charged with ensuring that the SBA is properly addressing the particular needs of small manufacturers.

Throughout the hearings and roundtables, the Committee's objectives have been to single out the SBA programs that work well, identify the reasons for their superior performance, and apply those principles to programs that need improvement. The voluminous amount of information that the Committee collected through the hearings and roundtable discussions held this year and in the previous Congress as well as information received directly from small business stakeholders has contributed greatly to achieving that goal and the results are reflected in the bill.

While not all of the provisions of S.1375 are contained in Division K of H.R. 4818, I believe that by providing appropriate authorization levels, updating and improving SBA lending and technical assistance programs, and introducing new initiatives to assist America's 21st Century entrepreneurs, this bill will provide a sound foundation for the agency to begin its next 50 years of even greater service.

I ask unanimous consent that immediately following these remarks an explanatory statement describing the small business provisions of H.R. 4818 be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT DESCRIBING PROVISIONS OF DIVISION K OF H.R. 4818 FILED BY SENATOR OLYMPIA J. SNOWE

SECTION 101. EXPRESS LOANS

Section 7(a)(25)(B) authorizes the Administrator to create pilot loan programs. In exercising that authority, the Administrator created an ''Express Loan Pilot Program.'' The program authorizes lenders to use their own forms in submitting requests to the Administrator for the issuance of guarantees. Two significant restrictions are imposed by the ''Express Loan Pilot Program:'' the guarantee cannot exceed 50 percent of the loan and the maximum loan amount is $250,000.

Section 101 codifies, with a few significant differences, the provisions of Pub. L. No. 108–217, which addressed the Express Loan Program. The two most significant changes are the permanent authorization of the Express Loan Program by creating a new paragraph (31) in §7(a) of the Small Business Act and the statutory increase in the size of such loans to $350,000.

Section 101 defines an ''express lender'' as any lender authorized by the Administrator to participate in the Express Loan Program. Congress expects that the Administrator will establish by rule the standards needed to qualify as an Express Lender.

Section 101 defines an ''express loan'' as one in which the lender utilizes, to the maximum extent practicable, its own analyses of credit and forms. Congress fully expects that the conditions under which express loans are made will not vary significantly from those conditions that currently exist under the ''Express Loan Pilot Program.'' Nevertheless, Congress understands that the Administrator may wish to revise the standards and operating procedures associated with ''express loans.'' Nothing in the statutory language should be interpreted as prohibiting the Administrator from imposing these additional requirements that are otherwise consistent with the statutory language.

Section 101 codifies the existing concept of the Administrator's ''Express Loan Pilot Program.'' In other words, the ''Express Loan Program'' is one in which lenders utilize their own forms and get a guarantee of no more than 50 percent.

Section 101 restricts the program, including the increased loan amount of $350,000, to those lenders designated as express lenders by the Administrator. Designation as an express lender does not limit the lender to making express loans if the lender has been authorized to make other types of loans pursuant to §7(a) of the Small Business Act. Although a lender may only seek status as an express lender, this section was included to ensure that the Administrator not limit the ability of an express lender to seek other lending authority from the Administrator. Nor is the Administrator permitted to change its standards for designating an express lender in a manner that only authorizes the lender to make express loans. To the extent that the lending institution wishes to offer a full range of loan products authorized by §7(a) and is otherwise qualified to do so, the Administrator shall not restrict that ability on the lender's status as an express lender.

Section 101 prohibits the Administrator from revoking the designation of any lender as an express lender that was so designated at the time of enactment. This prohibition does not apply if the Administrator finds the express lender to have violated laws or regulations or the Administrator modifies the requirements for designation in a way that the express lender cannot meet those standards. Congress does not expect that the Administrator will impose new requirements for express lenders that prohibit them from making loans under other loan programs authorized by the Small Business Act for which they have approval from the Administrator.

Congress, at the request of the Small Business Administration, determined that it was appropriate to expand the size of ''express loans'' to $350,000. Any change in the size of an express loan now will require action by Congress.

Congress is concerned that the Administrator will take regulatory actions that unduly favor express lending over other types of lending authorized by §7(a) of the Small Business act. As such, Congress incorporated a provision prohibiting the Administrator from taking any action that would have the effect of requiring a lender to make an express loan rather than a conventional loan pursuant to §7(a). Any significant policy change in the operation of the lending programs authorized by §7(a) of the Small Business Act requires notification to the House and Senate Small Business Committees. Furthermore, the statutory language on notification goes beyond that which is required pursuant to §7(a)(24) of the Small Business Act.

SECTION 102. LOAN GUARANTEE FEES

Section 102 increases the loan guarantee amount to a maximum of $1.5 million. Given the fact that borrowers are getting an additional increment in loan guarantees, the sponsors determined that it would be appropriate to require an additional 0.25 percent fee for the amount of guarantee in excess of $1 million. Thus, on the amount of the guarantee between $1 million and $1.5 million, the upfront fee authorized pursuant to §7(a)(18) of the Small Business Act increases from 3.5 percent to 3.75 percent but only for that portion of the loan guarantee in excess of $1 million. This is consistent with typical commercial lending practices of charging fees that are commensurate with the lenders' exposure to risk.

Section 102 also raises the fee collected by the Administrator from banks of the unpaid balance of deferred participation loans. To avoid situations such as those that occurred at the end of calendar year 2003 in which the Administrator was required to drastically reduce lending and impose other restrictions on the program, Congress determined that it would be appropriate for the Administrator to have some discretion in setting the fee paid by lenders on the unpaid balance. The total amount of the fee cannot in any year, exceed 0.55 percent of the unpaid balance. Congress expects the Administrator to use this authority only when needed to drive the cost, as that term is defined in the Federal Credit Reform Act, of the loan program to zero, i.e., not need an appropriation. Any use of this discretion to raise the fee beyond the current level of 0.5 percent should trigger the notification provisions in §7(a)(24) of the Small Business Act. As a further oversight tool, Congress expects that the Administrator would satisfy any relevant committee's request for information on the utilization of this discretion.

Finally, Congress determined that the Administrator also be given the authority to lower fees charged to borrowers and lenders if the subsidy cost becomes negative, i.e., the fees will actually take in more money to the government than it costs to operate the §7(a) loan program. Congress adopted an approach that the Administrator, should it undertake a fee reduction, first consider reducing the fees set forth in clauses (i)–(iii) of subsection 7(a)(18)(A) and then reduce fees on lenders. As a further restriction on the discretion of the Small Business Administration, the fees that were charged to borrowers on the date of enactment of this conference report may not be raised. Congress adopted this language to ensure that any fee increases to borrowers beyond the statutory limits requires the action of Congress.

SECTION 103. INCREASE IN GUARANTEE AMOUNT IN INSTITUTION OF ASSOCIATED FEE

Access to capital is vital to the growth of small businesses. Particularly for manufacturers and high technology research and development businesses, typical amounts of capital available under the existing loan limits authorized by §7(a) of the Small Business Act often are inadequate. Given the importance of capital to grow small businesses, Congress determined that it would be appropriate to permanently increase the amount

of the loan guarantee from $1 million to $1.5 million. No additional changes were made in the overall statutory cap of a gross $2 million loan. Thus, the Administrator will be able to guarantee up to $1.5 million of a $2 million loan rather than the current limit of $1 million. Congress expects that this will increase the number of lenders willing to make loans to small manufacturers who face significant global competition.

SECTION 104. DEBENTURE SIZE

Congress raised all of the loan limitations for qualified state and local development companies (''CDCs'') because they had not been raised in many years and the long-term financing needs of small businesses were not being met by loans that did not exceed the thresholds for loans made pursuant to §7(a) of the Small Business Act. Raising the loan limitations has two effects. First, it signifies the recognition that Title V of the Small Business Investment Act and §7(a) of the Small Business Act has very different purposes in mind. Second, an increase in the threshold allows more effective economic development projects to be funded by CDCs.

Congress believes that the increases to $1,500,000 for regular projects, $2,000,000 for public policy goal projects, and $4,000,000 for small manufacturers will provide significant new financial inputs to small businesses in general and to small manufacturers in particular.

While all small businesses whose primary industrial classification is in North American Industrial Classification sectors 31, 32, and 33 (the sectors for manufacturing), not all small business concerns in those sectors are considered small manufacturers. Congress adopted a requirement that small manufacturers should be limited to those small business concerns that have all of their production facilities are located in the United States. Congress does not intend that small business concerns that have manufacturing facilities situated outside of the United States should be denied assistance under programs operated by the Small Business Administration. However, special benefits should be afforded to those manufacturers whose production facilities are located in the United States. Finally, the definition in §106 is identical to the definition in this section thereby avoiding any potential interpretive concerns about what the legislature meant when it used the same term in different sections of legislation.

SECTION 105. JOB REQUIREMENTS

The Administrator has promulgated regulations, pursuant to §501 of the Small Business Investment Act mandating that a loan made by a CDC must create or save one job for each $35,000 in guarantee. This standard has not been revised since it was adopted in 1990. The standard clearly does not reflect inflation or the dramatic increases in productivity that has led to higher wages for all employees. Congress determined that the standard should be revised to take account of the changes in the economy during the past 14 years. Therefore, §105 statutorily raises the job creation standard to one job for every $50,000 in guarantees.

Manufacturing requires greater capital investment than other businesses. Such investment may lead to higher productivity for small manufacturers and therefore fewer jobs created per investment. Congress does not want to prejudice the ability of CDCs to fund projects that would assist small manufacturers. Section 106 establishes a standard that authorizes CDC loans to small manufacturers if the project creates one job for each $100,000 of guarantee.

CDCs do not need to meet job creation standards for individual loans if the loan is used to further one of the public policy objectives in §501(d). Section 105 modifies that requirement slightly by exempting a particular project from the job creation standards if the project was meeting a public policy objective and if the CDC's overall loan portfolio creates one job for $50,000 in guarantees.

Since the basic premise of loans made pursuant to Title V of the Small Business Investment Act is to encourage economic development, Congress concluded that it made sense to establish a different standard for job creation in economically-depressed areas or places with unusually high wage requirements. Congress believes that CDCs should be provided more leeway in creating jobs in economically-depressed areas and Alaska and Hawaii. As a result, CDC loans in these areas only need to meet a more lenient job creation standard of one job per $75,000 of guarantee in certain areas.

Given the importance of small manufacturing to economic development, Congress excluded loans to small manufacturers from the calculations needed to determine whether a CDC's loan portfolio meets the overall job creation standard of one job per $50,000 of guarantee or the $75,000 standard for high-wage and economically-depressed areas. Congress intends that the public policy goals set forth in §501 should be accomplished without reference to job creation for small manufacturers. Section 105 also authorizes the Administrator to waive any of the standards when appropriate. Congress expects that the Administrator will promulgate regulations specifying when the job creation standards will be waived. Two restrictions are imposed on the Administrator's discretion. First, the Administrator may not waive the requirements concerning small manufacturers. Second, the Administrator may not mandate a job creation standard with a number lower than that set forth in §105 but does have the liberty to set a higher dollar guarantee per job standard. These restrictions ensure that the Administrator does not undermine the ability of CDCs to lend to small manufacturers.

SECTION 106. REPORT REGARDING NATIONAL DATABASE OF SMALL MANUFACTURERS

Institutions of higher education can play a vital role in reviving small manufacturers. Universities must purchase large amounts of standard manufactured products (often on an annual basis—such as furniture for dormitory rooms). They also often purchase very sophisticated tools and laboratory equipment that small manufacturers may produce. Congress believes that some mechanism should be in place so that institutions of higher education can identify suppliers from the universe of small manufacturers. While not an ideal system, a database similar to PRO–NET represents a useful model for making institutions of higher education aware of the capabilities of small manufacturers. PRO–NET is a database operated by the federal government in which the capabilities of numerous small businesses are outlined. Contracting officers use PRO–NET to find small businesses capable of providing goods and services. Section 106 requires the Administrator and the Association of Small Business Development Centers to study the viability of creating a PRO–NET-like database that all institutions of higher education can use to identify small manufacturers (the definition is identical to the definition in §§104–05) capable of providing their procurement needs. The bill also requires a report to Congress on the viability and cost to establish such a database.

SECTION 107. INTERNATIONAL TRADE

All §7(a) loans can be used to refinance existing debt except for international trade loans. Congress determined that the restriction did not make sense especially since businesses harmed by unfair international competition will be more competitive if their debt service payments are lower. Therefore, Congress authorized businesses otherwise eligible for an international trade loan to use it for refinancing of debt but only to the extent that the Administrator determines the applicant's existing debt is not structured with reasonable terms and conditions. Congress expects that the Administrator examine the interest rate being charged relative to the interest rates generally available for similar businesses to determine whether the terms and conditions are not reasonable.

To obtain an international trade loan, the applicant must demonstrate that the business either is engaged in or adversely affected by international trade. To avoid the necessity of having to prove adverse effects if other government agencies already reached that conclusion in the same industry as the borrower, Congress mandated that the Administrator must accept as conclusive proof of injury a finding by the Secretary of Commerce issued pursuant to chapter 3 of Title II of the Trade Act of 1974 or any determination by the International Trade Commission. If an applicant is in an industry for which the Commission or the Secretary has made an injury finding, Congress concluded that it would be pointless to require the small businesses so suffering to go through the additional expense of presenting new evidence to the Administrator of injury.

Congress intends that the utilization of the findings by the Secretary or the Commission is not a limiting factor if a small business can present other evidence of injury. For example, the Commission or Secretary may not find that an industry was injured or that no claims were made to either agency. Nothing in §107 prevents a small business from presenting of evidence of specific injury to his or her business. The Administrator then would be required to rule on the adequacy of the proof, and if sufficient evidence was found of injury, make a loan under §7(a)(16).

Section 107 also provides for an increase in the size of international trade loans. Given the nature of international trade, Congress typically has mandated that loan caps be $250,000 higher than those for conventional §7(a) loans. This section maintains that practice and increased the cap for international trade loans based on the increase in the guarantee fees for conventional loans.

SECTION 121. PROGRAM AUTHORIZATION LEVELS

This section amends §20 of the Small Business Act and provides for authorization of appropriations. Congress selected authorization levels with sufficient room to allow for expected growth and expansion of programs authorized by the Small Business Act and Small Business Investment Act. Congress also determined that an authorization of appropriations not elsewhere provided should apply to all of the Small Business Investment Act.

Finally, Congress concluded that the existing standing authorization of appropriations only for carrying out title IV of the Small Business Investment Act was illogical. Section 121 amends §20 to provide for an authorization of appropriations not elsewhere provided for carrying out both the Small Business Act and all titles of the Small Business Investment Act.

SECTION 122. ADDITIONAL REAUTHORIZATIONS

The Small Business Development Center (SBDC) program's authorization levels are set forth in §21 of the Small Business Act. Congress provided modest authorization increases for the SBDCs to take account of necessary growth in providing services to entrepreneurs. In addition, Congress also extended the authority of SBDCs to provide

drug-free workplace counseling. This authority would have lapsed without the change. The extension of authority will give the SBDC grantees sufficient time to coordinate their actions with the grantees under the revised drug-free workplace program.

Given the SBDCs expertise in providing assistance to entrepreneurs, Congress established a program authorizing grants to SBDCs that are willing to offer advice in communities that are economically challenged due to business or government facility down-sizing or closing. Congress expects that this assistance will first be offered to communities suffering from plant closings, then to communities suffering from government office closings, and finally to base realignments. To the extent that other bases are closed in future years, Congress expects that legislation concerning such closures will provide additional assistance to the surrounding communities and that assistance provided under §122 should be utilized in other areas that do not receive the directed assistance associated with base closures.

SECTION 123. PAUL D. COVERDELL DRUG-FREE WORKPLACE PROGRAM AUTHORIZATION PROVISIONS

Congress recognizes that small businesses need drug free workplaces. Drug-free workers boost productivity and reduce the costs of health care coverage and absenteeism. As a result, Congress reauthorized the program for two years at the five million dollar level. In addition, to ensure that funding is maximized to eligible intermediaries that specialize in providing drug-free workplace assistance to small businesses, Congress adopted a limitation on the amount of funds that can be awarded to SBDCs for carrying out the purposes of the Paul D. Coverdell Program. Furthermore, Congress, again in an effort to maximize limited dollars, restricts the use of funds for administrative purposes to five percent of the total made available to grantees. Nothing in this limitation restricts the drug-free workplace advice that SBDC grantees are authorized to provide in their normal course of operations.

SECTION 124. GRANT PROVISIONS

Congress recognized that improvements in coordination between the activities of drug-free workplace eligible intermediaries and SBDCs might improve delivery of services to small businesses. As a result, Congress established a grant program within the Paul D. Coverdell Drug-Free Workplace Program to promote cooperation between eligible intermediaries and SBDC grantees. Congress expects that the Administrator award the two-year grants to those applicants that best demonstrate the capacity to deliver advice in a coordinated manner between SBDCs and eligible intermediaries.

SECTION 125. DRUG-FREE COMMUNITIES COALITIONS AS ELIGIBLE INTERMEDIARIES

Congress recognizes that there are numerous entities that receive grants under chapter 2 of the National Narcotics Leadership Act of 1988 but are not currently authorized to participate as eligible intermediaries under the Paul D. Coverdell Drug-Free Workplace Program. This section makes these National Narcotics Leadership Act grantees, which could provide valuable insight into establishing drug-free workplaces, eligible to receive awards under the Paul D. Coverdell Drug-Free Workplace Program. Inclusion of new additional parties should not be interpreted as directing the Administrator to favor them over others that apply for grants under the Paul D. Coverdell Drug-Free Workplace Program.

SECTION 126. PROMOTION OF EFFECTIVE PRACTICES OF ELIGIBLE INTERMEDIARIES

To ensure that the Paul D. Coverdell Drug-Free Workplace Program operates optimally, Congress mandates that the Administrator provide best practices to eligible intermediaries. The Administrator should use all of its available outreach resources, including SBDCs, Women Business Centers, and district offices to insure that eligible intermediaries are kept apprised of best practices.

Congress also believe that the performance of eligible intermediaries should be assessed and measured. Such evaluations will be useful to Congress when it considers what changes, if any, need to make the program even more effective. This section establishes the procedures for collecting data needed to evaluate the efficacy of the program.

SECTION 127. REPORT TO CONGRESS

This section requires the Administrator to use the data collected under §126 and report to Congress on the efficacy of the program and dissemination of drug-free workplace information. Congress expects the relevant committees to examine the report and make necessary legislative changes as a result to ensure optimal operation of the Paul D. Coverdell Drug-Free Workplace Program.

SECTION 131. LENDER EXAMINATION AND REVIEW

Current practice authorizes SBIC licensees to pay for examination and reviews conducted by the Administrator. Congress determined that the same principles should apply to lenders authorized to make government-guaranteed loans under §7(a). This section grants the Administration the authority to charge for examinations and reviews. The section also requires that the fees be directed to lender oversight activities including the payment of salaries and expenses of Administration personnel involved in such functions. This authority does not imply that the fees may be directed to the reimbursement of other functions of the Administration.

SECTION 132. GIFTS AND CO-SPONSORSHIP OF EVENTS

Gifts and co-sponsorships play a useful role in the Small Business Administration's performance of its outreach function to small businesses. Congress determined that even broader language than is currently permitted was necessary to ensure the Administration's continued ability to obtain gifts and seek co-sponsorships. In particular, Congress recognized that in many instances the Administration does not receive gifts but rather contributions are made by a co-sponsoring entity to an Administration event, such as small business forum. In other instances, the SBA uses gifts to pay for promotional materials, such as cards that are handed out in district offices to promote an event. This section clarifies and broadens the existing authority of the Small Business Administration to obtain gifts and co-sponsorships in order to expand the agency's outreach. To ensure appropriate clarity, Congress added the term "recognition events" which would include Small Business Week and sponsorship of dinners during that period. The section also requires the Administration to recognize the co-sponsors of such events but only to the extent of their contributions. No endorsements of the co-sponsors products or services are permitted.

In order to ensure that conflicts of interest do not arise in the solicitation or acceptance of gifts, Congress requires the General Counsel to determine whether a conflict of interest exists. If a determination that a conflict of interest exists, the General Counsel is empowered to prohibit the solicitation or acceptance. Finally, the language clarifies that the Administrator may delegate the approval of co-sponsorships to the Deputy Administrator, Associate Administrators, and Assistant Administrators. No personnel located in district or regional offices are permitted to approve co-sponsorships. Congress adopted this restriction to ensure close cooperation with the General Counsel of the Administration.

Congress also requires that the Inspector General audit the use of such gifts and co-sponsorships. This avoids potential abuses of the program through independent oversight of an official whose investigations cannot be impeded by the Administrator or Administration personnel. Congress wanted additional assurances (beyond the Inspector General audit) that the Small Business Administration achieved a proper balance between this new expanded authority and accountability. As a result, a sunset date of 2006 was added in order to properly monitor this new authority before considering making this language permanent in the Small Business Act.

SECTION 141. SERVICE CORPS OF RETIRED EXECUTIVES

Currently, the Administrator has the discretion whether to permit the Service Corps of Retired Executives (SCORE) to maintain offices at the headquarters of the Administration and pay employees of SCORE. Congress determined that the vitality of SCORE should not be subject to whims of the Administrator and therefore require that the Administrator maintain SCORE's offices at the Administration's headquarters and continue to pay for the salaries of SCORE personnel. Congress notes that this will not require any increased appropriation since these services and expenses are currently included in the Small Business Administration's budget.

SECTION 142. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM

Congress remains concerned that SBDCs were and may continue to be revealing the name of businesses that seek their advice to Administration employees for functions unrelated to the financial auditing or client surveys needed to oversee the operations of the SBDC grantees. Congress believes that such behavior is intolerable. This section prohibits the disclosure of client information (including the name, address, telephone and facsimile numbers, and e-mail address) of any concern or individual receiving assistance from a SBDC grantee or its subcontractors (who operate service centers that business owners can utilize to obtain advice) unless the Administrator is ordered to make such disclosure pursuant to a court order or civil or criminal enforcement action commenced by a federal or state agency. Congress expects that SBDC grantees will only respond to formal agency requests, such as civil investigative demands, and subpoenas.

Congress also recognizes that the Administrator has significant management responsibilities to ensure that federal taxpayer dollars are wisely used by grantees and are in compliance with the law, regulations, and the cooperative agreements signed by SBDC grantees. Congress authorizes the SBDC grantees to provide client names for the purposes of financial audits conducted by the Administrator or Inspector General and for client surveys to ensure that the SBDC grantees are satisfying certain aspects of their grant agreements. Congress recognizes that client surveys may be misused and impose restrictions on their use. Until regulations are in place to ensure that SBDC grantee client's privacy is protected to the maximum extent practicable given the management oversight responsibility of the Administrator, Congress requires client surveys to be approved by the Inspector General and any approval incorporated into the

semi-annual report made to Congress.

This section also makes a technical change in wording of the SBDC program. It renames the certification program as an accreditation program. The change was made because institutions are accredited not certified. Since the program determines the quality of SBDCs, it makes sense to have them accredited not certified. An identical change is made in § 20(a)(1)(D)–(E).

SECTION 143. ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS

Congress has determined that the federal government must provide better assistance and support to veterans in their efforts to form and expand small businesses. In 1999, as part of this effort, Congress established an Advisory Committee on Veterans Business Affairs. Its responsibilities included providing advice to Congress and the Small Business Administration on policy initiatives that would promote entrepreneurship by veterans. The responsibilities of this advisory board were to be taken over by the National Veterans Business Development Corporation on October 1, 2004. Congress determined that the Advisory Committee's role was sufficiently beneficial that it should not be subsumed within the National Veterans Business Development Corporation. As a result, Congress authorized an extension of the Advisory Committee as a separate entity to continue its functions through September 30, 2006.

SECTION 144. OUTREACH GRANTS FOR VETERANS

The Administration is authorized to provide outreach grants to help disabled veterans start and expand small businesses. Congress determined that the outreach grants should not be limited to disabled veterans. This section extends the authority to provide outreach programs to veterans and reservists.

SECTION 145. AUTHORIZATION OF APPROPRIATIONS

To express Congress' concern about adequate efforts to assist veterans, Congress determined that the Small Business Administration's Office of Veterans Affairs should have a separate authorization. This section provides for that separate authorization for fiscal years 2005 and 2006.

SECTION 146. NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION

A ruling by the Department of Justice concluded that the National Veterans Business Development Corporation was a federal agency for all purposes and thus subject to, among other things, federal administrative, personnel, and procurement laws. Congress, when it created the corporation, never intended that it would be considered a federal agency. The legislation mandated sufficient fundraising by the corporation that would eliminate the need for federal funding. While that fundraising continues, Congress determined that its original intent concerning the status of the corporation should be honored. This section makes it clear that the corporation is to be considered and treated as a private entity and not an agency or instrumentality of the Federal government.

SECTION 147. SMALL BUSINESS MANUFACTURING TASK FORCE

Manufacturing jobs in the United States have declined since their historic peak in 1979 and that loss has accelerated in recent years. Small business manufacturers constitute over 98 percent of our nation's manufacturing enterprises. It is impossible to overstate the role of small manufacturers within the overall manufacturing industry and our nation's economy. The House and Senate Small Business Committees have placed a high priority on trying to resuscitate the small business industrial base because economic security in the United States cannot occur in a purely post-industrial economy.

Section 147 establishes a Small Business Manufacturing Task Force within the Small Business Administration, charged with ensuring that the Administration is properly addressing the particular needs of small manufacturers. Specifically, the Small Business Manufacturing Task Force will: (a) evaluate and identify whether existing programs and services are sufficient to serve small manufacturers' needs, or whether additional programs or services are necessary; (b) actively promote the SBA's programs and services that serve small manufacturers; and (c) identify and study the unique conditions of small manufacturers, and develop and propose policy initiatives to support and assist them. This section also instructs the Small Business Manufacturing Task Force to submit a report of its findings and recommendations to the President and the Senate and House Small Business Committees not later than 12 months after the effective date of the bill and annually thereafter. In carrying out their obligations under this section, Congress expects that the Task Force will consult with other agencies that have manufacturing responsibilities, such as the Department of Commerce.

SECTION 151. STREAMLINING AND REVISION OF HUBZONE ELIGIBILITY REQUIREMENTS

The Historically Underutilized Business Zone (HUBZone) program was designed to direct portions of federal contracting dollars into areas of the country that in the past have been out of the economic mainstream. HUBZone areas, which include qualified census tracts, poor rural counties, and Indian reservations, often are out-of-the-way places that the stream of commerce passes by, and thus tend to be in low or moderate income areas also characterized by comparatively high unemployment. These areas can also include certain rural communities and tend generally to be low-traffic areas that do not have a reliable customer base to support business development. As a result, businesses have been reluctant to move into these areas and expend the necessary funds to develop the infrastructure for creation of jobs. It simply has not been profitable, without a customer base, to keep those businesses operating.

The HUBZone program seeks to overcome these problems by providing the means for Federal procurement activities to become customers for small businesses that locate in HUBZones. While a small business works to grow, expand its payroll, and establish a solid base of commercial or other customers, federal business opportunities can be of vital importance. Federal prime and subcontracts can become an important source of revenue for a HUBZone small business, and prime contracts in particular can help stabilize revenues, establish valuable past performance record, and maintain future profitability.

In past years, the HUBZone program has encountered issues relating to the statutory requirement that a HUBZone firm be entirely owned and controlled by individual U.S. citizens. This requirement means that all HUBZone applicants need to be owned by human beings directly and not human beings organized as business entities. However, many small business owners and small business investors prefer to take advantage of various corporate forms in order to limit the personal liability for themselves and their families. Exceptions for Alaska Native Corporations, Indian tribal governments, and community development corporations were added by the Small Business Act reauthorization legislation in 2000. Even with those changes, the presence of a corporate entity or a limited liability company with an ownership stake in a small business would have automatically disqualified an otherwise eligible firm from participation in the HUBZone program. Small agricultural cooperatives, which already maintain presence in rural HUBZones, would have faced similar restrictions. These rules unnecessarily impede the flow of capital to the very areas that need it the most and create compliance conflicts with other small business procurement programs.

Section 151 addresses this problem through streamlining and revision of the eligibility requirements for HUBZone small businesses to include small businesses that are 51 percent owned by United States citizens, as well as to include small businesses which are small agricultural cooperatives or are owned and controlled by small agricultural cooperatives.

In addition, HUBZone firms owned by the Indian tribes have been facing peculiar challenges due to statutory requirements that they must hire a certain percentage of its workforce performing a federal contract or subcontract from Indian reservations or adjacent areas. These requirements, while motivated by the desire to spur economic development of the tribes, over time had the unintended consequence of putting tribally-owned firms at a disadvantage in comparison with all other HUBZone concerns by imposing a geographic restriction on the kinds of contracts that tribally-owned HUBZone firms could perform. Geographic restrictions also impeded business synergies between tribally-owned HUBZone firms and Alaskan Native Corporations. To remedy this disparity, Section 151 is providing tribally-owned HUBZone concerns the option of qualifying for the program based on locating in, and hiring workers from, either Indian reservations or any other HUBZones on the same terms as available to other HUBZone firms. Congress notes that the Indian tribes, as owners of the HUBZone firms, will be receiving expanded economic benefits from new contracting opportunities.

SECTION 152. EXPANSION OF QUALIFIED AREAS

Congress observes that the HUBZone area qualifications are also in need of improvement. Paradoxically, economically distressed rural communities in states with high unemployment—among the neediest of needy areas—currently do not qualify for the HUBZone program because rural areas currently must qualify in relation to the statewide unemployment average. As an example, in calendar year 2003, Alaska had a statewide unemployment rate of 8.0 percent. To qualify as a HUBZone area, it was necessary for an Alaskan rural community to have an 11.2 percent unemployment rate. But, in 25 of the 50 states, a rural community could have qualified as a HUBZone with an unemployment range of 7.8 percent or less.

Section 152 addresses this problem by modifying the definition of a ''qualified nonmetropolitan county'' to provide the option of comparing the unemployment statistic for that area to the statewide average or to the national average. The new statutory HUBZone definition should give the Small Business Administration flexibility to address both national and state-wide unemployment disparities without hurting the states that have comparatively low unemployment overall, but with pockets of serious unemployment.

Congress recognizes the drastic economic ramifications of military base closures and that the HUBZone program can uniquely harness the strength and the creativity of the private sector by providing incentive for small businesses to relocate to areas suffering such ramifications. According to congressional research, more than 300 military bases closed or realigned between 1988 and 2003 and more than 50 percent of these bases were located outside of a designated HUBZone. Therefore, Congress intends that, upon the later of the enactment of this act or the date of final closure, existing as well as future military base closure areas be designated as HUBZones for a period of five years in order to reinvigorate the productive capacity of such areas and leverage existing local customers and a skilled workforce. Congress believes that new businesses and new jobs created through the HUBZone small firms mean new life for areas affected by base closure.

Additionally, Congress notes the existence of numerous complaints that the current definition of HUBZone qualified areas based on census income data, in conjunction with the definition of HUBZone qualified redesignated areas, fail to provide adequate time to recoup a return on investment. These concerns appear justified. Congress observes that the HUBZone program is relatively young, and the federal government is not even close to meeting its statutory prime contracting goal of 3 percent. Because the HUBZone program was enacted into law in 1997, the initial HUBZone areas were designated on the basis of the 1990 Census. However, the federal government conducted another census in 2000. As a result, many areas were redesignated after only 3 years of the program's existence. The statute currently grandfathers the redesignated areas into the program for 3 years.

Congress notes that, at the time of the last redesignation, the small business community received comparatively few benefits from the HUBZone program despite the substantial workforce recruitment, compliance, and business development efforts that must be expended by each of the HUBZone firms. These small businesses, which made business decisions to pursue the HUBZone strategy by locating in a HUBZone, adjusting their ownership structure, and recruiting HUBZone residents are in danger of being penalized for the federal government's slow initial implementation of the HUBZone program. Further, anecdotal evidence indicates that it may take a long time for a new firm to secure a federal contract, and that multiple-order contracts commonly envision task orders over a number of years. In these circumstances, a 3-year grandfather clause would appear not to provide sufficient time for a small business to generate a return on the HUBZone investment. By comparison, companies under the §8(a) program can maintain such a designation for 9 years, and a general small business designation can be maintained indefinitely. Therefore, Congress imposes a moratorium on HUBZone area redesignations by providing for an extension of the redesignation period until the conclusion of the 2010 Census. No certified HUBZone firm shall be decertified as a result of either the redesignation process based on the 2000 Census data or any revised unemployment data subsequent to December 21, 2000, the date of passage of enactment of the HUBZone in the Native America Act. It is the intent of Congress to have the Small Business Administration reinstate any HUBZone firm previously decertified based on these two criteria.

Congress also finds that, concurrently with the moratorium, a study on the effectiveness of the HUBZone area definitions, including the redesignation period, must be conducted by the Office of Advocacy of the United States Small Business Administration. The Office of Advocacy is chosen to conduct this study for its particular expertise in small business procurement, rural small business development, and general small business matters. Congress directs the Office of Advocacy to examine the impact and effectiveness of the HUBZone definitions on small business development and jobs creation, and expect that the Office of Advocacy will periodically consult with congressional small business committees on matters concerning this study. Findings and recommendations of the study must be reported to congressional small business committees by May 1, 2008.

SECTION 153. PRICE EVALUATION PREFERENCE

With regards to the application of existing HUBZone price preferences to international food aid procurements conducted by the United States Department of Agriculture (USDA), Congress concludes that the preferences as they currently stand are hindering the goals of U.S. foreign humanitarian food assistance programs. This view is supported by extensive consideration of market data from the Kansas City auction office of the USDA Farm Service Agency, the structure of auction tenders and other auction processes, as well as data supplied by the industry. It appears that there is a risk of various unintended and undesirable consequences to applying the current HUBZone mandate to international food aid acquisitions. In particular, it appears that, in the context of food aid tender auctions, the claimed job gains fostered by the current price preference are offset by job losses in other communities, the non-HUBZone small businesses attempting to compete may experience undue harm, and the competitive supplier base may atrophy. In turn, this may undermine USDA's capacity to secure adequate foodstuffs for malnourished persons and increase the costs to the food aid programs without realizing adequate jobs creation and business development benefits.

The HUBZone price preference alternative adopted in this act (a 5 percent price evaluation preference on 20 percent of the contract) would alleviate these potentially damaging effects on the U.S. food aid system. Congress believes that this approach would preserve the HUBZone program's goal of providing HUBZone-eligible companies with a meaningful opportunity to compete while ensuring that the USDA has an adequate capacity of supply from which to draw to deliver emergency food aid in catastrophic situations. This approach would also eliminate the current HUBZone program's application problem which directly penalizes non-HUBZone small businesses due to the nature of the food aid auctions. The potential for job losses in other communities would be limited. Importantly, this approach also reflects the cornerstone of America's efforts to provide food assistance to the world's neediest people through competitive markets.

According to President Dwight D. Eisenhower and congressional architects of the Small Business Act, an overarching purpose of small business procurement programs is to assure a vibrant, competitive supplier base for the Federal Government. Price preferences are employed to further this purpose, and should be structured accordingly. Congress notes that, in general, price preferences have been a valuable tool for encouraging a more robust supplier base. Nevertheless, Congress believes that, in these very special circumstances, it is important to encourage competition by keeping multiple vendors actively bidding in our food assistance programs to secure the lowest cost procurement and emergency supply chains in the case of humanitarian crisis. This approach builds on the current small business 10 percent set-aside by an additional 20 percent allocation of every tender to small businesses and HUBZone applicants. It guarantees full and open competition, including competition pursuant to the Small Business Act, in food aid procurement tenders to assure that U.S. food aid programs do not suffer consequences inconsistent with the intent of the price preference program. The approach in this legislation safeguards the dual interests of a vibrant small business presence in federal procurements and robust food aid programs.

SECTION 154. HUBZONE AUTHORIZATIONS

Congress notes that the Federal Government has failed to meet its statutory HUBZone contracting goals every single year these goals have been in effect. Continuous, dedicated authorization of the HUBZone program is essential to continue the effort to bring economic opportunities to the HUBZone areas. Therefore, Congress extends the current authorization of appropriations of $10,000,000 for the SBA's HUBZone program through Fiscal Year 2006.

SECTION 155. PARTICIPATION IN FEDERALLY FUNDED PROJECTS

Section 155 removes the burdensome paperwork requirements for additional certification by firms seeking to perform any State, or political subdivison projects that utilize federal dollars if they are currently certified, or otherwise meet the applicable qualification requirements, for participation in any program under §8(a) of the Small Business Act.

This change will: (1) provide federally certified §8(a) small businesses with access to all State and local projects funded in whole or in part by the Federal Government; (2) eliminate the burden of requiring §8(a) small businesses to get certifications from the State or local government or both in addition to their federal certification under §8(a); and, (3) decrease certification costs and eliminate time delays associated with the burden of receiving additional State or local government certifications for businesses authorized to participate in program established by §8(a) of the Small Business Act.

SECTION 161. SUPERVISORY ENFORCEMENT AUTHORITY FOR SMALL BUSINESS LENDING COMPANIES

This section creates a new §23 of the Small Business Act. It gives the Administrator specific enforcement and supervisory authority over Small Business Lending Companies (SBLCs) and Non-Federally Regulated SBA Lenders as those terms are defined in §162 of this conference report. The vast majority of lenders authorized to make loans pursuant to the Small Business Act have their lending and other activities overseen and regulated by federal financial regulators, including loans and corporate transactions related to their general lending practices. The Administrator makes no effort at regulating lending institutions except for their authority to make §7(a) loans.

In contradistinction, there are a few institutions that are authorized to make loans pursuant to §7(a) of the Small Business Act that are not typical lending institutions. SBLCs (except for two which are wholly-owned by national banks) are subsidiaries of industrial corporations and thus not subject to any regulation by financial regulators, other than certain filings made with the Securities and Exchange Commission. Non- federally regulated SBA lenders have some state oversight but the extent varies according to state law. The only authority that the Administrator has with respect to these

lenders is the ability to prohibit them from making loans pursuant to §7(a). The Administrator has no authority to take other regulatory action, similar to that available to banking regulators, to protect the public and the federal treasury. Congress concurs with the Administrator's request that greater authority is needed to regulate SBLCs and Non-Federally Regulated SBA Lenders.

The basic approach adopted by Congress enables the Administrator to supervise the soundness and safety of institutions authorized to make loans pursuant to §7(a) but are not otherwise subject to the strict oversight imposed by federal financial regulators. Congress concurs with the Administrator's request that specific enforcement and supervisory authority are needed. These authorities include the power to: issue cease and desist orders, impose civil money penalties, mandate capital standards, and remove officers and directors who are acting in an unsafe and unsound manner. The power and authority tracks closely the powers granted to the Administrator with respect to regulation of SBICs and their officers and employees. In some cases, Congress differentiated regulatory powers applicable to SBLCs and those applicable to Non-Federally Regulated Lenders. Nothing in this section grants the Administrator the authority to be extended to overall corporate management of the parent that owns a SBLC.

Congress provides for the Administrator to issue capital directives mandating maintenance of certain capital standards, including the requirement to increase its level of capital. The section also authorizes the Administrator to issue cease and desist orders by the SBLC or Non-Federally Regulated Lender. To ensure that the capital directive is used sparingly and only in appropriate circumstances, the Administrator is required to promulgate regulations on capital directives and may only delegate the authority to the Associate Administrator for Capital Access.

The Administrator also is empowered to suspend or remove officials that have management responsibility for the entity's lending pursuant to §7(a) of the Small Business Act. No authority, explicit or implied, is authorized to remove or suspend officials that do not have management responsibilities with respect to §7(a) lending. Thus, Congress expects that the Administrator take action not to suspend the Chief Executive Officer of General Electric Corporation but only its SBLC subsidiary.

Prior to the issuance of any order under this section except for a capital directive, the Administrator is required to provide any target of the order a hearing pursuant to §§554, 556, and 557 of the Administrative Procedure Act. The section delegates the responsibility of conducting the hearing to administrative law judges but the final responsibility on determining whether an order should issue rests with the Administrator based on the record developed at the adjudication. The approach is similar to that used by independent federal regulatory agencies such as the Federal Communications Commission or Federal Trade Commission. Those agencies use administrative law judges to conduct hearings and the commissioners use that record as the basis for their legal and policy determination. This bifurcation of the hearing from the decisionmaker ensures that the hearing will be fair and provide an opportunity for the target of an order to make the best possible case before an impartial fact-gathering tribunal.

The Administrator is authorized to issue orders prior to a hearing if extraordinary circumstances exist and the order is needed to protect the financial or legal position of the United States. The Administrator only should use the power to issue orders without a hearing only under those circumstances in which an agency issues a rule without notice and comment, i.e., a truly exigent circumstance, see, e.g., NRDC v. Evans, 316 F.3d 904, 912 (9th Cir. 2002); Utilities Solid Waste Group v. EPA, 236 F.3d 749, 754 (D.C. Cir. 2001) (good cause to forgo notice and comment applies only in emergency circumstances), or when a federal court would issue an ex parte temporary restraining order (but in order to preserve and protect the federal government rather than the status quo). Cf. Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers, 415 U.S. 423, 439 (1974) (noting that ex parte restraining orders necessary evil to protect status quo). The section then provides that the procedures for holding a hearing, including the notice requirement, be commenced within 2 days after the issuance of the order. Congress believes that this comports with the fundamental fairness exhibited by federal courts when issuing an ex parte temporary restraining order.

Congress' approach defines final agency action for purposes of a challenge to the issuance of an order by the Administrator and authorizes that a challenge may be commenced in federal court within 20 days after issuance of a final order. For purposes of fundamental fairness to individuals, Congress also believes that interim relief in federal court is appropriate for a stay of an order issued prior to hearing until the hearing itself is completed. Both of these provisions were added out of an abundance of caution. Although Congress believes that federal court jurisdiction challenging the Administrator's action may constitute a ''federal question'' pursuant to §1331 of the Title 28, United States Code, Congress determined that explicit authority to challenge the Administrator's orders in federal court removes any question that this decision has been remitted solely to the discretion of the agency and is not subject to review under Heckler v. Chaney, 470 U.S. 821 (1985).

This section authorizes a court to appoint a receiver for the entities subject to regulation pursuant to this section. The receiver is entitled to take possession of assets of the SBLC or Non-Federally Regulated SBA Lender. Congress intends this authority to extend only to the SBLC or Non-Federally Regulated Lender's portfolio of loans or other instruments guaranteed by the Administrator including any debentures, participating debt, or securities issued pursuant to the Small Business Investment Act.

Congress believes that suspension, revocation, or cease and desist is an extraordinary remedy. Each requires an extremely high burden of proof related to willful misconduct that may present a difficult case for the Administrator to prove. Therefore, the bill also provides the Administrator with the authority to seek court-imposed civil penalties for the failure to file reports required by the Administrator. Such penalties shall issue when the failure to file is willful and not due to neglect. The failure to file required reports for more than two reporting periods is, in the opinion of Congress, sufficient, but not the only evidence of willful neglect. Congress expects the Administrator to promulgate regulations outlining the factors that determine willful neglect for the purposes of civil penalties (as an aid to the entities regulated pursuant to §23). These regulations also must contain standards for exempting SBLCs and Non-Federally Regulated Lenders from the civil penalty provisions as well as the procedures used for determining whether the institution qualifies.

SECTION 162. DEFINITIONS RELATING TO SMALL BUSINESS LENDING COMPANIES

Almost all of the lenders authorized by the Administrator to issue guaranteed loans pursuant to §7(a) are lending institutions regulated by a federal financial regulator. However, there are a few institutions that make guaranteed loans that are not subject to federal financial regulatory oversight or regulation by a state banking authority. The Administrator classifies these institutions generically as ''small business lending companies.'' However, that universe actually consists of two separate entities—small business lending companies (not financial institutions) and financial institutions not subject to any agency authorized to review the safety and soundness of depository institutions. Since §161 adds a new §23 granting the Administrator power to regulate these entities, §162 adds two new subsections to the definitions in the Small Business Act defining small business lending companies and non-federally regulated SBA lenders.

SECTION 201. AMENDMENT TO DEFINITION OF EQUITY CAPITAL WITH RESPECT TO ISSUERS OF PARTICIPATING SECURITIES

Congress determined that changes were needed in the definition of equity capital with respect to any company that issues participating securities. Such companies, participating securities SBICs, commit to invest an amount equal to the outstanding face value of participating securities solely in equity capital. Equity capital refers to common or preferred stock or a similar instrument, including subordinated debt with equity features. Equity capital issued by participating securities SBICs previously provided for interest payments to be made to the Administration contingent upon—and limited to—the extent of earnings on equity capital. However, since the inception of the Participating Security SBIC program, the majority of SBICs have not realized sufficient profits with which to meet their financial obligations to the federal government. This has resulted in serious financial loss for the federal government. In order to mitigate these losses, the definition of equity capital has changed so that participating security SBICs do not have to realize profits on their investments in order to make payments to the Administration. If a participating security SBIC is experiencing overall losses on their investments but has other sources of funds such as invested excess funds, royalty payments, licensing fees and the like, Congress intends that these funds may be used to meet their obligations to the Administration.

SECTION 202. INVESTMENT OF EXCESS FUNDS

This section provides SBICs with additional flexibility for handling funds prior to investments in small businesses by allowing SBICs to invest such funds in additional types of securities. Currently, SBICs holding cash, prior to investing in a small business, are only permitted to invest directly in obligations of the United States, obligations guaranteed by the United States, or in certificates of deposit maturing within one year or savings accounts that are in institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. This section modifies the current restriction by permitting SBICs to invest in securities, mutual funds, or instruments, which themselves invest solely in the obligations that are currently permitted. For instance, Congress expects that SBICs will be able to invest in mutual funds that, in turn, invest in the government-backed obligations already authorized for investment in SBICs. Congress believes that this modification will provide SBICs with greater flexibility and a wider range of short-term investment options.

SECTION 203. SURETY BOND AMENDMENTS

Section 203(a) clarifies that the current $2 million limit on surety bonds applies to the

bond guarantee and not the contract size. Congress adopted this clarification to prohibit contracting officers from determining that small businesses would not qualify for an Administration-backed surety bond for a contract worth less than $2 million even though it was part of a bundle of contracts that exceeded $2 million. For example, a small business might be denied a surety bond if the small business had a contract for $1.5 million, but that contract was part of a $12 million bundle of contracts that had been awarded simultaneously.

Section 203(b) requires that an audit of each participating surety shall occur every three years instead of annually. This reduction in the frequency of audits will save participating sureties time and money and allow them to allocate these resources to more productive uses. In addition, this will enable the Administrator to focus on more critical elements since the sureties already provide reports on a periodic basis that would identify problems during the interregnum between audits.

Currently certain sureties designated by the Administrator may issue, monitor, and service surety bonds issued pursuant to Title IV of the Small Business Investment Act. This authority ceased to be operative on September 30, 2003 (but has been extended for short periods of time on a temporary basis). Congress determined that the authority for this program should be made permanent. Section 203(b) makes that change by repealing §207 of the Small Business Reauthorization and Amendment Act of 1988.

SECTION 204. EFFECTIVE DATE OF CERTAIN FEES

Loans made pursuant to Title V of the Small Business Investment Act do not require any appropriation. Fees charged to borrowers and CDCs absorb the costs associated with the issuance of such loans. When the zero-subsidy for the program was instituted, Congress made the fee authority temporary to see whether the program could survive without an appropriation. The program has succeeded admirably and Congress does not expect that an appropriation to fund loans made by CDCs will be made for the foreseeable future. As a result, Congress determined it was pointless to continue, as temporary, the Administrator's authority to charge fees for loans made pursuant to Title V of the Small Business Investment Act. Section 204 grants the Administrator permanent authority to charge fees.

Mr. President, I oppose language that has been included in the fiscal year 2005 Omnibus Appropriations that was authored by U.S. Representative DAVE WELDON the so-called Abortion Non-Discrimination Act amendment. This language will have a chilling effect on women's access to legal reproductive health services.

The Weldon language would allow a broad range of health-care entities to refuse to comply with existing Federal, State, and local laws and regulations pertaining to abortion services. This harmful language will severely limit patients' rights and access to services and information, thereby impeding their ability to make informed decisions about their health care options.

I join my colleagues in supporting a conscience clause that would allow doctors to opt-out from providing abortion services due to their moral or religious beliefs. That's why I worked with former Senator Dan Coats in 1996 to construct a conscience clause that is in law today that ensures medical students and medical teaching institutions have the ability to refuse to participate in abortion training if it is against their personal beliefs, while ensuring that women would have access to the highest quality medical care.

But this is not what the language in the Weldon amendment does. The Abortion Non-Discrimination Act is instead a sweeping new exemption from current laws and regulations pertaining to abortion services. Far from constituting a ''conscience clause,'' as the sponsors claim, the language that is included in the Omnibus is an overly broad opt-out from compliance of state or local laws ensuring access to abortion services which could have the consequence of limiting the availability of safe and legal health care.

This language would change existing law to say that Federal, State, or local governments may not require a health-care entity—broadly defined to include insurance companies, hospitals, and HMOs, among others—to perform, provide coverage of, pay, or even, most shockingly, refer for abortion services. Any law or regulation that did so would be considered ''discrimination'' against the health-care entity, in the words of the bill, and the requirement could not be enforced. What's more, the State or local entity that tried to enforce that law, would lose all funding under this bill.

Further, this language ignores the fact that more than 40 states already have conscience clauses that are in law today that allow individuals—and in many states larger health entities—to opt out of providing abortion services. In doing so, the authors of this provision undermine what in many cases were hard fought and carefully crafted conscience clauses instituted by our State and local governments.

Instead of accepting the language included in the bill before us, the Senate must have the opportunity to work, as Senator Coats and I did in 1996, to devise a compromise that would result in a conscience clause that allows for conscientious objection without impairing the provision of health care in America.

I am opposed to the inclusion of this language in the omnibus. This language will have a detrimental effect on women's health, it will override a state's or a locality's ability to require access to these services, and it will prevent women from exercising their right to decide what health care services they want to seek and limit their ability to access information about such services.

Senator BOXER has received a commitment to revisit this issue with consideration of legislation that would repeal this language before March 1, 2005. I join my colleagues in supporting a conscience clause but I object to the language included in this bill and the process that has brought us to this point today.

Mr. KERRY. Mr. President, I oppose the passage of the Omnibus appropriations conference report.

The bill before us was written in a process that is the legislative equivalent of painting a room in the dark. You don't know exactly how the room will look until you turn on the lights, but you can be sure that it will be a mess. And, of course, that is what has happened. This bill is a mess.

The Republican leadership has taken nine spending bills, funding 13 Government agencies with more than $388 billion, and combined them into a single bill that is more than 3,000 pages long. On top of all that spending, they have included several riders that make unrelated changes in Federal law. Most of these bills were never debated or amended by the full Senate. Many of the provisions haven't even had a committee hearing. The only people who have had a chance to review and amend the bill are the Republican leadership and the White House, and all of that went on behind closed doors. And the public, the press and almost every Member of Congress has had no real opportunity to review them before we vote and send them to the President to become law.

So it comes as no surprise that this massive spending bill, created by a terribly flawed process, is itself terribly flawed.

The Republican majority and the Bush administration have provided inadequate investments in education, housing, small business and a number of other important domestic priorities.

The Community Oriented Policing Systems program, called the COPS program, has been eviscerated, and funding for the Local Law Enforcement Block Grant program has been cut. Both of these programs help our cities and towns fight crime and protect our citizens but putting well-trained and well-equipped cops on the street. And both programs had played an increasingly important role in homeland security.

The bill does not keep our promise to care for our veterans. The funding level included in the conference report for veteran's healthcare, while above last year's level, is insufficient to meet the needs of our veterans. Today, 500,000 veterans are prevented from receiving health care through the Veterans Administration. New veterans are fighting to obtain the services they have earned. Thousands more are waiting for disability ratings. The Congress had an opportunity to make a real difference in the lives of those who have given so much for this country, and the Congress failed.

The bill harms small businesses by failing to provide access to the capital they need for investment and growth. As the ranking member of the Senate Committee on Small Business and Entrepreneurship, I know how critical small business loans are to expanding economic opportunity, especially in low-income neighborhoods. Unfortunately, the bill eliminates all funding

and increases fees for the program at the Small Business Administration that is the largest source of small business loans in the Nation.

I will not try to list all the worthwhile programs that have been cut or eliminated, because the list is just too long. The point is simple: dozens of Federal investments that help our cities and towns, our schools, our small businesses, our police, our environment and much more have been needlessly cut. And those cuts will do needless harm to communities and families all across the country.

And along with the spending provisions of the bill, the White House and the Republican leadership have attached riders that make changes in Federal law. These are provisions that have not been considered by the House or Senate, and in many cases have not received a committee hearing or markup.

The bill includes a provision that will prevent Federal, State and local governments from requiring any institutional or individual health care provider to provide, pay for, or refer for abortion services. Ten of my female colleagues, including two Republicans, have expressed their strong opposition to that provision and affect it may have on reproductive health services. In a letter to the Appropriations Committee, they point out that the provision has never been considered and never had a hearing in the Senate. It comes down to this: whether you support or oppose this provision, and I oppose it, this is no way to do the people's work. Whatever you think of this provision, it does not belong in a 3,000 page spending bill. It deserves a hearing, a debate and vote.

Another provision that was included with no vote, hearing or discussion by the Senate would allow congressional staff access to the tax returns of individuals and businesses. There is absolutely no justification for such a provision in this bill or anywhere else. It is a shocking abuse of power by the Republicans. This provision, which would allow congressional staff to review any private citizen's tax return, is unacceptable. It tramples the rights of our citizens and grossly violates the public trust. I am pleased to hear the assurances of the majority leader that this provision will be removed from the bill. However, we need to understand how it came to be included in the conference report. Who in the Congress sponsored this provision? Who in the White House approved it, since we know the White House has blessed this bill?

Is there any good in this bill? Of course there are many worthwhile Federal programs that are funded. Like a broken clock is right twice a day, a bill spending $388 billion will get a few things right.

I am pleased that the conference report includes $62 million for the YouthBuild program, which is a highly effective comprehensive program that helps at-risk youth obtain an education and take responsibility for their lives and their communities. YouthBuild is the only national program that provides young adults an immediately productive role in the community while also providing equal measures of basic education toward a diploma, skills training toward a decent paying job, leadership development toward civic engagement, adult mentorship toward overcoming personal problems, and participation in a supportive mini-community with a positive set of values.

And there are other good programs this bill has funded adequately. I am grateful for the good that will come from this legislation, including funding for Federal projects and programs in Massachusetts.

On a whole, the bad outweighs the good in this bill, and I will vote against it.

Mr. LEVIN. Mr. President, it is difficult to vote against this omnibus appropriations bill because it provides funding for many programs that I support. In fact, it contains many provisions that I worked to have included.

However, we are confronted with this legislation containing funding for fiscal year 2005 which under normal circumstances would have been contained in nine separate appropriations bills and which should have been done prior to the beginning of this fiscal year last October 1. Once again, for the third consecutive year, and all too frequently in recent years, the Senate finds itself considering a massive appropriations bill, in this case totaling about 3,000 pages and spending nearly $400 billion, and containing important legislation which doesn't belong in an appropriations bill at all. We have had only a matter of hours to read and consider this bill.

This is a process which reflects poorly on the Congress both because it represents a failure to get the Nation's work done on time, and because of its huge size and the inclusion of matters which were not previously considered in the Senate hinders the kind of careful consideration and debate which wise decisionmaking demands. It is certain that Senators will only learn after the fact details about many provisions which have been added.

And perhaps most importantly, because these omnibus bills are delayed until the waning hours of each Congress, the White House is included in the meetings as the language is written, in order to avoid a Presidential veto. This weakens the constitutional prerogative of the legislative branch to control the Nation's purse strings and it undermines the critical oversight role which the Congress plays, in part, through its appropriations activities when they are conducted in the normal manner.

One example of the consequences of this hurried and extraordinary process is a provision in the bill late yesterday by our Republican colleagues that provides the chairman of the House or Senate Appropriations Committee or his or her staff access the tax returns and other tax return information of any corporation or individual. Further, it would exempt the chairman or staffer gaining access to these returns from any provision of law governing the disclosure of income tax returns. The House did not debate that provision. The Senate did not debate that provision. However, somehow it ended up in this bill. This is an outrage. The Senate passed a resolution earlier tonight in an effort to eventually remove this provision from law, however if this bill is adopted, this provision violating the privacy of income tax returns will become law and we will have to hope that the House of Representatives will follow through and the President will sign the resolution to remedy the situation.

For every egregious provision like the one above that we find, there could be several more that were missed.

I am also concerned about the failure of this bill to adequately fund vital education initiatives. The bill before us underfunds title I by $500 million below the President's budget request; this critical program provides aid to states and school districts to help educationally disadvantaged children achieve the same high academic performance standards as other students. The bill before us also underfunds the important Individual with Disabilities Education Act by $415 million and it underfunds the National Science Foundation at $62 million below the fiscal year 2004 funding level and $278 million below the budget request. Additionally, this legislation does not provide for an increase in the maximum Pell Grant award—the very foundation of aid for many needy students. It remains at the current level of $4,050, rather than increasing toward the authorized maximum award level of $5,800.

This bill also cuts funding for local law enforcement programs that could compromise the safety of communities around the country. Not only are our police on the beat essential for maintaining community safety, but they are the first line of defense against potential terrorist attacks. This bill cuts funding for the Community Oriented Policing Services, COPS, program by over $140 million from last year's funding level. This program provides vital funding to our first responders and I cannot support such a drastic cut in funding.

Throughout Michigan and the rest of the country, our cities are struggling to finance urgent upgrades to municipal sewer systems to prevent discharges to the environment or private property. These communities have very high water and sewer rates and cannot handle additional debt. The State Revolving Loan Fund, which has received $1.35 billion per year from Congress in the past several fiscal years, has helped to clean up polluted waters, however more money is needed to help communities such as ours in Michigan with

significant needs. This bill does the opposite; it cuts funding for the State Revolving Loan Fund which will harm our ability to clean up our waters and upgrade our aging sewer systems.

This bill deletes a provision contained in both the House and Senate Labor-HHS appropriations bills that would have prohibited enforcement of the administration's overtime regulation that went into effect in August 2004.

I am also disappointed that this bill provides less funding for the IRS than the administration requested. This legislation provides $400 million less than the President requested. This overall dollar figure reflects $166 million less than requested for tax enforcement, which is a non-sensical and irresponsible decision. Tax enforcement is an unusual area of the budget where a relatively small increase pays for itself many times over by increasing the amount of revenue collected. Just days ago the IRS announced that its fiscal year 2004 enforcement revenue of $43 billion represented a roughly four-to-one return rate on its overall budget of $10.2 billion, a return that is even greater when only enforcement funding is taken into account. And this return on investment doesn't even take into account the fact that vigorous enforcement also has a word-of-mouth effect that goes beyond the direct revenue generated. Unfortunately, this conference report does not give the IRS nearly the resources it needs to ensure this vigorous enforcement, so we will continue to leave honest taxpayers shouldering an unfair share of the burden while many tax dodgers escape scot free. When only one in five known tax cheats is even chased by the IRS, and when fewer than 1 percent of the estimated 1 to 2 million individuals dodging taxes by using offshore bank accounts have pending IRS enforcement actions, there is obviously a lot more the IRS could be doing to improve enforcement.

Mr. President, while this bill funds many programs that I support, on balance I cannot support this legislation. For the reasons I have mentioned, and others, I will vote against this Omnibus bill.

Mr. CONRAD. Mr. President, I will vote against the omnibus appropriations conference report. The bill before the Senate contains 9 appropriations bills, 7 of which were never debated, amended, or voted upon by the Senate. The bill spends $388 billion, and, together with its explanatory language, it is 3,646 pages long.

Throughout the day today, I and several members of my staff have been reading and analyzing the provisions of this bill. During the examination, we discovered a particularly egregious provision. It would have allowed an agent of the chairman of the House or Senate Appropriations Committee to look at the tax return of anyone in America. And, further, it would have allowed them to release the private information contained in those returns without any civil or criminal penalty. That would have created the opportunity for an abuse of power almost unprecedented in our history.

Thankfully, my staff and I were able to catch this, and after strenuous debate, the provision will be nullified. But this is an indication of how completely flawed this process has become. None of us can know what other inappropriate provisions are in this bill. There simply has not been enough time to thoroughly scour the more than 3,600 pages in this bill.

There are a number of provisions in this bill that are good for North Dakota that I worked hard to have included, but it is clear to me this appropriations process is broken. Former President Ronald Reagan in his 1988 State of the Union Address told us we should not do business this way. He was right.

For that reason, I am obligated to oppose this conference report.

Ms. MIKULSKI. Mr. President, this is the toughest VA/HUD bill we have ever faced.

In putting this bill together, we were told by the Republican leadership that we had to do two things. First, we had to fund veterans medical care $1.2 billion above the President's budget request. Second, we had to fund NASA at the President's budget request of $16.2 billion. In addition, we had to provide enough money to renew Section 8 housing vouchers. Even though this was not a priority for the President, it was a priority for us.

I agree with these priorities. I have fought for these priorities. But in order to fund these priorities, we had to cut $3 billion from other programs. This is a shell game.

The Republican leadership gave us an allocation for conference that is $3 billion less than we had for our Senate bill. With the exception of VA medical care, Section 8 and NASA, we had to cut all other programs an average of 4 percent below last year.

For the first time in history, we had to cut essential programs to pay for these priorities. These are real cuts to programs that help people and communities. This is the illusion of being compassionate. We were forced to do this because of the budget caps that we are forced to live under by the Republican leadership.

These spending caps put a stranglehold on essential programs. The Republican leadership created this situation and unfortunately, the American people will pay the price.

Our No. 1 priority has always been our veterans. Senator BOND and I will always make veterans the number one priority in this bill. We have increased veterans medical care by $1.5 billion over last year, and $1.2 billion more than the President requested in his budget. We eliminated the President's proposal to increase deductibles and co-pays for veterans. It is wrong to ask veterans to pay more for their medical care, especially when we are fighting a war. We created a new prosthetics and holistic care program to find new ways to treat and care for veterans, especially for our veterans returning from Iraq and Afghanistan.

For this reason alone, we had to produce a bill, even under these circumstances. If we didn't produce a bill this year, we would not have enough money to care for our veterans, particularly our veterans returning from Iraq and Afghanistan.

We have increased funding for NASA to help fund the repairs to the Space Shuttle so we can return to flight next year and fix the Hubble Space Telescope.

Returning the Shuttle safely to flight is our top NASA priority. We are fully committed to implementing the recommendations of the Gehman Commission, and we have given NASA sufficient funding to accomplish this goal. We have provided the full budget request, $4.3 billion, to fund the Space Shuttle and we have provided NASA with unprecedented flexibility to add more funds for the Space Shuttle, if they need it.

We added $300 million to NASA's budget to fund a servicing mission to the Hubble Space Telescope, the most successful scientific instrument since Galileo's telescope. I have fought to save Hubble and I am proud that my colleagues have joined me in this fight by providing an additional $300 million to fund a servicing mission in 2007.

We also made a down payment on the President's Exploration Initiative so we can begin a new era in space exploration and we protected NASA's critical science programs such as Living With A Star and Earth science applications to help us better understand the Earth's environment.

For National Service, the overall budget was cut by over $3 million compared to last year but we were able to fund AmeriCorps at a level that supports 70,000 new volunteers, despite the cut in funding. This will allow us to maintain the momentum we started last year.

However, these increases come at a price. To provide these needed increases for veterans and NASA, we had to cut essential programs, ''including housing programs. Senator BOND and I have a responsibility to fund the renewals of Section 8 vouchers. We added funding for Section 8 renewals, but we had to cut other programs to pay for it.

We were forced to cut housing for the elderly by $26 million. Housing for the disabled is cut by $10 million. The Community Development Block Grant Program, one of our most popular programs in this bill, and one of the most important programs for State and local governments, is cut by $200 million compared to last year. We should not have to be forced to shift funding from one essential program to another.

For EPA, we were forced to make cuts because of the budget cuts imposed on us by the Republican leadership. The clean water State revolving

fund was cut by $250 million compared to last year. That means every State will get less money for sewer construction.

EPA's successful science and technology programs—the programs looking at innovative and cost effective solutions for environmental protection—are cut by $40 million compared to last year. Overall, EPA is cut by over $300 million compared to last year.

Thanks to the Republican budget cuts, we are shifting the burden of environmental protection to State and local governments. I am opposed to this and fought it every step of the way.

For NSF, Senator BOND and I have fought to incease funding for science and technology by fighting to double NSF's budget over 5 years. Yet, the budget cuts imposed on us forced us to cut $60 million from NSF's budget compared to last year.

Fortunately, we were able to increase funding for our historically black colleges and universities and maintain graduate stipends at $30,000 per year—two of my top priorities.

But we will not be able to maintain our leadership in science and technology if we are forced to cut NSF funding. We will not be able to produce the new technologies that lead to the new jobs if we have to cut basic research funding. This is not a sound policy.

Senator BOND and I have done the best we could do under the circumstances. We had no choice but to produce a bill. A CR would have been worse for our veterans and we could not let that happen. We have soldiers returning from Iraq and Afghanistan. Without an increase in VA medical care, we would not be able to care for them once they return and enter the VA system.

Senator BOND and I would never let that happen, but it is wrong to have to cut other important programs to pay for it. I hope that we will not face this situation next year.

Mr. BUNNING. Mr. President, today I voted to approve the Conference Report to Accompany H.R. 4818, the Consolidated Appropriations Act of Fiscal Year 2005. As many of my colleagues in both the Senate and the House of Representatives have discussed at length today, this bill contains a provision, Section 222, which could be interpreted in a way as to cause concern regarding the protection of the privacy of I.R.S. data of U.S. taxpayers. As a Member of the Senate, and particularly as a member of the Senate Finance Committee, I take the American taxpayers' rights to privacy regarding their personal income tax information very seriously. I supported a joint resolution, passed earlier today by the Senate, which calls for the removal of this provision from this conference report. In addition, I understand that the chairmen of the House Appropriations, Senate Appropriations, House Ways and Means and Senate Finance Committees have made clear their intentions to insure that this provision is deleted or otherwise removed at the earliest possible opportunity. I also understand that the President of the United States is expected to issue a statement indicating that this provision of the conference report shall be disregarded. It is with reliance upon these commitments, and with my intentions to follow this issue closely to insure that this situation is corrected at the earliest possible opportunity, that I cast my vote in support of this conference report today.

Mr. GRASSLEY. Mr. President, today the House and Senate are considering whether to approve the conference report to H.R. 4818. H.R. 4818 is what is commonly called in the Congress an omnibus appropriations bill. Basically, an omnibus bill rolls a number of other bills into a single legislative vehicle for an up-or-down vote on the final package. It is a method frequently used by the Appropriations Committee at the end of the legislative session after the committee has failed to complete its work in regular order. It enables the Appropriations Committee to appropriate funds at the end of the year. Without this appropriation, the Government would shut down. So, it is must pass legislation.

Work on this bill was completed last night around midnight. Since that time, my Finance Committee staff has been scouring the package to determine whether there are any provisions within the jurisdiction of the Finance Committee in the bill. Unfortunately, the Appropriations Committee often includes authorizing language on matters within the jurisdiction of my committee, but fails to notify us. The result is usually poorly drafted and short-sighted provisions, many of which have unintended effects. Unfortunately, this year is no different.

Let's just take one area—international trade. A few years ago, the Appropriations Committee included an amendment which required that monies collected as countervailing duties and antidumping duties be distributed to the petitioners who filed the underlying cases. Many of our trading partners thought this provision violated our international obligations because it enables petitioning industries to not only have duties placed against competing imports, but to also receive these duties. The World Trade Organization agreed and found the amendment to be contrary to our trade obligations. Nevertheless, the law is still on the books. As a result, many of our export industries may face retaliatory sanctions.

As I said, this amendment was slipped into an appropriations conference report without full debate in the Senate. The Finance Committee, as the committee of jurisdiction and the committee with expertise in international trade, never had a chance to review the amendment. Now, I'm not surprised that a bill that was never considered by the committee of expertise or even the full Senate was found to violate our international commitments.

But, even aside from the WTO ruling, there are a number of other problems with the way the amendment operates. For example, earlier this year the Congressional Budget Office issued a report in which it found that, regardless of the economic harm which can be caused by retaliation, the amendment is detrimental to the overall economic welfare of the United States. An earlier report issued by the Department of Treasury Inspector General found that the Bureau of Customs and Border Protection made $25 million in overpayments when disbursing funds. The report also faulted the Bureau of Customs and Border Protection because qualifying expenditures claimed by domestic producers are not verified on a routine basis. So, there are a lot of problems with the way this program functions that are totally independent from our WTO obligations.

But because the Finance Committee never had an opportunity to review the amendment, these problems were never addressed. Instead of working with the Committee to address these problems, they took a different tack. In this year's omnibus appropriations bill they decided to require our United States Trade Representative and the Department of Commerce to negotiate the right for WTO members to distribute monies collected from antidumping and countervailing duty measures. In short, they are directing our trade negotiators to go back to the negotiating table and try to negotiate for something which we have already lost. I doubt our trading partners will be sympathetic.

The Appropriations Committee also required the Office of the United States Trade Representative to create a new position of Chief Negotiator for Intellectual Property Rights Enforcement. Now, this may be good idea—but, again the Finance Committee has not had an opportunity to review this provision so we do not know if this is an appropriate use of government resources or not. We do know that the decision about whether to create new trade negotiating positions is up to the Finance Committee, not the Appropriations Committee.

Unfortunately Mr. President, these provisions are just exemplary. There are many other provisions in the bill dealing with international trade that, frankly, should not be in there. Whatever position you may take on the merits of these provisions, international trade negotiations and antidumping and countervailing duty laws are plainly matters within the jurisdiction of the Committee on Finance. The vast trade implications of these provisions were not carefully weighed by the Committee on Finance. This is bad precedent—and I sincerely hope we will not see similar actions in the future.

Mr. KOHL. Mr. President, I rise today to oppose the Omnibus appropriations bill. I think the American

people would be appalled by the process under which the Senate is considering this bill. Provisions have been added that have never been debated, never had a hearing, and never had a vote in the Senate. It is thousands of pages long, and yet the Senate has had only a few hours to read the bill. We are just beginning to learn about all of the provisions that have been added.

Already, we have learned about an outrageous provision that would allow for a complete reversal of longstanding privacy protections. The bill contains a provision that allows Appropriations Committee chairman, or their designees, to review the tax returns of any American citizen. Any individual, any corporation could have their very private information poured over by any number of people. Not only would the private, sensitive tax information be available to the Chairmen and their staffs—they would be able to distribute that information without incurring any penalties. This egregious ''oversight'' is inexcusable. That a provision with this impact, on both privacy rules and on powers of the Senate, would be slipped in at the midnight hour with no oversight, is an offense to every Member of the Senate and most importantly, to the American people.

While I am relieved that promises have been made to remove this egregious provision, this is just an example of the danger that comes with rushing a bill like this through the Senate. This is simply indefensible. The American people deserve a more serious effort, and I cannot support a bill that has been rushed through in this manner.

I am also troubled by much of what we already know about this bill. This bill demonstrates that the budget deficit our Nation is facing today is causing real cuts in important programs and real pain for working families. These tight budget numbers are the consequence of a fiscal policy that puts reckless and expensive tax cuts for the wealthiest in our country above all other priorities. That policy has left us with huge deficits and the inability to fully fund some of our Nation's most pressing needs—needs like education, health care, law enforcement and housing. Clearly, we need to take another look at our Nation's fiscal policy and finally put together a budget plan that meet the needs of American families.

The Omnibus appropriations bill before us simply falls short on too many of our priorities. I recognize that it includes a $500 million increase for the title I education program for disadvantaged students and a $607 million increase for special education. I am grateful that increases were provided during these difficult times but let's not forget that even with these increases, funding for No Child Left Behind is still far below the levels authorized when the law passed. We are still not coming anywhere close to our commitment to fund 40 percent of the costs of special education. And once again, the maximum Pell Grant award has been frozen leaving more students with higher student loan debts or shut out of higher education altogether. These are just a few examples. I believe we should be able to do better when it comes to our Nation's students and schools.

In addition, I am very disappointed with the practical elimination of the COPS Universal Hiring program. The Omnibus appropriations bill allocates a paltry $10 million for this nationwide program—a program that has added tens of thousands of police officers to police departments across the country. Not surprisingly, the COPS program has been overwhelmingly popular among our local police departments in Wisconsin and beyond. Moreover, crime has been steadily decreasing in the past decade thanks in part to the COPS program. A mere $10 million is not enough for a program that received more than $300 million just a few years ago. Quite simply, this appropriations bill demonstrates an insensitivity to the needs of our police officers who are also the first line of defense in the war on terror.

This Omnibus bill also contains inadequate support for energy saving research. One of the programs that I was disappointed did not receive sufficient funding in this bill was the Department of Energy's Industrial Technologies program. This program is an important effort to invest in our manufacturing base by increasing energy efficiency. This program invests in research to improve industrial energy efficiency and environmental performance in eight basic, energy intensive industries named by DoE as Industries of the Future: aluminum, chemicals, forest products, glass, metal casting, mining, petroleum and steel.

An example of such a program in Wisconsin that is applicable to all eight DOE Industries of the Future in Wisconsin is the project ''Wireless Sensor Network for Advanced Energy Management Solutions'' which applies advanced communications and sensors technology to industrial motors. The projected benefits from this program in 2020 include energy savings of 279 trillion Btus, $1.3 billion and 116 million pounds of pollutant reduction.

It is my hope that DOE reconsider this very important technology development and that the Interior Appropriations subcommittee focus next year on this program because of the impact it will have on our manufacturing capabilities in the United States.

I am also very concerned about the across-the-board cut that is included in this bill. The bill includes a cut of 0.83 percent that will apply to every program. That means the increases some programs received will be scaled back, and those programs that received flat funding will actually get a cut from last year's levels after the across-the-board reduction goes into effect.

I am particularly disappointed that this bill fails to address one critical area that is very important to me regarding dairy. As I have stated many times before on the floor of the Senate, dairy is an extremely important part of the economy of the Upper Midwest. For Wisconsin alone, employment associated with dairy farming, processing and related activities is estimated to be about 160,000, generating roughly $5 billion in income annually.

During the 2002 farm bill, a new dairy program was created, called the Milk Income Loss Contract, MILC, program, to provide countercyclical assistance to all dairy farmers in the nation, whenever market prices for milk fall below certain trigger levels. The program provides assistance in the form of direct payments to producers, up to the first 2.4 million pounds of production annually, when market prices are low. While the MILC program uses the market as a reference price to trigger assistance, it does not directly intervene into the market.

In 2002 and the first half of 2003, dairy prices reached 25-year lows. During that time, the MILC program provided dairy producers with much needed assistance. Wisconsin dairy producers have received $413 million in assistance under the program to date.

Without a doubt, dairy producers prefer to receive their income from the marketplace. Fortunately, milk prices have recovered over the last year, and as a result, the MILC program is now dormant. However, the safety net provided by the MILC program has been extremely helpful, particularly during times of low market prices. Unfortunately, the MILC program is scheduled to expire in September of 2005, 2 years earlier than the rest of the farm bill commodity programs.

Recognizing this problem, a bipartisan, multiregional coalition of Senators sought to remedy the situation during this year's appropriations process by extending the MILC program for 2 more years. Such an extension would put the MILC program on equal footing with other farm bill commodity programs.

On October 7, the President of the United States personally entered the debate on MILC extension. He traveled to Wisconsin to voice his support for the MILC program and before a group of Wisconsin dairy families stated:

> I know that the Milk Income Lost Contract Program is important to the dairy farmers here in Wisconsin. The milk program is set to expire next fall. I look forward to working with Congress to reauthorize the program so Wisconsin dairy farmers and dairy farmers all across this country can count on the support they need.

Our effort to extend the MILC program was also endorsed by a bipartisan, multiregional group of Governors. I ask unanimous consent that the Governors' letter of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Nov. 12, 2004.

Hon. TED STEVENS,
Chair, Senate Appropriations Committee,
Hart Senate Office Building, Washington, DC.
Hon. ROBERT BYRD,
Ranking Member, Senate Appropriations Committee,
Hart Senate Office Building, Washington, DC.
Hon. BILL YOUNG,
Chair, House Appropriations Committee,
Rayburn House Office Building, Washington, DC.
Hon. DAVID OBEY,
Ranking Member, House Appropriations Committee,
Rayburn House Office Building, Washington, DC.

DEAR SENATORS STEVENS AND BYRD; REPRESENTATIVES YOUNG AND OBEY: We are writing today to urge you to support a two-year extension of the Milk Income Loss Contract (MILC) program, as was recently passed by the Senate Appropriations Committee by a vote of 18 to five.

The MILC program, created by the 2002 farm bill, has been extremely helpful to dairy producers nationwide, by providing financial assistance when milk prices fall below certain target prices. The program has helped to stem the tide of dairy farm loss in our states, especially when milk prices fell to historic lows in 2002 and the first half of 2003.

Without question, dairy producers in our states prefer to receive their income from the market. As designed, the MILC program is dormant when market prices are strong, as they have been during most of 2004. When milk prices fall, however, the MILC program provides an effective safety net for the dairy-dependent communities in our states.

Unfortunately, the MILC program is scheduled to expire on September 30, 2005, two years earlier than the other farm bill programs, The bipartisan Senate provision would extend the MILC program by two years, to bring it in line with the timing of the rest of the farm bill, assuring a continued safety net for dairy farmers nationwide in the event of future price declines.

We therefore strongly urge you to support the inclusion of the Senate MILC extension provision on one of the remaining Fiscal Year 2005 appropriations conference reports scheduled for enactment this year.

Sincerely.

Governor Jim Doyle, Wisconsin.
Governor Mark R. Warner, Virginia.
Governor Bob Holden, Missouri.
Governor Edward Rendell, Pennsylvania.
Governor John Baldacci, Maine.
Governor Jennifer Granholm, Michigan.
Governor Mike Rounds, South Dakota.
Governor Kathleen Babineaux Blanco, Louisiana.
Governor Tim Pawlenty, Minnesota.
Governor James H. Douglas, Vermont.
Govemor Michael Easley, North Carolina.
Governor Dirk Kempthorne, Idaho.
Governor Tom Vilsack, Iowa.
Governor George E. Pataki, New York.
Governor Bob Taft, Ohio.
Governor John Hoeven, North Dakota.

Mr. KOHL. Our MILC extension was adopted twice by Senate conferees on appropriations measures, and each time it was shot down by House negotiators. Notwithstanding assurances of executive support and gubernatorial support, House Republican negotiators thwarted our efforts to include MILC extension in the various appropriations measures. I am extremely disappointed they did so.

One can reasonably assume, given the President's assurances in Wausau, WI, that MILC extension will be a part of his budget submission next year. While that is welcome, I caution my fellow MILC supporters and dairy farmers all across the nation to take that eventual development with a grain of salt.

Budget resolutions themselves are not enacted into law. They form a blueprint for subsequent Congressional action. Putting MILC in the President's budget, by itself, won't get the job done. It will take concerted and cooperative effort on both sides of the capitol to extend the MILC program.

Despite the serious problems I have noted above, it is worth mentioning several positive things in this bill that are of importance to my State, and I want to thank the chairman and ranking member, Senators STEVENS and BYRD, for working to accommodate my priorities.

First, I am pleased that juvenile justice programs fared much better than the President's original budget request. In that proposal, juvenile justice programs—which fund afterschool and other juvenile crime prevention programs, intervention initiatives that work to redirect troubled teens, youth mentoring programs, substance abuse prevention and education projects, and programs that help keep kids out of gangs—received just under $200 million. Through our work with Senators GREGG and HOLLINGS throughout the year, we have been able to increase that number to $384 million in this appropriations bill and I thank my colleagues for their support and cooperation. Though encouraging, we must remember that juvenile justice programs and our children deserve more funding than that. Just three years ago, these programs received roughly $550 million. Dollars spent on juvenile crime prevention is a wise investment. We can and must do better.

I am also grateful for the efforts of Senators SPECTER and HARKIN in working so hard to accomodate my State's needs for additional funding for Hmong refugees. The U.S. Government announced in December, 2003, that 15,000 Hmong refugees living in Thailand would be resettled in our country, primarily in Wisconsin, Minnesota and California. The resources provided in this bill will provide job training, health care, education and other support services and help our communities assist them with their basic needs. I know it was very difficult to find scarce resources in this tight budget, and I greatly appreciate the hard work of Senator SPECTER and Senator HARKIN to meet this need.

The bill before us also makes progress in meeting the need to provide assistance for low-income people trying to pay their rising heating bills. Funding for LIHEAP has been seriously underfunded coming into the heating season. As the prices of heating oil and natural gas continue to go up, an economic disaster was around the corner for many working families. While this bill did not provide the entire $600 million in emergency funds that many of my colleagues and I thought was necessary, it did provide $300 million. This additional funding raises to $2.2 billion the amount of regular and emergency funding available to help families meet there energy needs. In my state of Wisconsin, this account is crucial to helping the disadvantaged make it through the long winter.

In addition, one of my top priorities this year has been to restore full funding for the Commerce Department's Manufacturing Extension Partnership program, so I am especially pleased that we have been able to provide a total of $109 million for this vital program, a dramatic increase above the fiscal year 2004 funding of $39 million and a $3 million increase above funding in fiscal year 2003. Wisconsin is one of the most manufacturing-dependent States in the Nation, second only to Indiana, and this budget will be able to support the Wisconsin Manufacturing Extension Partnership program and the Northwest Wisconsin Manufacturing Outreach Center, the two MEP centers in my State. MEP provides critical assistance to small- and medium-sized manufacturers throughout the Nation. It is one of the only Federal programs which exists to help manufacturers maintain their technological edge and thus, retain jobs. Unfortunately, the fiscal year 2004 budget and the administration's fiscal year 2005 budget request included deep cuts to the program leading to the firing of staff and the closing of local offices around the country. While we were able to get the Commerce Department to reprogram some funding at the end of fiscal year 2004 to stave off further cuts, it was essential that we put this program back on track for fiscal year 2005.

In addition, I am pleased we have added bipartisan legislation to the Omnibus that will extend the benefits of the Satellite Home Viewer Improvement Act for another five years. We needed to act quickly to extend some sections of the satellite law we passed in 1999 because they were set to expire this year. To be sure, compromises were made to achieve this goal. But, we feel a deal was struck that is fair to all parties—consumers, satellite companies, and broadcasters alike.

Let me discuss how this bill will further spur competition between cable and satellite, which in turn will benefit consumers. Our bill will allow satellite companies to retransmit ''significantly viewed'' stations into local markets on a royalty-free basis. Cable companies have enjoyed this privilege for years, and it is time to extend this right to the satellite industry. By doing so, satellite companies will be able to craft a local channel line-up more similar to what cable currently offers.

Furthermore, through working with my colleagues, particularly Senator HATCH, we were able to assist low power TV stations, like Channel 41 in

Milwaukee, carry valuable local programming and sports broadcasts that other stations do not carry. Satellite television consumers in southeastern Wisconsin and around the country will benefit from more local programs and more choices. It represents a tremendous win for consumers and local sports fans. Simply, we extended a statutory license to low power TV stations in the same way those stations receive that privilege in the cable world. This is an important pro-consumer measure that we are able to successfully include in the Omnibus.

Finally, this bill includes funding for many important programs that will improve the lives of people in Wisconsin. Projects that provide job training, health care and dental care to uninsured families, afterschool programs, mental health services, caregiver training, transportation, crime prevention and economic development—all of these programs will have a real benefit for families and communities in my State. I am grateful for the hard work of the committee in accomodating these Wisconsin priorities.

As ranking member of the Agriculture Subcommittee, I would also like to make a few remarks about what is included in Division A of the bill, providing fiscal year 2005 appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies.

First of all, I want to congratulate Senator BENNETT who has now completed his second year as chairman of the Agriculture Subcommittee. In the period he has served as our chairman, his grasp of the policies, programs, and problems related to this subcommittee's jurisdiction has been outstanding. It has been a great pleasure for me to work with him, and I look forward to our continuing partnership next year.

Again this year the resources available to the Agriculture Subcommittee have witnessed a decrease from the previous year. Yet in spite of those constraints, Chairman BENNETT was able to provide some important increases to benefit American consumers and those who live and work in our rural areas. This conference report includes more than $5 billion for the WIC program. This amount is significantly higher than the fiscal year 2004 level or that of either the House or Senate bills. This appropriation will help meet caseload requirements for the coming year in spite of higher than expected food costs and participation rates.

This conference report includes new funding for a number of plant and animal disease problems including research for soybean rust, mad cow disease, avian influenza and a number of other emerging issues. More than $33 million is provided to establish a national animal identification program, as is funding related to conservation, rural development, food and drug safety, and more.

However, I must mention concerns I have with this conference report. I am concerned about reductions in the rural water and wastewater programs. Further, although the Public Law 480 title II program is funded at near the Senate level, worsening conditions around the world and the administration's reluctance to use the Emerson Humanitarian Trust, worries me that international food assistance may fall short and our contributions to humanitarian relief around the world may go wanting.

I also feel it is important to mention a growing, and unfortunate, practice on which this subcommittee has had to rely again this year. In order to achieve the funding levels for discretionary programs that we have in this conference report, serious reductions or rescissions in other programs had to be realized. This is not a wholly new occurrence. For many years, this subcommittee has effected limitations on a number of mandatory programs, notably those funded through various farm bills, in order to meet discretionary targets. However, due to a strangling of resources provided to this subcommittee in discretionary allocations, reductions in mandatory programs are becoming more and more severe.

My grave fear is if discretionary constraints continue at the rate we have seen the past couple of years, we will hit the limit on savings we can achieve and there will be nothing left to rescind. If and when that happens, the demands for carrying out farm programs, protecting American consumers, ensuring food and drug safety, keeping our environment clean, providing basic services for rural families, and meeting new challenges such as mad cow disease, soybean rust and all the rest will not diminish and we will simply not be able to provide what is necessary. On that day, we, and all of America, will be standing in the middle of a very tragic train wreck and we will all be asking each other how and why we let this happen. I hope that before that day comes, we will be able once again to have the resources necessary to meet the demands we were given the trust to overcome.

Having said that, I do want to praise the work of Chairman BENNETT. With the limitations I have just outlined, he has crafted a very balanced bill that will serve America well. He has done an outstanding job with limited resources and we should all be very proud of him for that.

I also want to recognize the majority staff who has worked so well with mine on putting this conference report together. I would like to mention Fitzhugh Elder, Hunter Moorhead, and Dianne Preece. I especially want to recognize the majority clerk, Pat Raymond, for her outstanding service, not just to his subcommittee, but to the Senate overall. I want to note that Pat will be leaving the Senate after the first of the year and we will all miss her and wish her well.

I would also like to recognize Galen Fountain, Jessica Arden, Bill Simpson, Tom Gonzales and Meagan McCarthy of the minority staff and Phil Karsting of my personal staff for all their hard work on this bill.

While I am pleased that the Omnibus appropriations bill includes many of my priorities, on balance, I cannot support it. First, this bill shortchanges too many of our nation's most important priorities. This Nation's fiscal policy throughout the last several years has led to large and irresponsible deficits, and as a result, we are facing an appropriations bill that is unable to meet some of the most pressing needs of our families and communities.

Finally, I cannot support this bill because the process by which it was put together and rushed through the Senate has been unacceptable. It is three thousand pages long and we have had only a matter of hours to review it. We have already learned about an egregious provision that would infringe on the privacy of Americans' tax returns, and as we have more time to review the bill, it is likely we will find more troubling provisions. I hope that this unfortunate process will not be repeated in the future. People in Wisconsin and across the Nation expect a more serious effort from the Senate. I urge my colleagues to oppose the conference report.

Mr. DODD. Mr. President, I regrettably voted against the adoption, of the conference report tonight. I say ''regrettably'' because I appreciate the efforts of Senator STEVENS, BYRD, and others to fashion sound legislation for the country, including the State of Connecticut. I am grateful to them. I applaud their efforts. However, I felt compelled to oppose this legislation because of the troubling way this bill was brought before this body and because of certain provisions about which I held deep concerns.

A few hours before the vote tonight, we were handed a piece of legislation 3,200 pages in length that combined nine appropriations bills worth over $380 billion. It is important to note that these appropriations bills did not follow the normal legislative process. Instead of being considered and voted on separately by the Senate and House and reconciled in a conference committee, they were combined into an existing conference report and sent to both the House and Senate with limited time for debate and no chance of amending. Furthermore, this omnibus bill was largely written under a shroud of secrecy—a shroud so thick that it became apparent this afternoon that not even the Senate leadership or Senate Appropriations Committee chairman knew fully what was contained in this legislation.

Thanks to our colleague Kent Conrad and his staff this afternoon, we learned of an extraordinary tax provision buried in the middle of this 3-foot thick bill—a provision apparently unbeknownst to the majority that launches an unprecedented assault on the personal privacy. This provision allows

certain Members of Congress or their designees—designees that could include anybody from staff members to private contractors—to request the tax returns of any United States citizen without having to give any reason for requesting the returns and without having any limitations on how to use those returns. Simply put, it is an unprecedented abuse of congressional power and a frontal assault on our civil liberties.

I am told that the fact remains that this legislation contains a provision that strikes at the heart of our nation's civil liberties. Moreover, that this provision will be repealed by the House and Senate before becoming law. While I am comforted by this move, I remain deeply troubled that other damaging provisions such as the one above might remain in this bill.

A second issue over which I hold deep concerns is that this conference report essentially allows health care providers to ''gag'' medical professionals and deny women from obtaining medically necessary information and services concerning reproductive health. This so-called Federal refusal clause would exempt health care providers from any existing federal, state, or municipal law that ensures that women have legal access to abortion services and reproductive health information. It would also bar states and municipalities from enforcing their own access laws without jeopardizing all of their federal funding for health and educational initiatives. While supporters of this provision claim that it solely serves as a ''conscience clause'' that protects the religious beliefs of certain health care providers, it is clear to me that this provision is yet another veiled attempt to undermine a woman's constitutional right to choose.

I am encouraged that Senator BOXER has reached an agreement with the Senate leadership to introduce and consider a bill next year that will strip this provision. As legislators, I believe that we should not work to uphold the rights and freedoms proscribed by the Constitution. We should not work to stifle or remove them. Therefore, I urge my colleagues to support the constitutional rights of women as enshrined by Roe v. Wade. I urge them to support initiatives that properly and effectively make a woman's life and well-being a top priority.

Furthermore, I am concerned that this conference report fails to contain several important measures that were previously approved by the House and Senate. One such measure prevents the Labor Department to, in effect, deny overtime pay to as many as 8 million workers across our country. While both the House and the Senate opposed this policy by bipartisan majorities, that opposition was ignored by Republican conferees. Many workers who now qualify for overtime pay would find their jobs reclassified as a managerial or professional position, thus making them ineligible for overtime pay if they work in excess of 40 hours.

This change is significant because overtime pay can provide as much as 25 percent of a worker's annual income. Instead of working toward creating new jobs and helping working families and individuals, the legislation creates yet another obstacle for millions of Americans to provide for themselves and their families.

Second, this conference report fails to stop the outsourcing of American jobs. The conference report that was before us tonight fails to reverse a Bush administration policy of allowing government functions to be outsourced to other countries—thereby causing thousands of job losses at home.

Finally, the conference report wholly underfunds important domestic initiatives such as education and health. It shows once again the current Administration's failure in guaranteeing the well-being of all Americans.

I regretted voting against this bill tonight because it does provide several million dollars for important initiatives in my home state of Connecticut and across the Nation. However, in my view, it carries too many negative provisions for me to support. I will continue to work with my colleagues in rectifying the bill's shortcomings in the coming months and new session of Congress.

Mr. STEVENS. I ask for passage of the bill, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back and all time has been used.

Mrs. BOXER. 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.

Mrs. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I am strongly opposed to a provision included in this omnibus bill that has never been debated or considered by the Senate. It denies millions of women basic information about their constitutional rights and endangers women who are in desperate situations in pregnancies caused by rape or incest or pregnancies that threaten their health or their life. Again, this provision has never been considered or debated by the Senate, yet it is included in this appropriations bill.

Given the rules of the Senate, there is no way I can strike this provision of the bill at this point. I could delay the passage of the bill, but I cannot strike this outrageous provision.

When the Senate returns to session in January, I will be introducing legislation to repeal this so-called Weldon provision. I feel strongly the Senate must debate, consider, and vote on this issue. It is too important to millions of American women to be slipped into an Omnibus appropriations bill. Therefore, I ask the majority and soon-to-be minority leaders to commit to bring before the Senate by April 30, 2005, my bill to repeal the so-called Weldon amendment, with a minimum of 4 hours of debate and an up-or-down vote on my bill without amendment. I ask the majority leader if he will comment on this?

Mr. FRIST. Mr. President, I thank Senator BOXER for allowing us to move toward completion of the Omnibus appropriations bill today. I commit to her that no later than April 30, 2005, the Senate will consider her bill to repeal the so-called Weldon amendment regarding abortion conscience clauses that is included in the Omnibus appropriations bill. When we consider that bill, we will have no less than 4 hours of debate equally divided on the bill, with Senator BOXER controlling half the time. There will be no amendment or other motions in order to the bill, and at the conclusion or yielding back of time the Senate will conduct an up-or-down vote on the Boxer bill.

I further commit to the Senator from California that this debate and vote will not occur on a Monday or a Friday and that it will not occur during the evening or a late night session.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I thank the majority leader for making this agreement and allowing the Senate to complete its work this year. I commit to the Senator from California that I will ensure the agreement that is reached today will be upheld.

Mrs. BOXER. I thank the two leaders and I urge the vote.

Mr. FRIST. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the conference report. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent. The Senator from Colorado (Mr. CAMPBELL), the Senator from New Hampshire (Mr. GREGG), and the Senator from Indiana, (Mr. LUGAR).

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), and the Senator from South Carolina (Mr. HOLLINGS), are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote ''no.''

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 30, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—65

Alexander
Allard
Allen
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Cantwell
Chafee
Chambliss
Clinton

Cochran	Grassley	Pryor
Coleman	Harkin	Reid
Collins	Hatch	Roberts
Cornyn	Hutchison	Santorum
Craig	Inouye	Schumer
Crapo	Johnson	Shelby
Daschle	Landrieu	Smith
Dayton	Lieberman	Snowe
DeWine	Lincoln	Specter
Dole	Lott	Stevens
Domenici	McConnell	Sununu
Dorgan	Mikulski	Talent
Enzi	Miller	Thomas
Feinstein	Murkowski	Voinovich
Fitzgerald	Murray	Warner
Frist	Nelson (FL)	Wyden
Graham (SC)	Nickles	

NAYS—30

Akaka	Ensign	Lautenberg
Bayh	Feingold	Leahy
Boxer	Graham (FL)	Levin
Byrd	Hagel	McCain
Carper	Inhofe	Nelson (NE)
Conrad	Jeffords	Reed
Corzine	Kennedy	Rockefeller
Dodd	Kerry	Sarbanes
Durbin	Kohl	Sessions
Edwards	Kyl	Stabenow

NOT VOTING—5

Biden	Gregg	Lugar
Campbell	Hollings	

The conference report was agreed to.

Mr. LEAHY. Mr. President, I rise today to applaud the fact that the Satellite Home Viewer Extension and Reauthorization Act of 2004 has been included in the Omnibus Appropriations conference report. The House is likely to pass the conference report later today. The fate of the conference report is less certain here in the Senate, and I still have not made up my mind how I will vote as I am still reviewing the text of the bill. I am pleased, however, that the Satellite Home Viewer Extension and Reauthorization Act of 2004 has been included. This new law marks important progress for rural Americans by providing greater access to more television options or these consumers, making more local TV channels available to them, encouraging more digital TV offerings, and providing head-to-head competition with cable TV.

I was pleased to sponsor the original Senate bill with Chairman HATCH, and Senators DEWINE and KOHL, which was introduced on January 21, 2004. At our Judiciary Committee hearing on the bill we heard from the President and CEO of Vermont Public Television, John King, who testified about the benefits of local-into-local television to Vermonters and the importance of getting both satellite carriers to offer it in Vermont. He also noted that all of the Vermont network stations should be offered statewide, including in Bennington and Windham counties. He testified that those counties receive local news from the Schenectady area and from the Boston TV market, respectively, not from Vermont stations.

I can recall hearing from many Vermont families over the years about this issue. In fact, in a letter dated February 20, 2004, I heard from almost 20 Vermont State representatives and State senators about the importance of getting satellite-delivered Vermont stations into Bennington and Windham counties. Indeed, the Vermont General Assembly adopted in both houses a joint resolution urging that ''the Vermont Congressional delegation assist in assuring the availability of Vermont-based television stations on all home satellite delivery systems in the state.'' I am pleased to announce that this just got done with the passage of this new law.

Once the President signs this bill, both satellite carriers, the Dish Network, also known as EchoStar, and DirecTV will be able to offer all Vermont TV stations in all Vermont counties. The Dish Network has been offering Vermont TV stations over satellite for over 2 years, except in those two counties, and DirecTV announced this month that they would begin offering local TV service in Vermont.

Both of these national satellite companies will also be able to offer TV satellite service in analog—as they do now—and in digital after full implementation of this new satellite law.

The Hatch-Leahy Satellite Home Viewer Extension Act of 2004 was approved by the Senate Judiciary Committee on June 17, 2004. All the members of the Judiciary Committee supported that bill.

When the bill was reported out of committee, I noted that the bill does far more than just protect satellite dish owners from losing signals as had happened in 1997 and 1998. I pointed out that the new satellite bill protects subscribers in every state, expands viewing choices for most dish owners, promotes access to local programming, and increases direct, head-to-head, competition between cable and satellite providers.

Easily, this bill will benefit 21 million satellite television dish owners throughout the nation, and I am happy to note that around 90,000 Vermonters receive satellite TV.

I was pleased to work on this bill not only with the Vermont Congressional delegation but also with my colleagues from New Hampshire, Senator SUNUNU and Senator GREGG. We, along with Senator JEFFORDS, introduced legislation to ensure that satellite dish owners in every county in each of our States would be able to receive signals, via satellite, from our respective in-State television stations. While our two States represent a small television market as compared to some of the major population centers, this provision is nonetheless very important to residents in six of our collective counties—two in Vermont and four in New Hampshire. I also coordinated these efforts with Congressman SANDERS and Congressman BASS of New Hampshire. Viewers in both States in those counties will simply choose whether they want to watch WMUR from Manchester, or watch WVNY or any of the other Vermont stations. For the first time, these residents in both States will be able to receive home State news and programming via satellite.

For too long, Bennington and Windham counties have not been able to receive television news about what is happening in Vermont. Because of Vermont's alpine topography, with many towns in the saddles of our mountains, thousands of Vermonters did not receive Vermont television stations over the air. This new provision solves that problem.

I have received input from all Vermont stations on this effort. I also had my staff meet with representatives from all the Vermont stations to go over the details. I appreciate the input of Peter Martin of WCAX; John King and Ann Curran of Vermont Public Television; Bill Sally of Fox, WFFF; Paul Sands of WPTZ and WNNE, NBC; Ted Teffner of WCAX; Eric Storck and Ken Kazabowski of WVNY, ABC. My staff also met with representatives of Adelphia Cable, Vermont's largest cable provider, and other providers.

As I mentioned on the Senate floor in September, this effort will also allow additional programming via satellite through adoption of the so-called ''significantly viewed'' test now used for cable, but not for satellite subscribers. Generally applied that test means if a family were in an area in which most families in the past had received TV signals using a regular rooftop antenna, then those families could be offered that same signal TV via cable. By having similar rules, satellite carriers will be able to directly compete with cable providers who already operate under the significantly viewed test. This gives home dish owners more choices of programming.

In 1997, we found a way to avoid cutoffs of satellite TV service to millions of homes and to protect the local affiliate broadcast system. The following year we forged an alliance behind a strong satellite bill to permit local stations to be offered by satellite, thus increasing competition between cable and satellite providers.

I want to thank Chairman HATCH, along with Senators KOHL and DEWINE, for providing such strong leadership in this effort. In 1998 and 1999 we developed a major satellite law which transformed the industry by allowing local television stations to be carried by satellite and beamed back down to the local communities served by those stations. This marked the first time that thousands of TV owners were able to get the full complement of local network stations. In 1997 we found a way to avoid cutoffs of satellite TV service to millions of homes and to protect the local affiliate broadcast system. The following year we forged an alliance behind a strong satellite bill to permit local stations to be offered by satellite, thus increasing competition between cable and satellite providers.

We also worked with the Public Broadcasting System so they could offer a national feed as they transitioned to having their local programming beamed up to satellites and then beamed back down to much larger audiences.

Because of those efforts, dish owners in Vermont and most other States can

watch their local stations instead of receiving signals from distant stations. Such a service allows television watchers to be more easily connected to their communities as well as providing access to necessary emergency signals, news and broadcasts.

The good news is that this bill is great for every state in the nation. Consumers in every county in every state will be offered, over time, more satellite TV choices. This effort is an example of how the Congress can work together on complex issues to benefit families all across America.

Many Members had a hand in crafting this bill. Subcommittee Chairman DEWINE, and his chief of staff, Pete Levitas, and David Bolling, and ranking member Senator KOHL and his staff, Jeff Miller and Jon Schwantes, were very helpful in crafting the Committee bill.

In the other body, Chairman SENSENBRENNER and subcommittee chairman LAMAR SMITH did a tremendous job on the Judiciary copyright issues. They worked with their Democratic colleagues including ranking member JOHN CONYERS and subcommittee ranking member HOWARD BERMAN to report out a strong bill.

The leaders of the Committee on Energy and Commerce worked on issues related to their jurisdiction and together with the Judiciary Committee developed a combined bill for House floor action. That was a great idea and they proposed a seamless package. As I have stated several times before, H.R. 4518 represented a very careful balancing of interests and was good for consumers, good for the affected industries, good for copyright holders and good for rural America. Staff of Senate and House leadership helped facilitate the process of working out some of the differences between different versions of the bill.

Many staff worked diligently on this effort, including David Jones with Senate Judiciary and David Whitney with House Judiciary, both of whom were instrumental in crafting good solutions to complex problems.

Many House and Senate Commerce Committee staff pitched in and worked together to get this bill done. James Assey, Bill Bailey, Rachel Welch, Gregg Rothschild, Alec French, Peter Filon, Sampak Garg, Neil Fried, Mike Sullivan and Howard Waltzman are some of the House staff on both Committees who worked hard to get the job done.

I know that my staff appreciated the helpful assistance provided by staff of Speaker HASTERT, Bill Koetzle; Majority Leader FRIST, Libby Jarvis; and Chairman STEVENS, Christine Kurth and Lisa Sutherland, in this difficult process.

I appreciate the efforts of my Judiciary counsel Ed Barron. As he did during the last reauthorization, Ed tried to work with everyone involved to help build a consensus on all the issues. Ed did an extraordinary job as he has done on all the other major projects I have asked him to do over the last 18 years.

In the next Congress, I look forward to monitoring the implementation of this law and am ready to work with all involved in this process to address any concerns that may arise.

Mr. ENSIGN. Mr. President, I rise today to report on a tremendous step forward for public safety, our economy, closing the digital divide, and bringing next generation high definition television to rural America. The House and Senate today passed legislation that will fundamentally impact the future of television especially in rural America. Today the U.S. Congress set aside entrenched special interest group wish lists and took a strong step forward toward making high definition digital television available in unserved areas.

The Satellite Home Viewer Extension and Reauthorization Act of 2004 enjoyed broad bipartisan support and is now headed to the President's desk. I applaud my colleagues from the Commerce and Judiciary Committees, from both sides of the aisle, and from both Chambers. The leaders of these committees did not bow down to the furious lobbying of those who have sought to slow down the digital transition and that attempted to gut the important pro-consumer digital white area provisions designed to make available high definition programming to rural Americans. This legislation sends an unmistakable message that we are not going to allow a digital divide like we have for broadband to occur in the new world of digital television. With this legislation, consumers who cannot receive digital television programming over the air, will now have a chance to receive it from satellite providers who are ready, willing and able to get high definition programming to unserved areas.

One of the most exciting benefits of this legislation, is that it creates incentives and pressures to speed the return of this valuable analog television spectrum. There are endless possibilities for powerful new innovations for consumers that will flourish when new unlicensed wireless spectrum is made available. Consumers will benefit from new devices and services we haven't even contemplated yet.

Public safety also needs to have access to this spectrum to ensure they have the ability to communicate in dark stairwells and wet basements. We know that the characteristics of this spectrum are such that they can penetrate walls and travel over greater distances. The 9/11 Commission tells us that we need to make this spectrum available.

The bill also mandates that satellite providers phase out their use of two-dish markets, across the country in 18 months. Currently, customers in some markets need a second dish to receive some stations and since many customers choose not to receive a second dish, some stations are not seen. This legislation ends that practice.

Our work today, while a tremendous victory, is but the first step forward in what I believe history will mark as the turning point in the U.S. Congress recognizing that blindly clinging to the world of 1940's analog television is only harming our economy, our most rural areas, public safety and is stifling innovation. Today the Congress made an affirmative determination that all Americans deserve to have equal access to digital television programming regardless of geographic location.

The purpose of this legislation is simple; to make sure consumers are not denied digital television based on where they live or whether the digital conversion has been completed in their area. People outside major market areas, like those in rural Nevada, should not be left behind in the DTV revolution.

This legislation includes strong protections against abuse, and tough penalties to ensure satellite providers comply with a fair and equitable process by which all Americans can take part in the digital transition in a realistic timeframe. Local broadcasters who have been unable to turn up a full-power digital signal due to circumstances beyond their control will not be unfairly penalized.

With the passage of the Balanced Budget Act of 1997, the Congress established a timeline for catching up our Nation's television broadcasting with rapidly changing technology. In fact, we gave broadcasters a multi-billion dollar public asset in the form of free spectrum for digital television with the explicit understanding that their analog spectrum be returned by December 31, 2006. Unfortunately, years of litigation, lobbying and foot dragging has made it likely that we will miss this deadline. Next year the Congress will be considering a new hard deadline for completion of this transition and it is my intention to work vigorously to ensure that these dates not be allowed to slip any longer than necessary.

Equally important will be ensuring that we do not forget about those consumers for whom a new digital television set, cable or satellite receiver or digital converter box does not fit in their near-term buying plans. The Senate Commerce Committee has considered numerous proposals to ensure that these consumer's screens don't go dark when a hard deadline passes. Next year the Congress needs to decide on an approach to ensure that especially lower income consumers will be adequately accommodated. There are many good proposals on how to best ensure we protect these consumers, and there is no doubt in my mind that the tremendous proceeds of the spectrum auctions will give us the resources necessary to ensure a successful transition.

Our work also remains unfinished for cable operators who wish to provide the same important services to rural Americans as will now be available to satellite customers. Consumers stand

to benefit even further from competition in the multichannel video programming distribution marketplace if cable providers are afforded some of the same opportunities we have made available to satellite. We have to be careful not to tip the balance in favor of one industry over another. This is why the bill includes a provision requiring the FCC to study and report back to Congress in nine months on the impact of retransmission consent and certain blackout rules on competition in the multichannel video programming distribution market and, in particular, on the ability of rural cable television systems to provide their customers with digital broadcast television programming.

Millions of people in rural areas subscribe to cable television service, often from small cable operators. Once again, it is not our intent to create a competitive advantage for one technology over another consumers should not be forced to choose between DBS and cable in order to receive digital broadcast television signals. I look forward to receiving the commission's report and I am confident the committee will give serious consideration to any recommendations for additional legislative action contained therein.

This Congress sent a powerful message today that we understand the importance of the digital transition, and the powerful benefits for public safety, television viewers, innovation, public safety and our economy. I fully expect the momentum of this victory will carry forward into the next Congress where we can build on these great accomplishments for consumers.

TECHNICAL CORRECTIONS TO H.R. 4818

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H. Con. Res. 528, which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 528) directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 4818.

The Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 4076

Mr. FRIST. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. STEVENS, proposes an amendment numbered 4076.

The amendment is as follows:

At the end of the resolution, insert the following:

Strike Section 222 of Title II of Division H.

The PRESIDING OFFICER. Under the previous order, the amendment at the desk is agreed to, and the concurrent resolution, as amended, is agreed to, and the motion to reconsider is laid upon the table.

The amendment (No. 4076) was agreed to.

The concurrent resolution (H. Con. Res. 528), as amended, was agreed to.

CONGRATULATING SENATOR STEVENS

Mr. FRIST. Mr. President, I congratulate the Senate Appropriations chairman, our President pro tempore, TED STEVENS. Since 1971, for 34 years, Senator STEVENS has served on the Appropriations Committee, and for the last 8 years, or almost 8 years, he served as chairman of that committee, with a 1-year interruption in 2002 to be its ranking member.

Beginning with the new Congress in January, the chairmanship of the committee will pass to another Senator. So today the chairman has brought to the floor the last appropriations bill under his chairmanship, the Consolidated Appropriations Act of 2005.

It is only appropriate that this final bill was put together—and we all saw it play out over the last several hours, days, and weeks—with the same hard work, the same focus, the same tenacity, and the same perseverance which has characterized his leadership of this committee over the last many years.

I do, on behalf of the Senate Republican caucus—indeed, the entire Senate—say, thank you, Mr. Chairman, for all you have done.

It would be a mistake, also, if as leader I did not recognize the extremely hard work of the chairman's staff under the superb leadership and guidance of the staff director, Jim Morhard. At the end of this Congress, Mr. Morhard will be leaving public service after over 26 years, most of it spent right here in the Senate.

Jim, we thank you for your dedication and your service to Government, to this institution, and to the Appropriations Committee.

There have been a lot of long days and long nights over the last several weeks for staff, and some staff, particularly those on the Energy and Water Appropriations Subcommittee, have literally gone for over 48 hours straight without sleep to bring us to this point today and tonight where we have passed this legislation. I know I speak for all Senators on both sides of the aisle when I say thank you for your work done under some very challenging and very difficult circumstances.

This has also been a challenging year for the budget and appropriations process. We were able, though, in spite of all those challenges, to establish an enforceable $821.9 billion spending limit for this year. The bill today, along with the other four appropriations bills enacted to date, have lived by that strict spending limit we established.

Total appropriations, excluding defense and natural disaster emergency spending, will increase 3.9 percent over last year with the enactment of the bill that we passed tonight.

More important, appropriations for nondefense, nonhomeland security spending will increase by less than 1.7 percent, and that is the smallest growth in nondefense spending in this area of the Federal budget in nearly a decade.

So, yes, this has been a very tough bill setting priorities and making difficult tradeoffs to stay within the spending limit, while at the same time addressing the priority items, all of which is not easy, to say the least, but within the strict confines of this bill, it does provide $19.5 billion for veterans medical care, $16.2 billion for NASA, $28.6 billion for the National Institutes of Health, and $57 billion for the Department of Education, among other important, significant domestic programs.

The bill also provides nearly $3 billion in necessary funding to address the pandemic of HIV/AIDS, and that is $700 million more than last year. It also provides $400 million, actually over $400 million in humanitarian and refugee assistance for Sudan and $1.5 billion for the Millennium Challenge Account.

Despite the tightness of this budget, Chairman STEVENS and Senator BYRD have brought a great bill before us today, and a great bill has been passed tonight. Yes, we know it does not please everyone; there is no way it possibly could. But it is the final product of this Congress that has been agreed to and a product of which we can be quite proud.

I do appreciate the Senators' support for this bill, and it does bring to completion the fiscal year 2005 appropriations process. Thank you, Chairman STEVENS.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Mr. President, I was reluctant to cast my vote against this bill which has a lot of good things in it, and it is not as bad as some bills that have come through, but I want to share some of my concerns and thoughts tonight.

We have had charges for sometime that we have used accounting gimmicks to get around the budget caps or limits in the bill. This bill's gimmicks are not as bad as we have had in some years, but there are some here, and I think we ought to talk about them.

Our budget for the year was $821.919 billion for the discretionary account. In order to comply with the budget resolution, this omnibus bill relies on roughly $1.6 billion in practices that many of us have described as gimmicks. And there is an additional $400 million in spending that was designated as an emergency which is not subject to the budget limitations. So it is basically $2 billion over what the budget limit should be, unpaid for and funded by freezing the debt in reality.