRC staff has the dedication and commitment that make the NRC a great place to work.

The NRC was also recently recognized as a ''Best Diversity Company'' by the readers of Diversity/Careers in Engineering and Information Technology. Reader survey results highlighted the NRC for the agency's strong support of women and minorities, attention to work/life balance, and commitment to supplier diversity.

These two awards highlight what we in the National Capital Region have known for a long time—the NRC is a top-notch employer. With its headquarters offices located in my district in Rockville, Maryland, I commend the NRC for its recent achievements and I applaud the agency's dedication to its employees while enabling the Nation to safely use radioactive materials for beneficial civilian purposes and ensuring that people and the environment are protected.

HONORING HARRY BELAFONTE FOR A LIFETIME OF HUMAN RIGHTS ACTIVISM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. RANGEL. Madam Speaker, today I rise to praise Harry Belafonte, legendary musician and world renowned entertainer, for a lifetime of activism for equality and human rights for people across the globe. His passion, sincerity, and empathy for those who are overlooked and underprivileged have inspired many to act and have brought about significant change in our society.

Harry Belafonte's courage to speak out against the war in Iraq, to support the victims of Hurricane Katrina, and to fight for an end of the AIDS epidemic is a mirror to his integrity and undying commitment to improving society Amy Goodman reflects on his endless service in her article ''Harry Belafonte, The Lion at 80'' published by Carib News. Harry Belafonte is a true humanitarian for his lifetime of endless work for all.

[From the Carib News, Apr. 3, 2007]

HARRY BELAFONTE, THE LION AT 80

(By Amy Goodman)

Harry Belafonte just turned 80. The ''King of Calypso'' was the first person to have a million-selling album and the first African-American to win an Emmy, and is perhaps the most recognizable entertainer in the world. On Saturday, March 3, I attended his birthday party at a restaurant adjoining the New York Public Library.

The setting seemed very appropriate, as Belafonte himself is a living library of not only the civil rights movement but of liberation struggles around the world. In 1944, just before shipping out as a U.S. Navy sailor in World War II, he was banned from the Copacabana nightclub in New York. Ten years later, he headlined there. He knew Rosa Parks, Paul Robeson and Eleanor Roosevelt. He corresponded with the imprisoned Nelson Mandela when the U.S. government considered the South African leader a terrorist.

Belafonte was a close confidant of the Rev. Martin Luther King Jr. He spoke daily with King. The FBI was listening. Taylor Branch, the award-winning author of a trilogy of books on King, was at Harry's party. Belafonte describes how Bunch's final book in the trilogy, ''At Canaan's Edge,'' uncovered extensive FBI wiretaps of their conversations.

For fighting for the right to vote and to end segregation, Belafonte says: ''We were looked upon as people who were insurgents, that we were doing things to betray our nation and the tranquility of our citizens. That engaged the FBI. Everything we talked about was tapped.'' The FBI even went to his house when he was away and frightened his

wife and children. He tells me: ''The essential difference between then and now is that no previous regime tried to subvert the Constitution. They may have done illegal acts. They may have gone outside the law to do these, but they did them clandestinely. No one stepped to the table as arrogantly as George W. Bush and his friends have done and said, 'We legally want to suspend the rights of citizens, the right to surveil, the right to read your mail, the right to arrest you without charge.''' His criticism is not limited to President Bush (whom he called, while visiting President Hugo Chavez in Venezuela, ''the greatest terrorist in the world'').

President Bill Clinton crashed Belafonte's birthday party, which was taking place as the Democratic presidential contenders battled for the African-American vote. Sens. HILLARY CLINTON and BARACK OBAMA were in Selma, Ala., for the 42nd anniversary of the famous voting rights march from Selma to Montgomery. [Bill Clinton went to Selma to join his wife for the commemoration.]

In his remarks, Clinton toasted Harry: ''I was inspired by your politics more than you can ever know. Every time I ever saw you after I became president, I thought that my conscience was being graded, and I was getting less than an A. And every president should feel that way about somebody as good as you.''

I asked Harry how he felt about Clinton showing up. ''I'm very flattered, OK, but I'm mindful of all the things that need to be done.'' In his succinct reply, a lifetime of struggle remembered, a keen edged skepticism, ''He knows what I think. He said I didn't give him an A.'' I then asked him about both the Clintons and OBAMA going to Selma.

''We are hearing platitudes, not platforms. What do they plan to do for people of color, Mexicans, for people who are imprisoned, black youth? What are their plans for the Katrinas of America?''

In 1965, Belafonte was on the original Selma march with Dr. King before they reached Montgomery. Jude's Catholic Church offered its grounds to the thousands of marchers. Belafonte called in artists from around the country. Tony Bennett came, as did Pete Seeger (both were at Harris birthday party), Sammy Davis Jr., Mike Nichols, the conductor Leonard Bernstein, Odetta and Joan Baez. In the rain, they built their stage in the mud with donated caskets from local mortuaries.

The stakes were incredibly high. People were shot and killed, people were beaten. Viola Liuzzo, a white Detroit homemaker, was fatally shot by Klansmen while driving marchers back to Selma. Weeks before, police shot a man named Jimmie Lee Jackson, who later died. Despite all that, Belafonte says that the stakes are higher today.

Like the two stone lions that guard the New York City Public Library, Harry Belafonte-fierce, fearless, and focused—protects the soul of struggle. Even as he enters his ninth decade, this lion does not sleep tonight.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 2007

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 2, 2007

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1867) to authorize appropriations for fiscal years 2008, 2009, and 2010 for the National Science Foundation, and for other purposes:

Ms. MCCOLLUM of Minnesota. Mr. Chairman, I rise today in support of H.R. 1867, the National Science Foundation Authorization Act, which will reauthorize the National Science Foundation, NSF, for the next 3 years.

H.R. 1867 will continue NSF funding on a 10-year doubling path, establish pilot programs to help improve funding rates for our young researchers, and encourage NSF to foster a relationship between academia and industry in order to improve the competitiveness of research conducted in the United States.

The National Science Foundation, created in the 1950s supports critical science and engineering research conducted at over 2,000 institutions across the Nation, which involves roughly 200,000 researchers, teachers, and students. Despite its relatively small size, NSF has an important impact on scientific and engineering knowledge and academic capacity. While NSF represents only 4 percent of the total Federal budget for research and development, it accounts for 20 percent of all basic research conducted at colleges and universities, and 50 percent of non-life science basic research at academic institutions. In fact, NSF is the only Federal agency that supports all fields of basic science and engineering research.

NSF invests in the best ideas of its scientists, engineers and educators working at the frontiers of knowledge, and across all fields of research and education. Their mission is designed to maintain and strengthen the vitality of the United States science and engineering enterprise.

In addition, NSF strives to improve its science and education collaboration at early stages in the education cycle. Science and math at the K though 12 level is becoming more interactive and engaging for our students in order to stimulate their future interest in the field of science, technology, engineering and mathematics, STEM. H.R. 1867 would increase funding for certain NSF education programs including authorizing the ''10,000 Teachers, 10 Million Minds'' Math and Science Scholarship Act, H.R. 362. Our youth represents America's future scientists. Stimulating their interest at a young age promises the continuation and success of our future biological, physical, social and engineering scientists.

In the state of Minnesota, the National Science Foundation supports research conducted at the University of Minnesota, the Mayo Clinic and many other academic institutions. The research conducted at these institutions has been paramount to the field of science and technology. Minnesota is proud to employ scientists, teachers, technicians and staff that address such cutting edge technology.

The research supported by the National Science Foundation touches the lives of every American; from gaining a better understanding of Alzheimer Disease to Global Climate Change and is critical to increasing our global competitiveness. It is with this commitment to the continued economic, social, and cultural well being of my district, and of the Nation, that I rise today in support of funding for the National Science Foundation for the next 3 years.

THE INNOVATION AGENDA, H.R. 362, H.R. 363, H.R. 1867, H.R. 1868

HON. CAROL SHEA-PORTER

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Ms. SHEA-PORTER. Madam Speaker, I am pleased to have voted in support of several important and necessary bills on science and technology that will safeguard our nation's prosperity and security in the 21st century. As global competition continues to grow, we must meet these competitiveness challenges by encouraging science and technology research and education, as well as investing in business and industry applications. We need to position ourselves to best meet the demands of the 21st-century world, which will be driven by a knowledge economy.

Currently, less than one third of 4th and 8th Grade students perform at a ''proficient'' level in mathematics, and 12th Grade students perform below the international average of 21 other countries in math and science knowledge. Only 15 percent of our undergraduates major in science or engineering, while for China, our major economic competitor, that figure is 50 percent, an unhealthy balance with a potential major impact on outsourcing. That is no doubt why Intel Corporation predicted that it would shift another third of its business operations overseas (leaving only one third in the U.S.), as the company follows the most highly trained and educated work force. The decline in math and science performance has led Bill Gates, chairman of Microsoft Corporation, to remark that he is ''terrified for our workforce of tomorrow.''

The 10,000 Teachers, 10 Million Minds Science and Math Scholarship Act (H.R. 362) implements the National Academies of Science report, Rising above the Gathering Storm, which recommended increasing ''America's talent pool by vastly improving K–12 science and mathematics education.'' The bill invests in 10,000 new math and science teachers by increasing scholarships available for them, and will strengthen the skills of current teachers by offering them more training and educational opportunities. This bill puts teachers and children at the center of our renewal strategy.

It worries me that, since 1976, our investment in research has slipped by 45 percent (as a percentage of the gross domestic product). To counteract this decline, the National Academies of Science report recommended an increased and sustained commitment to long-term, basic research.

This commitment is further implemented in the Sowing the Seeds through Science and Engineering Research Act (H.R. 363). This bill provides grants for research scientists early in their careers, when researchers do their most innovative and ground-breaking work, and funds a much-needed national coordination effort for research infrastructure needs. The National Science Foundation Authorization Act of 2007 (H.R. 1867) also addresses this problem by doubling National Science Foundation funding over the next ten years, increasing our commitment to math, engineering, and science research and education.

These bills will put an end to our neglect of science and math research and education and enable us to keep our competitive and innovative edge, which has been eroding in recent

years. Our future prosperity depends on reversing this trend. Studies have shown that 85 percent of growth in U.S. income before 1950 was due to technological innovation and that in the last 60 years, technological innovation has been responsible for half of U.S. economic growth. But in the fall of 2005, scientists polled by Rep. FRANK WOLF said that we were losing ground in science and innovation, with 60 percent saying that we were ''in decline'' and 40 percent that we were ''in a stall.'' Decline and stall will not ensure job growth and economic prosperity in the coming century.

But we must also apply the results of these research and education initiatives to our business and manufacturing industry, and the Technology Innovation and Manufacturing Stimulation Act (H. R. 1868) begins this process. The bill reauthorizes the National Institutes of Standards and Technology (NIST), which is responsible for many breakthrough technologies of the last century, setting us on course to double its funding over 10 years. It also creates the Technology Innovation Program to allocate funds to small high-tech companies and enable them to continue their research and development until they can bring their products to the marketplace.

Our investment in science and technology research and education can reverse the bleeding away of our manufacturing base, which creates national, security as well as economic risks. In recent years almost half of our new jobs have been created by lowwage employers, which lower our standard of living. If we haven't yet noticed, others have, and Canada and Australia won a Pew Research Center international poll in 2005 about the best country to go to lead a good life. Superiority in science and technology and a positive environment for new or renewed industries will result in good, high-paying jobs, and allow us to overcome the competitive advantage of countries, like China, with low-wage structures.

There is every reason to expect that we can, given sufficient investment, create new industries with good jobs to respond to our need for clean energy and energy independence, among many possibilities. I am proud to have voted to address this crisis and invest in our future prosperity, industrial strength, and national security.

HONORING THE CAREER OF MTSU'S TENNIS COACH DALE SHORT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. GORDON of Tennessee. Madam Speaker, I rise today to congratulate Dale Short, Middle Tennessee State University's tennis coach, upon the occasion of his retirement after 20 years with the university.

During Dale's time as head coach of MTSU's tennis program, the teams moved fom competing in the Ohio Valley Conference to the Sun Belt Conference. Coach Short has coached the Blue Raiders to 383 victories, 11 regular season championships and nine conference tournament titles. Dale and his teams have also participated in eight of the last 12 NCAA Team Championships, and several athletes have made the NCAA Singles or Doubles Championships in 10 of the last 13 seasons.

Before coaching tennis, Dale racked up an impressive record as a player. He was named OVC Player of the Year twice as a student at MTSU and All-State performer as an Oakland High School student.

Director of Athletics Chris Massaro calls Dale ''Mr. Tennis,'' and says while Dale will be missed by MTSU, he will always be a Blue Raider. In his retirement, Dale says he and his wife, Ava, are looking forward to enjoying Blue Raider athletics—especially football, basketball and baseball, the sports they couldn't watch as fans due to his busy coaching schedule.

Coach Short, I wish you the best in your retirement. As an MTSU alumnus, I'll be watching the Blue Raiders right along with you.

COMMENDING STUDENTS FROM HAMILTON SOUTHEASTERN HIGH SCHOOL

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. BURTON of Indiana. Madam. Speaker, I rise today to congratulate a group of twenty outstanding Hoosier students, Ben Anderson, Lauren Bowser, Austin Brady, Kristin Buckingham, Jesse Hawkins, Kirk Higgins, Chris Hill, Tiernan Kane, Nika Kim, Ryan Landry, Julie Lux, Rachel Morris, Jeff Neufer, David Ostendorf, Ryan Puckett, Taylor Schueth, Matt Stein, Amy Thomas, Aleks Vitolins, and Edward Wolenty and their teacher Jill Baisinger.

These students participated in the We the People: The Citizen and the Constitution competition here in Washington, DC April 28–30, 2007. After winning both the state and district competitions the group competed against 50 other schools and achieved honorable mention and placement in the top ten. These students competed against a class from every state in the country and demonstrated a remarkable understanding of the fundamental ideals and values of American constitutional government.

We the People: The Citizen and the Constitution is an annual competition in Washington, DC in which students participate in a mock-congressional hearing. Every team has six units of three or more students and each is responsible for one particular area of Congressional expertise. The students arrive prepared to give speeches in response to formal prompts and then testify as constitutional experts before a panel of judges. More than 1,200 students participate each year in the national competition.

The program is administered by the Center for Civic Education and is the most extensive of its kind, reaching more than 28 million students in elementary, middle and high schools. The Students from Hamilton Southeastern High School have made their fellow Hoosiers very proud and I wish them all the best in their future pursuits.

100TH ANNIVERSARY OF MEMORIAL HERMANN

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. BRADY of Texas. Madam Speaker, I rise today to bring the House of Representatives' attention to the many accomplishments of the Memorial Hermann Healthcare System. This year marks the system's 100th year of providing the most advanced healthcare to the people of Texas. Though the Memorial Hermann name has only been in use since 1997, the hospitals that form this great healthcare system have been a cornerstone of the Houston medical community for over a century.

Their story began in 1907 when Rev. Dennis Pevoto led an effort to purchase an 18-bed sanitarium in downtown Houston, and converted it into what would eventually become known as the Memorial Hospital System. Under its new leadership, the hospital would treat all patients, regardless of religion, race or their ability to pay—a mission that has not changed in the hospital's 100 year history.

Seven years later, prominent Houstonian George H. Hermann bequeathed nearly $2.6 million for the construction of a hospital dedicated to treating the poor and sick of Houston. By 1925 the Hermann Hospital was accepting patients and opening a school of nursing. Eventually, the two hospitals would merge to form what is now known as Memorial Hermann.

Throughout its first 100 years, the hospitals that now form the Memorial Hermann system have been at the leading edge of medicine and technology. Their many firsts include being the first general hospital in Texas to receive penicillin (1943), performing the first cardiac catheterization in Texas (1946), being the first hospital in the nation to be air conditioned (1949), establishing the first general practice residency in Texas (1957), establishing the first hospital-based speech clinic in the South (1965), being the first community hospital in the nation to offer routine hearing tests for newborns (1969), and performing the first ever hand transplant (1992). These accomplishments and many more have brought the medical professionals of Memorial Hermann national and international recognition as one of the best in the business. In fact, Memorial was first voted a ''Top 100'' hospital in the nation beginning in 1996.

Today, the Memorial Hermann Healthcare System encompasses 16 hospitals employing nearly 19,000 throughout Texas. Its state-of-the-art facilities treat patients and train the nation's next generation of physicians across the state, including in my hometown of The Woodlands.

Madam Speaker, the lives this wonderful hospital has touched are countless. I congratulate them on reaching this magnificent milestone and wish them the best for their next 100 years.

PERSONAL EXPLANATION

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, on May 3, 2007, I requested and received a leave of absence from May 3 to May 9, 2007, due to my presence at previous commitments in my district. Had I been present, I would have voted as follows:

Improving Head Start Act of 2007 (H.R. 1429): Rollcall No. 277, the Price of Georgia Amendment, ''no''; rollcall No. 278, the Sestak of Pennsylvania Amendment, ''aye''; rollcall No. 279, the Hirono of Hawaii Amendment, ''aye''; rollcall No. 280, the Mica of Florida Amendment, ''no''; rollcall No. 281, the Putnam of Florida Amendment, ''no''; rollcall No. 282, the Carnahan of Missouri Amendment, ''aye''; and rollcall No. 283, the Shuler of North Carolina Amendment, ''aye''.

Rollcall No. 284, on Motion to Recommit with Instructions, ''no''; rollcall No. 285, on Passage, Improving Head Start Act, H.R. 1429, ''aye''; rollcall No. 286, on Motion to Suspend the Rules and Agree, H. Res. 243, ''aye''; rollcall No. 287, the Sullivan (OK) Amendment to Honda (CA) Amendment, ''no''; rollcall No. 288, the Honda of California Amendment, ''aye''; rollcall No. 289, the Campbell of California Amendment No. 5, ''no''; rollcall No. 290, the Campbell of California Amendment No. 4, ''no''; and rollcall No. 291, the Garrett of New Jersey Amendment No. 11, ''no.''

Rollcall No. 292, the Flake of Arizona Amendment, ''no''; rollcall No. 293, the Matsui of California Amendment, ''aye''; rollcall No. 294, the Price of Georgia Amendment, ''no''; rollcall No. 295, on Passage, National Science Foundation Authorization Act, H.R. 1867, ''aye''; rollcall No. 296, on Ordering the Previous Question, H. Res. 364, ''aye''; rollcall No. 297, on Agreeing to the Resolution, H. Res. 364, ''aye''; and rollcall No. 298, on Motion to Recommit with Instructions, ''no.''

Rollcall No. 299, on Passage, To provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, H.R. 1592, ''aye''; rollcall No. 300, on Motion to Recommit with Instructions, H.R. 1868, ''no''; rollcall No. 301, on Passage, Technology Innovation and Manufacturing Stimulation Act, H.R. 1868, ''aye''; rollcall No. 302, on Motion to Suspend the Rules and Pass, as Amended, H.R. 407, ''aye''; rollcall No. 303, on Motion to Suspend the Rules and Pass, H.R. 1025, ''aye''; rollcall No. 304, on Motion to Suspend the Rules and Agree, H. Res. 371, ''aye''; rollcall No. 305, on Agreeing to the Resolution, H.R. 1294, ''aye''; and rollcall No. 306, on Agreeing to the Resolution, H. Res. 370, ''aye''.

Rollcall No. 307, on Agreeing to the Resolution, S. Con. Res. 1, ''aye''; rollcall No. 308, on Motion to Instruct Conferees, S. Con. Res. 1, ''no''; rollcall No. 309, on Motion to Suspend the Rules and Pass, as Amended, H.R. 1595, ''aye''; rollcall No. 310, on Ordering the Previous Question, H. Res. 382, ''aye''; rollcall No. 311, on Agreeing to the Resolution, H. Res. 382, ''aye''; rollcall No. 312, on Agreeing to the Resolution, H. Res. 383, ''aye''; rollcall No. 313, on Agreeing to the Resolution, H. Res. 383, ''aye''; and rollcall No. 314, on Motion to Suspend the Rules and Pass, as Amended, Student Loan, H.R. 890, ''aye''.

EEOICPA OMBUDSMAN ENHANCEMENT AND EXTENSION ACT OF 2007

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. UDALL of New Mexico. Madam Speaker, I am pleased to rise today to introduce the EEOICPA Ombudsman Enhancement and Extension Act of 2007. I am also pleased to be joined in doing so by Representatives UDALL of Colorado, SLAUGHTER, WAMP, WHITFIELD, and HASTINGS.

This important legislation is needed to extend the authorization of the EEOICPA Ombudsman, which is set to expire on October 28th of this year. The office of the EEOICPA Ombudsman was created in 2004 to help individuals making claims under Part E of the program navigate the complex and cumbersome claims process. The EEOICPA Ombudsman has proven to be an effective ally for these Cold War heroes who have contracted serious illnesses as a result of their work for the United States Government.

Since the implementation of EEOICPA, it has become tragically apparent that the program is not working as intended. Claimants face overwhelming obstacles on their road to compensation. From a complex bureaucracy, to a highly technical burden of proof, to intimidating health physics discussions—all the while dealing with the physical and emotional strains of their illnesses—obtaining compensation for many claimants has proven to be a particularly difficult process.

With that in mind, Congress created the Office of the EEOICPA Ombudsman, an independent office tasked with providing information to claimants and advising the Department of Labor concerning additional Resource Centers. However, due to objections from the Administration, language originally included in the FY05 Senate Defense Authorization that provided broader authority for the office was scaled back in favor of the language that ultimately became law. As a result, the Ombudsman was not only scheduled for sunset, but was also prohibited from serving as an advocate for claimants. It was instead restricted to a role in which its powers are limited to making inquiries on behalf of claimants. There is no question the Ombudsman has proven to be extremely valuable even in its limited capacity, but with broader authority, the Ombudsman will be that much more effective as an advocate, helping claimants receive the compensation they deserve, which, after all, is the intention of the EEOICPA program in the first place.

Today, my colleagues and I seek to provide broader authority for the EEOICPA Ombudsman by introducing this legislation. This bill extends the life of the EEOICPA Ombudsman indefinitely, expands its authority from Part E of the program to Part B, and provides contracting authority for services necessary to fulfill their duties. Also, this legislation expands the powers of the EEOICPA Ombudsman to act as an advocate for the claimants when the Ombudsman determines it is appropriate. One other expansion of power in this legislation is to give the Office of the Ombudsman the authority to provide recommendations to Congress about legislative changes needed to make EEOICPA work more effectively. These are all expansions that are greatly needed to help the Ombudsman build on its already valuable role, which, in turn, helps EEOICPA claimants obtain their compensation.

I urge my colleagues to join us in support of this legislation and help improve and expand efforts to provide some measure of justice to our Cold War heroes.

CELEBRATING THE LIFE OF MR. ELISHA GRAY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2007

Mr. CONYERS. Madam. Speaker, I rise today in recognition of a man who may be little known to the Nation, but one who is a treasure to the City of Detroit. Elisha Z. Gray, born on May 1, 1917 in Arlington, TN, right outside of Memphis, celebrated his 90th birthday last week.

At the age of 18, Mr. Gray left Arlington in search of a new life in bustling Detroit. For the next 9 years, he worked on the automobile assembly lines of the famous Packard Plant on East Grand Boulevard. On many occasions during those years, he served as a butcher in Detroit's historic Eastern Market.

It was not until 1944 when Elisha received his barbers' license from Michigan Barber College, that he evolved into his true calling. Since black subjects were not allowed at his school, his first opportunity to cut a black man's hair came in 1945 when he opened the Family Barber Shop on the corner of Hazelett and Milford. In fact, I remember my father John Conyers, Sr. being one of his loyal customers when we lived around the corner from his shop on Colfax.

The Family Barber attracted some of Detroit's most powerful and influential citizens, most of whom came from the west side of Detroit. Mr. Gray not only served his more distinguished clientele, but he was equally inviting to his everyday customers from the neighborhood. The Family Barber was the centerpiece that allowed the two worlds to intersect. His shop was also used as a training ground for other young black African-American barbers who would have their first experience cutting hair for blacks. In addition, he sponsored various athletic teams which enabled the neighborhood youth to get involved in constructive recreational activities, and encouraged them to stay off the streets and out of trouble.

I was sad to hear that Elisha sold the Family Barber in 1972, but it came as no surprise that he was already pursuing a new venture. Soon, he became a real estate agent, then a broker and soon after, he established E.Z. Gray & Sons Realtors on Puritan in Detroit. Although he has long retired from the real estate

business, he still continues to work in the field even today.

He has been instrumental in inspiring and encouraging youth, and especially the young men of Detroit to follow their dreams and overcome life's challenges. He is still engaged in a lifelong passion of getting all citizens registered and voting in all elections, both local and national.

Elisha Gray is married to Mrs. Labada Elizabeth Gray with whom he celebrated 65 years of marriage with on May 5, 2007. They have three children, seven grandchildren, and seven great-grandchildren. He also currently serves as Chair of the Deacon Board at the Northwest Church of God in Detroit.

So, Madam Speaker, I am deeply honored to celebrate the 90th birthday of a friend, a brother, and a living Detroit legend, Mr. Elisha Z. Gray.

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 Wednesday, May 9, 2007 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 10

9 a.m.
Homeland Security and Governmental Affairs
Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee
To hold hearings to examine a status report on reform efforts by the Under Secretary of Homeland Security for Management.
SD–342

9:30 a.m.
Energy and Natural Resources
To hold hearings to examine the nominations of Joseph Timothy Kelliher, of the District of Columbia, to be a Member of the Federal Energy Regulatory Commission, and R. Lyle Laverty, of Colorado, to be Assistant Secretary for Fish and Wildlife.
SD–366

Indian Affairs
Business meeting to consider S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act, S. 310, 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.R. 835, to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians, and S.J. Res. 4, to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.
SR–485

Appropriations
Transportation, Housing and Urban Development, and Related Agencies Subcommittee
To hold hearings to examine the Federal Aviation Administration's budget performance and treatment.
SD–138

10 a.m.
Finance
To hold hearings to examine economic issues for America's working families and middle class.
SD–215

Judiciary
To hold hearings to examine the nominations of Leslie Southwick, of Mississippi, to be United States Circuit Judge for the Fifth Circuit, Janet T. Neff, to be United States District Judge for the Western District of Michigan, and Liam O'Grady, to be United States District Judge for the Eastern District of Virginia.
SD–226

Commerce, Science, and Transportation
Oceans, Atmosphere, Fisheries, and Coast Guard Subcommittee
To hold hearings to examine the effects of climate change and ocean acidification on living marine resoucres.
SR–253

Appropriations
State, Foreign Operations, and Related Programs Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2008 for the Department of State and foreign operations.
SD–106

2:30 p.m.
Homeland Security and Governmental Affairs
To hold hearings to examine violent Islamist extremism, focusing on government efforts to defeat it.
SD–342

3 p.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the nominations of David George Nason, of Rhode Island, to be an Assistant Secretary of the Treasury, Mario Mancuso, of New York, to be Under Secretary of Commerce for Export Administration, Michael W. Tankersley, of Texas, to be Inspector General, Export-Import Bank, Scott A. Keller, of Florida, to be an Assistant Secretary of Housing and Urban Development, Robert M. Couch, of Alabama, to be General Counsel of the Department of Housing and Urban Development, and Janis Herschkowitz, of Pennsylvania, David George Nason, of Rhode Island, and Nguyen Van Hanh, of California, each to be a Member of the Board of Directors of the National Consumer Cooperative Bank.
SD–538

MAY 15

10 a.m.
Energy and Natural Resources
To hold hearings to examine the short-term energy outlook for summer 2007, focusing on oil and gasoline.
SD–366

Environment and Public Works
To hold hearings to examine green buildings, focusing on benefits to health, the environment, and the bottom line.
SD–406

Homeland Security and Governmental Affairs
To hold hearings to examine equal representation in Congress, focusing on providing voting rights to the District of Columbia.
SD–342

Judiciary
To hold hearings to examine the Department of Justice politicizing the hiring and firing of United States Attorneys, focusing on preserving prosecutorial independence.
SD–226

Health, Education, Labor, and Pensions
Retirement and Aging Subcommittee
To hold hearings to examine Alzheimer's disease, focusing on current and future breakthrough research.
SD–628

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 553, to amend the Wild and Scenic Rivers Act to designate certain segments of the Eightmile River in the State of Connecticut as components of the National Wild and Scenic Rivers System, S. 800, to establish the Niagara Falls National Heritage Area in the State of New York, S. 916, to modify the boundary of the Minidoka Internment National Monument, to establish the Minidoka National Historic Site, to authorize the Secretary of the Interior to convey certain land and improvements of the Gooding Division of the Minidoka Project, Idaho, S. 1057, to amend the Wild and Scenic Rivers Act to designate certain segments of the New River in the States of North Carolina and Virginia as a component of the National Wild and Scenic Rivers System, S. 1209, to provide for the continued administration of Santa Rosa Island, Channel Islands National Park, in accordance with the laws (including regulations) and policies of the National Park Service, S. 1281, to amend the Wild and Scenic Rivers Act to designate certain rivers and streams of the headwaters of the Snake River System as additions to the National Wild and Scenic River System, H.R. 161, to adjust the boundary of the Minidoka Internment National Monument to include the Nidoto Nai Yoni Memorial in Bainbridge Island, Washington, H.R. 247, to designate a Forest Service trail at Waldo Lake in the Willamette National Forest in the State of Oregon as a national recreation trail in honor of Jim Weaver, a former Member of the House of Representatives, and H.R. 376, to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including the battlefields and related sites of the First and Second Battles of Newtonia, Missouri, during the Civil War as part of Wilson's Creek National Battlefield or designating the battlefields and related sites as a separate unit of the National Park System.
SD–366

MAY 16

10 a.m.
Environment and Public Works
Clean Air and Nuclear Safety Subcommittee
To hold hearings to examine the state of mercury regulation, science, and technology.
SD–406

Finance
To hold hearings to examine the efficacy of United States preference programs.
SD–215

Judiciary
To hold hearings to examine rogue online pharmacies, focusing on the growing problem of internet drug trafficking.
SD–226

Veterans' Affairs
To hold hearings to examine the nomination of Michael K. Kussman, of Massachusetts, to be Under Secretary for Health of the Department of Veterans Affairs.
SD–562

2:30 p.m.
Commerce, Science, and Transportation
Business meeting to consider pending calendar business.
SR–253
Small Business and Entrepreneurship
Business meeting to markup S. 1256, to amend the Small Business Act to reauthorize loan programs under that Act.
SR–428A
3 p.m.
Appropriations
Financial Services and General Government Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2008 for the United States Securities and Exchange Commission.
SD–192

MAY 17

9:30 a.m.
Armed Services
To hold hearings to examine the United States European Command in review of the Defense Authorization Request for Fiscal Year 2008 and the Future Years Defense Program.
SH–216
10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine violence in the media.
SR–253

MAY 22

9 a.m.
Armed Services
SeaPower Subcommittee
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for Fiscal Year 2008.
SR–222
10 a.m.
Armed Services
Personnel Subcommittee
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for Fiscal Year 2008.
SR–232A
Commerce, Science, and Transportation
Surface Transportation and Merchant Marine Infrastructure, Safety and Security Subcommittee
To hold hearings to examine rail safety reauthorization.
SR–253
12:30 p.m.
Armed Services
Airland Subcommittee
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for Fiscal Year 2008.
SR–222
4 p.m.
Armed Services
Readiness and Management Support Subcommittee
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for Fiscal Year 2008.
SR–222
5:30 p.m.
Armed Services
Emerging Threats and Capabilities Subcommittee
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for Fiscal Year 2008.
SR–232A

MAY 23

9:30 a.m.
Veterans' Affairs
To hold hearings to examine health legislation.
SD–562
10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine communications, taxation and federalism.
SR–253
11:30 a.m.
Armed Services
Strategic Forces Subcommittee
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for Fiscal Year 2008.
SR–222
2:30 p.m.
Armed Services
Closed business meeting to markup the proposed National Defense Authorization Act for Fiscal Year 2008.
SR–222

MAY 24

9:30 a.m.
Armed Services
Closed business meeting to markup the proposed National Defense Authorization Act for Fiscal Year 2008.
SR–222
10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the nominations of Michael E. Baroody, of Virginia, to be Chairman and Commissioner of the Consumer Product Safety Commission, and Charles Darwin Snelling, of Pennsylvania, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority.
SR–253

CANCELLATIONS

MAY 10

2:30 p.m.
Intelligence
To hold closed hearings to examine certain intelligence matters.
SH–219

POSTPONEMENTS

2 p.m.
Judiciary
To hold hearings to examine the nomination of Michael J. Sullivan, of Massachusetts, to be Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives.
SD–226

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S5755–S5879

Measures Introduced: Ten bills were introduced, as follows: S. 1340–1349. **Page S5869**

Measures Passed:

Prescription Drug User Fee Amendments: By 93 yeas and 1 nay (Vote No. 157), Senate passed S. 1082, to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to reauthorize drug and device user fees and ensure the safety of medical products, after agreeing to the committee amendment in the nature of a substitute, as modified and amended, and after taking action on the following amendments proposed thereto:

Pages S5759–S5824

Adopted:

By 64 yeas and 30 nays (Vote No. 155), Brown (for Grassley) Amendment No. 998, to provide for the application of stronger civil penalties for violations of approved risk evaluation and mitigation strategies. **Pages S5759, S5769–70, S5772**

Rejected:

By 46 yeas and 47 nays (Vote No. 154), Brown (for Grassley) Amendment No. 1039, to clarify the authority of the Office of Surveillance and Epidemiology with respect to postmarket drug safety pursuant to recommendations by the Institute of Medicine. **Pages S5759, S5768–69, S5771–72**

By 47 yeas and 47 nays (Vote No. 156), Brown (for Durbin/Bingaman) Amendment No. 1034, to reduce financial conflict of interest in FDA Advisory Panels. **Pages S5759, S5765–68, S5770–71, S5772–73**

Subsequently, the motion to invoke cloture on the bill was withdrawn. **Page S5773**

Congressional Budget Resolution—Motions To Instruct Conferees: Senate began consideration of the message from the House of Representatives to accompany S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012, after taking action on the following motions to instruct Conferees proposed thereto:

Pages S5837–62

Adopted:

Cornyn Motion to Instruct Conferees to create a point of order against legislation that raises income tax rates. **Page S5855**

Stabenow Motion to Instruct Conferees relative to the Deficit-Neutral Reserve Fund for Energy legislation in section 307. **Page S5855**

By 54 yeas and 41 nays (Vote No. 159), Kyl Motion to Instruct Conferees relative to permanent death tax relief and other family tax relief.

Pages S5838–41, S5861

By 51 yeas and 44 nays (Vote No. 160), Conrad Motion to Instruct Conferees relative to tax relief.

Pages S5842–55, S5862

Rejected:

By 44 yeas and 51 nays (Vote No. 161), Gregg Motion to Instruct Conferees relative to the extension of popular tax cuts. **Pages S5842–46, S5862**

Senate disagreed to the House amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Conrad, Murray, Wyden, Gregg and Domenici. **Page S5862**

Water Resources Development Act—Agreement: A unanimous-consent agreement was reached providing that at 9:30 a.m., on Thursday, May 10, 2007, Senate resume consideration of the motion to proceed to consideration of H.R. 1495, to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States; that the time until 9:45 a.m., be equally divided and controlled between the Chairman and Ranking Member of the Committee on Environment and Public Works, and that at approximately 9:45 a.m., Senate vote on the motion to invoke cloture on the motion to proceed to consideration of the bill. **Page S5878**

Message from the President: Senate received the following message from the President of the United States: Transmitting, pursuant to law, a report on

the continuation of the national emergency with respect to the blocking of property of certain persons and prohibiting the exportation and reexportation of certain goods to Syria as declared in Executive Order 13338 of May 11, 2004; which was referred to the Committee on Banking, Housing, and Urban Affairs. (PM 12) Page S5866

Nomination Confirmed: Senate confirmed the following nomination:

By a unanimous vote of 91 yeas (Vote No. EX. 158), Debra Ann Livingston, of New York, to be United States Circuit Judge for the Second Circuit. Pages S5824, S5832–37, S5879

Nominations Received: Senate received the following nominations:

2 Air Force nominations in the rank of general.

2 Army nominations in the rank of general.

1 Marine Corps nomination in the rank of general.

Routine lists in the Air Force, Army, Navy. Pages S5878–79

Messages from the House: Page S5866

Measures Referred: Page S5866

Measures Read the First Time: Pages S5866, S5877–78

Executive Communications: Page S5866

Petitions and Memorials: Pages S5866–69

Additional Cosponsors: Pages S5869–71

Statements on Introduced Bills/Resolutions: Pages S5871–77

Additional Statements: Pages S5864–66

Notices of Hearings/Meetings: Page S5877

Authorities for Committees to Meet: Page S5877

Record Votes: Eight record votes were taken today. (Total—161) Pages S5772–73, S5837, S5861–62

Adjournment: Senate convened at 9:30 a.m., and adjourned at 8:38 p.m., until 9:30 a.m. on Thursday, May 10, 2007. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5878.)

Committee Meetings

(Committees not listed did not meet)

RURAL DEVELOPMENT

Committee on Agriculture, Nutrition, and Forestry: Committee concluded a hearing to examine farm bill policy proposals relating to farm and energy issues and rural development, after receiving testimony from Glenn English, National Rural Electric Cooperative Association, Arlington, Virginia; Jimmy Matthews, Georgia Rural Water Association, Barnesville, on behalf of the National Rural Water Association; Robert Grabarski, National Council of Farmer Cooperatives, Arkdale, Wisconsin; Steven A. Slack, Ohio State University Ohio Agricultural Research and Development Center, Wooster; Lee R. Lynd, Dartmouth College Thayer School of Engineering, Hanover, New Hampshire; Daniel G. De La Torre Ugarte, University of Tennessee Department of Agricultural Economics, Knoxville; Howard A. Learner, Environmental Law and Policy Center, Chicago, Illinois; and Neil Rich, Riksch Biofuels, Crawfordsville, Iowa.

APPROPRIATIONS: DEPARTMENT OF DEFENSE

Committee on Appropriations: Subcommittee on Defense concluded a hearing to examine proposed budget estimates for fiscal year 2008 for the Department of Defense, after receiving testimony from Robert M. Gates, Secretary, and General Peter Pace, USMC, Chairman, Joint Chiefs of Staff, both of the Department of Defense.

APPROPRIATIONS: IRS

Committee on Appropriations: Subcommittee on Financial Services and General Government concluded a hearing to examine proposed budget estimates for fiscal year 2008 for the Internal Revenue Service, Department of the Treasury, after receiving testimony from Kevin Brown, Acting Commissioner of Internal Revenue, J. Russell George, Inspector General for Tax Administration, and Nina E. Olson, National Taxpayer Advocate, all of the Department of the Treasury; and James R. White, Director, Strategic Issues, and David A. Powner, Director, Information Technology Management Issues, both of the Government Accountability Office.

ATV SAFETY

Committee on Commerce, Science, and Transportation: Subcommittee on Consumer Affairs, Insurance, and Automotive Safety concluded a hearing to examine All-Terrain Vehicle (ATV) safety, after receiving testimony from Rachel Weintraub, Consumer Federation of America, and David P. Murray, Willkie Farr and Gallagher LLP, both of Washington, D.C.

REDUCING GREENHOUSE GAS EMISSIONS

Committee on Environment and Public Works: Subcommittee on Private Sector and Consumer Solutions to Global Warming and Wildlife Protection concluded a hearing to examine emerging technologies and practices for reducing greenhouse gas emissions, after receiving testimony from Yet-Ming Chiang, Massachusetts Institute of Technology Department of Materials Science and Engineering, Watertown; Mark M. Little, GE Global Research, Niskayuna,

New York; James W. Stanway, Wal-Mart Stores, Inc., Bentonville, Arkansas; Michael W. Rencheck, American Electric Power, Columbus, Ohio; and John A. Fees, Babcock and Wilcox Companies, Lynchburg, Virginia.

NATIONAL SECURITY THREATS

Committee on Foreign Relations: Committee concluded a hearing to examine climate change relative to national security threats, focusing on the report entitled "National Security and the Threat of Climate Change", after receiving testimony from Admiral Joseph W. Prueher, (Ret.) USN, former Commander-in-Chief, United States Pacific Command, General Charles F. Wald, (Ret.) USAF, former Deputy Commander, United States European Command, and Vice Admiral Richard H. Truly, (Ret.) USN, former Administrator, National Aeronautics and Space Administration, all of the CNA Corporation Military Advisory Board, Alexandria, Virginia.

NOMINATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the nominations of Dell L. Dailey, of South Dakota, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large, and Mark P. Lagon, of Virginia, to be Director of the Office to Monitor and Combat Trafficking, with the rank of Ambassador at Large, after the nominees, who were introduced by Senator Reed, testified and answered questions in their own behalf.

VETERANS BENEFITS LEGISLATION

Committee on Veterans' Affairs: Committee concluded a hearing to examine benefits legislation, after receiving testimony from Senator Cantwell; Daniel L. Cooper, Under Secretary for Benefits, and John H. Thompson, Deputy General Counsel, both of the Department of Veterans Affairs; Meredith Beck, Wounded Warrior Project, New York, New York; Carl Blake, Paralyzed Veterans of America, Eric A. Hilleman, Veterans of Foreign Wars of the United States, and Brian E. Lawrence, Disabled American Veterans, all of Washington, D.C.; Kimo S. Hollingsworth, American Veterans (AMVETS), Lanham, Maryland; Colonel Robert F. Norton (Ret.) USA, Military Officers Association of America, Alexandria, Virginia; and Alec S. Petkoff, American Legion, Indianapolis, Indiana.

THE FUTURE OF MEDICARE

Special Committee on Aging: Committee concluded a hearing to examine the future of Medicare, focusing on recognizing the need for chronic care coordination, after receiving testimony from Todd P. Semla, Clinical Pharmacy Specialist, Pharmacy Benefits Management and Strategic Health Group, Department of Veterans Affairs, on behalf of the American Geriatrics Society; Gerard F. Anderson, Johns Hopkins Bloomberg School of Public Health, Health Policy and Management, Baltimore, Maryland; David A. Dorr, Oregon Health and Science University, Portland; Stuart Guterman, Commonwealth Fund, and Stephen McConnell, Alzheimer's Association, both of Washington, D.C.; and Ann Bowers, Fort Smith, Arkansas.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 32 public bills, H.R. 2228–2259; and 6 resolutions, H. Con. Res. 146; and H. Res. 385–386, 389–391 were introduced. **Pages H4751–53**

Additional Cosponsors: **Pages H4753–54**

Reports Filed: Reports were filed today as follows:

H.R. 1469, to establish the Senator Paul Simon Study Abroad Foundation under the authorities of the Mutual Educational and Cultural Exchange Act of 1961 (H. Rept. 110–138);

H.R. 692, to amend title 4, United States Code, to authorize the Governor of a State, territory, or possession of the United States to order that the National flag be flown at half-staff in that State, territory, or possession in the event of the death of a member of the Armed Forces from that State, territory, or possession who dies while serving on active duty, with an amendment (H. Rept. 110–139);

H.R. 1593, to reauthorize the grant program for reentry of offenders into the community in the Omnibus Crime Control and Safe Streets Act of 1968, to improve reentry planning and implementation (H. Rept. 110–140);

H.R. 401, to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for maintaining and improving the transit system of the Washington Metropolitan Area

Transit Authority, with an amendment (H. Rept. 110–141);

H.R. 1427, to reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes, with an amendment (H. Rept. 110–142);

H. Res. 387, providing for consideration of the bill (H.R. 2237) to provide for the redeployment of United States Armed Forces and defense contractors form Iraq, providing for consideration of the bill (H.R. 2206) making emergency supplemental appropriations for the fiscal year ending September 30, 2007, and for other purposes, and providing for consideration of the bill (H.R. 2207) making supplemental appropriations for agricultural and other emergency assistance for the fiscal year ending September 30, 2007, and for other purposes (H. Rept. 110–143); and

H. Res. 388, providing for the consideration of the bill (H.R. 2082) to authorize appropriations for fiscal year 2008 for intelligence and intelligence-related activities of the United States Government, the Community Management Account and the Central Intelligence Agency Retirement and Disability System, and for other purposes (H. Rept. 110–144). **Page H4751**

Speaker: Read a letter from the Speaker wherein she appointed Representative McNulty to act as Speaker Pro Tempore for today. **Page H4631**

Suspension: The House agreed to suspend the rules and pass the following measure:

Student Loan Sunshine Act: H.R. 890, amended, to establish requirements for lenders and institutions of higher education in order to protect students and other borrowers receiving educational loans, by a 2/3 yea-and-nay vote of 414 yeas to 3 nays, Roll No. 313. **Pages H4634–42, H4655–56**

Member Resignation: Read a letter from Representative Meehan, wherein he resigned as Representative of the 5th Congressional District of Massachusetts, effective close of business July 1, 2007. **Page H4656**

Department of Homeland Security Authorization Act for Fiscal Year 2008: The House passed H.R. 1684, amended, to authorize appropriations for the Department of Homeland Security for fiscal year 2008, by a recorded vote of 296 ayes to 126 noes, Roll No. 318. **Pages H4646–55, H4656–H4718**

Agreed to the Dent motion to recommit the bill to the Committee on Homeland Security with instructions to report the same back to the House forthwith with an amendment, by a yea-and-nay vote of 264 yeas to 160 nays, Roll No. 317. Subsequently, Representative Thompson (MS) reported the bill back to the House with the amendment and the amendment was agreed to. **Pages H4714–16**

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Homeland Security now printed in the bill shall be considered as the original bill for the purpose of amendment. **Page H4669**

On a demand for a separate vote on a certain amendment agreed to in the Committee of the Whole:

By a yea-and-nay vote of 212 yeas to 209 nays, Roll No. 316, agreed to the Thompson (MS) manager's amendment (No. 1 printed in H. Rept. 110–136) that adds reporting requirements, revises annuitant provisions, requires a GAO report on law enforcement retirement systems, adds a provision related to travel efficiency and strikes some provisions of the bill (agreed to in the Committee of the Whole by a recorded vote of 216 ayes to 209 noes, Roll No. 314). **Pages H4687–91, H4704–05, H4710–14**

Earlier, agreed to amendments in the Committee of the Whole:

Agreed to:

Langevin amendment (No. 3 printed in H. Rept. 110–136) that directs the Federal Emergency Management Agency and the Disability Coordinator at the Department of Homeland Security to enter a cooperative agreement with the National Organization on Disability (NOD) to carry out NOD's Emergency Preparedness Initiative; **Pages H4692–93**

Andrews amendment (No. 4 printed in H. Rept. 110–136) that provides up to 14 days per calendar year of job protection for volunteer emergency service personnel who respond to a Presidentially-declared disaster in an official capacity and allows any individual discriminated against in violation of the provision to seek redress in court; **Pages H4693–95**

Corrine Brown (FL) amendment (No. 5 printed in H. Rept. 110–136) that directs the Secretary of Homeland Security, in awarding grants under the Urban Area Security Initiative, to consider the number of tourists that have visited an urban area in the two years preceding the year the Secretary awards the grant; **Pages H4695–96**

Castle amendment (No. 6 printed in H. Rept. 110–136) that requires the Secretary of Homeland Security to study foreign rail security practices that are not currently used in the U.S. and submit a report on recommendations for implementing such practices within one year of enactment; **Pages H4696–97**

Hastings (FL) amendment (No. 7 printed in H. Rept. 110–136) that establishes a FEMA long-term recovery office in Florida; **Pages H4697–98**

Stupak amendment (No. 9 printed in H. Rept. 110–136) that requires the Secretary of Homeland

Security to issue a report to Congress outlining the resources currently devoted to Integrated Border Enforcement Teams (IBETs) and making recommendations on how to improve the effectiveness of the IBET program; **Pages H4698–99**

Hastings (WA) amendment (No. 10 printed in H. Rept. 110–136) that requires the Department of Homeland Security's strategic plan to include a plan for fulfilling existing National Laboratory infrastructure commitments to maintain current capabilities and mission needs; **Pages H4699–H4700**

Terry amendment (No. 15 printed in H. Rept. 110–136) that requires the U.S. Department of Homeland Security to consult with states prior to sharing information on forthcoming grant awards, including when sharing information with the U.S. Congress; **Page H4700**

Cardoza amendment (No. 17 printed in H. Rept. 110–136) that expresses the Sense of the Congress that efforts to achieve local, regional and national interoperable emergency communications in the near term should be supported and are critical in assisting communities with their local and regional efforts to properly coordinate and execute their interoperability plans; **Pages H4701–04**

Van Hollen amendment (No. 18 printed in H. Rept. 110–136) that requires DHS to use such funds necessary to take all necessary actions to protect the security of personal information submitted electronically to the DHS website for the Travelers Redress Inquiry Program and other websites for the Department related to the program; **Pages H4705–06**

Castor amendment (No. 19 printed in H. Rept. 110–136) that directs the Secretary of Homeland Security to work with the State of Florida and other States, as appropriate, to resolve the differences between the Transportation Worker Identification Credential and existing access control credentials; **Pages H4707–08**

Lampson amendment (No. 20 printed in H. Rept. 110–136) that allows an Inspector General of the Department of Homeland Security to authorize his or her staff to provide assistance on and conduct reviews of the inactive case files, or ''cold cases'' involving children or offenders outside the US, stored at the National Center for Missing & Exploited Children (NCMEC) and to develop recommendations for further investigations; and **Pages H4708–09**

Royce amendment (No. 21 printed in H. Rept. 110–136) that requires the Secretary of Homeland Security to implement at primary inspection points at U.S. ports of entry the Stolen and Lost Travel Document database managed by Interpol. **Pages H4709–10**

Rejected:

Mica amendment (No. 16 printed in H. Rept. 110–136) that sought to amend section 1102(a) (critical infrastructure study) to require that the Secretary of Transportation, in addition to the Secretary of Homeland Security as is in the original bill, work with the Center for Risk and Economic Analysis of Terrorism Events to evaluate the feasibility and practicality of creating further incentives for private sector stakeholders to share protected critical information with the Department of Transportation in addition to the Department of Homeland Security, as is in the original bill and **Pages H4700–01**

Tom Davis (VA) amendment (No. 2 printed in H. Rept. 110–136) that sought to remove section 407 of the bill, which requires that identification cards, uniforms, protective gear, and badges of Homeland Security personnel be manufactured in the United States (by a recorded vote of 36 ayes to 390 noes, Roll No. 315). **Pages H4691–92, H4705**

Agreed that the Clerk be authorized to make technical and conforming changes to reflect the actions of the House. **Page H4735**

H. Res. 382, the rule providing for consideration of the bill, was agreed to by a yea-and-nay vote of 222 yeas to 197 nays, Roll No. 311, after agreeing to order the previous question by a yea-and-nay vote of 217 yeas to 199 nays, Roll No. 310. **Pages H4646–55**

Small Business Fairness in Contracting Act: The House began debate on H.R. 1873, to reauthorize the programs and activities of the Small Business Administration relating to procurement. Further consideration is expected to resume Thursday, May 10th. **Pages H4643–46, H4655–56, H4720–35**

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Oversight and Government Reform now printed in the bill shall be considered as the original bill for the purpose of amendment. **Page H4723**

Agreed to:

Reyes amendment (No. 1 printed in H. Rept. 110–137) that aids small businesses that have been included in the Small Business Subcontracting Plans of prime contractors that obtain federal contracts; **Pages H4729–30**

Welch amendment (No. 5 printed in H. Rept. 110–137) that sets a 5 percent procurement goal for the Federal government to contract with ''green'' small businesses; **Pages H4731–32**

Wynn amendment (No. 6 printed in H. Rept. 110–137) that commissions the Small Business Administration to complete a study on the feasibility and desirability of providing financial incentives to federal prime contractors who meet the goals set forth in their subcontracting plan of utilizing small

business concerns owned by economically or socially disadvantaged individuals; **Pages H4732–33**

Jackson-Lee amendment (No. 7 printed in H. Rept. 110–137) that provides that, whenever the SBA and the contracting procurement agency fail to agree and the Administrator decides to take action to further the interests of a small business concern, the SBA is required to make available on their website any action taken and result achieved by the Administrator; and **Pages H4733–34**

Jackson-Lee amendment (No. 8 printed in H. Rept. 110–137) that requires that, when the SBA and the contracting procurement agency fail to agree and the Administrator submits the matter to the head of the agency for a determination, a copy of the written response to the Administrator be sent to the Committee of the House and Senate that has jurisdiction over the agency concerned, in addition to the Committees on Small Business and Oversight and Government Reform. **Page H4734**

Agreed that the Clerk be authorized to make technical and conforming changes to reflect the actions of the House. **Page H4734**

H. Res. 383, the rule providing for consideration of the bill, was agreed to by a yea-and-nay vote of 223 yeas to 197 nays, Roll No. 312, after agreeing to order the previous question. **Page H4655**

Presidential Message: Read a message from the President wherein he notified Congress of the continuation of the national emergency authorizing the blocking of property of certain persons and prohibiting the exportation and reexportation of certain goods to Syria—referred to the Committee on Foreign Affairs and ordered printed (H. Doc. 110–33). **Pages H4734–35**

Senate Message: Message received from the Senate today appears on page H4631.

Recess: The House recessed at 10:24 p.m. and reconvened at 11:08 p.m. **Page H4749**

Quorum Calls—Votes: Six yea-and-nay votes and three recorded votes developed during the proceedings of today and appear on pages H4654, H4654–55, H4655–56, H4656, H4704, H4705, H4713–14, H4715–16 and H4718. There were no quorum calls.

Adjournment: The House met at 10:00 a.m. and adjourned at 11:11 p.m.

Committee Meetings

IMPORTED FOOD/FEED INGREDIENTS SAFETY

Committee on Agriculture: Held a hearing to review the impact of imported contaminated food and feed ingredients and of recent food safety emergencies on food safety and animal health systems. Testimony was heard from Kenneth E. Petersen, Food Safety Inspection Service, USDA; and David Acheson, M.D., Assistant Commissioner, Food Protection, FDA, Department of Health and Human Services.

DEFENSE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Defense met in executive session to hold a hearing on Guantanamo, Panel I. Testimony was heard from the following officials of the Department of Defense: RADM Harry B. Harris, Jr., USN, Commander, Joint Task Force–Guantanamo; Daniel J. Dell'Orto, Principal Deputy General Counsel; and Joseph A. Benkert, Principal Deputy Assistant Secretary, Global Security Affairs.

The Subcommittee continued hearings on this subject, Panel II. Testimony was heard from COL Dwight Sullivan, USMCR, Chief Defense Counsel, Office of Military Commissions, Department of Defense; and public witnesses.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008

Committee on Armed Services: Ordered reported, as amended, H.R. 1585, National Defense Authorization Act for Fiscal Year 2008.

U.S. MEDICINE SUPPLY SAFETY

Committee on Energy and Commerce: Subcommittee on Health held a hearing entitled "Assessing the Safety of Our Nation's Drug Supply." Testimony was heard from Steven K. Galson, M.D., Director, Center for Drug Evaluation and Research, FDA, Department of Health and Human Services; Marcia Crosse, Director, Health Care Issues, GAO; and public witnesses.

INTERNATIONAL ECONOMIC-MILITARY SUPPORT FOR IRAQ

Committee on Foreign Affairs: Subcommittee on International Organizations, Human Rights and Oversight held a hearing on the Economic and Military Support for the U.S. Efforts in Iraq: The Coalition of the Willing, Then and Now. Testimony was heard from Joseph A. Christoff, Director, International Affairs and Trade Team, GAO; Kenneth Katzman, Specialist in Middle East Affairs, Foreign Affairs, Defense, and Trade Division, CRS, Library of Congress; and a public witness.

FEDERAL EMERGENCY RESPONSE COORDINATION

Committee on Homeland Security: Subcommittee on Emergency Communications, Preparedness and Response held a hearing entitled ''Assessing the Capabilities and Coordination of Federal Emergency Response Teams.'' Testimony was heard from Bob Powers, Acting Deputy Assistant Administrator, Disaster Operations Directorate, FEMA, Department of Homeland Security; and public witnesses.

IMMIGRATION REFORM

Committee on the Judiciary: Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law continued hearings on the U.S. Economy, U.S. Workers, and Immigration Reform. Testimony was heard from public witnesses.

OVERSIGHT—ENDANGERED SPECIES ACT IMPLEMENTATION

Committee on Natural Resources: Held an oversight hearing on Endangered Species Act Implementation: Science or Politics? Testimony was heard from P. Lynn Scarlett, Deputy Secretary, Department of the Interior; John Young, former Biologist, U.S. Fish and Wildlife Service, Department of the Interior; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Oversight and Government Reform: Subcommittee on Government Management, Organization, and Procurement approved for full Committee action the following bills: H.R. 1870, amended, Contractor Tax Enforcement Act; H.R. 1865, To amend title 31, United States Code, to allow certain local tax debt to be collected through the reduction of Federal tax refunds; and H.R. 404, amended, Federal Customer Service Enhancement Act.

U.S. AID TO PAKISTAN

Committee on Oversight and Government Reform: Subcommittee on National Security and Foreign Affairs held a hearing entitled ''Making the Grade on the 9/11 Commission Report Card: American Support of Pakistani Education Reform.'' Testimony was heard from public witnesses.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2008

Committee on Rules: Granted, by vote of 8 to 3, a structured rule. The rule provides for 1 hour of general debate on H.R. 2081, to authorize appropriations for fiscal year 2008 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, equally divided and controlled by the Chairman and Ranking Minority Member of the Permanent Select Committee on Intelligence. The rule waives all points of order against consideration of the bill except those arising under clause 9 of rule XXI. The rule XXI. The rule considers as an original bill for the purpose of further amendment the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence. The committee amendment shall be considered as read. The rule waives all points of order against the committee amendment except those arising under clause 8 of rule XXI. The rule makes in order those amendments printed in the report and waives all points of order against such amendments except those arising under clause 9 or 10 or rule XXI. The rule provides one motion to recommit with or without instructions. Finally, the rule permits the Chair, during consideration of the bill in the House, to postpone further consideration until a time designated by the Speaker. Testimony was heard from Chairman Reyes, Representatives Hastings of Florida, Holt, Thompson of California, Hoekstra, Wilson of New Mexico, and Rogers of Michigan.

TO PROVIDE FOR THE REDEPLOYMENT OF UNITED STATES ARMED FORCES AND DEFENSE CONTRACTORS FROM IRAQ—H.R. 2237

U.S. TROOP READINESS, VETERANS' CARE, KATRINA RECOVERY, AND IRAQ ACCOUNTABILITY APPROPRIATIONS ACT, 2007—H.R. 2206

AGRICULTURAL DISASTER ASSISTANCE AND WESTERN STATES EMERGENCY UNFINISHED BUSINESS APPROPRIATIONS ACT, 2007—H.R. 2207

Committee on Rules: Granted by a vote of 8 to 3, a closed rule. The resolution provides for consideration of H.R. 2237, to provide for the Redeployment of United States Armed Forces and Defense Contractors from Iraq. The rule provides 1 hour of general debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against the bill and against its consideration and provides that the bill shall be considered as read. The rule contains one motion to recommit with or without instructions.

The rule also provides for consideration of the bill (H.R. 2206), the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007. The rule provides one hour of general debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The

rule waives all points of order against consideration of the bill except for clauses 9 and 10 of rule XXI. It provides that the amendment printed in Part A of this report shall be considered as adopted and that the bill, as amended, shall be considered as read. The Rule waives all points of order against the bill, as amended, and contains one motion to recommit on H.R. 2206 with or without instructions.

The rule further provides for consideration of the bill (H.R. 2207), the Agricultural Disaster Assistance and Western States Emergency Unfinished Business Appropriations Act, 2007. The rule provides one hour of general debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill except for clauses 9 and 10 of rule XXI. It provides that the amendment printed in Part B of this report shall be considered as adopted and that the bill, as amended, shall be considered as read. The Rule waives all points of order against the bill, as amended, and contains one motion to recommit on H.R. 2207 with or without instructions.

The rule also provides that in the engrossment of H.R. 2206, the Clerk shall await the disposition of H.R. 2237 and H.R. 2207 and shall add the respective texts of H.R. 2237 and H.R. 2207, as passed by the House, as new matter at the end of H.R. 2206 and shall make appropriate conforming changes. Finally the rule provides that during consideration of H.R. 2237, H.R. 2206 and H.R. 2207, notwithstanding the operation of the previous question, the Chair may postpone further consideration of any such bill to a time designated by the Speaker. Testimony was heard from Chairman Obey and Representative Kucinich.

RURAL BROADBAND SERVICES

Committee on Small Business: Subcommittee on Rural and Urban Entrepreneurship held a hearing entitled "Maximizing the Value of Broadband Services to Rural Communities." Testimony was heard from Jonathan Adelstein, Commissioner, FCC; and public witnesses.

AIR TRAFFIC CONTROL MODERNIZATION

Committee on Transportation and Infrastructure: Subcommittee on Aviation held a hearing on the Future of Air Traffic Control Modernization. Testimony was heard from the following officials of the Department of Transportation: Robert Sturgell, Deputy Administrator and Interim Chief Operating Officer, Air Traffic Organization, FAA; and Calvin L. Scovel III, Inspector General; Gerald Dillingham, Director, Physical Infrastructure Issues, GAO; and public witnesses.

GLOBAL WAR ON TERROR VETERANS

Committee on Veterans' Affairs: Held a hearing on the Results of the Administration's Task Force on Returning Global War on Terror Heroes. Testimony was heard from R. James Nicholson, Secretary of Veterans Affairs.

VA'S LONG-TERM CARE PROGRAMS

Committee on Veterans' Affairs: Subcommittee on Health held a hearing to examine VA's Long-Term Care Programs. Testimony was heard from Patricia Vandenberg, Assistant Deputy Under Secretary, Health Policy and Planning, Veterans Health Administration, Department of Veterans Affairs; and representatives of veterans organizations.

CURRENCY MANIPULATION IMPACTS

Committee on Ways and Means: Subcommittee on Trade and the Subcommittee on Commerce, Trade and Consumer Protection of the Committee on Energy and Commerce, and the Subcommittee on Domestic and International Monetary Policy, Trade and Technology of the Committee on Financial Services held a joint hearing on Currency Manipulation and Its Effect on U.S. Businesses and Workers. Testimony was heard from Mark Sobel, Deputy Assistant Secretary, International Monetary and Financial Policy, Department of the Treasury; Stephen Claeys, Deputy Assistant Secretary, Antidumping and Countervailing Duty Operations, Department of Commerce; Daniel Brinza, Assistant U.S. Trade Representative, Monitoring and Enforcement; Donald L. Evans, former Secretary of Commerce; and public witnesses.

BRIEFING—HOT SPOTS

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on Hot Spots. The Committee was briefed by departmental witnesses.

FOREIGN OIL—ECONOMICS OF DEPENDENCE

Select Committee on Energy Independence and Global Warming: Held a hearing entitled "Economics of Dependence on Foreign Oil—Rising Gasoline Prices." Testimony was heard from public witnesses.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D 622)*

S. 521, to designate the Federal building and United States courthouse and customhouse located at 515 West First Street in Duluth, Minnesota, as the "Gerald W. Heaney Federal Building and United States Courthouse and Customhouse". Signed on May 8, 2007 (Public Law 110–25)

COMMITTEE MEETINGS FOR THURSDAY, MAY 10, 2007

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, to hold hearings to examine the Federal Aviation Administration's budget performance and treatment, 9:30 a.m., SD–138.

Subcommittee on State, Foreign Operations, and Related Programs, to hold hearings to examine proposed budget estimates for fiscal year 2008 for the Department of State and foreign operations, 10 a.m., SD–106.

Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine the nominations of David George Nason, of Rhode Island, to be an Assistant Secretary of the Treasury, Mario Mancuso, of New York, to be Under Secretary of Commerce for Export Administration, Michael W. Tankersley, of Texas, to be Inspector General, Export-Import Bank, Scott A. Keller, of Florida, to be an Assistant Secretary of Housing and Urban Development, Robert M. Couch, of Alabama, to be General Counsel of the Department of Housing and Urban Development, and Janis Herschkowitz, of Pennsylvania, David George Nason, of Rhode Island, and Nguyen Van Hanh, of California, each to be a Member of the Board of Directors of the National Consumer Cooperative Bank, 3 p.m., SD–538.

Committee on Commerce, Science, and Transportation: Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard, to hold hearings to examine the effects of climate change and ocean acidification on living marine resources, 10 a.m., SR–253.

Committee on Energy and Natural Resources: to hold hearings to examine the nominations of Joseph Timothy Kelliher, of the District of Columbia, to be a Member of the Federal Energy Regulatory Commission, and R. Lyle Laverty, of Colorado, to be Assistant Secretary for Fish and Wildlife, 9:30 a.m., SD–366.

Committee on Finance: to hold hearings to examine economic issues for America's working families and middle class, 10 a.m., SD–215.

Committee on Homeland Security and Governmental Affairs: Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, to hold hearings to examine a status report on reform efforts by the Under Secretary of Homeland Security for Management, 9 a.m., SD–342.

Full Committee, to hold hearings to examine violent Islamist extremism, focusing on government efforts to defeat it, 2:30 p.m., SD–342.

Committee on Indian Affairs: business meeting to consider S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act, S. 310, 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.R. 835, to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians, and S.J. Res. 4, to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States, 9:30 a.m., SR–485.

Committee on the Judiciary: to hold hearings to examine the nominations of Leslie Southwick, of Mississippi, to be United States Circuit Judge for the Fifth Circuit, Janet T. Neff, to be United States District Judge for the Western District of Michigan, and Liam O'Grady, to be United States District Judge for the Eastern District of Virginia, 10 a.m., SD–226.

House

Committee on Agriculture, Subcommittee on Conservation, Credit, Energy, and Research, hearing to review agricultural research programs, 10 a.m., 1300 Longworth.

Subcommittee on Specialty Crops, Rural Development, and Foreign Agriculture, hearing to review food aid and agriculture trade programs operated by the USDA and the U.S. Agency for International Development, 1 p.m., 1300 Longworth.

Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, on Marketing and Regulatory Programs, 10 a.m., 2362A Rayburn.

Subcommittee on Defense, on Contracting Out, 10 a.m., and 1:30 p.m., 2359 Rayburn.

Committee on Education and Labor, hearing on Accountability for the Department of Education's Oversight of Student Loans and the Reading First Program, 10:30 a.m., 2175 Rayburn.

Subcommittee on Healthy Families and Communities, hearing on Using School Wellness Plans to Help Fight Childhood Obesity, 2 p.m., 2175 Rayburn.

Committee on Energy and Commerce, to consider the following bills: H.R. 964, Securely Protect Yourself Against Cyber Trespass Act; and H.R. 948, Social Security Number Protection Act of 2007, 2:30 p.m., 2123 Rayburn.

Subcommittee on Telecommunications and the Internet, to continue hearings entitled ''Digital Future of the United States: Part V: The Future of Video,'' 9:30 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Oversight and Investigations, hearing entitled ''Suspicious Activity and Currency Transaction Reports: Balancing Law Enforcement Utility and Regulatory Requirements,'' 9 a.m., 2128 Rayburn.

Committee on Foreign Affairs, hearing on Every State a Superpower? Stopping the Spread of Nuclear Weapons in the 21st Century, 10 a.m., 2172 Rayburn.

Subcommittee on International Organizations, Human Rights, and Oversight, and the Subcommittee on Africa and Global Health, hearing on Is There a Human Rights Double Standard? U.S. Policy Toward Equatorial Guinea and Ethiopia, 2 p.m., 2172 Rayburn.

Committee on Homeland Security, Subcommittee on Intelligence, Information Sharing and Terrorism Risk Assessment, hearing entitled ''Fixing the Homeland Security Information Network: Finding the Way Forward for Better Information Sharing,'' 10 a.m., 311 Cannon.

Committee on the Judiciary, oversight hearing on the U.S. Department of Justice, 9:30 a.m., 2141 Rayburn.

Committee on Natural Resources, May 9, oversight hearing on Endangered Species Act Implementation: Science or Politics? 10 a.m., 1324 Longworth.

Committee on Oversight and Government Reform, Subcommittee on Domestic Policy, hearing entitled ''Lethal Loopholes: Deficiencies in State and Federal Gun Purchase Laws,'' 2 p.m., 2154 Rayburn.

Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, hearing entitled ''The Lack of Diversity in the Top Levels of the Federal Government,'' 2 p.m., 2247 Rayburn.

Committee on Science and Technology, Subcommittee on Energy and Environment, to mark up the following bills; H.R. 364, To provide for the establishment of the Advanced Research Projects Agency-Energy; H.R. 632, H-Prize Act of 2007, 10 a.m., 2318 Rayburn.

Subcommittee on Technology and Innovation, hearing on Green Transportation Infrastructure: Challenges to Access and Implementation, 2 p.m., 2318 Rayburn.

Committee on Small Business, hearing on Immigration Policies and their Impact on Small Businesses, 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings, and Emergency Management, hearing on General Services Administration's Fiscal Year 2008 Capital Investment and Leasing Program, 10 a.m., 2167 Rayburn.

Subcommittee on Economic Development, Public Buildings, and Emergency Management, hearing on Legislative Fixes for Lingering Problems that Hinder Katrina Recovery,'' 2 p.m., 2167 Rayburn.

Subcommittee on Highways and Transit, hearing on FTA Implementation of the New Starts and Small Starts Programs, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Health, to mark up H.R. 1470, Chiropractic Care Available to All Veterans Act, 9:30 a.m., 340 Cannon.

Committee on Ways and Means, Subcommittee on Health, hearing on Options To Improve Quality and Efficiency Among Medicare Physicians, 10 a.m., 1100 Longworth.

Next Meeting of the **SENATE**

9:30 a.m., Thursday, May 10

Senate Chamber

Program for Thursday: Senate will resume consideration of the motion to proceed to the consideration of H.R. 1495, Water Resources Development Act, to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and vote on the motion to invoke cloture thereon at approximately 9:45 a.m.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

9 a.m., Thursday, May 10

House Chamber

Program for Thursday: Complete consideration of H.R. 1873—Small Business Fairness in Contracting Act. Consideration of H.R. 2082—Intelligence Authorization Act for Fiscal Year 2008.

Extensions of Remarks, as inserted in this issue

HOUSE

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