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House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BOOZMAN).

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
June 11, 2002.

I hereby appoint the Honorable JOHN BOOZMAN to act as Speaker pro tempore on this day.

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

MESSAGE FROM THE SENATE

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

H.R. 4775. An act making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4775) ''An Act making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes,'' requests a conference with the House agreeing votes of the two Houses thereon, and appoints

Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU, Mr. REED, Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. CRAIG, Mrs. HUTCHISON, and Mr. DEWINE, to be the conferees on the part of the Senate.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BROWN) for 5 minutes.

REPUBLICAN PRESCRIPTION DRUG PLAN

Mr. BROWN of Ohio. Here we go again, Mr. Speaker. Americans are still paying two and three and four times more for their prescription drugs than consumers in any other nation in the world. Twelve million seniors lack any form of prescription drug coverage, and millions more have inadequate coverage.

My Republican friends are poised to introduce prescription drug legislation that does not address either of these concerns. That is because the goal of their legislation is not to deliver meaningful prescription drug benefits to seniors or get a grip on unjustifiably high prices. Their goals are, one, to try to look responsive to the concerns of senior voters and their families, without actually investing enough to be responsive to their concerns; second, to do the bidding of the prescription drug industry, which is what my Republican friends always do; and, third, to privatize Medicare, the best health care system this country has ever seen.

How do they win political points? By mimicking some of the features of a real drug benefit but investing only about one-third of the dollars needed to deliver real drug coverage. By starting with 80 percent coverage, which makes their plan look generous, then increasing the cost-sharing, the cost that seniors actually pay, dramatically as a senior's prescription drug price costs rise. Under the Republican plan, seniors who spend more than $2,000 lose their coverage altogether, no more coverage for the next $2,500 in expenses. Find me a single health insurance plan in the private sector that increases the cost-sharing burden as an enrollee's costs go up.

The Republican plan is so skeletal that seniors would still need supplemental prescription drug coverage if they wanted protection against high drug prices. The majority may dress up their plan in appealing rhetoric, but it is still a cheap imitation of real prescription drug coverage.

The Republicans' second goal is to do the bidding, no surprise here, of the prescription drug industry which, of course, favors the private plan approach. Remember the Flo ads from a couple years back, the ones where Flo said she did not want the government in her medicine cabinet? Those ads were funded by the drug industry. They were intended to demonize the idea of adding a drug benefit to the existing Medicare program. The drug industry favors bypassing Medicare and forcing seniors into private prescription drug plans.

Be prepared for the majority to claim its plan cuts drug prices by 30 percent per prescription. The Republican plan does not cut drug prices by 30 percent, in spite of what they say. Their plan reduces drug spending, not prices, and they do that mostly by restricting seniors' access to higher priced necessary medicines.

They are not doing seniors any favors with that strategy, and they certainly are not challenging their corporate

sponsors, the drug industry's ugly habit of charging American consumers the highest prices in the world for drugs our tax dollars, our research, our NIH helped produce.

I recently received a letter from a constituent who last year took a bus and purchased his medicines in Canada. He said the only side effect from those drugs was that he saved $2,000. Same medicines, same quality, $2,000 less. The savings is significantly more than most seniors would save by signing up for the Republican prescription drug plan.

The second goal of my Republican colleagues is not to rock the boat when it comes to drug industry pricing. Never upset the prescription drug company, one of their biggest contributors.

The third goal is to privatize Medicare. The Republican prescription drug plan not only bypasses Medicare by promoting private prescription drug plans, it would phase out Medicare as an entitlement and phase in a privatized, defined contribution program. Medicare beneficiaries would receive a voucher to cover part of the cost of the private insurance. Wealthier citizens would supplement that voucher to get better coverage. Lower income seniors will just have to take what they get.

If the majority want to end the Medicare entitlement and abandon the principles that all Medicare beneficiaries, everyone in this country over the age of 65, are entitled to good health care coverage, they should not hide behind prescription drug coverage to do that. They should say, yes, we want to privatize Medicare.

I am working with other interested Members on legislation that adds a real prescription drug benefit to Medicare, that harnesses the collective purchasing power of Medicare beneficiaries to drive drug prices down, which is what other countries, especially Canada, do to get lower drug prices and that does not use prescription drug coverage as their method to privatize Medicare.

We are the richest country in the world. We owe our prosperity to the retirees who built this country. If we can afford trillion dollar tax cuts, which my friend, the gentleman from Florida (Mr. STEARNS), will talk about in a moment, if we can afford trillion dollar tax cuts that go overwhelmingly to the richest people in this country, we sure can afford a real drug benefit for our seniors.

Let us not trivialize the concerns of Medicare beneficiaries and every American by sugarcoating paltry coverage plans. The American public hired us to address their concerns, not to co-opt them. Let us, for a change in this body, do our job.

TAX LIMITATION AMENDMENT

The SPEAKER pro tempore (Mr. BOOZMAN). Pursuant to the order of the House of January 23, 2002, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, I was not going to comment on the speech of the previous speaker, but since he mentioned my name, I will say that the plan that he is proposing is basically a new government program operating out of HCFA, which is the government body that administers this program for prescription drugs. What Republicans want to do is provide a drug program like we, as Members of Congress and the Senate and the President, have. It is patterned after the Federal Employee Health Benefit program, which is a private program. So the whole gist of what he is saying comes down to a new government agency versus a program similar to the one Members of Congress have. I really think the people of America, our constituents, would like to have the same health care I have, the same prescription drug program I have, and not a new government program.

Mr. Speaker, as the gentleman mentioned, I am here to talk about the Permanent Death Tax Repeal Act this body passed. Actually, Mr. Speaker, we have passed 22 tax cuts bills for the 107th Congress. Now some of these tax cuts were not passed by the Senate, were not signed by the President, but we passed all of these in the House, for example, foster care. We had a tax credit for foster care. We had an adoption tax credit. We had a tax credit in the energy bill. We had a tax credit for victims of terrorism. We had a tax cut for pension plans. The Marriage Penalty Relief Tax Acceleration Act was passed on May 21 of this year. We had an adoption tax credit and we had Holocaust victims tax credits.

Mr. Speaker, all of these 22 tax cut bills passed by the House are as follows:

22 TAX CUT BILLS PASS THE HOUSE—107TH CONGRESS, 2001–2002

March 8, 2001—Across-the-Board Income Tax Relief: H.R. 3, the Economic Growth and Tax Relief Act of 2001, by Rep. Bill Thomas; passage vote 230–198 (Republicans 219–0, Democrats 10–197).

March 29, 2001—Marriage Penalty Tax Relief: H.R. 6, the Marriage Penalty and Family Tax Relief Act of 2001, by Rep. Jerry Weller; passage vote 282–144 (Republicans 217–0, Democrats 64–143).

April 4, 2001—Death Tax Repeal: H.R. 8, the Death Tax Elimination Act of 2001, by Rep. Jennifer Dunn; passage vote 274–154 (Republicans 215–3, Democrats 58–150).

May 2, 2001—Retirement Savings and Pension Reform: H.R. 10, the Comprehensive Retirement Security and Pension Reform Act of 2001, by Rep. Rob Portman; passage vote 407–24 (Republicans 219–1, Democrats 187–22).

May 15, 2001—Foster Care: H.R. 586, the Fairness for Foster Care Families Act of 2001, by Rep. Ron Lewis; passage vote under suspension 420–0 (Republicans 215–0, Democrats 203–0).

May 16, 2001—Across-the-Board Income Tax Relief: 1836, the Economic Growth and Tax Relief Reconciliation Act of 2001, by Rep. Bill Thomas; passage vote 230–197 (Republicans 216–0, Democrats 13–196).

May 17, 2001—Adoption Tax Credit: H.R. 622, the Hope for Children Act, by Rep. Jim DeMint; passage vote 420–0 (Republicans 213–0, Democrats 205–0).

May 26, 2001—Bush Tax Cut (Signed into law by President Bush): Conference Report on H.R. 1836, the Economic Growth and Tax Relief Reconciliation Act of 2001, by Rep. Bill Thomas; passage vote 240–154 (Republicans 211–0, Democrats 28–153).

July 19, 2001—Tax Provisions in Faith-Based Initiative: H.R. 7, the Community Solutions Act of 2001, by Rep. J.C. Watts; passage vote 233–198 (Republicans 217–4, Democrats 15–193).

August 2, 2001—Tax Provisions in Energy Bill: H.R. 4, the SAFE Act of 2001, by Rep. Billy Tauzin; passage vote 240–189 (Republicans 203–16, Democrats 36–172).

August 2, 2001—Tax Provisions in Patients' Bill of Rights: An amendment to H.R. 2563, the Bipartisan Patient Protection Act, by Rep. Bill Thomas; passage vote 236–194 (Republicans 217–2, Democrats 18–191).

September 13, 2001—Terrorist Victims Tax Relief Bill (Signed into law by President Bush): H.R. 2884, the Victims of Terrorism Relief Act of 2001, by Rep. Bill Thomas; passage vote 418–0, (Republicans 214–0, Democrats 202–0).

October 24, 2001—Economic Stimulus Package: H.R. 3090, the Economic Security and Recovery Act of 2001, by Rep. Bill Thomas; passage vote 216–214 (Republicans 212–7, Democrats 3–206).

December 20, 2001—Economic Stimulus Package: H.R. 3529, the Economic Security and Worker Assistance Act of 2001, by Rep. Bill Thomas; passage vote 244–193 (Republicans 214–2, Democrats 9–190).

February 14, 2002—Economic Stimulus Package: An amendment to the Senate amendment to H.R. 622, renamed the Economic Security and Workers Assistance Act of 2002, by Rep. Bill Thomas; passage vote 225–199 (Republicans 214–1, Democrats 10–197).

March 7, 2002—Tax Provisions in Unemployment Benefits and Jobs Bill (Signed into law by President Bush): An amendment to the Senate Amendment of H.R. 3090, renamed the Job Creation and Worker Assistance Act of 2002, by Rep. Bill Thomas; passage vote 417–3 (Republicans 218–0, Democrats 197–3).

April 11, 2002—Tax Provision in Pension Reform Bill: H.R. 3762, the Pension Security Act of 2002, by Rep. John Boehner; passage vote 255–163 (Republicans 208–2, Democrats 46–160).

April 18, 2002—Make Permanent the Bush Tax Cut: An amendment to the Senate amendment on H.R. 586, renamed the Tax Relief Guarantee Act of 2002, by Rep. Bill Thomas; passage vote 229–198 (Republicans 219–1, Democrats 9–196).

May 21, 2002—Acceleration of Marriage Penalty Relief and new WOTC Reforms: H.R. 4626, the Encouraging Work and Supporting Marriage Act of 2002, by Rep. Amo Houghton; passage vote 409–1 (Republicans 211–0, Democrats 196–1).

June 4, 2002—Make Permanent the Expanded Adoption Tax Credit: H.R. 4800, to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001, with respect to the expansion of the adoption credit and adoption assistance programs, by Rep. Dave Camp; passage vote 391–1 (Republicans 204–0, Democrats 185–1).

June 4, 2002—Make Permanent the Holocaust Victims Tax Benefit: H.R. 4823, the Holocaust Restitution Tax Fairness Act of 2002, by Rep. Clay Shaw; passage vote 392–1 (Republicans 205–0, Democrats 186–1).

June 6, 2002—Make Permanent the Death Tax Repeal: H.R. 2143, the Permanent Death Tax Repeal Act of 2001, by Rep. Dave Weldon; vote note held yet.

Prepared by the Office of the House Majority Leader, 6/4/02

Mr. Speaker, there is no greater defining principle of our party than letting taxpayers keep what they earn.

Time and time again we have shown tax relief is good policy and good politics. As we debate these bills, we have the opportunity to reflect on our Nation's Byzantine tax code and the problem it imposes on the American taxpayers.

This week, Mr. Speaker, we will be considering important and meaningful legislation to address a shortcoming in our tax system. Adopting the tax limitation amendment would require prospective tax increases to achieve a two-thirds vote which means it will be more difficult to have a recurrence of one of the largest tax increases passed in 1993. Our Founding Fathers had the foresight to mandate a two-thirds majority vote on certain priorities issues. The fourth President of the United States, James Madison, a central figure in the development of the Constitution and a vocal supporter of majority rule, argued that the greatest threat to liberty and Republic came from unrestrained majority rule. And that is why they proposed a two-thirds majority for conviction in impeachment trials, expulsion of a Member of Congress, and to override a presidential veto, quorum of two-thirds in the Senate to elect a President, consent to a treaty and proposing a constitutional amendment.

Daniel Webster, a great Member of this body, said, ''The power to tax is a power to destroy.'' Americans are simply taxed too much. The total tax burden is the highest since World War II. We have the Federal income tax, the payroll tax, the gasoline tax, various other Federal excise taxes, finally, State and local taxes. Wherever we turn, we can expect to pay a tax on something. Americans are paying taxes and at the same time they are trying to pay off their debt. They have mortgages, auto loans, credit card debt and school loans.

Americans also face the cost of complying with this tax code. According to the Tax Foundation, businesses and nonprofit corporations as well as individuals will spend an estimated 5.8 billion hours complying with the Federal income Tax Code, with an estimated compliance cost of almost $200 billion. This amounts to imposing a 20.4 cent tax compliance charge for every dollar the income tax system collects.

Raising taxes comes all too easy for certain people here in Congress. It is the simplest solution for those who have affinity for increased spending around here. But this week we have the opportunity to make it harder to raise taxes. In this country supreme power resides in a body of citizens entitled to vote and is exercised by elected officials like ourselves and representatives responsible to them according to the law.

By passing the tax limitation amendment, we adhere to this definition of a Republic by requiring two-thirds of the Members, best representing the views of their constituents, to vote in favor of raising taxes.

So, Mr. Speaker, I urge my colleagues to vote in favor of H.J. Res. 96 when it comes to the House floor to show our appreciation and to follow the mandates of a good Republic.

PRESCRIPTION DRUG BENEFIT

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, I want to talk about the need for a Medicare prescription drug benefit and particularly point out the failures of the Republican leadership in this House as well as the President in that they are not addressing this issue. They are not bringing up the prescription drug benefit. I was interested in hearing what the previous speaker, my colleague, the gentleman from Florida (Mr. STEARNS), said about how the Republicans wanted every American or every senior to have the same kind of package that Congressmen have.

Well, I have no evidence of that. So far the Republican leadership has talked about bringing up a prescription drug bill for about 2 months in a steady drumbeat that is going to happen this week, it is going to happen next week, it is going to happen next month; and we have no bill. And the suggestions we have seen about what kind of bill they are going to come out with is basically privatizing Medicare so that there is no guaranteed benefit at all. So when my colleague suggests that somehow seniors under the Republican bill are going to get the same kind of benefit that Congressmen have, there is no indication of that whatsoever from the Republican leadership. I have not seen anything to suggest that.

Let me say now, once again, I think many of my colleagues know that just before the Memorial Day recess we were told by the Republican leadership in the House that they were going to bring up a prescription drug bill for seniors. It was going to go to committee 2 weeks before the Memorial Day recess. It was going to come to the floor the week before the Memorial Day recess. It never happened. They came back after the Memorial Day recess. We had a week already that we were in session and they said we will bring up the bill this week. Then they said we will bring up the bill next week. Yesterday I heard that they were going to bring up the bill or announce the bill this coming Thursday. No bill yet. I have not seen it. There has been no notice in any of our committees of jurisdiction, the Committee on Energy and Commerce or the Committee on Ways and Means, that we will see this prescription drug bill.

□ 1245

So I am calling upon the Republican leadership, let us address this issue. Seniors are hurting. They cannot afford to pay for prescription drugs. A lot of them go without. Bring up the bill. Let us have the debate. Let us see whether or not the statements that my colleague from Florida made have any basis.

Everything that I have seen so far about the Republicans and what they are proposing is what I call a ''privatization'' of Medicare. They are saying that they want to bring up legislation that would take some money, almost like a voucher, and throw it to private insurance companies in the hope that they will provide drug-only policies to senior citizens who might be able to purchase such a policy and will get some help with it.

We know that privatization, trying to get insurance companies to offer these kinds of drug-only policies, does not work. The insurance executives, their trade group, have told Congress and the committees that they will not work; they do not want to sell that kind of insurance. It is unbelievable why they are just not willing to do what the Democrats have proposed and what most Americans want, which is to expand Medicare, a very good program that we have, yes, a government program, that provides for seniors' hospital care, that provides for seniors' doctors' bills, but does not provide for prescription drug, simply expand Medicare, very similar to what we do with part B, the coverage of doctor bills, and allow people to pay a very low premium per month. They get a good percentage of their prescription drug bills paid for, and it is a guarantee under Medicare, a very good existing program that works for senior citizens.

I do not know why the Republicans refuse to deal with this as an expansion of Medicare and instead talk about privatizing and giving some money to insurance companies in the hope that somehow seniors will be covered. That is not what the gentleman from Florida suggested, but that is what we are hearing from the Republican leadership.

The problem with Republicans proposal or what they are talking about is it does not address cost, does not address price. The problem right now, not just for seniors but for all Americans, is the cost of prescription drugs continues to escalate, double digit inflation for over the last 6 years. What we need to control in some way are these prices, and what the Democrats have said is let us have something like part B Medicare, like we have for our doctor bills where a person pays a very low premium per month, they have a very low deductible. I think it is a $100 deductible for the course of the year; 80 percent of the cost of their prescription drugs are covered by the Federal Government.

Most important, we put a cost mechanism in place that we say under the Democrats' proposal that the Secretary of Health and Human Services is mandated to negotiate and bring prices down because now he is going to represent 30 or 40 million seniors, and he will be able to negotiate better prices.

The Republicans do not talk about that. Not only does the Republican leadership want to privatize and just give money to insurance companies, but they do not suggest in any way that they are going to try to bring down the cost. Why in the world would private insurance companies just not try to pass on all the costs and all the money that the prescription drug companies make and simply pass it on to seniors? We have to have some pricing mechanism, and that is what we are demanding.

The Republicans need to bring up the bill. Bring up a bill that is comprehensive coverage under Medicare and that has some kind of pricing mechanism.

MAKING PERMANENT MARRIAGE TAX RELIEF

The SPEAKER pro tempore (Mr. BOOZMAN). Pursuant to the order of the House of January 23, 2002, the gentleman from Illinois (Mr. WELLER) is recognized during morning hour debates for 5 minutes.

Mr. WELLER. Mr. Speaker, before I begin my remarks, I just want to kind of just make a comment. I find it is always interesting that my Democratic friends advocate permanent increases in spending and they are always first in line to advocate permanent increases in taxes, but they will fight tooth and nail any permanent tax cut. That is what I would like to talk about today, and that is, the fact that just a little over a year ago today President Bush signed into law a tax cut, a tax cut unfortunately because of congressional rules that had to be a temporary measure; but this was a tax cut which provided across-the-board tax relief for every American.

When President Bush became President, he inherited a weak economy; and he said if we could put a little bit of money back into the pocketbooks of working families, they will have some extra money to meet their needs back home; and, frankly, that money in the private sector will get our economy moving again, and of course, economists told us that since that bill was signed into law in June that by Labor Day of last year the economy was on the rebound. Unfortunately, the consequence of a terrorist attack just a new days later, as we know, shocked the confidence of consumers and investors; and of course, we are working to get our economy moving again.

As we work on getting our economy moving again, we also recognize that permanency in the Tax Code affects decision-making; and that is why last week we passed legislation to make permanent the elimination of the death tax, which will benefit family farmers and small businesses who are making long-term investment decisions knowing the tax consequences. That is good for the economy.

Today, I want to talk about legislation that we are going to be bringing before the House later this week, and this is legislation to make permanent the marriage tax relief that was in the Bush tax cut that we enacted 1 year ago.

Like many of my colleagues, I have come to the floor over the last several years asking a very fundamental question, that is, Is it right, is it fair that under our Tax Code married working couples paid higher taxes than two single people who chose to live together? Is it right, is it fair that 43 million married working couples paid on average about $1,700 more in higher taxes just because they are married? Is it right, is it fair that our Tax Code, prior to this past year, punished society's most basic institution with higher taxes?

I am proud to say that thanks to the leadership of House Republicans, under the leadership of Speaker HASTERT, we fought time and time again to eliminate the marriage tax penalty; and while we suffered vetoes under President Clinton, we are proud to say that under President Bush the marriage tax penalty was eliminated. We helped married couples in a number of ways, three ways as a matter of fact.

First, we doubled the standard deduction that is used by families who do not itemize their taxes. Almost 9 million married working couples do not itemize their taxes. So they use the standard deduction, and we doubled the standard deduction to be twice that for singles, eliminating their marriage penalty.

For those who itemize, such as those who give to their institution of faith, their church, their charity, synagogue or temple or mosque, we recognize that most married couples itemize their taxes if they own a home, for example, and we helped those by widening the 15 percent tax break so they could earn twice as much as a married couple as a single person and stay in the 15 percent tax bracket. We eliminate their marriage tax penalty.

Third, for low-income families who utilize and are helped by the earned income credit, we eliminate their marriage tax penalty as well. So we help low-income working middle-class married couples who have suffered the marriage tax penalty.

Let me give my colleagues an example of a married couple from Joliet, Illinois, in the district I represent in the south suburbs of Chicago. Jose and Magdalena Castillo, they are laborers. They have a combined income of $82,000. That is their combined income. Their children are Eduardo and Carolina. They are happy people. They work hard, great American citizens, enjoying life in the south suburbs of Chicago; but they suffered the marriage tax penalty because they chose to get married, and we believe the Tax Code should be marriage neutral.

Prior to the Bush tax cut being signed into law, Jose and Magdalena Castillo paid about $1,150 more in higher taxes just because they were married. If they chose to get divorced and live together, they would have saved $1,150 a year. Jose and Magdalena Castillo were helped by the Bush tax cut, which originated right here in the House of Representatives; and I am proud to say that that was signed into law last year, and for the next few years, the marriage tax penalty for the Castillo family will be eliminated.

If this Congress does nothing, it will be made permanent, and I believe we need to help married working couples; and this week, on Thursday, we are going to be voting to make permanent the marriage tax penalty relief in the Bush tax cut, and my hope is that we will have bipartisan support, that even our Democratic friends will join with us, in making marriage tax penalty relief permanent to help couples like Jose and Magdalena Castillo of Joliet, Illinois.

LIMITING GROWTH IN GOVERNMENT

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Indiana (Mr. PENCE) is recognized during morning hour debates for 5 minutes.

Mr. PENCE. Mr. Speaker, like many Americans, I learned last week of the President's intention to create for the first time since the 1970s a Cabinet-level Department of the executive branch; and like most Americans, I support the idea of a Department of Homeland Security, bringing together various and diverse elements of our investigative branches, of our counterterrorism branches and, more importantly, border security, to create a leaner, more efficient means of protecting our citizens than we have under current and, in many ways, antiquated structures in the executive branch.

While I support the reorganization of government, Mr. Speaker, I rise today to speak against big government and the growth in government, Mr. Speaker, that has been the natural antecedent to emergencies and crises throughout American history.

The Bible tells us that there is nothing new under the sun; what has been before will be again, in the book of ''Ecclesiastes.'' And as I see these events unfold and I see our President beginning to call for the largest potential expansion in the executive branch in my lifetime, I cannot help but feel that what has been before is about to come again if we, who believe in limited government and personal responsibility, do not exercise the franchise of our vote and our conviction in this institution.

The idea that the unrestrained growth of government is a natural antecedent to emergencies was, to be perfectly honest, first posited in a book titled ''Crisis and Leviathan,'' by a little-known professor named Robert Higgs, 1987, first published. Very simple thesis in this book. Professor Higgs argues that the growth of the Federal

Government has been relatively constant through our national history except for spikes in the growth of government immediately following national crises and emergencies such as the Civil War, the Great Depression, World War II, the Kennedy assassination and social unrest of the 1960s and now potentially 9–11.

He offers what he calls the ''crisis hypothesis'' of the growth of Federal Government, and it is a powerful one; and he maintains that under certain conditions national emergencies call forth extensions of governmental control over or outright replacement of the market economy. In a time of economic crisis, ''When critical extensions of government power are likely to occur there is little opportunity for meaningful vote on whether or not as a matter of principle the powers of the State should be extended.''

Even Herbert Hoover, attempting to stem the enormous tide of the call of growth of government during the Great Depression, said, ''Every collectivist revolution rides in on a Trojan horse of emergency. It was the tactic of Lenin, Hitler and Mussolini in the collectivist sweep over a dozen minor countries in Europe. It was the cry of men striving to get on horseback.''

It has also been practiced many times throughout our history, not for a second to refer to President Truman and the likes of that litany; but it was not long after the Truman administration took office, the United States found itself in a fight with Korea and the government greatly expanded.

On December 16, 1950, as just one of many examples, Mr. Speaker, President Truman proclaimed a national emergency, calling in familiar words to this day, on all citizens to make a united effort for the security and well-being of our beloved country, to place its needs foremost in thought and action to our farmers, our workers in industry. So the President established the Office of Defense Mobilization, the Defense Protection Agency, and government grew in permanent ways.

Even in his book, in its closing chapters, Robert Higgs perhaps even wrote in 1987 about our own times saying that, ''We know that other great crises will come in America, whether they will be occasioned by foreign wars, economic collapse or rampant terrorism. No one can predict with assurance that in one form or another great crises will surely come again as they have from time to time, and when they do, governments, almost certainly,'' Professor Higgs wrote, ''will gain new powers over economic and social affairs, unless,'' he offers, and I argue, ''the American people rediscover the worth of individual rights, limited government and a free society under the true rule of law.''

□ 1300

Mr. Speaker, let us recognize the times that we are in. Let us recognize that the gale force wind of big government is upon us, and as we reorganize a Department of Homeland Security, let us not make it an excuse to simply organize big government in a permanent way.

RECESS

The SPEAKER pro tempore (Mr. BOOZMAN). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order at 2 p.m.

PRAYER

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

Lord God of Heaven and Earth, always attentive to our prayer and understanding of our human limitations, bless and guide the Members of the 107th Congress, that they may be Your agents of reconciliation in a world torn apart by war, cynicism and fear.

Enlighten them in mind and heart, that together they shine as a harbinger of hope, bringing creativity and new vision to the people.

Through their efforts to do what is right by living according to Your commands and following the dictates of conscience, rather than expediency, grant them keen insight into complicated issues. Bring about in them decisive wisdom that will not be frayed by tangential distractions or preconceived sound bites. For Your world, O Lord, is too vast, and Your people too precious to be compromised.

So we pray now and forever. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. LAMPSON led the Pledge of Allegiance as follows:

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

EVENTS CONCERNING THE AFGHANISTAN LOYA JIRGA

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

Mr. PITTS. Mr. Speaker, I rise today to commend Chairman Karzai, the interim administration, and the Afghan people for holding the Loya Jirga to select the new transitional government in Afghanistan.

Unfortunately, due to threats by certain Afghan factions and consequent actions by a small select group of U.N., U.S. and Northern Alliance officials, the Loya Jirga process has been marred. These officials forced the King to make a statement saying he would not run for any elected position in the government.

Sadly, preventing the people from choosing their own leader substantiates the concerns of the Afghan people that the U.S. and the international community have only their own interests at heart, not just that the Afghan people have peace, freedom, democracy, and fundamental human rights.

The Afghan people were looking forward to deciding their own future on their own. Yet before the Loya Jirga was even convened, they were denied the right to choose their own leader. Unfortunately, it appears that intimidation won again.

I am concerned that the Afghan people will not forget that the U.S., U.N., and Northern Alliance prevented the King, a highly respected leader, from holding a leadership position and helping bring peace, stability, and reconciliation to their nation.

Our State Department should have had more diplomacy.

LUDWIG KOONS KIDNAPPING

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

Mr. LAMPSON. Mr. Speaker, I continue my story of Ludwig Koons, the young boy who is being held illegally by the Italian Government. Two weeks ago, the Minor's Tribunal in Rome denied the request of the prosecutor to remove Ludwig's mother, the kidnapper, parental authority. Not only is this outrageous, but the court made this decision without any psychological evaluation, testimony or other discovery whatsoever. The decision was made solely on the superficial interview of Ludwig before the judges, which lasted about 15 minutes.

This decision was made despite the finding that Ludwig was kept from having any contact with his father for over 6 months. Ludwig's mother, the woman who kidnapped him and is holding him against the will of United States courts, argued that Ludwig is afraid of his father, which is an absurd, preposterous allegation.

Jeff Koons's attorneys will be filing an appellate brief before the Rome Court of Appeals contesting this decision of the Minor's Tribunal as arbitrary and unfounded, which it absolutely is, and which this entire 8-year-long ordeal has been.

Mr. Speaker, please, I urge Members to join me. Help end this tragedy. We cannot stand idly by while American children are being kidnapped and held by foreign governments, even if they are our friends. Bring our children home.

COMMENDING THE GIRL SCOUTS ON THEIR 90TH ANNIVERSARY

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

Mr. WILSON of South Carolina. Mr. Speaker, today I rise in recognition of the 90th anniversary of the Girl Scouts, an organization that has empowered girls to reach their full potential through partnerships with caring adults.

Since 1948, the Girl Scout Council of the Congaree Area of South Carolina has served girls from age 5 through 17 in Lancaster, Lexington, Sumter, Fairfield, Newberry, Richland, Saluda and Kershaw Counties, along with the city of Great Falls. With the dedicated leadership of President Ann Addy and Executive Director Pamela Hyland, the Congaree Area Council today boasts a membership of nearly 10,000. Nationally, the organization has grown to 3.6 million Girl Scouts, part of a worldwide family of 10 million in 140 countries.

The key to the success of the Girl Scouts is very simple: they have stressed the values that every person should strive to uphold. These values include integrity, respect, inclusiveness and responsibility to the community. Through the Scouts, girls learn that to realize true satisfaction in life a person must grow in mind, body and spirit.

IMPORTANCE OF MEN'S HEALTH WEEK

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

Mr. DAVIS of Illinois. Mr. Speaker, on yesterday I attended an event in Chicago, Illinois, that the Near North Health Corporation used to kick off Men's Health Week; and it was a very interesting event, because there were a number of high-profile men who spoke of their illnesses. But they also spoke of the fact that for many years they never went to see a doctor. They had no idea that they may have been experiencing the difficulty.

So their message was a very simple one, that if you are a man, like all other people, you really need to see your doctor. You need to check on your health. You need to make sure you get rid of the macho image that nothing can happen to you.

So I would just extend their message to all men throughout America: check on your health. This is Men's Health Week. You start with yourself.

SUPPORTING CREATION OF HOMELAND SECURITY DEPARTMENT

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

Mr. GIBBONS. Mr. Speaker, ''turf,'' as everyone knows, is sacred in Washington, D.C., and the favorite parlor game in Washington D.C. is turf war. Every Member of Congress, every committee and agency fights hard to maintain their turf; and I am concerned that turf battles may impede what is best for our Nation.

This morning, I testified in support of H.R. 4660, a bipartisan bill to create a Secretary of Homeland Security and a Director to the National Office of Combatting Terrorism.

This legislation includes three main points. First, it gives budget authority to those in charge of protecting our Nation's homeland. Second, it provides Congress the oversight we must have over this new office. Finally, this legislation will reorganize government to allow better information-sharing both vertically and horizontally. As we proceed, Congress must be mindful that the safety of the American people is more important than the power struggles of a few agencies or Congressmen.

Mr. Speaker, I urge my colleagues to join in this important effort, move beyond turf battles, and do what is right for the American people.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules, but not before 6:30 p.m. today.

SENSE OF HOUSE ON IMPROVING MEN'S HEALTH

Mr. FOSSELLA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 438) expressing the sense of the House of Representatives that improving men's health through fitness and the reduction of obesity should be a priority.

The Clerk read as follows:

H. RES. 438

Whereas the Surgeon General of the Public Health Service has identified obesity as a major health problem;

Whereas 61 percent of adults in the United States are considered overweight or obese, as indicated by a body mass index (the most reliable measure) of 25 or greater;

Whereas 300,000 deaths each year in the United States are associated with being overweight or obese;

Whereas the economic cost of obesity in the United States was about $177 billion in 2000;

Whereas being overweight or obese puts people at a greater risk of heart disease, certain types of cancer, type 2 diabetes, stroke, arthritis, breathing problems, and depression;

Whereas men who are overweight are 50 percent more likely to have erectile dysfunction and men who are obese are 200 percent more likely to have erectile dysfunction;

Whereas fewer than a third of American adults engage in the recommended level of physical activity, which is 30 minutes, 3 to 4 times a week; and

Whereas the number of overweight and obese children has nearly tripled in the past two decades: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes that being overweight or obese is a major health concern in the United States;

(2) commends and supports the work of all organizations that are taking steps to combat this health problem;

(3) urges all governmental, State, and private organizations to do everything in their power to promote a healthy lifestyle; and

(4) pledges to take proactive steps to intensify its efforts to combat this health problem.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. FOSSELLA) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. FOSSELLA).

GENERAL LEAVE

Mr. FOSSELLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on House Resolution 438.

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

There was no objection.

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

Mr. Speaker, I am pleased to rise in support of House Resolution 438 to express the sense of Congress that improving men's health through fitness and reduction of obesity should be a priority. The gentleman from Pennsylvania (Mr. TOOMEY) is absolutely correct. Obesity is a major health problem for our society. We must help inform the American public about these risks so that they can take corrective actions to make changes in their food consumption and exercise behaviors.

Over 61 percent of U.S. adults are overweight, along with 13 percent of children. Approximately 300,000 American deaths a year are associated with obesity. What is frightening is that this trend is exponentially increasing. Since 1980, obesity among adults has doubled, and overweight children and adolescents have tripled. Americans need to know that being overweight places people at a higher risk for heart disease, cancer and stroke, all top killers in America, in addition to arthritis, breathing problems, and depression. New research has revealed that obesity can lead to Type 2 diabetes in children

as well. There is hope, however, because obesity is preventable. Americans should not needlessly place themselves at risk.

Personal responsibility is key to ending this trend. Most Americans recognize that exercise and a healthy diet helps one stay fit and trim. Dieticians have made it perfectly clear: one truly can eat any food in moderation and remain perfectly healthy, but Americans are choosing not to eat foods in moderation and are all too often shortchanging vitamins and nutrients that are essential to fighting disease. Americans are also choosing not to exercise.

Americans have literally hundreds of options available to them to help lose weight and stay fit. We must help inform Americans about the risks that obesity imposes on their overall health and that fighting obesity will help save lives. I thank the gentleman from Pennsylvania (Mr. TOOMEY) for raising the level of attention on this important issue. I encourage my colleagues to vote in favor of this resolution.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, my colleague's resolution highlights a public health issue that undoubtedly deserves more attention. Obesity is linked to a host of acute and chronic conditions and costs our health care system as much as $100 billion every year. It is the second leading cause of unnecessary deaths in this country. Obesity can cause reproductive problems, pulmonary problems, osteoarthritis, liver disease, and can dramatically increase a person's risk for cancer and for diabetes. I do not doubt my colleague's sincere concern and desire to provoke a more serious Federal response to the obesity problem.

I look at H. Res. 438, at the title, Mr. Speaker, and it says ''Expressing the sense of the House of Representatives that improving men's health through fitness and the reduction of obesity should be a priority.'' That is what we are voting on today. My question is, as it has been with each of the health care-oriented resolutions we have considered this year, how does all this rhetoric about wanting to address health care issues align with what we are actually doing to address health care issues?

Again, this resolution, Mr. Speaker, says ''Expressing the sense of the House of Representatives in improving men's health through fitness and the reduction of obesity should be a priority.'' Of course it should be; but, again, it is one more resolution begging the question: What is this House of Representatives doing when it comes to prescription drugs, when it comes to dealing with disparities between rich and poor in the health care that is delivered, when it comes to deal with any of the health care problems that we face?

□ 1415

The President's budget cuts funding for chronic disease programs at CDC, yet we have this resolution on the House floor. It is the very program that pays attention to public health issues like obesity. The President ostensibly proposed cuts like this one to make room for the $665 billion price tag associated with making his tax cut permanent. Again, no money for an adequate prescription drug benefit; no real work on this issue, other than a resolution saying let us make it a priority.

Is this body going to restore the CDC funding so that we can really address the problems of obesity, or are we too wed to this tax cut that goes overwhelmingly to the richest people in our society? Are we going to target any funding to reducing the rates of obesity in this country? Where are the dollars going to come from, or are we just going to again pass a resolution that sounds real good that could help my friend from Pennsylvania in his fight for reelection because it looks good and we can send a news release out, but what does it really do, Mr. Speaker?

We have passed, largely along party lines, six pieces of legislation that dramatically reduce the Federal tax revenues available for existing public health initiatives, much less new ones like this. Six pieces of legislation, always overwhelmingly giving tax cuts to the richest people in this country. We have passed these six bills, yet we passed exactly one piece of legislation that would actually improve the public health, the bipartisan bioterrorism bill, approved last week to be signed by the President tomorrow.

Mr. Speaker, we are draining trillions of dollars from the Federal coffers and, at the same time, pledging to do more to combat a host of public health problems, including obesity. Talk, Mr. Speaker, is cheap. If Congress could address public health problems just by talking about them, which seems to be what my Republican friends that run this Chamber seem to be all about, then there would be no public health problems. Each time we pass one of these resolutions, as meritorious as the subject matter may, in fact, be, we get away with talking about a significant issue rather than actually doing something about a significant issue. Somehow, this body feels justified in acknowledging that we need to do more, but never saying how we are going to do that, while draining the budget through tax cuts for the richest Americans after tax cut for the richest Americans.

I hope that every Member, Mr. Speaker, who votes for this resolution and pledges ''to take proactive steps to intensify our efforts to combat this health problem'' remembers that pledge and all of the other pledges when the next tax-cut-for-the-rich vote comes around.

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

Mr. FOSSELLA. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Pennsylvania (Mr. TOOMEY), a leader in, among other things, the battle for public health and public health awareness in this House.

Mr. TOOMEY. Mr. Speaker, I thank the gentleman from New York for yielding the time. I would just observe to my colleagues that it is not at all clear to me that the majority party's respect for personal and economic freedom and the desire for families to keep more of what they earn is in any way the cause of the numerous health problems, including the one we are going to discuss today.

I am glad that we are bringing this resolution to the floor. The reason we are picking this week is because it is the week leading up to Father's Day that is National Men's Health Week. House Resolution 438 expresses the sense of the House that improving men's health through fitness and the reduction of obesity should be a priority for all of us, and I feel strongly about that.

I should observe that National Men's Health Week is currently celebrating its eighth year. I want to recognize one of the driving forces behind this recognition, and that is Rodale Publishing in Emmaus, Pennsylvania and, specifically, Men's Health Magazine, one of Rodale's flagship publications, has really driven this message and elevated the level of awareness of the problems that plague men, in particular health care problems.

Back in 1993, Men's Health Magazine asked its readers to support a nationwide initiative to identify and treat health issues of particular interest to men. This public awareness campaign was spearheaded by the National Men's Health Foundation with the help of Men's Health Magazine. As a result of their efforts, Congress passed a bill in 1994 naming the week prior to and including Father's Day as National Men's Health Week. They designated this week as an opportunity to encourage preventive health behavior, as well as early detection of diseases that disproportionately claim men as victims. It is one week out of the year to have a focused public service campaign to educate men and their families about the importance of positive health attitudes, preventive health practices, and treatments of health problems for men. It is important because, after all, men do lag behind women by 6 years in average life expectancy.

This message of wellness and disease prevention and individuals taking control of their own lives for the betterment of their lives is a big part of the tradition at Rodale Publishing. Rodale's magazines include Men's Health, Prevention, Runner's World, Bicycling, and a whole host of magazines geared towards helping people to improve really the quality of their lives, often by improving their fitness.

I also want to take a minute to recognize the tremendous work being done

in this area by a friend of mine, Dave Zinczenko, the editor in chief of Men's Health Magazine. Dave is clearly dedicated, as well as his colleagues, to helping men find ways to live longer, healthier, better lives, and he has been a driving force behind this recognition of men's health needs.

So every year, Men's Health Magazine has now focused its coverage on this week to some topic, some topic specific to men's health. Last year was prostate cancer, the second leading cancer killer in men, and this year it is obesity which, according to the Surgeon General, will soon overtake smoking as America's number one leading health concern.

This year, the magazine's editors have launched the ''Million Pound Challenge.'' It is a campaign to help the men of America drop the weight that quite literally threatens their lives. Media outlets from Good Morning America and the Pittsburgh Post-Gazette have done major coverage of this nationwide campaign to lose this excess weight, and the resolution we are debating today specifically underscores this effort.

I think it is worth distinguishing between two terms that are sometimes used interchangeably. Being overweight is different from suffering from obesity. It is really largely a matter of degree, but being overweight simply indicates that a person's weight exceeds the normal or the average weight for a given body height and frame size that may often lead to health problems, but not necessarily so. Obesity, on the other hand, is the condition in which an individual has an excessive amount of body fat. It has been demonstrated that the average individual in this country will gain approximately 1 pound of additional weight each year after the age of 25. Such a seemingly small gain results in 30 pounds of excess weight by the age of 55 years, and since bone and muscle mass sort of naturally decrease in a person at a rate of approximately 1½ pounds each year due to a reduction in physical activity, the fat is actually increasing at a rate of 1½ pounds each year. So that means somebody over a 30-year period when they reach middle age is often faced with 45 pounds of excess weight in the form of fat. This leads to obesity and can lead to serious health problems.

As I said, the Surgeon General has identified obesity as a major health problem already. Sixty-one percent of adults in the United States are now considered overweight or obese. As my colleague from New York pointed out, approximately 300,000 deaths each year occur prematurely in the United States and they are associated with the condition of being overweight or obese.

The economic cost of obesity in the United States is staggering. It is approximately $177 billion a year. Being overweight or obese puts people at a greater risk of a number of serious, life-threatening conditions, including heart disease, certain types of cancer, type 2 diabetes, stroke, arthritis, breathing problems and depression.

So how do people combat obesity? Well, people become overweight and obese for a variety of reasons: dietary, some socioeconomic, some genetic, but mostly it is lifestyle factors, and the long-term solution requires the recognition of the benefits of a well-balanced, a well-proportioned, moderate diet and a commitment to regular physical activity. Those are really the two things that are necessary.

In short, it is moderation and it is control of a lifestyle that is the key to fitness and can help dramatically increase the likelihood of longevity in one's life.

Unfortunately, too many adults do not even get the moderate amount of exercise that can make a huge difference. More than 60 percent of U.S. adults do not engage in the recommended amount of physical activity, which is only 30 minutes 3 to 4 times a week, but so many of us find it so hard to squeeze that in. Approximately 25 percent of all U.S. adults are not active at all.

We are here today to encourage everyone to improve their lifestyles through fitness and nutrition and seek out the experts and organizations that can provide the help if people need that. I want to commend those organizations that are already hard at work at addressing this problem of obesity.

Because of the true national scope of the problem, I urge my colleagues to pass this resolution. The resolution simply resolves that the United States House of Representatives recognizes that being overweight or obese is a major health concern in the United States. It commends and supports the work of all organizations that are taking steps to combat this health problem. It urges all governmental, State and private organizations to do everything in their power to promote healthier lifestyles, and it pledges to take proactive steps to intensify its efforts to combat this health problem.

Mr. BROWN of Ohio. Mr. Speaker, I yield 6 minutes to the gentleman from Oregon (Mr. BLUMENAUER), who has been a leader in this and other issues like this.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in allowing me to speak on this resolution.

I think it is important for us to spend a few minutes not just celebrating it in a verbal sense, but thinking about what Congress can do to step up to actually make it possible for citizens to lead more healthy lifestyles. We have already heard the statistics from my colleagues about obesity. We have heard about premature deaths. We have heard about problems that are related to that.

Well, I think it is pretty simple for us, because I was thinking about this as I rode my bicycle over to the Capitol to make this presentation. It is not rocket science to be able to deal with making these programs successful. We ought to, first of all, focus here in this Congress by leading by example. If we know that a third of adults, less than a third of adults engage in recommended amounts of physical activity, what is it that we can do here to make a difference?

Well, first and foremost, we can do something to make sure that our communities are welcoming for people to exercise. I look at what has happened in Atlanta. The gentleman talked about obesity. Atlanta has seen the highest rate of increase in obesity. The Centers for Disease Control in the last decade was looking at that. What is the problem in Atlanta? Well, as part of their rapid expansion, the most rapid expansion in the history of human settlement, they have sort of left out things that make it possible for people to be physically active, like sidewalks, safe places to bicycle. The air is not healthy in Atlanta, and so people are complaining even if they had an opportunity to have the facilities to exercise, it would not be healthy to do so.

The Surgeon General has recommended that communities create safe playgrounds, sidewalks, walking trails, particularly in urban areas; that employers should provide time for workers to get physical activity on the job; that schools provide physical education on a daily basis in every grade.

What has this Congress done to advance those objectives? I would suggest not very much.

These advances really pay for themselves. The incremental costs per person, if we are going to talk about obesity, are higher than smoking and twice the cost of alcoholism. Employers pay an average of $4,400 per year more for employee beneficiaries who have diabetes. The USDA has estimated that $71 billion could be saved if inactive Americans become active.

Well, I would suggest that part of what we are doing here in Congress ought to be looking at those facilities around the country. We are going to soon be re-enacting the Surface Transportation Act. The physical environment has a tremendous impact, as I mentioned relative to Atlanta. St. Louis University has done a study of 17 new rural trails, and after the building of those trails, 60 percent of the trail users report they are more physically active than before the construction.

One of the things we do with the bicycle caucus as we are asking people to focus on it is to ask people to stop and reflect how many people in America right this minute are stuck in traffic on their way to ride a stationary bike in a health club. By providing the facilities that make it safe and convenient for people to get the over 150 million bicycles in this country out of the garages, out of the attics, out of the basements and put them on the street where people can use them, it is going to make a difference.

□ 1430

Think about in how many communities it is not safe for children to walk

or bike to school. A generation ago, 90 percent of the children could get to school on their own safely. Today, that ratio has reversed, where only 10 percent of the children can do that; and it means there is a rush hour twice a day because people are trying to get the kids off-loaded at school, as well as having the attendant congestion air quality problems and lack of exercise.

I would suggest, Mr. Speaker, that we in Congress ought to take the lead, it is something each Member of Congress can do, by scheduling two or three meetings, of which we have a gazillion every week. And maybe if we have two or three of them that are involved with walking or running, a meeting on the move, we will be healthier; they will probably be shorter; our constituents will like it; we will have less caloric intake; and I would think it would be an opportunity for us to help shape ourselves up, our staff, and the people that we work with.

Make sure that the next authorization of the surface transportation act, and if Members will remember, we had ISTEA in 1991, we had TEA–21 in 1997, and the next one ought to be green tea, where we have an opportunity to be able to make our communities more livable with that investment.

Last but not least, I would suggest that in the time our Committee on Ways and Means is involved with all sorts of tax changes, maybe one tax change they could make would be to make sure that pedestrians and bicyclists have the same commuter tax benefit as people who drive or take transit, a very simple change of very low cost, but would send the right sort of signals for people to be physically fit in our country.

I would suggest that Congress should not just pass a resolution, but we ought to lead by example and do something about it to make sure that our communities are more livable and that our families are safe, healthy, and more economically secure.

Mr. BROWN of Ohio. Mr. Speaker, I yield 4 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I appreciate the intent of this sense of the House resolution on obesity and health. It is time to do more than pass this resolution, to do more than talk about this issue.

Until 2001, this Congress had never taken any substantial action to combat the most widespread health problem in the United States today: obesity and overweight. I worked with then chairman John Porter, now retired, chairman of the Committee on Labor, Health and Human Services, and Education. He had an abiding interest in this issue.

Chairman Porter, before whom I testified on my own bill on this issue, put the first substantial funding to combat overweight and obesity, $125 million. It is pathetic that I am calling $125 million substantial funding. That is only when measured by what we had done before, a couple or $3 million every year.

But, Mr. Speaker, there was no money. After Chairman Porter put $125 million, there was no money in the President's budget last year. I came to the floor, worked with the Committee on Appropriations, and we got something above $68 million in. That is a little over half of what Chairman Porter left as his legacy: $125 million.

Now we are in 2003, Mr. Speaker. Once again, there is no money in the administration's budget for overweight and obesity, our most widespread health problem. We have to do it again, Mr. Speaker, unless we are going to be satisfied with this resolution. I do not think even those who offered it would be satisfied with this alone.

The $125 million is meant chiefly for combatting overweight and obesity among children. That is where the epidemic is the worst. Of course, that is where it is most preventable.

Chairman Porter agreed on the floor to incorporate sections of my own bill called LIFE, Lifetime Improvement in Health and Exercise. It had three sections, three rather commonsense sections:

First was training health professionals to recognize overweight before it becomes obesity. When people get to be obese, it is too late. It is very hard to come down, even from being overweight, much less obese. The health professions do not get in there early enough;

Secondly, strategies so people in their own workplaces and communities could begin on a mass schedule to incorporate exercise that people can do, that elderly people can do, that children can do, that harried middle-class working people can do;

Third, there is mass education. I am pleased to report, Mr. Speaker, that the first section of our bill is about to be under way this year. CDC, which was charged with this first $125 million, is about to launch a 15-city tour where it will roll out this new mass education, which means ads we will see on television trying to get children and their parents off of the fast food that is among what is making them obese.

Our response this year, remember, is zero funding. I implore everybody who votes for this resolution to help us get money in the appropriation bill to prevent at least a dozen diseases we could all name ourselves. This epidemic involves every race, every economic background, and every age group. It is amazing the young people, young people in their teens and early twenties, that are deeply involved in this overweight and obesity problem.

Computers and cable made us all couch potatoes. We have an obligation, we and only we can do it, to assume leadership of the American people and try to get rid of this terrible epidemic. Only Congress can send a wake-up call to the American people to get out and exercise and get off the fast food.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in support of House Resolution 438, a resolution in support of improving men's health through fitness and the reduction of obesity.

This resolution is timely as we focus on Men's Health Week. The question of obesity in our children and men is very concerning. Since 1980, the percentage of children who are overweight has doubled. This has led to serious health consequences: Type 2 diabetes, heart disease, hypertension, stroke, and in many instances, poor self-esteem among children.

The problem of obesity is magnified in African American and poor communities, where rates increased most in the last 10 years. It is estimated that the economic cost of obesity is more than $100 billion a year, or 8 percent of the health budget.

In a number of States, legislators have introduced bills to tax soft drinks and restrict advertising to certain hours of the day. These bills in effect limit personal freedom and responsibility. I believe that we must begin to seriously encourage people to exercise and pay attention to their diet. As a matter of fact, in some places, people are beginning to say that it is time that we learn to eat to live and not live to eat.

I want to commend the Grocery Manufacturers of America for their efforts to begin to deal with the issue of obesity in a serious way. There are initiatives under way by Kraft and other food companies to make healthier products readily available. Additionally, they are looking at partnering with community-based organizations, churches and others, to spread the message that fitness and nutrition are two components to a long life.

So again, I commend the gentleman for his resolution and look forward to working with him and others. I also want to be associated with the comments made by the gentleman from Ohio. I do indeed believe it is time that this House does serious work towards elimination of health disparities.

But I believe that we have to move in a real way towards the ultimate development of a national health plan, one that provides quality, comprehensive health care for every American, without regard to their ability to pay. It is then and only then do I believe that we will become the healthy Nation that we have the potential of being.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would close on our side with a couple of comments. I support the resolution offered by my friend, the gentleman from Pennsylvania. I would hope that this resolution and discussions like this on the

floor, following up on the excellent comments of the gentleman from Illinois (Mr. DAVIS), lead to an examination of practices of those in this society who, by their actions, really promote obesity; not so much the people that ultimately pay the price of worse health and earlier death, but the fast food chains whose marketing techniques of biggie-size this and biggie-size that encourage especially our young people to drink more high-caloried soda pop and eat more French fries and eat more, ingest more calories.

Look at even the growing obesity of children in places like China, which had no obesity problems until we began to export the fast food industry to countries like that. I would hope that we would examine the practices of those who promote obesity, such as the marketers and the advertisers, who spend billions of dollars to encourage, again, especially children in bad eating habits, to eat unhealthy food.

Imagine on television a marketer writing ads, a marketer who is maybe paid $500,000, using his or her skills to encourage a child to spend $3 at a fast food restaurant. That is not exactly an even match.

Look at even our schools, Mr. Speaker, where now schools in this country, because we underfund schools, they go to the private sector, they go to soft drink companies; and those soft drink companies will pay a fee to those schools so they can bring their pop machines into the cafeteria.

I think we have all been in schoolrooms where we have seen kids with a can of pop on their desk or walking down the hall with a soft drink. Some schools do not allow that, but too many do. When I was in school at Mansfield Senior High School, Mansfield, Ohio, 30 years ago, I remember the only vending machine in the cafeteria was an apple machine. Today we see soft drink machines in the cafeterias, in the halls, near the gyms. Because we underfund our public education, we have to give tax cuts in this institution to the richest people, so we underfund public education and then we force our schools to go out and make contracts with companies to bring pop machines in the schools, so leading those kids to more health problems in the future. That is really one of the reasons we have obesity in this country. It is all pretty tied together.

I hope this resolution in the future, and I plan to support the resolution of my friend, the gentleman from Pennsylvania, I hope it leads to an examination of the real issues surrounding this issue.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in support of H. Res. 438, expressing the sense of the Congress that improving men's health through fitness and the reduction of obesity should be a priority.

Physical fitness is key towards the prevention and reduction of obesity. As a nation we should encourage all men to continue to live an active life beyond their high school sports and other extra curricula activity years and well into their retirement years.

It's hard to believe that in the age of technological advances there are still very simple steps we can take to improve our health. Experts agree that moderate exercise; just 30 minutes a day, 3 times a week can have a significant impact on health. That's just an extra 15 minutes in the morning and evening. Exercise such as walking can reduce your risk of chronic, disabling and often fatal diseases like diabetes, cardiovascular disease, depression, stroke and cancer. It can reduce and even eliminate dependence on medications resulting in a significant amount of cash savings. Furthermore, exercise improves mental alertness and fosters healthy muscles, bones and joints.

The technology of the 21st century has spoiled us. The World Wide Web has put the world at our fingertips. With our busy schedules we have grown dependent on the Internet for shopping, paying bills and even purchasing groceries. With a push of a button food is delivered directly to our homes.

Obesity is one of the biggest public health challenges in our time. The high number of uninsured individuals, the outrageous prices of prescription drugs and the down turn of the economy have forced us to take initiative and control over our health. The estimated medical cost for physically inactive Americans is $77 billion. We must rely on cost-effective proven practices such as exercise that will contribute to the prevention and reduction of obesity.

That is why I support their resolution. Although technology has advanced by leaps and bounds our health has suffered by many of life's new conveniences. We are eating more, exercising less and becoming obese. H. Res. 438 does not expect our men to become triathletes rather it recognizes that physical activity is the key to reducing and preventing obesity.

I urge all of my colleagues to support H. Res. 438. I also encourage families, health professionals, businesses, community leaders, schools and universities to join in an effort to improve physical fitness through innovative approaches. Together we can join forces and conquer obesity and its cruel ramifications.

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise in support of House Resolution 438, a sense of the House that improving men's health through fitness and reduction of obesity should be a priority. Obesity is a neglected public health problem in the United States. This disease affects approximately 51 million Americans and more than one quarter of all adults. The number of overweight and obese Americans has continued to increase since 1960. Unfortunately, this trend is not slowing down. Today, 61% of adult Americans (about 120 million) are categorized as being overweight or obese. While this resolution is focused solely on men's fitness and obesity issues, this epidemic transcends gender. While the prevalence of being overweight is higher for men (59.4%) than women (50.7%), the prevalence of obesity is higher for women (25.0%) than men (19.5%). Fitness and physical activity should be a priority for all Americans, regardless of gender.

Obesity is the second leading cause of unnecessary deaths. Each year, obesity causes at least 300,000 excess deaths in the U.S., and healthcare costs of American adults with obesity amount to approximately $100 billion. Obesity increases the risk of illness for about 30 serious medical conditions, including cancer, birth defects, cardiovascular disease, and stroke. Yet despite this correlation, obesity has not received the attention it deserves. Research is severely limited by a shortage of funds, and inadequate insurance coverage limits access to treatment.

Weight loss of about 10% of excess body weight is proven to benefit health by reducing many obesity related risk factors. Research has documented that physical activity is a key part of maintaining weight loss. Exercise can lower one's risk of heart disease and heart attack, high blood pressure, and high cholesterol. A decrease in the amount of daily activity related to work, transportation and personal chores is believed to contribute to the high percentage of overweight and obesity today. By adding moderate physical activity, progressing to 30 minutes or more on most or preferably all days of the week to one's daily routine, we can start to reverse the upward trend of obesity.

Mr. Speaker, we should applaud those who live a healthy lifestyle and encourage our public health system to recognize obesity and inactive lifestyles as a true health care epidemic. Finally, as of this past fiscal year, the IRS announced a new policy stating that ''obesity is medically accepted to be a disease in its own right.'' For taxpayers, this means that treatment specifically for obesity can now be claimed as a medical deduction. I hope that this promotion of healthy lifestyles will continue as we try to curb this epidemic, and that a tax deduction for individuals who choose to stay healthy will be considered seriously by the IRS.

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from New York (Mr. FOSSELLA) that the House suspend the rules and agree to the resolution, House Resolution 438.

The question was taken.

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

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

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

The point of no quorum is considered withdrawn.

HONORING THE LIFE AND ACHIEVEMENTS OF 19TH CENTURY ITALIAN-AMERICAN INVENTOR ANTONIO MEUCCI

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 269) expressing the sense of the House of Representatives to honor the life and achievements of 19th century Italian-American Inventor Antonio

Meucci, and his work in the invention of the telephone.

The Clerk read as follows:

H. RES. 269

Whereas Antonio Meucci, the great Italian inventor, had a career that was both extraordinary and tragic;

Whereas, upon immigrating to New York, Meucci continued to work with ceaseless vigor on a project he had begun in Havana, Cuba, an invention he later called the ''teletrofono'', involving electronic communications;

Whereas Meucci set up a rudimentary communications link in his Staten Island home that connected the basement with the first floor, and later, when his wife began to suffer from crippling arthritis, he created a permanent link between his lab and his wife's second floor bedroom;

Whereas, having exhausted most of his life's savings in pursuing his work, Meucci was unable to commercialize his invention, though he demonstrated his invention in 1860 and had a description of it published in New York's Italian language newspaper;

Whereas Meucci never learned English well enough to navigate the complex American business community;

Whereas Meucci was unable to raise sufficient funds to pay his way through the patent application process, and thus had to settle for a caveat, a one year renewable notice of an impending patent, which was first filed on December 28, 1871;

Whereas Meucci later learned that the Western Union affiliate laboratory reportedly lost his working models, and Meucci, who at this point was living on public assistance, was unable to renew the caveat after 1874;

Whereas in March 1876, Alexander Graham Bell, who conducted experiments in the same laboratory where Meucci's materials had been stored, was granted a patent and was thereafter credited with inventing the telephone;

Whereas on January 13, 1887, the Government of the United States moved to annul the patent issued to Bell on the grounds of fraud and misrepresentation, a case that the Supreme Court found viable and remanded for trial;

Whereas Meucci died in October 1889, the Bell patent expired in January 1893, and the case was discontinued as moot without ever reaching the underlying issue of the true inventor of the telephone entitled to the patent; and

Whereas if Meucci had been able to pay the $10 fee to maintain the caveat after 1874, no patent could have been issued to Bell: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the life and achievements of Antonio Meucci should be recognized, and his work in the invention of the telephone should be acknowledged.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 269.

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

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to have the House consider House Resolution 269, important legislation introduced by my distinguished colleague, the gentleman from New York (Mr. FOSSELLA).

This resolution expresses the sense of the House of Representatives in honoring the life and achievements of the 19th century Italian-American inventor, Antonio Meucci. We have all grown up believing that Alexander Graham Bell invented the telephone. However, history must be rewritten if justice is to be done to recognize Meucci as the true inventor of the telephone.

□ 1445

Bell was issued a patent for the telephone in 1887. However, 17 years earlier, in 1860, it was Meucci who successfully demonstrated his electronic communications link in his Staten Island, New York home, an invention he later called the teletrofono. Meucci was a poor man who never learned English and was unable to navigate the business world. He did not have the $10 needed to apply for a patent for his invention and was never able to get the financial backing needed to pursue a patent. Later, following a tragic accident in which Meucci was severely burned, the laboratory where he worked on his invention supposedly lost his working models needed to get a patent. Just a few years later, Bell who worked in the same laboratory, earned the patent for the telephone.

The story of Antonio Meucci is not well known. While he has not received credit for his invention in our history books, the House of Representatives will today honor the genius of the Italian American inventor Antonio Meucci.

Mr. Speaker, I ask all Members to support this resolution.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Antonio Meucci was born in Florence, Italy in 1808. He was fond of chemistry and at the age of 17 conceived an improved powerful propeller to be used in fireworks, so powerful that his little rockets lost control, caused damage to properties in the vicinity. This was the beginning of a life filled with experiments and discoveries.

Meucci spent the first 27 years of his life in Florence, Italy, 15 years in Havana, Cuba, and 39 years in Clifton, New York. While in Havana, Meucci discovered the latest discoveries in electricity, electrochemistry and electrotherapy in his laboratory which was next to his apartment. In 1865 Meucci wrote, ''At Havana, by means of some little experiments, I came to discover that with an instrument placed at the ear and with the aid of electricity and a metallic wire, the exact word could be transmitted holding the conductor in the mouth . . . ''. Meucci had discovered electrical speech transmission.

Meucci and his wife, Esther, moved to New York in 1850 where he established a very successful candle business. However, in 1854, his wife aggravated her rheumatoid arthritis to the point where she could seldom leave her bedroom in the third floor of the house.

Esther's illness stimulated the resuming of Meucci's speaking telegraph, as it allowed her to communicate with him and others from her bedroom. Meucci established a telephone link from Esther's room to the basement as well as to a larger laboratory in the yard. To call attention, a mechanical call bell was used, its wires running parallel to those of the telephone. Only one instrument was used at each end, that was alternately brought to the ear or mouth of the user. Meucci received little credit for the invention he later called the teletrofono.

This resolution recognizes his work, the importance of his efforts, and I am pleased to not only support it, but I also want to commend the gentleman for bringing it to the attention of all of the Members of this House and to the American people.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. FOSSELLA), the chief sponsor of this bill.

Mr. FOSSELLA. Mr. Speaker, I thank the gentlewoman for yielding me time. I thank Members on both sides, the gentleman from Illinois (Mr. DAVIS), as well as the gentleman from New Jersey (Mr. PASCRELL) for supporting this resolution.

Mr. Speaker, it is my strong belief that Italian Americans have contributed greatly to the United States and continue to contribute proudly as well. We know Columbus discovered America. Two Italians signed the Declaration of Independence. Enrico Fermi split the atom, and Captain Don Gentile, the fighting ace, was described by General Dwight Eisenhower as a ''one-man force.'' He, like so many other Italian-Americans, did and were willing to give their life in defense of freedom and liberty and supporting these great United States.

Mr. Speaker, I wanted to spend a few minutes today to honor an Italian American and former Staten Island resident who is often overlooked, as announced already, and his name was Antonio Meucci.

The 19th century was a time of great technological innovation, as its birth heralded the beginning of the Industrial Revolution. However, unlike the century just ended and the new one we are beginning to explore, the rough-and-tumble of our young Nation had yet to develop information exchange to the extent we enjoy today.

The Founding Fathers made America a guarantor of unprecedented and, to this day, unmatched liberty. This liberty included again an unprecedented appreciation for intellectual property rights. Today with our study of historical records and ability to examine many disparate sources of information, we now know it is likely the invention of what we know today as a telephone took place in the middle of the 19th century rather than its end, and its creator is believed to be Antonio Meucci. He worked for years to develop a new system of electronic communication. However, poor and sick, he was unable to keep the patents enforced and died before the courts could decide with finality whether he or Alexander Graham Bell was the true inventor of the telephone.

It is known that Meucci demonstrated his device in 1860, that a description appeared in New York's Italian language newspaper, and that Western Union received working models from Meucci but reportedly lost them.

It is also known that Meucci, due to his limited means, settled for a caveat, a one-year renewable notice of an impending patent, first filed in 1871, but which he was unable to pursue after 1874, while Alexander Graham Bell was not granted a patent until 1876.

Finally, it is known that the Supreme Court of the United States directed the case to proceed to trial but Meucci died a short time later, rendering the case moot.

So with these facts before the House today, I ask for the passage of this resolution to honor the life and achievements long overdue of Antonio Meucci, a great Italian American and a former great Staten Islander.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. PASCRELL), one who represents the feisty tradition of Italians and of Italian Americans, and a great spokesman not only for Italy and Italian Americans, but a great spokesman for all of America.

Mr. PASCRELL. Mr. Speaker, I want to thank the gentleman from Illinois (Mr. DAVIS) for yielding me time.

Mr. Speaker, first I want to commend my good friend, the gentleman from New York (Mr. FOSSELLA). How refreshing it is to talk about an Italian American out of the Hollywood spotlight and an Italian American not recognized. If only we took the time in this society to deal with all ethnics, people of all racial persuasions in fairness, and that is what this resolution is all about: Fairness, honesty, breaking the stereotypes that many of us have learned; in fact, probably, taught without our even knowing.

We recognize today the life and achievements of Antonio Meucci. He was a pauper. He had nothing. He came here with nothing. He could not even put $10 up for a patent application. And yet his life is one of brilliance in science, particularly. He is only a footnote in our history books. We all know those great publishers that steer the education process of America. He earns, if he is lucky, a footnote. Indeed, many local libraries, if you search for his name in a card catalog, you may come up empty. Yet, substantial evidence exists that he indeed developed the first telephone. It is Alexander Graham Bell who is most commonly given credit. After all, it was he, and not Meucci, who was awarded one of the most valuable patents in American history. But the fact remains that Meucci's scientific discoveries concerning human voice transmission as well as his tangible teletrofono preceded those of Bell.

In fact, when you examine, Mr. Speaker, how this all happened in a place where Meucci heard an exclamation of a friend who was in another room over a piece of copper wire running between them, he realized immediately that he had something that was more important than any discovery he had ever made. But that realization also came with the understanding that to succeed as an inventor, he would need an environment that truly fostered his inquisitive mind and his vibrant spirit.

I believe that it is proper to honor the far-reaching contributions that Antonio Meucci made to our society, and I am not the only one. The Government of the United States and the Supreme Court agree with me. In this Supreme Court document, Mr. Speaker, it is very clear in the many pages laid out across the record that this is no ordinary young man in his struggle. In 1887 the Government moved to annul the patent issued to Bell on the grounds of misrepresentation, an indication that the Supreme Court found viable and remanded for retrial. This is only one of many published documents during the time, the late 1800s that outlined the case being made for Meucci, indeed, the case we are making today on both sides of the aisle. In 1860 a description of his first telephone model was published, as the gentleman from New York (Mr. FOSSELLA) pointed out, in an Italian language newspaper in New York City, 16 years before Bell's patent.

Indeed, Meucci's extraordinary career flourished upon immigrating to New York in 1850. His poor finances, his limited English, his grasp of the language was not very good. It plagued him throughout his life. Yet, he worked tirelessly to bring long distance communication to a practical stage.

When his wife fell paralyzed in 1855, Meucci set up a telephone system which joined several rooms of his house with his workshop in another building. This was the first such installation anywhere; anywhere. Unfortunately, Meucci was unable to raise those funds to pay his way through the arduous patent application process. Instead, he had to settle for a caveat, which is a one-year renewable notice of an impending patent. He first filed this on December 28, 1871. Three years later his finances were absolutely zero.

Living with the aid of public assistance and unable to get a 7–A loan, which today we have available through small business, Meucci was forced to allow the caveat to lapse at the end of that year. Two years after the expiration of his caveat, Alexander Graham Bell performed experiments in the same laboratory that Meucci worked, and he took out a patent for his own voice-transmitting device. The same laboratory.

It is possible that sometimes several inventors have the same idea at roughly the same time. In this case, what has mattered is not who had the idea for the telephone first, but who first turned the idea into a viable commercial enterprise. Let us not forget that if Antonio Meucci could have paid the $10 fee to maintain his caveat, the Bell patent could not have been granted. Ten dollars.

□ 1500

Let us not forget that the Supreme Court of the United States found that Meucci's case was viable and warranted a trial at a circuit court. It is unfortunate that Meucci died before his case could even be continued and before a resolution could be reached as to who truly invented the telephone; but most importantly, let us not forget that Antonio Meucci's great contributions to science have had a profound impact on our modern society.

Mr. Speaker, many people from many different nations have contributed to this greatest of all democracies. Antonio Meucci was one such person. He is a reflection of our brothers and sisters from all over the world who came to this country with nothing and worked hard to make this a better place for mankind. Some heralded, some not even a footnote in the library.

It is fitting that his efforts are recognized here today, and I thank the gentleman from New York for allowing me to work with him on this important resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

We have no further requests for time, and I would just like to close by thanking both the gentleman from New York (Mr. FOSSELLA) and the gentleman from New Jersey (Mr. PASCRELL) for this tremendous depiction of history that they have given us this afternoon, which reinforces my desire to be a strong supporter of this resolution; and it also reinforces how great and how much opportunity there is that exists in this country. Every time we pass one small measure, in this instance, it might have been a microbusiness loan that could have changed the history of our understanding of telecommunications.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I just wanted to add and commend the two gentlemen, the gentleman from Illinois (Mr. DAVIS) and especially the gentleman from New Jersey (Mr. PASCRELL) for a very strong and passionate defense in support of the life of a great American and great inventor and merely add to the course, so to speak, that he was emblematic and remains so as a representative of all those who have come to this country to seek a better life and an opportunity and, in particular, to those Americans of Italian descent who have and will continue to make this the greatest country in the history of the world and in a small way and a long overdue way but in a small measure. I would ask my colleagues to support it.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, the story of Antonio Meucci is a tragic one, and although he successfully demonstrated his electronic communication years before Alexander Graham Bell received a patent for the telephone, Meucci has been all but forgotten.

This resolution attempts to remedy this oversight and give credit to one of history's great inventors. Meucci should be remembered with other innovators, like Edison, the Wright Brothers, and Marconi, whose vision and tenacity changed our lives for the better.

Mr. Speaker, I urge all Members to support this resolution.

Mr. ISRAEL. Mr. Speaker, I rise today to honor a great New Yorker and a great inventor, Antonio Meucci. As the first member of the House to join with our colleague from New York, Mr. Fosella, on this resolution, I am gratified that it is coming before us today.

House Resolution 269 honors the life and achievements of Antonio Meucci, who came to New York in 1950. Born in San Frediano, near Florence, Italy in April 1808, he was an inventor through and through. He constantly read scientific tracts and conducted experiment after experiment. He went to Havana in 1835 to work as a stage technician. It is there that he had the first inkling of his greatest invention.

Meucci developed a type of electro-shock treatment for the ill. While preparing to administer one of his treatments, Meucci heard his patient say something from the next room over the piece of copper wire running between them. This was the event that sparked his breakthrough.

Meucci spent the next ten years bringing the idea of voices being transmitted over wire to a practical stage. With this goal, he left Cuba for New York in 1850. There he found many other Italians who had left their native land, including the great revolutionary Garibaldi, who stayed in Meucci's Staten Island home.

During his time in New York he had success with his invention. After his wife became ill in 1855, he installed a kind of intercom system in his house, the first installed anywhere in the world. Five years later, he was arranging demonstrations to attract financial backing. Unfortunately, nothing came of this, and he spent a considerable time in poverty. His poverty forced him to sell rights to his inventions to others, and he never filed for a patent on a telephone. After an accident left the inventor hospitalized, his wife sold all of his inventions, including the telephone prototype, to help pay for his treatment. The ''secondhand dealer'' resold the items to an ''unknown young man.'' To this day, we do not know the identity of this unknown young man.

Meucci tried to reconstruct his invention, but unable to raise the $250 needed for a patent, a considerable sum in 1871, he filed a ''notice of intent'' on December 28, 1871, which he renewed for two years, but not after. He tried to sell his ''Talking Telegraph'' to the newly established Western Union Telegraph Company, asking permission to demonstrate it over their wires. That test never got set up, and in 1876, Alexander Graham Bell filed a patent.

Meucci instructed his lawyer to protest to the U.S. Patent Office, but his lawyer failed to do so. A friend did contact the office, only to learn that all the documents filed by Meucci had been lost. Later investigation produced evidence of illegal relationships linking certain employees of the Patent Office and officials of Bell's company.

Antonio Meucci was a brilliant inventor but a poor businessman. Despite his lack of success in business, he most certainly invented the telephone. He is honored in my district with a road named for him in Copiague. I am proud that we, the entire House of Representatives, today will honor this man who has been overlooked by history for too long.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I add my voice to the praise and honor of Antonio Meucci who, through his work toward the invention of the telephone, has brought the world together as few others have. Through his ingenuity and perseverance, this Italian-American changed the way the world communicates, although as a newcomer to America, he was often thwarted by his own inability to communicate with those who could have, and should have given him the recognition he deserved.

Antonio Meucci came to America, pursuing his dream of introducing his ''Talking Telegraph'' to the world, and hoping to make a living doing so. Instead, he struggled against his own meager beginnings—not having the money or verbal skills he needed to protect his intellectual property. He also struggled against the incompetence and greed of others. Tragically, this extraordinary man's decade-long struggle for justice ended in poverty and frustration. I am pleased that we are finally helping him attain his rightful place in history.

I strongly support H.R. 269, honoring a man who embodies the travails of the American Immigrant experience—Antonio Meucci, the true inventor of the telephone.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 269.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

COMMEMORATING AND ACKNOWLEDGING DEDICATION AND SACRIFICE MADE BY MEN AND WOMEN KILLED OR DISABLED WHILE SERVING AS PEACE OFFICERS

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 406) commemorating and acknowledging the dedication and sacrifice made by the men and women killed or disabled while serving as peace officers, as amended.

The Clerk read as follows:

H. RES. 406

Whereas the well-being of all people of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 law enforcement personnel, at great risk to their personal safety, serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 70 peace officers died at the World Trade Center in New York City on September 11, 2001, the most peace officers ever killed in a single incident in the history of the Nation;

Whereas more than 220 peace officers across the Nation were killed in the line of duty during 2001, which represents 57 percent more police fatalities than the previous year and makes 2001 the deadliest year for the law enforcement community since 1974;

Whereas every year, 1 out of every 9 peace officers is assaulted, 1 out of every 25 peace officers is injured, and 1 out of every 4,400 peace officers is killed in the line of duty;

Whereas section 136 of title 36, United States Code, requests that the President issue each year a proclamation designating May 15 as Peace Officers Memorial Day in honor of Federal, State, and local officers killed or disabled in the line of duty; and

Whereas on May 15, 2002, more than 15,000 peace officers are expected to gather in Washington, D.C. to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the House—

(1) honors Federal, State, and local peace officers killed or disabled in the line of duty;

(2) supports the goals and ideals of Peace Officers Memorial Day; and

(3) calls upon the people of the United States to observe such a day with appropriate ceremonies and respect.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that

all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 406.

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

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to have the House consider House Resolution 406, important legislation introduced by my distinguished colleague, the gentleman from Colorado (Mr. HEFLEY). This resolution honors those peace officers who have been disabled or killed in the line of duty, and it supports the goals and ideal of Peace Officers Memorial Day.

Mr. Speaker, engraved on the National Law Enforcement Officers Memorial in Washington, D.C., is a verse from Proverbs 28:1: ''The wicked flee when no man pursueth; but the righteous are as bold as a lion.'' Today, over 740,000 sworn law enforcement personnel, which is the highest figure ever, live by that quotation from Proverbs. These 740,000 men and women serve their communities and Nation as guardians of peace, often at great risk to their personal safety.

The year 2001 was one of the deadliest years on record for law enforcement in the United States. The deaths occurred in a wide variety of circumstances, demonstrating that, no matter how routine an assignment might seem, a police officer's life may be at risk.

The National Law Enforcement Memorial tells the story of those slain in the line of duty.

The first fatality of 2001 occurred shortly after midnight on January 1 when Tennessee State Trooper John Mann was struck and killed while struggling with a carjacker along an interstate highway.

On September 11, 2001, more law enforcement officers were killed in a single incident than ever before in American history when 70 law enforcement officers died at the World Trade Center in New York City.

The last law enforcement fatality in 2001 occurred on December 29 in Horry County, South Carolina. Lieutenant Randy Gerald of the Horry County Sheriff's Office stopped on his way home from work to assist a woman who was being assaulted at a rest stop. As he pulled up, the assailant walked over to Lieutenant Gerald's vehicle and shot him three times.

Congress has recognized May 15 as the day on which all Americans should honor the dedicated men and women of law enforcement. On May 15, 2002, over 15,000 law enforcement officers gathered here in our Nation's capital to join with the families of their recently fallen comrades to honor them and all others who went before them.

We keep in our prayers those whose loved ones have fallen while serving as law enforcement officers. We keep in our prayers and thank those who work as law enforcement officers today.

The National Law Enforcement Memorial has an engraved quote by the Roman orator and great public official, Tacitus: ''In valor . . . there is hope.''

Mr. Speaker, those who work in law enforcement, and especially those who have sacrificed their lives, prove the truth of those words. We thank them for that.

Mr. Speaker, I ask all Members to support this resolution.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, the first recorded law enforcement fatality in the performance of duty occurred on May 17, 1792. The officer's name was Isaac Smith, a sheriff's deputy in New York City, who was shot to death while attempting to make an arrest. Since that time, more than 15,000 other officers have been killed in the line of duty; and today, roughly 740,000 officers continue to put their lives on the line for the safety, welfare, and protection of others.

May 15 is Peace Officers Memorial Day, and it is fitting that this resolution honoring the men and women of this country who were killed or disabled while serving as law enforcement officers be brought before this body.

September 11, 2001, provided a somber perspective of the importance of Peace Officers Memorial Day. In addition to the 70 law enforcement officers who died at the World Trade Center, another 158 officers died in the line of duty last year. Those 228 deaths represent the sixth deadliest year in law enforcement history in this country.

The first fatality of 2001 occurred shortly after midnight on January 1, when Tennessee State Trooper John Mann was struck and killed while struggling with a carjacker along an interstate highway.

The 228th law enforcement fatality occurred on December 29 when Lieutenant Randy Gerald, a South Carolina sheriff, stopped on his way home from work to assist a woman who was being assaulted at a rest stop. As he pulled up, the assailant walked over to Lieutenant Gerald and shot him three times.

These incidents, and countless others, bring to the forefront the sacrifice, acts of heroism and valor that police officers across the Nation perform every day. Their bravery and commitment to the job deserves to be remembered and revered, for it is obviously true that no greater gift can one give than to use his or her life for the safety and protection of others.

I would urge all Members to support this resolution.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. HEFLEY), and I would like to thank him for introducing this important piece of legislation.

Mr. HEFLEY. Mr. Speaker, I thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) for their support of this resolution. How could we not support this kind of a resolution? Where would our society be without those people who are willing to lay their lives on the line for us every day out there in the trenches of the front line?

Mr. Speaker, I rise today to honor the peace officers from around the country, those who came to Washington last month to commemorate the deaths of over 230 peace officers last year and, particularly, to honor the memory of those 230 peace officers who gave their lives last year. Today, we pay tribute to the commitment, the sacrifice and public safety services peace officers have provided on a daily basis and continue to do so.

As we all know, September 11 stands out as one of the most tragic days in American history. That fateful Tuesday we lost 72 police officers, the largest single loss of law enforcement personnel in a single day in the history of our country.

While September 11 offered an extreme glimpse of law enforcement service and sacrifice, similar acts of heroism and valor are performed every day by police officers across our Nation; and the two speakers that preceded me illustrated some of those just in this 1 year, leading up to this day, less than a year, those who have died and lost their lives and given of themselves.

In addition to the 72 officers that died on September 11, another 158 officers died in the line of duty last year; and these 230 deaths represent the sixth deadliest year in law enforcement history, as has already been said.

Peace officers in every community have an admirable record of service and sacrifice; yet too many Americans lack a true understanding and appreciation of law enforcement's worth. That is why I worked 2 years ago to help establish the National Law Enforcement Museum in Washington, D.C.; and once construction is completed, the museum will highlight the proud history of the law enforcement profession and educate the people about the dangers and the importance of this job.

Unlike any other job, peace officers face unprecedented risks while bravely protecting our communities and our freedoms. I hope my colleagues will join with me today in paying tribute to our Nation's fallen officers and expressing our gratitude for the work that these men and women do day in and day out. While we are awake, while we are asleep, they are out there on the job.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for yielding me the time.

I thank the gentleman from Colorado (Mr. HEFLEY) for introducing this very

important resolution. I thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) for their eloquent statements on behalf of law enforcement officers and how much they mean to our Nation.

I rise today, though, to point out an irony and hope to get support from my colleagues for law enforcement officers in our Federal agencies.

I hope that those who are on the floor today know that there are law enforcement officers throughout the Federal Government who protect us day and night. They may be in INS. They may be in U.S. Customs. They may be postal police. They may be police officers for the Veterans Administration. They work to protect our airports, the Library of Congress, the Supreme Court. They are members of the Bureau of Alcohol, Tobacco and Firearms.

These are law enforcement officers who do not have law enforcement status in terms of their pay and their retirement benefits. Mr. Speaker, these are people who are trained to carry a weapon. They wear bulletproof vests. They have a badge. They face the risk every day that police officers in our cities and States have to face.

I have watched mainly the inspectors at the U.S.-Mexico border in the district I represent in San Diego. I have watched members of the INS and U.S. Customs literally face death in confrontations with those who are trying to cross the border illegally or those who are trying to bring drugs and probably at some future point with terrorists; and yet I say again they are trained as law enforcement officers. They have the risk of law enforcement officers, but they do not have the status of law enforcement officers. That means that they do not get either the pay or the retirement benefits of those who are so classified.

□ 1515

Mr. Speaker, we talk today about honoring our law enforcement officers, and how their names are engraved at the National Law Enforcement Memorial several blocks away. It is ironic that some of these people that I refer to in the Department of Customs or INS, their names are engraved on the Law Enforcement Memorial, and they are recognized as law enforcement officers when they died, but we do not recognize them as such when they are living when we should pay recognition to them.

I hope those who are honoring our law enforcement officers today will look at H.R. 1841, the Law Enforcement Equity Act. It has over 180 sponsors, Democrat and Republican, from all across the country. I think it is time as we think today of our peace officers and law enforcement officers all over this Nation who have died in the line of duty, as we recall September 11 and the bravery of our peace officers there, I think it is time to say to our officers throughout the Federal Government, let us recognize them, too. Let us classify, and take the training that they have been given and the risks that they face, and give them the status that they deserve. I hope as we all vote for this resolution on the floor, we will think about H.R. 1841, the Law Enforcement Equity Act, and move forward in those situations also.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, over 14,500 Federal, State, and local law enforcement officers have been killed in the line of duty since 1900. It is appropriate that the House and the people of the United States recognize the men and women who work as law enforcement officers.

There are fathers and mothers, sons and daughters, brothers and sisters, friends and neighbors, and they deserve this recognition. I urge all Members to support this resolution, as amended.

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in support of House Resolution 406 offered by the gentleman of Colorado, Mr. HEFLEY.

Today, we honor some of our nation's most courageous citizens: local law enforcement officers. On September 11, 2001, many New York officers risked their lives to come to the rescue of those in crisis as the World Trade Towers came crashing down. And tragically, many of these courageous men and women perished.

In the nine months since September 11, the world watched the United States recover. The remains of the World Trade Center have been cleared away, but the memory of tremendous heroism remained in the trying days, weeks, and months that followed. Our nation will never forget the brave law enforcement officers who selflessly answered the call to duty on that dark September day.

Today, we honor law enforcement for their committed response to the September 11 terrorist attacks, but we also give tribute to our local officers for the important work and sacrifice they offer each and every day. In cities, towns and villages throughout our great nation, they protect Americans from violence and fight crime in our streets and schools. We depend on our community's law enforcement, not just times of great tragedy, but in our daily lives.

I urge my colleagues to support this important resolution and encourage all Americans to respect and honor the remarkable contributions of local law enforcement. They make our nation strong and proud.

Mr. GILMAN. Mr. Speaker, colleagues, and Representative JOEL HEFLEY of Colorado for introducing House Resolution 406 to the floor.

It is important that Congress, as well as all Americans' realize how much dedication peace keeping officers have. In the great tragedy of September 11th, 70 peace keeping officers made the ultimate sacrifice in the line of duty. This does not stop there however, this year there was a 57 percent rise in police fatalities than the previous year. The risks which these officers take every day is considerably great. House Resolution 406 it will allow Congress to recognize all of the sacrifices which these people have made while serving as Peace Officers.

It is important to realize that these dedicated officers are here for us. The amount of negativity which has to be put up with on a day to day basis is above and beyond what any person should be expected to deal with. Every day that they leave for work their lives are in danger. If 1 out of every 4,400 peace officers is killed in the line of duty that is sadly a high rate. In 2001 there was a rise in deaths by over one and a half times that of the previous year. This makes 2001 the most fatal year for police fatalities since 1974. The last that their government could do, would be to recognize and acknowledge the sacrifice these people make.

House Resolution 406 does just that. This bill will honor all Federal, State, and local peace officers who have been killed or disabled in the line of duty. It will support all of the goals and ideals of Peace Officers Memorial Day. Finally it calls upon all Americans to observe such a day with appropriate ceremonies and respect.

Accordingly, I urge my colleagues to support House Resolution 406 to commemorate and acknowledge the dedication and sacrifices made by the men and women killed or disabled while serving as Peace Officers.

Ms. JACKSON-LEE of Texas. Mr. Speaker, Americans have been called upon as a nation to show courage. The Peace Officers are protecting our daily freedoms. Law enforcement is the front line protector of freedom. In an unpredictable and constantly changing world, where communities and families expect safety and security, Peace Officers continually strive to be the best law enforcement officers recognized for their responsiveness and integrity. These Peace Officers put their lives on the line everyday for their communities with courage and honor.

Courage is the feeling of one's own power when summoned to duty. Courage comes not from facing the everyday but from standing fast against uncertainty. Courage is not inherited and not a matter of biological chance.

We may never understand the grief that the family suffers with the loss of a Peace Officer. However, those of us left behind recognize that these officers did not die in vain. We owe a debt to those who have given their lives, and the peace officers of this country want this memory to stay fresh in the minds of the citizens.

Therefore, I rise to lend my support and urge the establishment of a Peace Officers Memorial Day in honor of Federal, State, and local peace officers killed or disabled in the line of duty. They must never be forgotten, and we will remember their courage and duty.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 406, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

HERBERT ARLENE POST OFFICE BUILDING

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3738) to designate the facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, as the ''Herbert Arlene Post Office Building''.

The Clerk read as follows:

H.R. 3738

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

SECTION 1. HERBERT ARLENE POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, shall be known and designated as the ''Herbert Arlene Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Herbert Arlene Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3738, introduced by the gentleman from Pennsylvania (Mr. BRADY) is to designate the post office located in Philadelphia, Pennsylvania, as the ''Herbert Arlene Post Office Building.'' Members of the entire House delegation from the Commonwealth of Pennsylvania are cosponsors of this legislation.

Mr. Speaker, Pennsylvania State Senator Herbert Arlene ably represented Philadelphia's Third Senatorial District in North Central Philadelphia for 14 years. Senator Arlene was Pennsylvania's first African American elected to the State Senate. Prior to his 1966 election to the Senate, he served in the State House of Representatives from 1958 to 1966. He was a businessman, philanthropist and community activist until his death in 1989 at age 72.

Many Philadelphians continue to revere Senator Arlene for his importance to Pennsylvania's history. They also recognize him for his emphasis on constituent services, and for his love of his city and his commonwealth. Mr. Speaker, I urge adoption of H.R. 3738.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3738, which names the U.S. Post Office located in Philadelphia after Herbert Arlene was introduced by the gentleman from Pennsylvania (Mr. BRADY) on February 13, 2002.

Herbert Arlene was Pennsylvania's first African American elected to the State Senate in that State. Senator Arlene also served in the State House of Representatives from 1958 to 1966 representing North Central Philadelphia. In addition to being a politician and elected official, he was an active businessman, a philanthropist, and a community activist until his death in 1989.

H.R. 3738 is a fitting tribute to the late Senator Herbert Arlene, and I would urge its swift passage and commend the gentleman from Pennsylvania (Mr. BRADY) for its introduction. I urge all Members to vote in favor of this legislation.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. BRADY).

Mr. BRADY of Pennsylvania. Mr. Speaker, we have heard the credentials of Herbert Arlene being the first African American State Senator in the State of Pennsylvania, a position that we were all proud that he held. On a personal note, I was elected chairman of the Democratic Party along with him, and he was elected as my Secretary. I served with him for 10 years, and he served with distinction in the city of Philadelphia in the Democratic Party.

Senator Arlene was a hands-on politician. He served the community in many ways, including as the leader of the 47th Ward in the city of Philadelphia.

Mr. Speaker, Herbert Arlene left behind a loving family, as well as a new generation of leaders in North Philadelphia. Many of my constituents continue to revere Senator Arlene for his importance to Pennsylvania's history. They also recognize him for his emphasis on constituent service, and his love of the city and the commonwealth. It is fitting that we designate the facility at 1299 North 7th Street in Philadelphia as the Herbert Arlene Post Office Building.

I thank the gentleman from Indiana (Chairman BURTON) and ranking member, the gentleman from California (Mr. WAXMAN) of the Committee on Government Reform, and the gentleman from Florida (Mr. WELDON) and the gentleman from Illinois (Mr. DAVIS) for all of their hard work on this bill. I urge Members to support this bill.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I urge adoption of this measure, and I yield back the balance of my time.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the bill, H.R. 3738.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REV. LEON SULLIVAN POST OFFICE BUILDING

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3739) to designate the facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, as the ''Rev. Leon Sullivan Post Office Building''.

The Clerk read as follows:

H.R. 3739

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

SECTION 1. REV. LEON SULLIVAN POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, shall be known and designated as the ''Rev. Leon Sullivan Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Rev. Leon Sullivan Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3739, introduced by the gentleman from Pennsylvania (Mr. BRADY) designates a post office located in Philadelphia, Pennsylvania as the Reverend Leon Sullivan Post Office Building. Members of the entire House delegation from the Commonwealth of Pennsylvania are cosponsors of this legislation.

Mr. Speaker, the Reverend Leon Sullivan devoted his life to helping others

help themselves. Born and raised in Charleston, West Virginia, Leon Sullivan became pastor of Zion Baptist Church in urban Philadelphia in 1950, eventually increasing its membership from 600 to 6,000, making it one of the largest congregations in America.

In 1964, he founded Opportunities and Industrialization Centers, OICs, a self-help training program that has spread to 76 centers in the United States and 33 centers in 18 other countries, training more than 2 million people worldwide.

In 1971, Reverend Sullivan joined the GM board of directors, and became the first African American on the board of a major corporation. In 1977, Reverend Sullivan developed a code of conduct for companies operated in South Africa. The ''Sullivan Principles'' created a revolution in industrial race relations and were instrumental in dismantling apartheid. In 1999, the Global Sullivan Principles were issued at the United Nations. This expanded code calls for multinational companies to take an active role in the advancement of human rights and social justice.

Among his many other honors, in 1992 Sullivan was awarded the Presidential Medal of Freedom, the highest civilian award given in the United States. Reverend Leon Sullivan died on April 24, 2001, of leukemia at a Scottsdale, Arizona hospital. He was 78. I urge adoption of H.R. 3739.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3739, which designates a U.S. Post Office located in Philadelphia after Reverend Leon Sullivan was introduced by the gentleman from Pennsylvania (Mr. BRADY) on February 13, 2002.

The Reverend Leon Sullivan, a prominent social activist/reformer was the pastor of the Zion Baptist Church in Philadelphia for 38 years, overseeing congregational growth from 600 to 6,000. His commitment to social reform and justice extended into national and international areas. In 1964, he founded the Opportunities Industrialization Center in Philadelphia, which sponsored extensive training and retraining of welfare recipients. The program was expanded into other cities and countries.

I am pleased to say that I had the opportunity to actually work with the OIC that was founded in Chicago, and almost took a job working for them at one time. Perhaps if I had done that, I would not have ended up doing electorial politics.

Reverend Leon Sullivan was also the founder of the National Progress Association for Economic Development which supported minority businesses in economic development and training. He served on the boards of a number of major corporations and organizations, including General Motors, the Boy Scouts of America, and several large banks.

He is perhaps most remembered for the bold and innovative role he played in the global campaign to dismantle the system of apartheid in South Africa. In 1977, Reverend Leon Sullivan developed a code of conduct for companies operating in that country. The ''Sullivan Principles,'' signed by more than 125 U.S. corporations, required racial equality and desegregation in the workplace, corporate involvement in the South African black community, and stated opposition to the apartheid system.

Reverend Leon Sullivan was the recipient of numerous awards and honors recognizing his ministry and commitment to social justice. He was awarded the Presidential Medal of Freedom, and received the Dahlberg Peace Award from the American Baptist Convention.

Reverend Sullivan died on April 24, 2001 of leukemia. He was 78 years old. I commend my colleague for seeking to honor such an outstanding man of peace and vision, and urge swift consideration of this measure.

Mr. Speaker, I might add, I was in Nairobi, Kenya in 1975, and was pleased to see as I got off the plane and got downtown Nairobi, the first thing I saw was an OIC; and I said, I guess I am in the right place.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. BRADY).

Mr. BRADY of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, today we honor the lion of Zion, Reverend Leon Sullivan, and it is fitting that we name the post office at 6150 North Broad Street in Philadelphia as the Rev. Leon Sullivan Post Office.

I have my speech here prepared, and I thank my two colleagues for their heartfelt words, but I would like to add a personal note.

□ 1530

I knew the Reverend Leon Sullivan. I knew him well. He is revered in the city of Philadelphia as the Zion Church is on North Broad Street. His spirit lives on with that church. It is as vibrant as can be and is staying as vibrant as it can be with the 6,000 members that are there. I would like to say that a lot of good people are following in his footsteps. They are very, very large footsteps. I like to think that I got a little piece of that. I knew him personally. He was a dear friend. I had a good opportunity to see him not too long before his death. He will surely be missed.

I also again thank Chairman BURTON and Ranking Member WAXMAN of the Committee on Government Reform as well as Chairman WELDON and Ranking Member Davis and their staffs for all their hard work on this bill. I urge my colleagues to support this bill.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I urge all Members to support this important piece of legislation.

Ms. PELOSI. Mr. Speaker, I rise today in support of naming a post office in Philadelphia after the Rev. Leon Sullivan.

Leon Sullivan was first of all, a man of God with deep spiritual beliefs as a Baptist minister. Rev. Sullivan made his mark in our country as a civil rights leader and founder of the Opportunities Industrialization Centers, which provides job training for in the U.S. and 18 other countries.

Rev. Sullivan made his mark on the international stage as a humanitarian in the struggle to free South Africa from the grip of the apartheid regime. As a member of the board of General Motors, in 1977, Rev. Sullivan developed the ''Sullivan Principles'' as a guide for companies operating in South Africa. They played a major role in convincing U.S. companies to divest in South Africa as long as the black majority was oppressed.

One of my greatest personal experiences was meeting with Rev. Sullivan and listening intently as he discussed with such passion and power, the need to help the African people move toward self-determination. I was proud to be of assistance to him.

Rev. Sullivan also wrote a book called the Global Sullivan Principles, which addressed the responsibility of multinational corporations to provide a livable pay for all workers. ''Every business, large and small, can find a way to improve the standard of life for poor people who need help in America and in the world,'' he said.

Mr. Speaker, I strongly support this effort to name a post office on behalf of the Rev. Leon Sullivan, a man who saw the need for job training and set about developing job training centers around our country and around the world. What a high honor to recognize a man who saw the wrong of the South African apartheid regime and set about righting it.

I urge my colleagues to support this bill.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the bill, H.R. 3739.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

WILLIAM V. CIBOTTI POST OFFICE BUILDING

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3740) to designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the ''William V. Cibotti Post Office Building,'' as amended.

The Clerk read as follows:

H.R. 3740

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

SECTION 1. WILLIAM A. CIBOTTI POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, shall be known and designated as the ''William A. Cibotti Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the William A. Cibotti Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

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

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3740, introduced by the distinguished gentleman from Pennsylvania (Mr. BRADY), designates a post office located in Philadelphia, Pennsylvania as the William V. Cibotti Post Office Building. Members of the entire House delegation from the Commonwealth of Pennsylvania are cosponsors of this legislation.

Mr. Speaker, William Cibotti was born in Philadelphia, the son of Italian immigrants. A leader in South Philadelphia's civic life for many years, Mr. Cibotti was chosen by his neighbors to serve as an elected magistrate from 1952 to 1966. In that year he was elected Philadelphia city councilman for the Second District, a position his daughter, Council President Anna Cibotti Verna, continues to hold.

Councilman Cibotti received a great many distinctions during his illustrious career, including being named Cavaliere of the Order of the Star of Italian Solidarity, an honor conferred by the government of the Italian Republic.

Mr. Speaker, I urge adoption of H.R. 3740, as amended.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

First of all, Mr. Speaker, I want to thank the gentleman from Indiana (Mr. BURTON) and the gentleman from California (Mr. WAXMAN) for the expeditious manner in which all of these bills have been brought to the floor. Their astuteness and willingness to cooperate have given us the opportunity to consider all three of these postal naming bills at one time, and I am sure that the gentleman from Pennsylvania (Mr. BRADY) is also appreciative of that.

Mr. Speaker, H.R. 3740, which names the U.S. post office located in Philadelphia after William Cibotti, was introduced on February 13, 2002, by the gentleman from Pennsylvania (Mr. BRADY).

William A. Cibotti was born in Philadelphia, Pennsylvania. He graduated from South Philadelphia High School and the National Business College. Always very active in the political affairs of South Philadelphia, and the Democratic Party, he was elected city magistrate in 1952. He held that office until 1966 when he was elected city councilman in the Second District and was reelected in 1970.

A member of many civic, fraternal, charitable and social organizations, William Cibotti worked tirelessly on behalf of his constituents, community and his homeland of Italy. The Italian government awarded Councilman Cibotti the decoration of Cavaliere of the Order of the Star of Italian Solidarity. Councilman Cibotti passed away on January 17, 1975.

The gentleman from Pennsylvania (Mr. BRADY) is to be commended for seeking to honor William Cibotti by designating a post office in his honor. I urge the swift consideration of H.R. 3740 with the necessary amendments.

Again, I want to thank the House leadership, both Republican and Democratic, for the expeditious manner in which these bills were processed so that they can be considered at this time.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. BRADY).

Mr. BRADY of Pennsylvania. I thank the gentleman from Illinois for yielding me this time.

Mr. Speaker, it is with great pride that I urge the passage of this bill which honors one of the legends of South Philadelphia, William A Cibotti. I am pleased that the post office at 925 Dickinson Street in Philadelphia, in South Philadelphia, will be known as the William A. Cibotti Post Office Building.

Mr. Cibotti was born in Philadelphia, the son of Italian immigrants. A leader in South Philadelphia's civic life for many years, Mr. Cibotti was chosen by his neighbors to serve as an elected magistrate from 1952 to 1966. In that year he was elected Philadelphia city councilman for the Second District in the city of Philadelphia, a position his daughter, Council President Anna Cibotti Verna, continues to hold.

Councilman Cibotti received a great many distinctions during his illustrious career, including the decoration of Cavaliere of the Order of the Star of Italian Solidarity, conferred by the government of the Italian Republic.

Philadelphia lost Councilman Cibotti in 1975, but his legacy lives on as a true servant of the people. As a testimony to that, his daughter, Anna Cibotti Verna, has continued his history of service as the Second District's councilperson and as our council president. I know that she is proud of her father and all he has accomplished. But I also know that he is even prouder of her as he looks down on all that she has achieved. Anna Verna is without question one of the finest, classiest people I know, in or out of government. Hopefully she will continue to serve for many years in that capacity.

I would like to thank Chairman BURTON and Ranking Member WAXMAN of the Committee on Government Reform as well as Chairman WELDON and Ranking Member DAVIS and their staffs for all their hard work on this bill. I again join my colleague in thanking the leadership in the Democratic and the Republican Party for bringing these bills to the floor for passage.

I urge my colleagues to support this bill.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I urge all Members to support this measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the bill, H.R. 3740, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: ''A bill to designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the 'William A. Cibotti Post Office Building'.''.

A motion to reconsider was laid on the table.

PUBLIC BUILDINGS, PROPERTY, AND WORKS AMENDMENTS ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2068) to revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, ''Public Buildings, Property, and Works,'' as amended.

The Clerk read as follows:

H.R. 2068

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

SECTION 1. TITLE 40, UNITED STATES CODE.

Certain general and permanent laws of the United States, related to public buildings, property, and works, are revised, codified, and enacted as title 40, United States Code, ''Public Buildings, Property, and Works'', as follows:

TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE *Sec.*

SUBTITLE I—FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES

CHAPTER 1—GENERAL

SUBCHAPTER I—PURPOSE AND DEFINITIONS

SUBCHAPTER II—SCOPE

SUBCHAPTER III—ADMINISTRATIVE AND GENERAL

SUBCHAPTER I—PURPOSE AND DEFINITIONS

§ 101. Purpose

The purpose of this subtitle is to provide the Federal Government with an economical and efficient system for the following activities:

(1) Procuring and supplying property and nonpersonal services, and performing related functions including contracting, inspection, storage, issue, setting specifications, identification and classification, transportation and traffic management, establishment of pools or systems for transportation of Government personnel and property by motor vehicle within specific areas, management of public utility services, repairing and converting, establishment of inventory levels, establishment of forms and procedures, and representation before federal and state regulatory bodies.

(2) Using available property.

(3) Disposing of surplus property.

(4) Records management.

§ 102. Definitions

The following definitions apply in chapters 1 through 7 of this title and in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.):

(1) CARE AND HANDLING.—The term ''care and handling'' includes—

(A) completing, repairing, converting, rehabilitating, operating, preserving, protecting, insuring, packing, storing, handling, conserving, and transporting excess and surplus property; and

(B) rendering innocuous, or destroying, property that is dangerous to public health or safety.

(2) CONTRACTOR INVENTORY.—The term ''contractor inventory'' means—

(A) property, in excess of amounts needed to complete full performance, that is acquired by and in possession of a contractor or subcontractor under a contract pursuant to which title is vested in the Federal Government; and

(B) property that the Government is obligated or has the option to take over, under any type of contract, as a result of changes in specifications or plans under the contract, or as a result of termination of the contract (or a subcontract), prior to completion of the work, for the convenience or at the option of the Government.

(3) EXCESS PROPERTY.—The term ''excess property'' means property under the control of a federal agency that the head of the agency determines is not required to meet the agency's needs or responsibilities.

(4) EXECUTIVE AGENCY.—The term ''executive agency'' means—

(A) an executive department or independent establishment in the executive branch of the Government; and

(B) a wholly owned Government corporation.

(5) FEDERAL AGENCY.—The term ''federal agency'' means an executive agency or an establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol, and any activities under the direction of the Architect of the Capitol).

(6) FOREIGN EXCESS PROPERTY.—The term ''foreign excess property'' means excess property that is not located in the States of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and the Virgin Islands.

(7) MOTOR VEHICLE.—The term ''motor vehicle'' means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for highway transportation of property or passengers, excluding—

(A) a vehicle designed or used for military field training, combat, or tactical purposes, or used principally within the confines of a regularly established military post, camp, or depot; and

(B) a vehicle regularly used by an agency to perform investigative, law enforcement, or intelligence duties, if the head of the agency determines that exclusive control of the vehicle is essential for effective performance of duties.

(8) NONPERSONAL SERVICES.—The term ''nonpersonal services'' means contractual services designated by the Administrator of General Services, other than personal and professional services.

(9) PROPERTY.—The term ''property'' means any interest in property except—

(A)(i) the public domain;

(ii) land reserved or dedicated for national forest or national park purposes;

(iii) minerals in land or portions of land withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws; and

(iv) land withdrawn or reserved from the public domain except land or portions of land so withdrawn or reserved which the Secretary, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public land laws because the lands are substantially changed in character by improvements or otherwise;

(B) naval vessels that are battleships, cruisers, aircraft carriers, destroyers, or submarines; and

(C) records of the Government.

(10) SURPLUS PROPERTY.—The term ''surplus property'' means excess property that the Administrator determines is not required to meet the needs or responsibilities of all federal agencies.

SUBCHAPTER II—SCOPE

§ 111. Application to Federal Property and Administrative Services Act of 1949

In the following provisions, the words ''this subtitle'' are deemed to refer also to title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.):

(1) Section 101 of this title.
(2) Section 112(a) of this title.
(3) Section 113 of this title.
(4) Section 121(a) of this title.
(5) Section 121(c)(1) of this title.
(6) Section 121(c)(2) of this title.
(7) Section 121(d)(1) and (2) of this title.
(8) Section 121(e)(1) of this title.
(9) Section 121(f) of this title.
(10) Section 121(g) of this title.
(11) Section 122(a) of this title.
(12) Section 123(a) of this title.
(13) Section 123(c) of this title.
(14) Section 124 of this title.
(15) Section 126 of this title.
(16) Section 311(c) of this title.
(17) Section 313(a) of this title.
(18) Section 528 of this title.
(19) Section 541 of this title.
(20) Section 549(e)(3)(H)(i)(II) of this title.
(21) Section 557 of this title.
(22) Section 558(a) of this title.
(23) Section 559(f) of this title.
(24) Section 571(b) of this title.
(25) Section 572(a)(2)(A) of this title.
(26) Section 572(b)(4) of this title.

§ 112. Applicability of certain policies, procedures, and directives in effect on July 1, 1949

(a) IN GENERAL.—A policy, procedure, or directive described in subsection (b) remains in effect until superseded or amended under this subtitle or other appropriate authority.

(b) DESCRIPTION.—A policy, procedure, or directive referred to in subsection (a) is one that was in effect on July 1, 1949, and that was prescribed by—

(1) the Director of the Bureau of Federal Supply or the Secretary of the Treasury and that related to a function transferred to or vested in the Administrator of General Services on June 30, 1949, by the Federal Property and Administrative Services Act of 1949;

(2) an officer of the Federal Government under authority of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) or other authority related to surplus property or foreign excess property;

(3) the Federal Works Administrator or the head of a constituent agency of the Federal Works Agency; or

(4) the Archivist of the United States or another officer or body whose functions were transferred on June 30, 1949, by title I of the Federal Property and Administrative Services Act of 1949.

§ 113. Limitations

(a) IN GENERAL.—Except as otherwise provided in this section, the authority conferred by this subtitle is in addition to any other authority conferred by law and is not subject to any inconsistent provision of law.

(b) LIMITATION REGARDING THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The authority conferred by this subtitle is subject to the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(c) LIMITATION REGARDING CERTAIN GOVERNMENT CORPORATIONS AND AGENCIES.—Sections 121(b) and 506(c) of this title do not apply to a Government corporation or agency that is subject to chapter 91 of title 31.

(d) LIMITATION REGARDING CONGRESS.—This subtitle does not apply to the Senate or the House of Representatives (including the Architect of the Capitol and any building, activity, or function under the direction of the Architect). However, services and facilities authorized by this subtitle shall, as far as practicable, be made available to the Senate, the House of Representatives, and the Architect of the Capitol on their request. If payment would be required for providing a similar service or facility to an executive agency, payment shall be made by the recipient, on presentation of proper vouchers, in advance or by reimbursement (as may be agreed upon by the Administrator of General Services and the officer or body making the request). The

payment may be credited to the applicable appropriation of the executive agency receiving the payment.

(e) OTHER LIMITATIONS.—Nothing in this subtitle impairs or affects the authority of—

(1) the President under the Philippine Property Act of 1946 (22 U.S.C. 1381 et seq.);

(2) an executive agency, with respect to any program conducted for purposes of resale, price support, grants to farmers, stabilization, transfer to foreign governments, or foreign aid, relief, or rehabilitation, but the agency carrying out the program shall, to the maximum extent practicable, consistent with the purposes of the program and the effective, efficient conduct of agency business, coordinate its operations with the requirements of this subtitle and with policies and regulations prescribed under this subtitle;

(3) an executive agency named in chapter 137 of title 10, and the head of the agency, with respect to the administration of that chapter;

(4) the Secretary of Defense with respect to property required for or located in occupied territories;

(5) the Secretary of Defense with respect to the administration of section 2535 of title 10;

(6) the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force with respect to the administration of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.);

(7) the Secretary of State under the Foreign Service Buildings Act, 1926 (22 U.S.C. 292 et seq.);

(8) the Secretary of Agriculture under—

(A) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(B) the Farmers Home Administration Act of 1946 (ch. 964, 60 Stat. 1062);

(C) section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), with respect to the exportation and domestic consumption of agricultural products;

(D) section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291); or

(E) section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j));

(9) an official or entity under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), with respect to the acquisition or disposal of property;

(10) the Secretary of Housing and Urban Development or the Federal Deposit Insurance Corporation (or an officer of the Corporation) with respect to the disposal of—

(A) residential property; or

(B) other property—

(i) acquired or held as part of, or in connection with, residential property; or

(ii) held in connection with the insurance of mortgages, loans, or savings association accounts under the National Housing Act (12 U.S.C. 1701 et seq.), the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), or any other law;

(11) the Tennessee Valley Authority with respect to nonpersonal services, with respect to section 501(c) of this title, and with respect to property acquired in connection with a program of processing, manufacture, production, or force account construction, but the Authority shall, to the maximum extent it considers practicable, consistent with the purposes of its program and the effective, efficient conduct of its business, coordinate its operations with the requirements of this subtitle and with policies and regulations prescribed under this subtitle;

(12) the Secretary of Energy with respect to atomic energy;

(13) the Secretary of Transportation or the Secretary of Commerce with respect to the disposal of airport property and airway property (as those terms are defined in section 47301 of title 49) for use as such property;

(14) the United States Postal Service;

(15) the Maritime Administration with respect to the acquisition, procurement, operation, maintenance, preservation, sale, lease, charter, construction, reconstruction, or reconditioning (including outfitting and equipping incidental to construction, reconstruction, or reconditioning) of a merchant vessel or shipyard, ship site, terminal, pier, dock, warehouse, or other installation necessary or appropriate for carrying out a program of the Administration authorized by law or nonadministrative activities incidental to a program of the Administration authorized by law, but the Administration shall, to the maximum extent it considers practicable, consistent with the purposes of its programs and the effective, efficient conduct of its activities, coordinate its operations with the requirements of this subtitle and with policies and regulations prescribed under this subtitle;

(16) the Central Intelligence Agency;

(17) the Joint Committee on Printing, under title 44 or any other law;

(18) the Secretary of the Interior with respect to procurement for program operations under the Bonneville Project Act of 1937 (16 U.S.C. 832 et seq.); or

(19) the Secretary of State with respect to the furnishing of facilities in foreign countries and reception centers within the United States.

SUBCHAPTER III—ADMINISTRATIVE AND GENERAL

§ 121. Administrative

(a) POLICIES PRESCRIBED BY THE PRESIDENT.—The President may prescribe policies and directives that the President considers necessary to carry out this subtitle. The policies must be consistent with this subtitle.

(b) ACCOUNTING PRINCIPLES AND STANDARDS.—

(1) PRESCRIPTION.—The Comptroller General, after considering the needs and requirements of executive agencies, shall prescribe principles and standards of accounting for property.

(2) PROPERTY ACCOUNTING SYSTEMS.—The Comptroller General shall cooperate with the Administrator of General Services and with executive agencies in the development of property accounting systems and approve the systems when they are adequate and in conformity with prescribed principles and standards.

(3) COMPLIANCE REVIEW.—From time to time the Comptroller General shall examine the property accounting systems established by executive agencies to determine the extent of compliance with prescribed principles and standards and approved systems. The Comptroller General shall report to Congress any failure to comply with the principles and standards or to adequately account for property.

(c) REGULATIONS BY ADMINISTRATOR.—

(1) GENERAL AUTHORITY.—The Administrator may prescribe regulations to carry out this subtitle.

(2) REQUIRED REGULATIONS AND ORDERS.—The Administrator shall prescribe regulations that the Administrator considers necessary to carry out the Administrator's functions under this subtitle and the head of each executive agency shall issue orders and directives that the agency head considers necessary to carry out the regulations.

(d) DELEGATION OF AUTHORITY BY ADMINISTRATOR.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Administrator may delegate authority conferred on the Administrator by this subtitle to an official in the General Services Administration or to the head of another federal agency. The Administrator may authorize successive redelegation of authority conferred by this subtitle.

(2) EXCEPTIONS.—The Administrator may not delegate—

(A) the authority to prescribe regulations on matters of policy applying to executive agencies;

(B) the authority to transfer functions and related allocated amounts from one component of the Administration to another under paragraphs (1)(C) and (2)(A) of subsection (e); or

(C) other authority for which delegation is prohibited by this subtitle.

(3) RETENTION AND USE OF RENTAL PAYMENTS.—A department or agency to which the Administrator has delegated authority to operate, maintain or repair a building or facility under this subsection shall retain the portion of the rental payment that the Administrator determines is available to operate, maintain or repair the building or facility. The department or agency shall directly expend the retained amounts to operate, maintain, or repair the building or facility. Any amounts retained under this paragraph shall remain available until expended for these purposes.

(e) ASSIGNMENT OF FUNCTIONS BY ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator may provide for the performance of a function assigned under this subtitle by any of the following methods:

(A) The Administrator may direct the Administration to perform the function.

(B) The Administrator may designate or establish a component of the Administration and direct the component to perform the function.

(C) The Administrator may transfer the function from one component of the Administration to another.

(D) The Administrator may direct an executive agency to perform the function for itself, with the consent of the agency or by direction of the President.

(E) The Administrator may direct one executive agency to perform the function for another executive agency, with the consent of the agencies concerned or by direction of the President.

(F) The Administrator may provide for performance of a function by a combination of the methods described in this paragraph.

(2) TRANSFER OF RESOURCES.—

(A) WITHIN ADMINISTRATION.—If the Administrator transfers a function from one component of the Administration to another, the Administrator may also provide for the transfer of appropriate allocated amounts from the component that previously carried out the function to the component being directed to carry out the function. A transfer under this subparagraph must be reported to the Director of the Office of Management and Budget.

(B) BETWEEN AGENCIES.—If the Administrator transfers a function from one executive agency to another (including a transfer to or from the Administration), the Administrator may also provide for the transfer of appropriate personnel, records, property, and allocated amounts from the executive agency that previously carried out the function to the executive agency being directed to carry out the function. A transfer under this subparagraph is subject to approval by the Director.

(f) ADVISORY COMMITTEES.—The Administrator may establish advisory committees to provide advice on any function of the Administrator under this subtitle. Members of the advisory committees shall serve without compensation but are entitled to transportation and not more than $25 a day instead of expenses under section 5703 of title 5.

(g) CONSULTATION WITH FEDERAL AGENCIES.—The Administrator shall advise and consult with interested federal agencies and seek their advice and assistance to accomplish the purposes of this subtitle.

(h) ADMINISTERING OATHS.—In carrying out investigative duties, an officer or employee of the Administration, if authorized by the Administrator, may administer an oath to an individual.

§ 122. Prohibition on sex discrimination

(a) PROHIBITION.—With respect to a program or activity carried on or receiving federal assistance under this subtitle, an individual may not be excluded from participation, denied benefits, or otherwise discriminated against based on sex.

(b) ENFORCEMENT.—Subsection (a) shall be enforced through agency provisions and rules similar to those already established with respect

to racial and other discrimination under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). However, this remedy is not exclusive and does not prejudice or remove any other legal remedies available to an individual alleging discrimination.

§ 123. Civil remedies for fraud

(a) IN GENERAL.—In connection with the procurement, transfer or disposition of property under this subtitle, a person that uses or causes to be used, or enters into an agreement, combination, or conspiracy to use or cause to be used, a fraudulent trick, scheme, or device for the purpose of obtaining or aiding to obtain, for any person, money, property, or other benefit from the Federal Government—

(1) shall pay to the Government an amount equal to the sum of—

(A) $2,000 for each act;

(B) two times the amount of damages sustained by the Government because of each act; and

(C) the cost of suit;

(2) if the Government elects, shall pay to the Government, as liquidated damages, an amount equal to two times the consideration that the Government agreed to give to the person, or that the person agreed to give to the Government; or

(3) if the Government elects, shall restore to the Government the money or property fraudulently obtained, with the Government retaining as liquidated damages, the money, property, or other consideration given to the Government.

(b) ADDITIONAL REMEDIES AND CRIMINAL PENALTIES.—The civil remedies provided in this section are in addition to all other civil remedies and criminal penalties provided by law.

(c) IMMUNITY OF GOVERNMENT OFFICIALS.—An officer or employee of the Government is not liable (except for an individual's own fraud) or accountable for collection of a purchase price that is determined to be uncollectible by the federal agency responsible for property if the property is transferred or disposed of in accordance with this subtitle and with regulations prescribed under this subtitle.

(d) JURISDICTION AND VENUE.—

(1) DEFINITION.—In this subsection, the term ''district court'' means a district court of the United States or a district court of a territory or possession of the United States.

(2) IN GENERAL.—A district court has original jurisdiction of an action arising under this section, and venue is proper, if at least one defendant resides or may be found in the court's judicial district. Jurisdiction and venue are determined without regard to the place where acts were committed.

(3) ADDITIONAL DEFENDANT OUTSIDE JUDICIAL DISTRICT.—A defendant that does not reside and may not be found in the court's judicial district may be brought in by order of the court, to be served personally, by publication, or in another reasonable manner directed by the court.

§ 124. Agency use of amounts for property management

Amounts appropriated, allocated, or available to a federal agency for purposes similar to the purposes in section 121 of this title or subchapter I (except section 506), II, or III of chapter 5 of this title may be used by the agency for the disposition of property under this subtitle, and for the care and handling of property pending the disposition, if the Director of the Office of Management and Budget authorizes the use.

§ 125. Library memberships

Amounts appropriated may be used, when authorized by the Administrator of General Services, for payment in advance for library memberships in societies whose publications are available to members only, or to members at a lower price than that charged to the general public.

§ 126. Reports to Congress

The Administrator of General Services, at times the Administrator considers desirable, shall submit a report to Congress on the administration of this subtitle. The report shall include any recommendation for amendment of this subtitle that the Administrator considers appropriate and shall identify any law that is obsolete because of the enactment or operation of this subtitle.

CHAPTER 3—ORGANIZATION OF GENERAL SERVICES ADMINISTRATION

SUBCHAPTER I—GENERAL

SUBCHAPTER II—ADMINISTRATIVE

SUBCHAPTER III—FUNDS

SUBCHAPTER I—GENERAL

§ 301. Establishment

The General Services Administration is an agency in the executive branch of the Federal Government.

§ 302. Administrator and Deputy Administrator

(a) ADMINISTRATOR.—The Administrator of General Services is the head of the General Services Administration. The Administrator is appointed by the President with the advice and consent of the Senate. The Administrator shall perform functions subject to the direction and control of the President.

(b) DEPUTY ADMINISTRATOR.—The Administrator shall appoint a Deputy Administrator of General Services. The Deputy Administrator shall perform functions designated by the Administrator. The Deputy Administrator is Acting Administrator of General Services during the absence or disability of the Administrator and, unless the President designates another officer of the Federal Government, when the office of Administrator is vacant.

§ 303. Functions

(a) BUREAU OF FEDERAL SUPPLY.—

(1) TRANSFER OF FUNCTIONS.—Subject to paragraph (2), the functions of the Administrator of General Services include functions related to the Bureau of Federal Supply in the Department of the Treasury that, immediately before July 1, 1949, were functions of—

(A) the Bureau;

(B) the Director of the Bureau;

(C) the personnel of the Bureau; or

(D) the Secretary of the Treasury.

(2) FUNCTIONS NOT TRANSFERRED.—The functions of the Administrator of General Services do not include functions retained in the Department of the Treasury under section 102(c) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380).

(b) FEDERAL WORKS AGENCY AND COMMISSIONER OF PUBLIC BUILDINGS.—The functions of the Administrator of General Services include functions related to the Federal Works Agency and functions related to the Commissioner of Public Buildings that, immediately before July 1, 1949, were functions of—

(1) the Federal Works Agency;

(2) the Federal Works Administrator; or

(3) the Commissioner of Public Buildings.

§ 304. Federal information centers

The Administrator of General Services may establish within the General Services Administration a nationwide network of federal information centers for the purpose of providing the public with information about the programs and procedures of the Federal Government and for other appropriate and related purposes.

SUBCHAPTER II—ADMINISTRATIVE

§ 311. Personnel

(a) APPOINTMENT AND COMPENSATION.—The Administrator of General Services, subject to chapters 33 and 51 and subchapter III of chapter 53 of title 5, may appoint and fix the compensation of personnel necessary to carry out chapters 1, 3, and 5 of this title and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(b) TEMPORARY EMPLOYMENT.—The Administrator may procure the temporary or intermittent services of experts or consultants under section 3109 of title 5 to the extent the Administrator finds necessary to carry out chapters 1, 3, and 5 of this title and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(c) PERSONNEL FROM OTHER AGENCIES.—Notwithstanding section 973 of title 10 or any other law, in carrying out functions under this subtitle the Administrator may use the services of personnel (including armed services personnel) from an executive agency other than the General Services Administration with the consent of the head of the agency.

(d) DETAIL OF FIELD PERSONNEL TO DISTRICT OF COLUMBIA.—The Administrator, in the Administrator's discretion, may detail field personnel of the Administration to the District of Columbia for temporary duty for a period of not more than 30 days in any one case. Subsistence or similar expenses may not be allowed for an employee on temporary duty in the District of Columbia under this paragraph.

§ 312. Transfer and use of amounts for major equipment acquisitions

(a) IN GENERAL.—Subject to subsection (b), unobligated balances of amounts appropriated or otherwise made available to the General Services Administration for operating expenses and salaries and expenses may be transferred and merged into the ''Major equipment acquisitions and development activity'' of the Salaries and Expenses, General Management and Administration appropriation account for—

(1) agency-wide acquisition of capital equipment, automated data processing systems; and

(2) financial management and management information systems needed to implement the Chief Financial Officers Act of 1990 (Public Law 101–576, 104 Stat. 2838) and other laws or regulations.

(b) REQUIREMENTS AND AVAILABILITY.—

(1) TIME FOR TRANSFER.—Transfer of an amount under this section must be done no later than the end of the fifth fiscal year after the fiscal year for which the amount is appropriated or otherwise made available.

(2) APPROVAL FOR USE.—An amount transferred under this section may be used only with the advance approval of the Committees on Appropriations of the House of Representatives and the Senate.

(3) AVAILABILITY.—An amount transferred under this section remains available until expended.

§ 313. Tests of materials

(a) SCOPE.—This section applies to any article or commodity tendered by a producer or vendor for sale or lease to the General Services Administration or to any procurement authority acting under the direction and control of the Administrator of General Services pursuant to this subtitle.

(b) AUTHORITY TO CONDUCT TESTS.—The Administrator, in the Administrator's discretion and with the consent of the producer or vendor, may have tests conducted, in a manner the Administrator specifies, to—

(1) determine whether an article or commodity conforms to prescribed specifications and standards; or

(2) aid in the development of specifications and standards.

(c) FEES.—

(1) IN GENERAL.—The Administrator shall charge the producer or vendor a fee for the tests.

(2) AMOUNT OF FEE IF TESTS PREDOMINANTLY SERVE INTEREST OF PRODUCER OR VENDOR.—If the Administrator determines that conducting the tests predominantly serves the interest of the producer or vendor, the Administrator shall fix the fee in an amount that will recover the costs of conducting the tests, including all components of the costs, determined in accordance with accepted accounting principles.

(3) AMOUNT OF FEE IF TESTS DO NOT PREDOMINANTLY SERVE INTEREST OF PRODUCER OR VENDOR.—If the Administrator determines that conducting the tests does not predominantly serve the interest of the producer or vendor, the Administrator shall fix the fee in an amount the Administrator determines is reasonable for furnishing the testing service.

SUBCHAPTER III—FUNDS

§ 321. General Supply Fund

(a) EXISTENCE.—The General Supply Fund is a special fund in the Treasury.

(b) COMPOSITION.—

(1) IN GENERAL.—The Fund is composed of amounts appropriated to the Fund and the value, as determined by the Administrator of General Services, of personal property transferred from executive agencies to the Administrator under section 501(d) of this title to the extent that payment is not made or credit allowed for the property.

(2) OTHER CREDITS.—

(A) IN GENERAL.—The Fund shall be credited with all reimbursements, advances, and refunds or recoveries relating to personal property or services procured through the Fund, including—

(i) the net proceeds of disposal of surplus personal property; and

(ii) receipts from carriers and others for loss of, or damage to, personal property.

(B) REAPPROPRIATION.—Amounts credited under this paragraph are reappropriated for the purposes of the Fund.

(3) DEPOSIT OF FEES.—Fees collected by the Administrator under section 313 of this title may be deposited in the Fund to be used for the purposes of the Fund.

(c) USES.—

(1) IN GENERAL.—The Fund is available for use by or under the direction and control of the Administrator for—

(A) procuring, for the use of federal agencies in the proper discharge of their responsibilities—

(i) personal property (including the purchase from or through the Public Printer, for warehouse issue, of standard forms, blankbook work, standard specifications, and other printed material in common use by federal agencies and not available through the Superintendent of Documents); and

(ii) nonpersonal services;

(B) paying the purchase price, cost of transportation of personal property and services, and cost of personal services employed directly in the repair, rehabilitation, and conversion of personal property; and

(C) paying other direct costs of, and indirect costs that are reasonably related to, contracting, procurement, inspection, storage, management, distribution, and accountability of property and nonpersonal services provided by the General Services Administration or by special order through the Administration.

(2) OTHER USES.—The Fund may be used for the procurement of personal property and nonpersonal services authorized to be acquired by—

(A) mixed-ownership Government corporations;

(B) the municipal government of the District of Columbia; or

(C) a requisitioning non-federal agency when the function of a federal agency authorized to procure for it is transferred to the Administration.

(d) PAYMENT FOR PROPERTY AND SERVICES.—

(1) IN GENERAL.—For property or services procured through the Fund for requisitioning agencies, the agencies shall pay prices the Administrator fixes under this subsection.

(2) PRICES FIXED BY ADMINISTRATOR.—The Administrator shall fix prices at levels sufficient to recover—

(A) so far as practicable—

(i) the purchase price;

(ii) the transportation cost;

(iii) inventory losses;

(iv) the cost of personal services employed directly in the repair, rehabilitation, and conversion of personal property; and

(v) the cost of amortization and repair of equipment used for lease or rent to executive agencies; and

(B) properly allocable costs payable by the Fund under subsection (c)(1)(C).

(3) TIMING OF PAYMENTS.—

(A) PAYMENT IN ADVANCE.—A requisitioning agency shall pay in advance when the Administrator determines that there is insufficient capital otherwise available in the Fund. Payment in advance may also be made under an agreement between a requisitioning agency and the Administrator.

(B) PROMPT REIMBURSEMENT.—If payment is not made in advance, the Administration shall be reimbursed promptly out of amounts of the requisitioning agency in accordance with accounting procedures approved by the Comptroller General.

(C) FAILURE TO MAKE PROMPT REIMBURSEMENT.—The Administrator may obtain reimbursement by the issuance of transfer and counterwarrants, or other lawful transfer documents, supported by itemized invoices, if payment is not made by a requisitioning agency within 45 days after the later of—

(i) the date of billing by the Administrator; or

(ii) the date on which actual liability for personal property or services is incurred by the Administrator.

(e) REIMBURSEMENT FOR EQUIPMENT PURCHASED FOR CONGRESS.—The Administrator may accept periodic reimbursement from the Senate and from the House of Representatives for the cost of any equipment purchased for the Senate or the House of Representatives with money from the Fund. The amount of each periodic reimbursement shall be computed by amortizing the total cost of each item of equipment over the useful life of the equipment, as determined by the Administrator, in consultation with the Sergeant at Arms and Doorkeeper of the Senate or the Chief Administrative Officer of the House of Representatives, as appropriate.

(f) TREATMENT OF SURPLUS.—

(1) SURPLUS DEPOSITED IN TREASURY.—As of September 30 of each year, any surplus in the Fund above the amounts transferred or appropriated to establish and maintain the Fund (all assets, liabilities, and prior losses considered) shall be deposited in the Treasury as miscellaneous receipts.

(2) SURPLUS RETAINED.—From any surplus generated by operation of the Fund, the Administrator may retain amounts necessary to maintain a sufficient level of inventory of personal property to meet the needs of the federal agencies.

(g) AUDITS.—The Comptroller General shall audit the Fund in accordance with the provisions of chapter 35 of title 31 and report the results of the audits.

§ 322. Information Technology Fund

(a) EXISTENCE.—There is an Information Technology Fund in the Treasury.

(b) COST AND CAPITAL REQUIREMENTS.—

(1) IN GENERAL.—The Administrator of General Services shall determine the cost and capital requirements of the Fund for each fiscal year. The cost and capital requirements may include amounts—

(A) needed to purchase (if the Administrator has determined that purchase is the least costly alternative) information processing and transmission equipment, software, systems, and operating facilities necessary to provide services;

(B) resulting from operations of the Fund, including the net proceeds from the disposal of excess or surplus personal property and receipts from carriers and others for loss or damage to property; and

(C) that are appropriated, authorized to be transferred, or otherwise made available to the Fund.

(2) SUBMITTING PLANS TO OFFICE OF MANAGEMENT AND BUDGET.—The Administrator shall submit plans concerning the cost and capital requirements determined under this section, and other information as may be requested, for review and approval by the Director of the Office of Management and Budget. Plans submitted under this section fulfill the requirements of sections 1512 and 1513 of title 31.

(3) ADJUSTMENTS.—Any change to the cost and capital requirements of the Fund for a fiscal year shall be made in the same manner as the initial fiscal year determination.

(c) USE.—

(1) IN GENERAL.—The Fund is available for expenses, including personal services and other costs, and for procurement (by lease, purchase, transfer, or otherwise) to efficiently provide information technology resources to federal agencies and to efficiently manage, coordinate, operate, and use those resources.

(2) SPECIFICALLY INCLUDED ITEMS.—Information technology resources provided under this section include information processing and transmission equipment, software, systems, operating facilities, supplies, and related services including maintenance and repair.

(3) CANCELLATION COSTS.—Any cancellation costs incurred for a contract entered into under subsection (e) shall be paid from money currently available in the Fund.

(4) NO FISCAL YEAR LIMITATION.—The Fund is available without fiscal year limitation.

(d) CHARGES TO AGENCIES.—If the Director approves plans submitted by the Administrator under subsection (b), the Administrator shall establish rates, consistent with the approval, to be charged to agencies for information technology resources provided through the Fund.

(e) CONTRACT AUTHORITY.—

(1) IN GENERAL.—In operating the Fund, the Administrator may enter into multiyear contracts, not longer than 5 years, to provide information technology hardware, software, or services if—

(A) amounts are available and adequate to pay the costs of the contract for the first fiscal year and any costs of cancellation or termination;

(B) the contract is awarded on a fully competitive basis; and

(C) the Administrator determines that—

(i) the need for the information technology hardware, software, or services being provided will continue over the period of the contract;

(ii) the use of the multiyear contract will yield substantial cost savings when compared with other methods of providing the necessary resources; and

(iii) the method of contracting will not exclude small business participation.

(2) EFFECT ON OTHER LAW.—This subsection does not limit the authority of the Administrator to procure equipment and services under sections 501–505 of this title.

(f) TRANSFER OF UNCOMMITTED BALANCE.—After the close of each fiscal year, any uncommitted balance remaining in the Fund, after making provision for anticipated operating needs as determined by the Office of Management and Budget, shall be transferred to the Treasury as miscellaneous receipts.

(g) ANNUAL REPORT.—The Administrator shall report annually to the Director on the operation of the Fund. The report must address the inventory, use, and acquisition of information processing equipment and identify any proposed increases to the capital of the Fund.

§ 323. Consumer Information Center Fund

(a) EXISTENCE.—There is in the Treasury a Consumer Information Center Fund, General Services Administration, for the purpose of disseminating Federal Government consumer information to the public and for other related purposes.

(b) DEPOSITS.—Money shall be deposited into the Fund from—

(1) appropriations from the Treasury for Consumer Information Center activities;

(2) user fees from the public;

(3) reimbursements from other federal agencies for costs of distributing publications; and

(4) any other income incident to Center activities.

(c) EXPENDITURES.—Money deposited into the Fund is available for expenditure for Center activities in amounts specified in appropriation laws. The Fund shall assume all liabilities, obligations, and commitments of the Center account.

(d) UNOBLIGATED BALANCES.—Any unobligated balances at the end of a fiscal year remain in the Fund and are available for authorization in appropriation laws for subsequent fiscal years.

(e) GIFT ACCOUNT.—The Center may accept and deposit to this account gifts for purposes of defraying the costs of printing, publishing, and distributing consumer information and educational materials and undertaking other consumer information activities. In addition to amounts appropriated or otherwise made available, the Center may expend the gifts for these purposes and any balance remains available for expenditure.

CHAPTER 5—PROPERTY MANAGEMENT

SUBCHAPTER I—PROCUREMENT AND WAREHOUSING

SUBCHAPTER II—USE OF PROPERTY

SUBCHAPTER III—DISPOSING OF PROPERTY

SUBCHAPTER IV—PROCEEDS FROM SALE OR TRANSFER

SUBCHAPTER V—OPERATION OF BUILDINGS AND RELATED ACTIVITIES

SUBCHAPTER VI—MOTOR VEHICLE POOLS AND TRANSPORTATION SYSTEMS

SUBCHAPTER I—PROCUREMENT AND WAREHOUSING

§ 501. Services for executive agencies

(a) AUTHORITY OF ADMINISTRATOR OF GENERAL SERVICES.—

(1) IN GENERAL.—The Administrator of General Services shall take action under this subchapter for an executive agency—

(A) to the extent that the Administrator of General Services determines that the action is advantageous to the Federal Government in terms of economy, efficiency, or service; and

(B) with due regard to the program activities of the agency.

(2) EXEMPTION FOR DEFENSE.—The Secretary of Defense may exempt the Department of Defense from an action taken by the Administrator of General Services under this subchapter, unless the President directs otherwise, whenever the Secretary determines that an exemption is in the best interests of national security.

(b) PROCUREMENT AND SUPPLY.—

(1) FUNCTIONS.—

(A) IN GENERAL.—The Administrator of General Services shall procure and supply personal property and nonpersonal services for executive agencies to use in the proper discharge of their responsibilities, and perform functions related to procurement and supply including contracting, inspection, storage, issue, property identification and classification, transportation and traffic management, management of public utility services, and repairing and converting.

(B) PUBLIC UTILITY CONTRACTS.—A contract for public utility services may be made for a period of not more than 10 years.

(2) POLICIES AND METHODS.—

(A) IN GENERAL.—The Administrator of General Services shall prescribe policies and methods for executive agencies regarding the procurement and supply of personal property and nonpersonal services and related functions.

(B) CONTROLLING REGULATION.—Policies and methods prescribed by the Administrator of General Services under this paragraph are subject to regulations prescribed by the Administrator for Federal Procurement Policy under the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(c) REPRESENTATION.—For transportation and other public utility services used by executive agencies, the Administrator of General Services shall represent the agencies—

(1) in negotiations with carriers and other public utilities; and

(2) in proceedings involving carriers or other public utilities before federal and state regulatory bodies.

(d) FACILITIES.—The Administrator of General Services shall operate, for executive agencies, warehouses, supply centers, repair shops, fuel yards, and other similar facilities. After consultation with the executive agencies affected, the Administrator of General Services shall consolidate, take over, or arrange for executive agencies to operate the facilities.

§ 502. Services for other entities

(a) FEDERAL AGENCIES, MIXED-OWNERSHIP GOVERNMENT CORPORATIONS, AND THE DISTRICT OF COLUMBIA.—On request, the Administrator of General Services shall provide, to the extent practicable, any of the services specified in section 501 of this title to—

(1) a federal agency;

(2) a mixed-ownership Government corporation (as defined in section 9101 of title 31); or

(3) the District of Columbia.

(b) QUALIFIED NONPROFIT AGENCIES.—

(1) IN GENERAL.—On request, the Administrator may provide, to the extent practicable, any of the services specified in section 501 of this title to an agency that is—

(A)(i) a qualified nonprofit agency for the blind (as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3))); or

(ii) a qualified nonprofit agency for other severely handicapped (as defined in section 5(4) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(4))); and

(B) providing a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

(2) USE OF SERVICES.—A nonprofit agency receiving services under this subsection shall use the services directly in making or providing to the Government a commodity or service that has been determined by the Committee for Purchase From People Who Are Blind or Severely Disabled under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Government.

§ 503. Exchange or sale of similar items

(a) AUTHORITY OF EXECUTIVE AGENCIES.—In acquiring personal property, an executive agency may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in whole or in part payment for the property acquired.

(b) APPLICABLE REGULATION AND LAW.—

(1) REGULATIONS PRESCRIBED BY ADMINISTRATOR OF GENERAL SERVICES.—A transaction under subsection (a) must be carried out in accordance with regulations the Administrator of General Services prescribes, subject to regulations prescribed by the Administrator for Federal Procurement Policy under the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(2) IN WRITING.—A transaction under subsection (a) must be evidenced in writing.

(3) SECTION 3709 OF REVISED STATUTES.—Section 3709 of the Revised Statutes (41 U.S.C. 5) applies to a sale of property under subsection (a), except that fixed price sales may be conducted in the same manner and subject to the same conditions as are applicable to the sale of property under section 545(d) of this title.

§ 504. Agency cooperation for inspection

(a) RECEIVING ASSISTANCE.—An executive agency may use the services, work, materials, and equipment of another executive agency, with the consent of the other executive agency, to inspect personal property incident to procuring the property.

(b) PROVIDING ASSISTANCE.—Notwithstanding section 1301(a) of title 31 or any other law, an executive agency may provide services, work, materials, and equipment for purposes of this section without reimbursement or transfer of amounts.

(c) POLICIES AND METHODS.—The use or provision of services, work, materials, and equipment under this section must be in conformity with policies and methods the Administrator of General Services prescribes under section 501 of this title.

§ 505. Exchange or transfer of medical supplies

(a) EXCESS PROPERTY DETERMINATION.—

(1) IN GENERAL.—Medical materials or supplies an executive agency holds for national emergency purposes are considered excess property for purposes of subchapter II when the head of the agency determines that—

(A) the remaining storage or shelf life is too short to justify continued retention for national emergency purposes; and

(B) transfer or other disposal is in the national interest.

(2) TIMING.—To the greatest extent practicable, the head of the agency shall make the determination in sufficient time to allow for the transfer or other disposal and use of medical materials or supplies before their shelf life expires and they are rendered unfit for human use.

(b) TRANSFER OR EXCHANGE.—

(1) IN GENERAL.—In accordance with regulations the Administrator of General Services prescribes, medical materials or supplies considered excess property may be transferred to another federal agency or exchanged with another federal agency for other medical materials or supplies.

(2) USE OF PROCEEDS.—Any proceeds derived from a transfer under this section may be credited to the current applicable appropriation or fund of the transferor agency and shall be available only to purchase medical materials or supplies to be held for national emergency purposes.

(3) DISPOSAL AS SURPLUS PROPERTY.—If the materials or supplies are not transferred to or exchanged with another federal agency, they shall be disposed of as surplus property.

§ 506. Inventory controls and systems

(a) ACTIVITIES OF THE ADMINISTRATOR OF GENERAL SERVICES.—

(1) IN GENERAL.—Subject to paragraph (2), and after adequate advance notice to affected executive agencies, the Administrator of General Services may undertake the following activities as necessary to carry out functions under this chapter:

(A) SURVEYS AND REPORTS.—Survey and obtain executive agency reports on Federal Government property and property management practices.

(B) INVENTORY LEVELS.—Cooperate with executive agencies to establish reasonable inventory levels for property stocked by them, and report any excessive inventory levels to Congress and to the Director of the Office of Management and Budget.

(C) FEDERAL SUPPLY CATALOG SYSTEM.—Establish and maintain a uniform federal supply catalog system that is appropriate to identify and classify personal property under the control of federal agencies.

(D) STANDARD PURCHASE SPECIFICATIONS AND STANDARD FORMS AND PROCEDURES.—Prescribe standard purchase specifications and standard forms and procedures (except forms and procedures that the Comptroller General prescribes by law) subject to regulations the Administrator for Federal Procurement Policy prescribes under the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(2) SPECIAL CONSIDERATIONS REGARDING DEPARTMENT OF DEFENSE.—

(A) IN GENERAL.—The Administrator of General Services shall carry out activities under paragraph (1) with due regard to the requirements of the Department of Defense, as determined by the Secretary of Defense.

(B) FEDERAL SUPPLY CATALOG SYSTEM.—In establishing and maintaining a uniform federal supply catalog system under paragraph (1)(C), the Administrator of General Services and the Secretary shall coordinate to avoid unnecessary duplication.

(b) ACTIVITIES OF FEDERAL AGENCIES.—Each federal agency shall use the uniformed federal supply catalog system, the standard purchase specifications, and the standard forms and procedures established under subsection (a), except as the Administrator of General Services, considering efficiency, economy, or other interests of the Government, may otherwise provide.

(c) AUDIT OF PROPERTY ACCOUNTS.—The Comptroller General shall audit all types of property accounts and transactions. Audits shall be conducted at the time and in the manner the Comptroller General decides and as far as practicable at the place where the property or records of the executive agencies are kept. Audits shall include an evaluation of the effectiveness of internal controls and audits, and a general audit of the discharge of accountability for Government-owned or controlled property, based on generally accepted principles of auditing.

SUBCHAPTER II—USE OF PROPERTY

§ 521. Policies and methods

Subject to section 523 of this title, in order to minimize expenditures for property, the Administrator of General Services shall—

(1) prescribe policies and methods to promote the maximum use of excess property by executive agencies; and

(2) provide for the transfer of excess property—

(A) among federal agencies; and

(B) to the organizations specified in section 321(c)(2) of this title.

§ 522. Reimbursement for transfer of excess property

(a) IN GENERAL.—Subject to subsections (b) and (c) of this section, the Administrator of General Services, with the approval of the Director of the Office of Management and Budget, shall prescribe the amount of reimbursement required for a transfer of excess property.

(b) REIMBURSEMENT AT FAIR VALUE.—The amount of reimbursement required for a transfer of excess property is the fair value of the property, as determined by the Administrator, if—

(1) net proceeds are requested under section 574(a) of this title; or

(2) either the transferor or the transferee agency (or the organizational unit affected) is—

(A) subject to chapter 91 of title 31; or

(B) an organization specified in section 321(c)(2) of this title.

(c) DISTRIBUTION THROUGH GENERAL SERVICES ADMINISTRATION SUPPLY CENTERS.—Excess property determined by the Administrator to be suitable for distribution through the supply centers of the General Services Administration shall be retransferred at prices set by the Administrator with due regard to prices established under section 321(d) of this title.

§ 523. Excess real property located on Indian reservations

(a) PROCEDURES FOR TRANSFER.—The Administrator of General Services shall prescribe procedures necessary to transfer to the Secretary of the Interior, without compensation, excess real property located within the reservation of any group, band, or tribe of Indians that is recognized as eligible for services by the Bureau of Indian Affairs.

(b) PROPERTY HELD IN TRUST.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall hold excess real property transferred under this section in trust for the benefit and use of the group, band, or tribe of Indians, within whose reservation the excess real property is located.

(2) SPECIAL REQUIREMENT FOR OKLAHOMA.—The Secretary shall hold excess real property that is located in Oklahoma and transferred under this section in trust for Oklahoma Indian tribes recognized by the Secretary if the real property—

(A) is located within boundaries of former reservations in Oklahoma, as defined by the Secretary, and was held in trust by the Federal Government for an Indian tribe when the Government acquired it; or

(B) is contiguous to real property presently held in trust by the Government for an Oklahoma Indian tribe and was held in trust by the Government for an Indian tribe at any time.

§ 524. Duties of executive agencies

(a) REQUIRED.—Each executive agency shall—

(1) maintain adequate inventory controls and accountability systems for property under its control;

(2) continuously survey property under its control to identify excess property;

(3) promptly report excess property to the Administrator of General Services;

(4) perform the care and handling of excess property; and

(5) transfer or dispose of excess property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.

(b) REQUIRED AS FAR AS PRACTICABLE.—Each executive agency, as far as practicable, shall—

(1) reassign property to another activity within the agency when the property is no longer required for the purposes of the appropriation used to make the purchase;

(2) transfer excess property under its control to other federal agencies and to organizations specified in section 321(c)(2) of this title; and

(3) obtain excess property from other federal agencies.

§ 525. Excess personal property for federal agency grantees

(a) GENERAL PROHIBITION.—A federal agency is prohibited from obtaining excess personal property for the purpose of furnishing the property to a grantee of the agency, except as provided in this section.

(b) EXCEPTION FOR PUBLIC AGENCIES AND TAX-EXEMPT NONPROFIT ORGANIZATIONS.—

(1) IN GENERAL.—Under regulations the Administrator of General Services may prescribe, a federal agency may obtain excess personal property for the purpose of furnishing it to a public agency or an organization that is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), if—

(A) the agency or organization is conducting a federally sponsored project pursuant to a grant made for a specific purpose with a specific termination provision;

(B) the property is to be furnished for use in connection with the grant; and

(C)(i) the sponsoring federal agency pays an amount equal to 25 percent of the original acquisition cost (except for costs of care and handling) of the excess property; and

(ii) the amount is deposited in the Treasury as miscellaneous receipts.

(2) TITLE.—Title to excess property obtained under this subsection vests in the grantee. The grantee shall account for and dispose of the property in accordance with procedures governing accountability for personal property acquired under grant agreements.

(c) EXCEPTION FOR CERTAIN PROPERTY FURNISHED BY SECRETARY OF AGRICULTURE.—

(1) DEFINITION.—In this subsection, the term ''State'' means a State of the United States, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, the Virgin Islands, and the District of Columbia.

(2) IN GENERAL.—Under regulations and restrictions the Administrator may prescribe, subsection (a) does not apply to property furnished by the Secretary of Agriculture to—

(A) a state or county extension service engaged in cooperative agricultural extension work under the Smith-Lever Act (7 U.S.C. 341 et seq.);

(B) a state experiment station engaged in cooperative agricultural research work under the Hatch Act of 1887 (7 U.S.C. 361a et seq.); or

(C) an institution engaged in cooperative agricultural research or extension work under section 1433, 1434, 1444, or 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195, 3196, 3221, or 3222), or the Act of October 10, 1962 (16 U.S.C. 582a et seq.), if the Federal Government retains title.

(d) OTHER EXCEPTIONS.—Under regulations and restrictions the Administrator may prescribe, subsection (a) does not apply to—

(1) property furnished under section 608 of the Foreign Assistance Act of 1961 (22 U.S.C. 2358), to the extent that the Administrator determines that the property is not needed for donation under section 549 of this title;

(2) scientific equipment furnished under section 11(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1870(e));

(3) property furnished under section 203 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 580a), in connection with the Cooperative Forest Fire Control Program, if the Government retains title; or

(4) property furnished in connection with a grant to a tribe, as defined in section 3(c) of the Indian Financing Act of 1974 (25 U.S.C. 1452(c)).

§ 526. Temporary assignment of excess real property

(a) ASSIGNMENT OF SPACE.—The Administrator of General Services may temporarily assign or reassign space in excess real property to a federal agency, for use as office or storage space or for a related purpose, if the Administrator determines that assignment or reassignment is more advantageous than permanent transfer. The Administrator shall determine the duration of the assignment or reassignment.

(b) REIMBURSEMENT FOR MAINTENANCE.—If there is no appropriation available to the Administrator for the expense of maintaining the space, the Administrator may obtain appropriate reimbursement from the federal agency.

§ 527. Abandonment, destruction, or donation of property

The Administrator of General Services may authorize the abandonment or destruction of property, or the donation of property to a public body, if—

(1) the property has no commercial value; or

(2) the estimated cost of continued care and handling exceeds the estimated proceeds from sale.

§ 528. Utilization of excess furniture

A department or agency of the Federal Government may not use amounts provided by law to purchase furniture if the Administrator of General Services determines that requirements can reasonably be met by transferring excess furniture, including rehabilitated furniture, from other departments or agencies pursuant to this subtitle.

§ 529. Annual executive agency reports on excess personal property

(a) IN GENERAL.—During the calendar quarter following the close of each fiscal year, each executive agency shall submit to the Administrator of General Services a report on personal property—

(1) obtained as—

(A) excess property; or

(B) personal property determined to be no longer required for the purpose of the appropriation used to make the purchase; and

(2) furnished within the United States to a recipient other than a federal agency.

(b) REQUIRED INFORMATION.—The report must set out the categories of equipment and show—

(1) the acquisition cost of the property;

(2) the recipient of the property; and

(3) other information the Administrator may require.

SUBCHAPTER III—DISPOSING OF PROPERTY

§ 541. Supervision and direction

Except as otherwise provided in this subchapter, the Administrator of General Services shall supervise and direct the disposition of surplus property in accordance with this subtitle.

§ 542. Care and handling

The disposal of surplus property, and the care and handling of the property pending disposition, may be performed by the General Services Administration or, when the Administrator of General Services decides, by the executive agency in possession of the property or by any other executive agency that agrees.

§ 543. Method of disposition

An executive agency designated or authorized by the Administrator of General Services to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, on terms and conditions that the Administrator considers proper. The agency may execute documents to transfer title or other interest in the property and may take other action it considers necessary or proper to dispose of the property under this chapter.

§ 544. Validity of transfer instruments

A deed, bill of sale, lease, or other instrument executed by or on behalf of an executive agency purporting to transfer title or other interest in surplus property under this chapter is conclusive evidence of compliance with the provisions of this chapter concerning title or other interest of a bona fide grantee or transferee for value and without notice of lack of compliance.

§ 545. Procedure for disposal

(a) PUBLIC ADVERTISING FOR BIDS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Administrator of General Services may make or authorize a disposal or a contract for disposal of surplus property only after public advertising for bids, under regulations the Administrator prescribes.

(B) EXCEPTIONS.—This subsection does not apply to disposal or a contract for disposal of surplus property—

(i) under subsection (b) or (d); or

(ii) by abandonment, destruction, or donation or through a contract broker.

(2) TIME, METHOD, AND TERMS.—The time, method, and terms and conditions of advertisement must permit full and free competition consistent with the value and nature of the property involved.

(3) PUBLIC DISCLOSURE.—Bids must be publicly disclosed at the time and place stated in the advertisement.

(4) AWARDS.—An award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the Federal Government, price and other factors considered. However, all bids may be rejected if it is in the public interest to do so.

(b) NEGOTIATED DISPOSAL.—Under regulations the Administrator prescribes, disposals and contracts for disposal may be negotiated without regard to subsection (a), but subject to obtaining competition that is feasible under the circumstances, if—

(1) necessary in the public interest—

(A) during the period of a national emergency declared by the President or Congress, with respect to a particular lot of personal property; or

(B) for a period not exceeding three months, with respect to a specifically described category of personal property as determined by the Administrator;

(2) the public health, safety, or national security will be promoted by a particular disposal of personal property;

(3) public exigency will not allow delay incident to advertising certain personal property;

(4) the nature and quantity of personal property involved are such that disposal under subsection (a) would impact an industry to an extent that would adversely affect the national economy, and the estimated fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(5) the estimated fair market value of the property involved does not exceed $15,000;

(6) after advertising under subsection (a), the bid prices for the property, or part of the property, are not reasonable or have not been independently arrived at in open competition;

(7) with respect to real property, the character or condition of the property or unusual circumstances make it impractical to advertise publicly for competitive bids and the fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(8) the disposal will be to a State, territory, or possession of the United States, or to a political subdivision of, or a tax-supported agency in, a State, territory, or possession, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or

(9) otherwise authorized by law.

(c) DISPOSAL THROUGH CONTRACT BROKERS.—Disposals and contracts for disposal of surplus real and related personal property through contract realty brokers employed by the Administrator shall be made in the manner followed in similar commercial transactions under regulations the Administrator prescribes. The regulations must require that brokers give wide public notice of the availability of the property for disposal.

(d) NEGOTIATED SALE AT FIXED PRICE.—

(1) AUTHORIZATION.—The Administrator may make a negotiated sale of personal property at a fixed price, either directly or through the use of a disposal contractor, without regard to subsection (a). However, the sale must be publicized to an extent consistent with the value and nature of the property involved and the price established must reflect the estimated fair market value of the property. Sales under this subsection are limited to categories of personal property for which the Administrator determines that disposal under this subsection best serves the interests of the Government.

(2) FIRST OFFER.—Under regulations and restrictions the Administrator prescribes, an opportunity to purchase property at a fixed price under this subsection may be offered first to an entity specified in subsection (b)(8) that has expressed an interest in the property.

(e) EXPLANATORY STATEMENTS FOR NEGOTIATED DISPOSALS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an explanatory statement of the circumstances shall be prepared for each disposal by negotiation of—

(i) personal property that has an estimated fair market value in excess of $15,000;

(ii) real property that has an estimated fair market value in excess of $100,000, except that

real property disposed of by lease or exchange is subject only to clauses (iii)–(v) of this subparagraph;

(iii) real property disposed of by lease for a term of not more than 5 years, if the estimated fair annual rent is more than $100,000 for any year;

(iv) real property disposed of by lease for a term of more than 5 years, if the total estimated rent over the term of the lease is more than $100,000; or

(v) real property or real and related personal property disposed of by exchange, regardless of value, or any property for which any part of the consideration is real property.

(B) EXCEPTION.—An explanatory statement is not required for a disposal of personal property under subsection (d), or for a disposal of real or personal property authorized by any other law to be made without advertising.

(2) TRANSMITTAL TO CONGRESS.—The explanatory statement shall be transmitted to the appropriate committees of Congress in advance of the disposal, and a copy of the statement shall be preserved in the files of the executive agency making the disposal.

(3) LISTING IN REPORT.—A report of the Administrator under section 126 of this title must include a listing and description of any negotiated disposals of surplus property having an estimated fair market value of more than $15,000, in the case of real property, or $5,000, in the case of any other property, other than disposals for which an explanatory statement has been transmitted under this subsection.

(f) APPLICABILITY OF OTHER LAW.—Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply to a disposal or contract for disposal made under this section.

§ 546. Contractor inventories

Subject to regulations of the Administrator of General Services, an executive agency may authorize a contractor or subcontractor with the agency to retain or dispose of contractor inventory.

§ 547. Agricultural commodities, foods, and cotton or woolen goods

(a) POLICIES.—The Administrator of General Services shall consult with the Secretary of Agriculture to formulate policies for the disposal of surplus agricultural commodities, surplus foods processed from agricultural commodities, and surplus cotton or woolen goods. The policies shall be formulated to prevent surplus agricultural commodities, or surplus foods processed from agricultural commodities, from being dumped on the market in a disorderly manner and disrupting the market prices for agricultural commodities.

(b) TRANSFERS TO DEPARTMENT OF AGRICULTURE.—

(1) IN GENERAL.—The Administrator shall transfer without charge to the Department of Agriculture any surplus agricultural commodities, foods, and cotton or woolen goods for disposal, when the Secretary determines that a transfer is necessary for the Secretary to carry out responsibilities for price support or stabilization.

(2) DEPOSIT OF RECEIPTS.—Receipts resulting from disposal by the Department under this subsection shall be deposited pursuant to any authority available to the Secretary. When applicable, however, net proceeds from the sale of surplus property transferred under this subsection shall be credited pursuant to section 572(a) of this title.

(3) LIMITATION OF SALES.—Surplus farm commodities transferred under this subsection may not be sold, other than for export, in quantities exceeding, or at prices less than, the applicable quantities and prices for sales of those commodities by the Commodity Credit Corporation.

§ 548. Surplus vessels

The Maritime Administration shall dispose of surplus vessels of 1,500 gross tons or more which the Administration determines to be merchant vessels or capable of conversion to merchant use. The vessels shall be disposed of in accordance with the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.), and other laws authorizing the sale of such vessels.

§ 549. Donation of personal property through state agencies

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

(1) PUBLIC AGENCY.—The term ''public agency'' means—

(A) a State;

(B) a political subdivision of a State (including a unit of local government or economic development district);

(C) a department, agency, or instrumentality of a State (including instrumentalities created by compact or other agreement between States or political subdivisions); or

(D) an Indian tribe, band, group, pueblo, or community located on a state reservation.

(2) STATE.—The term ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(3) STATE AGENCY.—The term ''state agency'' means an agency designated under state law as the agency responsible for fair and equitable distribution, through donation, of property transferred under this section.

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Administrator of General Services, in the Administrator's discretion and under regulations the Administrator may prescribe, may transfer property described in paragraph (2) to a state agency.

(2) PROPERTY.—

(A) IN GENERAL.—Property referred to in paragraph (1) is any personal property that—

(i) is under the control of an executive agency; and

(ii) has been determined to be surplus property.

(B) SPECIAL RULE.—In determining whether the property is to be transferred for donation under this section, no distinction may be made between property capitalized in a working-capital fund established under section 2208 of title 10 (or similar fund) and any other property.

(3) NO COST.—Transfer of property under this section is without cost, except for any costs of care and handling.

(c) ALLOCATION AND TRANSFER OF PROPERTY.—

(1) IN GENERAL.—The Administrator shall allocate and transfer property under this section in accordance with criteria that are based on need and use and that are established after consultation with state agencies to the extent feasible. The Administrator shall give fair consideration, consistent with the established criteria, to an expression of need and interest from a public agency or other eligible institution within a State. The Administrator shall give special consideration to an eligible recipient's request, transmitted through the state agency, for a specific item of property.

(2) ALLOCATION AMONG STATES.—The Administrator shall allocate property among the States on a fair and equitable basis, taking into account the condition of the property as well as the original acquisition cost of the property.

(3) RECIPIENTS AND PURPOSES.—The Administrator shall transfer to a state agency property the state agency selects for distribution through donation within the State—

(A) to a public agency for use in carrying out or promoting, for residents of a given political area, a public purpose, including conservation, economic development, education, parks and recreation, public health, and public safety; or

(B) for purposes of education or public health (including research), to a nonprofit educational or public health institution or organization that is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), including—

(i) a medical institution, hospital, clinic, health center, or drug abuse treatment center;

(ii) a provider of assistance to homeless individuals or to families or individuals whose annual incomes are below the poverty line (as that term is defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902));

(iii) a school, college, or university;

(iv) a school for the mentally retarded or physically handicapped;

(v) a child care center;

(vi) a radio or television station licensed by the Federal Communications Commission as an educational radio or educational television station;

(vii) a museum attended by the public; or

(viii) a library serving free all residents of a community, district, State, or region.

(4) EXCEPTION.—This subsection does not apply to property transferred under subsection (d).

(d) DEPARTMENT OF DEFENSE PROPERTY.—

(1) DETERMINATION.—The Secretary of Defense shall determine whether surplus personal property under the control of the Department of Defense is usable and necessary for educational activities which are of special interest to the armed services, including maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools.

(2) PROPERTY USABLE FOR SPECIAL INTEREST ACTIVITIES.—If the Secretary of Defense determines that the property is usable and necessary for educational activities which are of special interest to the armed services, the Secretary shall allocate the property for transfer by the Administrator to the appropriate state agency for distribution through donation to the educational activities.

(3) PROPERTY NOT USABLE FOR SPECIAL INTEREST ACTIVITIES.—If the Secretary of Defense determines that the property is not usable and necessary for educational activities which are of special interest to the armed services, the property may be disposed of in accordance with subsection (c).

(e) STATE PLAN OF OPERATION.—

(1) IN GENERAL.—Before property may be transferred to a state agency, the State shall develop a detailed state plan of operation, in accordance with this subsection and with state law.

(2) PROCEDURE.—

(A) CONSIDERATION OF NEEDS AND RESOURCES.—In developing and implementing the state plan of operation, the relative needs and resources of all public agencies and other eligible institutions in the State shall be taken into consideration. The Administrator may consult with interested federal agencies to obtain their views concerning the administration and operation of this section.

(B) PUBLICATION AND PERIOD FOR COMMENT.—The state plan of operation, and any major amendment to the plan, may not be filed with the Administrator until 60 days after general notice of the proposed plan or amendment has been published and interested persons have been given at least 30 days to submit comments.

(C) CERTIFICATION.—The chief executive officer of the State shall certify and submit the state plan of operation to the Administrator.

(3) REQUIREMENTS.—

(A) STATE AGENCY.—The state plan of operation shall include adequate assurance that the state agency has—

(i) the necessary organizational and operational authority and capability including staff, facilities, and means and methods of financing; and

(ii) established procedures for accountability, internal and external audits, cooperative agreements, compliance and use reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups.

(B) EQUITABLE DISTRIBUTION.—The state plan of operation shall provide for fair and equitable distribution of property in the State based on the relative needs and resources of interested public agencies and other eligible institutions in the State and their abilities to use the property.

(C) MANAGEMENT CONTROL AND ACCOUNTING SYSTEMS.—The state plan of operation shall require, for donable property transferred under this section, that the state agency use management control and accounting systems of the same type as systems required by state law for state-owned property. However, with approval from the chief executive officer of the State, the state agency may elect to use other management control and accounting systems that are effective to govern the use, inventory control, accountability, and disposal of property under this section.

(D) RETURN AND REDISTRIBUTION FOR NONUSE.—The state plan of operation shall require the state agency to provide for the return and redistribution of donable property if the property, while still usable, has not been placed in use for the purpose for which it was donated within one year of donation or ceases to be used by the donee for that purpose within one year of being placed in use.

(E) REQUEST BY RECIPIENT.—The state plan of operation shall require the state agency, to the extent practicable, to select property requested by a public agency or other eligible institution in the State and, if requested by the recipient, to arrange shipment of the property directly to the recipient.

(F) SERVICE CHARGES.—If the state agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing the charges shall be set out in the state plan of operation. The charges shall be fair and equitable and shall be based on services the state agency performs, including screening, packing, crating, removal, and transportation.

(G) TERMS, CONDITIONS, RESERVATIONS, AND RESTRICTIONS.—

(i) IN GENERAL.—The state plan of operation shall provide that the state agency—

(I) may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under subsection (c); and

(II) shall impose reasonable terms, conditions, reservations, and restrictions on the use of a passenger motor vehicle and any item of property having a unit acquisition cost of $5,000 or more.

(ii) SPECIAL LIMITATIONS.—If the Administrator finds that an item has characteristics that require special handling or use limitations, the Administrator may impose appropriate conditions on the donation of the property.

(H) UNUSABLE PROPERTY.—

(i) DISPOSAL.—The state plan of operation shall provide that surplus personal property which the state agency determines cannot be used by eligible recipients shall be disposed of—

(I) subject to the disapproval of the Administrator within 30 days after notice to the Administrator, through transfer by the state agency to another state agency or through abandonment or destruction if the property has no commercial value or if the estimated cost of continued care and handling exceeds estimated proceeds from sale; or

(II) under this subtitle, on terms and conditions and in a manner the Administrator prescribes.

(ii) PROCEEDS FROM SALE.—Notwithstanding subchapter IV of this chapter and section 702 of this title, the Administrator, from the proceeds of sale of property described in subsection (b), may reimburse the state agency for expenses that the Administrator considers appropriate for care and handling of the property.

(f) COOPERATIVE AGREEMENTS WITH STATE AGENCIES.—

(1) PARTIES TO THE AGREEMENT.—For purposes of carrying out this section, a cooperative agreement may be made between a state surplus property distribution agency designated under this section and—

(A) the Administrator;

(B) the Secretary of Education, for property transferred under section 550(c) of this title;

(C) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title; or

(D) the head of a federal agency designated by the Administrator, the Secretary of Education, or the Secretary of Health and Human Services.

(2) SHARED RESOURCES.—The cooperative agreement may provide that the property, facilities, personnel, or services of—

(A) a state agency may be used by a federal agency; and

(B) a federal agency may be made available to a state agency.

(3) REIMBURSEMENT.—The cooperative agreement may require payment or reimbursement for the use or provision of property, facilities, personnel, or services. Payment or reimbursement received from a state agency shall be credited to the fund or appropriation against which charges would otherwise be made.

(4) SURPLUS PROPERTY TRANSFERRED TO STATE AGENCY.—

(A) IN GENERAL.—Under the cooperative agreement, surplus property transferred to a state agency for distribution pursuant to subsection (c) may be retained by the state agency for use in performing its functions. Unless otherwise directed by the Administrator, title to the retained property vests in the state agency.

(B) CONDITIONS.—Retention of surplus property under this paragraph is subject to conditions that may be imposed by—

(i) the Administrator;

(ii) the Secretary of Education, for property transferred under section 550(c) of this title; or

(iii) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title.

§ 550. Disposal of real property for certain purposes

(a) DEFINITION.—In this section, the term ''State'' includes the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.—

(1) IN GENERAL.—Subject to disapproval by the Administrator of General Services within 30 days after notice of a proposed action to be taken under this section, except for personal property transferred pursuant to section 549 of this title, the official specified in paragraph (2) shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer under this section is made. The official shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The official shall grant a release from any term, condition, reservation or restriction contained in the instrument, and shall convey, quitclaim, or release to the transferee (or other eligible user) any right or interest reserved to the Federal Government by the instrument, if the official determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the official considers necessary to protect or advance the interests of the Government.

(2) SPECIFIED OFFICIAL.—The official referred to in paragraph (1) is—

(A) the Secretary of Education, for property transferred under subsection (c) for school, classroom, or other educational use;

(B) the Secretary of Health and Human Services, for property transferred under subsection (d) for use in the protection of public health, including research;

(C) the Secretary of the Interior, for property transferred under subsection (e) for public park or recreation area use;

(D) the Secretary of Housing and Urban Development, for property transferred under subsection (f) to provide housing or housing assistance for low-income individuals or families; and

(E) the Secretary of the Interior, for property transferred under subsection (h) for use as a historic monument for the benefit of the public.

(c) PROPERTY FOR SCHOOL, CLASSROOM, OR OTHER EDUCATIONAL USE.—

(1) ASSIGNMENT.—The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Secretary of Education for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary recommends as needed for school, classroom, or other educational use.

(2) SALE OR LEASE.—Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Secretary of Education of a proposed transfer, the Secretary, for school, classroom, or other educational use, may sell or lease property assigned to the Secretary under paragraph (1) to a State, a political subdivision or instrumentality of a State, a tax-supported educational institution, or a nonprofit educational institution that has been held exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)).

(3) FIXING VALUE.—In fixing the sale or lease value of property disposed of under paragraph (2), the Secretary of Education shall take into consideration any benefit which has accrued or may accrue to the Government from the use of the property by the State, political subdivision or instrumentality, or institution.

(d) PROPERTY FOR USE IN THE PROTECTION OF PUBLIC HEALTH, INCLUDING RESEARCH.—

(1) ASSIGNMENT.—The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Secretary of Health and Human Services for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary recommends as needed for use in the protection of public health, including research.

(2) SALE OR LEASE.—Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Secretary of Health and Human Services of a proposed transfer, the Secretary, for use in the protection of public health, including research, may sell or lease property assigned to the Secretary under paragraph (1) to a State, a political subdivision or instrumentality of a State, a tax-supported medical institution, or a hospital or similar institution not operated for profit that has been held exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)).

(3) FIXING VALUE.—In fixing the sale or lease value of property disposed of under paragraph (2), the Secretary of Health and Human Services shall take into consideration any benefit which has accrued or may accrue to the Government from the use of the property by the State, political subdivision or instrumentality, or institution.

(e) PROPERTY FOR USE AS A PUBLIC PARK OR RECREATION AREA.—

(1) ASSIGNMENT.—The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Secretary of the Interior for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary recommends as needed for use as a public park or recreation area.

(2) SALE OR LEASE.—Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Secretary of the Interior of a proposed transfer, the Secretary, for

public park or recreation area use, may sell or lease property assigned to the Secretary under paragraph (1) to a State, a political subdivision or instrumentality of a State, or a municipality.

(3) FIXING VALUE.—In fixing the sale or lease value of property disposed of under paragraph (2), the Secretary of the Interior shall take into consideration any benefit which has accrued or may accrue to the Government from the use of the property by the State, political subdivision or instrumentality, or municipality.

(4) DEED OF CONVEYANCE.—The deed of conveyance of any surplus real property disposed of under this subsection—

(A) shall provide that all of the property be used and maintained for the purpose for which it was conveyed in perpetuity, and that if the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the Government, revert to the Government; and

(B) may contain additional terms, reservations, restrictions, and conditions the Secretary of the Interior determines are necessary to safeguard the interests of the Government.

(f) PROPERTY FOR LOW INCOME HOUSING ASSISTANCE.—

(1) ASSIGNMENT.—The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Secretary of Housing and Urban Development for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary recommends as needed to provide housing or housing assistance for low-income individuals or families.

(2) SALE OR LEASE.—Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Secretary of Housing and Urban Development of a proposed transfer, the Secretary, to provide housing or housing assistance for low-income individuals or families, may sell or lease property assigned to the Secretary under paragraph (1) to a State, a political subdivision or instrumentality of a State, or a nonprofit organization that exists for the primary purpose of providing housing or housing assistance for low-income individuals or families.

(3) SELF-HELP HOUSING.—

(A) IN GENERAL.—The Administrator shall disapprove a proposed transfer of property under this subsection unless the Administrator determines that the property will be used for low-income housing opportunities through the construction, rehabilitation, or refurbishment of self-help housing, under terms requiring that—

(i) subject to subparagraph (B), an individual or family receiving housing or housing assistance through use of the property shall contribute a significant amount of labor toward the construction, rehabilitation, or refurbishment; and

(ii) dwellings constructed, rehabilitated, or refurbished through use of the property shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below prevailing market prices.

(B) GUIDELINES FOR CONSIDERING DISABILITIES.—For purposes of fulfilling self-help requirements under paragraph (3)(A)(i), the Administrator shall ensure that nonprofit organizations receiving property under paragraph (2) develop and use guidelines to consider any disability (as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).

(4) FIXING VALUE.—

(A) IN GENERAL.—In fixing the sale or lease value of property disposed of under paragraph (2), the Secretary of Housing and Urban Development shall take into consideration and discount the value for any benefit which has accrued or may accrue to the Government from the use of the property by the State, political subdivision or instrumentality, or nonprofit organization.

(B) AMOUNT OF DISCOUNT.—The amount of the discount under subparagraph (A) is 75 percent of the market value of the property, except that the Secretary of Housing and Urban Development may discount by a greater percentage if the Secretary, in consultation with the Administrator, determines that a higher percentage is justified.

(g) PROPERTY FOR NATIONAL SERVICE ACTIVITIES.—

(1) ASSIGNMENT.—The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Chief Executive Officer of the Corporation for National and Community Service for disposal surplus property that the Chief Executive Officer recommends as needed for national service activities.

(2) SALE, LEASE, OR DONATION.—Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Chief Executive Officer of a proposed transfer, the Chief Executive Officer, for national service activities, may sell, lease, or donate property assigned to the Chief Executive Officer under paragraph (1) to an entity that receives financial assistance under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

(3) FIXING VALUE.—In fixing the sale or lease value of property disposed of under paragraph (2), the Chief Executive Officer shall take into consideration any benefit which has accrued or may accrue to the Government from the use of the property by the entity receiving the property.

(h) PROPERTY FOR USE AS A HISTORIC MONUMENT.—

(1) CONVEYANCE.—

(A) IN GENERAL.—Without monetary consideration to the Government, the Administrator may convey to a State, a political subdivision or instrumentality of a State, or a municipality, the right, title, and interest of the Government in and to any surplus real and related personal property that the Secretary of the Interior determines is suitable and desirable for use as a historic monument for the benefit of the public.

(B) RECOMMENDATION BY NATIONAL PARK SYSTEM ADVISORY BOARD.—Property may be determined to be suitable and desirable for use as a historic monument only in conformity with a recommendation by the National Park System Advisory Board established under section 3 of the Act of August 21, 1935 (16 U.S.C. 463) (known as the Historic Sites, Buildings, and Antiquities Act). Only the portion of the property that is necessary for the preservation and proper observation of the property's historic features may be determined to be suitable and desirable for use as a historic monument.

(2) REVENUE-PRODUCING ACTIVITY.—

(A) IN GENERAL.—The Administrator may authorize use of any property conveyed under this subsection for revenue-producing activities if the Secretary of the Interior—

(i) determines that the activities are compatible with use of the property for historic monument purposes;

(ii) approves the grantee's plan for repair, rehabilitation, restoration, and maintenance of the property;

(iii) approves the grantee's plan for financing the repair, rehabilitation, restoration, and maintenance of the property; and

(iv) examines and approves the accounting and financial procedures used by the grantee.

(B) USE OF EXCESS INCOME.—The Secretary of the Interior may approve a grantee's financial plan only if the plan provides that the grantee shall use income exceeding the cost of repair, rehabilitation, restoration, and maintenance only for public historic preservation, park, or recreational purposes.

(C) AUDITS.—The Secretary of the Interior may periodically audit the records of the grantee that are directly related to the property conveyed.

(3) DEED OF CONVEYANCE.—The deed of conveyance of any surplus real property disposed of under this subsection—

(A) shall provide that all of the property be used and maintained for historical monument purposes in perpetuity, and that if the property ceases to be used or maintained for historical monument purposes, all or any portion of the property shall, in its then existing condition, at the option of the Government, revert to the Government; and

(B) may contain additional terms, reservations, restrictions, and conditions the Administrator determines are necessary to safeguard the interests of the Government.

§ 551. Donations to American Red Cross

The Administrator of General Services, in the Administrator's discretion and under regulations that the Administrator may prescribe, may donate to the American National Red Cross for charitable purposes property that the American National Red Cross processed, produced, or donated and that has been determined to be surplus property.

§ 552. Abandoned or unclaimed property on Government premises

(a) AUTHORITY TO TAKE PROPERTY.—The Administrator of General Services may take possession of abandoned or unclaimed property on premises owned or leased by the Federal Government and determine when title to the property vests in the Government. The Administrator may use, transfer, or otherwise dispose of the property.

(b) CLAIM FILED BY FORMER OWNER.—If a former owner files a proper claim within three years from the date that title to the property vests in the Government, the former owner shall be paid an amount—

(1) equal to the proceeds realized from the disposition of the property less costs incident to care and handling as determined by the Administrator; or

(2) if the property has been used or transferred, equal to the fair value of the property as of the time title vested in the Government less costs incident to care and handling as determined by the Administrator.

§ 553. Property for correctional facility, law enforcement, and emergency management response purposes

(a) DEFINITION.—In this section, the term ''State'' includes the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and, the Northern Mariana Islands.

(b) AUTHORITY TO TRANSFER PROPERTY.—The Administrator of General Services, in the Administrator's discretion and under regulations that the Administrator may prescribe, may transfer or convey to a State, or political subdivision or instrumentality of a State, surplus real and related personal property that—

(1) the Attorney General determines is required by the transferee or grantee for correctional facility use under a program approved by the Attorney General for the care or rehabilitation of criminal offenders;

(2) the Attorney General determines is required by the transferee or grantee for law enforcement purposes; or

(3) the Director of the Federal Emergency Management Agency determines is required by the transferee or grantee for emergency management response purposes including fire and rescue services.

(c) NO MONETARY CONSIDERATION.—A transfer or conveyance under this section shall be made without monetary consideration to the Federal Government.

(d) DEED OF CONVEYANCE.—The deed of conveyance of any surplus real and related personal property disposed of under this section—

(1) shall provide that all of the property be used and maintained for the purpose for which

it was conveyed in perpetuity, and that if the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the Government, revert to the Government; and

(2) may contain additional terms, reservations, restrictions, and conditions that the Administrator determines are necessary to safeguard the interests of the Government.

(e) ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.—The Administrator shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer or conveyance under this section is made. The Administrator shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The Administrator shall grant a release from any term, condition, reservation or restriction contained in the instrument, and shall convey, quitclaim, or release to the transferee (or other eligible user) any right or interest reserved to the Government by the instrument, if the Administrator determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the Administrator considers necessary to protect or advance the interests of the Government.

§ 554. Property for development or operation of a port facility

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

(1) BASE CLOSURE LAW.—The term ''base closure law'' means the following:

(A) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(C) Section 2687 of title 10.

(2) STATE.—The term ''State'' includes the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and the Northern Mariana Islands.

(b) AUTHORITY FOR ASSIGNMENT TO THE SECRETARY OF TRANSPORTATION.—Under regulations that the Administrator of General Services, after consultation with the Secretary of Defense, may prescribe, the Administrator, or the Secretary of Defense in the case of property located at a military installation closed or realigned pursuant to a base closure law, may assign to the Secretary of Transportation for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary of Transportation recommends as needed for the development or operation of a port facility.

(c) AUTHORITY FOR CONVEYANCE BY THE SECRETARY OF TRANSPORTATION.

(1) IN GENERAL.—Subject to disapproval by the Administrator or the Secretary of Defense within 30 days after notice of a proposed conveyance by the Secretary of Transportation, the Secretary of Transportation, for the development or operation of a port facility, may convey property assigned to the Secretary of Transportation under subsection (b) to a State or political subdivision, municipality, or instrumentality of a State.

(2) CONVEYANCE REQUIREMENTS.—A transfer of property may be made under this section only after the Secretary of Transportation has—

(A) determined, after consultation with the Secretary of Labor, that the property to be conveyed is located in an area of serious economic disruption;

(B) received and, after consultation with the Secretary of Commerce, approved an economic development plan submitted by an eligible grantee and based on assured use of the property to be conveyed as part of a necessary economic development program; and

(C) transmitted to Congress an explanatory statement that contains information substantially similar to the information contained in statements prepared under section 545(e) of this title.

(d) NO MONETARY CONSIDERATION.—A conveyance under this section shall be made without monetary consideration to the Federal Government.

(e) DEED OF CONVEYANCE.—The deed of conveyance of any surplus real and related personal property disposed of under this section shall—

(1) provide that all of the property be used and maintained for the purpose for which it was conveyed in perpetuity, and that if the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the Government, revert to the Government; and

(2) contain additional terms, reservations, restrictions, and conditions that the Secretary of Transportation shall by regulation require to ensure use of the property for the purposes for which it was conveyed and to safeguard the interests of the Government.

(f) ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.—The Secretary of Transportation shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer or conveyance under this section is made. The Secretary shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The Secretary shall grant a release from any term, condition, reservation or restriction contained in the instrument, and shall convey, quitclaim, or release to the grantee any right or interest reserved to the Government by the instrument, if the Secretary determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the Secretary considers necessary to protect or advance the interests of the Government.

§ 555. Donation of law enforcement canines to handlers

The head of a federal agency having control of a canine that has been used by a federal agency in the performance of law enforcement duties and that has been determined by the agency to be no longer needed for official purposes may donate the canine to an individual who has experience handling canines in the performance of those duties.

§ 556. Disposal of dredge vessels

(a) IN GENERAL.—The Administrator of General Services, pursuant to sections 521 through 527, 529, and 549 of this title, may dispose of a United States Army Corps of Engineers vessel used for dredging, together with related equipment owned by the Federal Government and under the control of the Chief of Engineers, if the Secretary of the Army declares the vessel to be in excess of federal needs.

(b) RECIPIENTS AND PURPOSES.—Disposal under this section is accomplished—

(1) through sale or lease to—

(A) a foreign government as part of a Corps of Engineers technical assistance program;

(B) a federal or state maritime academy for training purposes; or

(C) a non-federal public body for scientific, educational, or cultural purposes; or

(2) through sale solely for scrap to foreign or domestic interests.

(c) NO DREDGING ACTIVITIES.—A vessel described in subsection (a) shall not be disposed of under any law for the purpose of engaging in dredging activities within the United States.

(d) DEPOSIT OF AMOUNTS COLLECTED.—Amounts collected from the sale or lease of a vessel or equipment under this section shall be deposited into the revolving fund authorized by section 101 (9th par.) of the Civil Functions Appropriation Act, 1954 (33 U.S.C. 576), to be available, as provided in appropriation laws, for the operation and maintenance of vessels under the control of the Corps of Engineers.

§ 557. Donation of books to Free Public Library

Subject to regulations under this subtitle, a book that is no longer needed by an executive department, bureau, or commission of the Federal Government, and that is not an advisable addition to the Library of Congress, shall be turned over to the Free Public Library of the District of Columbia for general use if the book is appropriate for the Free Public Library.

§ 558. Donation of forfeited vessels

(a) IN GENERAL.—A vessel that is forfeited to the Federal Government may be donated, in accordance with procedures under this subtitle, to an eligible institution described in subsection (b).

(b) ELIGIBLE INSTITUTION.—An eligible institution referred to in subsection (a) is an educational institution with a commercial fishing vessel safety program or other vessel safety, education and training program. The institution must certify to the federal officer making the donation that the program includes, at a minimum, all of the following courses in vessel safety:

(1) Vessel stability.

(2) Firefighting.

(3) Shipboard first aid.

(4) Marine safety and survival.

(5) Seamanship rules of the road.

(c) TERMS AND CONDITIONS.—The donation of a vessel under this section shall be made on terms and conditions considered appropriate by the federal officer making the donation. All of the following terms and conditions are required:

(1) NO WARRANTY.—The institution must accept the vessel as is, where it is, and without warranty of any kind and without any representation as to its condition or suitability for use.

(2) MAINTENANCE.—The institution is responsible for maintaining the vessel.

(3) INSTRUCTION ONLY.—The vessel may be used only for instructing students in a vessel safety education and training program.

(4) DOCUMENTATION.—If the vessel is eligible to be documented, it must be documented by the institution as a vessel of the United States under chapter 121 of title 46. The requirements of paragraph (5) must be noted on the permanent record of the vessel.

(5) DISPOSAL.—The institution must obtain prior approval from the Administrator of General Services before disposing of the vessel and any proceeds from disposal shall be payable to the Government.

(6) INSPECTION OR REGULATION.—The vessel shall be inspected or regulated in the same manner as a nautical school vessel under chapter 33 of title 46.

(d) GOVERNMENT LIABILITY.—The Government is not liable in an action arising out of the transfer or use of a vessel transferred under this section.

§ 559. Advice of Attorney General with respect to antitrust law

(a) DEFINITION.—In this section, the term ''antitrust law'' includes—

(1) the Sherman Act (15 U.S.C. 1 et seq.);

(2) the Clayton Act (15 U.S.C. 12 et seq., 29 U.S.C. 52, 53);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and

(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8, 9).

(b) ADVICE REQUIRED.—

(1) IN GENERAL.—An executive agency shall not dispose of property to a private interest until the agency has received the advice of the Attorney General on whether the disposal to a private interest would tend to create or maintain a situation inconsistent with antitrust law.

(2) EXCEPTION.—This section does not apply to disposal of—

(A) real property, if the estimated fair market value is less than $3,000,000; or

(B) personal property (other than a patent, process, technique, or invention), if the estimated fair market value is less than $3,000,000.

(c) NOTICE TO ATTORNEY GENERAL.—

(1) IN GENERAL.—An executive agency that contemplates disposing of property to a private interest shall promptly transmit notice of the proposed disposal, including probable terms and conditions, to the Attorney General.

(2) COPY.—Except for the General Services Administration, an executive agency that transmits notice under paragraph (1) shall simultaneously transmit a copy of the notice to the Administrator of General Services.

(d) ADVICE FROM ATTORNEY GENERAL.—Within a reasonable time, not later than 60 days, after receipt of notice under subsection (c), the Attorney General shall advise the Administrator and any interested executive agency whether, so far as the Attorney General can determine, the proposed disposition would tend to create or maintain a situation inconsistent with antitrust law.

(e) REQUEST FOR INFORMATION.—On request from the Attorney General, the head of an executive agency shall furnish information the agency possesses that the Attorney General determines is appropriate or necessary to—

(1) give advice required by this section; or

(2) determine whether any other disposition or proposed disposition of surplus property violates antitrust law.

(f) NO EFFECT ON ANTITRUST LAW.—This subtitle does not impair, amend, or modify antitrust law or limit or prevent application of antitrust law to a person acquiring property under this subtitle.

SUBCHAPTER IV—PROCEEDS FROM SALE OR TRANSFER

§ 571. General rules for deposit and use of proceeds

(a) DEPOSIT IN TREASURY AS MISCELLANEOUS RECEIPTS.—

(1) IN GENERAL.—Except as otherwise provided in this subchapter, proceeds described in paragraph (2) shall be deposited in the Treasury as miscellaneous receipts.

(2) PROCEEDS.—The proceeds referred to in paragraph (1) are proceeds under this chapter from a—

(A) transfer of excess property to a federal agency for agency use; or

(B) sale, lease, or other disposition of surplus property.

(b) PAYMENT OF EXPENSES OF SALE BEFORE DEPOSIT.—Subject to regulations under this subtitle, the expenses of the sale of old material, condemned stores, supplies, or other public property may be paid from the proceeds of sale so that only the net proceeds are deposited in the Treasury. This subsection applies whether proceeds are deposited as miscellaneous receipts or to the credit of an appropriation as authorized by law.

§ 572. Real property

(a) IN GENERAL.—

(1) SEPARATE FUND.—Except as provided in subsection (b), proceeds of the disposition of surplus real and related personal property by the Administrator of General Services shall be set aside in a separate fund in the Treasury.

(2) PAYMENT OF EXPENSES FROM THE FUND.—

(A) AUTHORITY.—From the fund described in paragraph (1), the Administrator may obligate an amount to pay the following direct expenses incurred for the use of excess property and the disposal of surplus property under this subtitle:

(i) Fees of appraisers, auctioneers, and realty brokers, in accordance with the scale customarily paid in similar commercial transactions.

(ii) Costs of environmental and historic preservation services.

(iii) Advertising and surveying.

(B) LIMITATIONS.—

(i) PERCENTAGE LIMITATION.—In each fiscal year, no more than 12 percent of the proceeds of all dispositions of surplus real and related personal property may be paid to meet direct expenses incurred in connection with the dispositions.

(ii) DETERMINATION OF MAXIMUM AMOUNT.—The Director of the Office of Management and Budget each quarter shall determine the maximum amount that may be obligated under this paragraph.

(C) DIRECT PAYMENT OR REIMBURSEMENT.—An amount obligated under this paragraph may be used to pay an expense directly or to reimburse a fund or appropriation that initially paid the expense.

(3) TRANSFER TO MISCELLANEOUS RECEIPTS.—At least once each year, excess amounts beyond current operating needs shall be transferred from the fund described in paragraph (1) to miscellaneous receipts.

(4) REPORT.—A report of receipts, disbursements, and transfers to miscellaneous receipts under this subsection shall be made annually, in connection with the budget estimate, to the Director and to Congress.

(b) REAL PROPERTY UNDER CONTROL OF A MILITARY DEPARTMENT.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) MILITARY INSTALLATION.—The term ''military installation'' has the meaning given that term in section 2687(e)(1) of title 10.

(B) BASE CLOSURE LAW.—The term ''base closure law'' has the meaning given that term in section 2667(h)(2) of title 10.

(2) APPLICATION.—

(A) IN GENERAL.—This subsection applies to real property, including any improvement on the property, that is under the control of a military department and that the Secretary of the department determines is excess to the department's needs.

(B) EXCEPTIONS.—This subsection does not apply to—

(i) damaged or deteriorated military family housing facilities conveyed under section 2854a of title 10; or

(ii) property at a military installation designated for closure or realignment pursuant to a base closure law.

(3) TRANSFER BETWEEN MILITARY DEPARTMENTS.—The Secretary of Defense shall provide that property described in paragraph (2) is available for transfer, without reimbursement, to other military departments within the Department of Defense.

(4) ALTERNATIVE DISPOSITION BY ADMINISTRATOR OF GENERAL SERVICES.—If property is not transferred pursuant to paragraph (3), the Secretary of the military department with the property under its control shall request the Administrator to transfer or dispose of the property in accordance with this subtitle or other applicable law.

(5) PROCEEDS.—

(A) DEPOSIT IN SPECIAL ACCOUNT.—For a transfer or disposition of property pursuant to paragraph (4), the Administrator shall deposit any proceeds (less expenses of the transfer or disposition as provided in subsection (a)) in a special account in the Treasury.

(B) AVAILABILITY OF AMOUNT DEPOSITED.—To the extent provided in an appropriation law, an amount deposited in a special account under subparagraph (A) is available for facility maintenance and repair or environmental restoration as follows:

(i) In the case of property located at a military installation that is closed, the amount is available for facility maintenance and repair or environmental restoration by the military department that had jurisdiction over the property before the closure of the military installation.

(ii) In the case of property located at any other military installation—

(I) 50 percent of the amount is available for facility maintenance and repair or environmental restoration at the military installation where the property was located before it was disposed of or transferred; and

(II) 50 percent of the amount is available for facility maintenance and repair and for environmental restoration by the military department that had jurisdiction over the property before it was disposed of or transferred.

(6) REPORT.—As part of the annual request for authorizations of appropriations to the Committees on Armed Services of the Senate and the House of Representatives, the Secretary of Defense shall include an accounting of each transfer and disposal made in accordance with this subsection during the fiscal year preceding the fiscal year in which the request is made. The accounting shall include a detailed explanation of each transfer and disposal and of the use of the proceeds received from it by the Department of Defense.

§ 573. Personal property

The Administrator of General Services may retain from the proceeds of sales of personal property the Administrator conducts amounts necessary to recover, to the extent practicable, costs the Administrator (or the Administrator's agent) incurs in conducting the sales. The Administrator shall deposit amounts retained into the General Supply Fund established under section 321(a) of this title. From the amounts deposited, the Administrator may pay direct costs and reasonably related indirect costs incurred in conducting sales of personal property. At least once each year, amounts retained that are not needed to pay the direct and indirect costs shall be transferred from the General Supply Fund to the general fund or another appropriate account in the Treasury.

§ 574. Other rules regarding proceeds

(a) CREDIT TO REIMBURSABLE FUND OR APPROPRIATION.—

(1) APPLICATION.—This subsection applies to property acquired with amounts—

(A) not appropriated from the general fund of the Treasury; or

(B) appropriated from the general fund of the Treasury but by law reimbursable from assessment, tax, or other revenue or receipts.

(2) IN GENERAL.—The net proceeds of a disposition or transfer of property described in paragraph (1) shall be—

(A) credited to the applicable reimbursable fund or appropriation; or

(B) paid to the federal agency that determined the property to be excess.

(3) CALCULATION OF NET PROCEEDS.—For purposes of this subsection, the net proceeds of a disposition or transfer of property are the proceeds less all expenses incurred for the disposition or transfer, including care and handling.

(4) ALTERNATIVE CREDIT TO MISCELLANEOUS RECEIPTS.—If the agency that determined the property to be excess decides that it is uneconomical or impractical to ascertain the amount of net proceeds, the proceeds shall be credited to miscellaneous receipts.

(b) SPECIAL ACCOUNT FOR REFUNDS OR PAYMENTS FOR BREACH.—

(1) DEPOSITS.—A federal agency that disposes of surplus property under this chapter may deposit, in a special account in the Treasury, amounts of the proceeds of the dispositions that the agency decides are necessary to permit—

(A) appropriate refunds to purchasers for dispositions that are rescinded or that do not become final; and

(B) payments for breach of warranty.

(2) WITHDRAWALS.—A federal agency that deposits proceeds in a special account under paragraph (1) may withdraw amounts to be refunded

or paid from the account without regard to the origin of the amounts withdrawn.

(c) CREDIT TO COST OF CONTRACTOR'S WORK.—If a contract made by an executive agency, or a subcontract under that contract, authorizes the proceeds of a sale of property in the custody of a contractor or subcontractor to be credited to the price or cost of work covered by the contract or subcontract, then the proceeds of the sale shall be credited in accordance with the contract or subcontract.

(d) ACCEPTANCE OF PROPERTY INSTEAD OF CASH.—An executive agency entitled to receive cash under a contract for the lease, sale, or other disposition of surplus property may accept property instead of cash if the President determines that the property is strategic or critical material. The property is valued at the prevailing market price when the cash payment becomes due.

(e) MANAGEMENT OF CREDIT, LEASES, AND PERMITS.—For a disposition of surplus property under this chapter, if credit has been extended, or if the disposition has been by lease or permit, the Administrator of General Services, in a manner and on terms the Administrator determines are in the best interest of the Federal Government—

(1) shall administer and manage the credit, lease, or permit, and any security for the credit, lease, or permit; and

(2) may enforce, adjust, and settle any right of the Government with respect to the credit, lease, or permit.

SUBCHAPTER V—OPERATION OF BUILDINGS AND RELATED ACTIVITIES

§ 581. General authority of Administrator of General Services

(a) APPLICABILITY.—To the extent that the Administrator of General Services by law, other than this section, may maintain, operate, and protect buildings or property, including the construction, repair, preservation, demolition, furnishing, or equipping of buildings or property, the Administrator, in the discharge of these duties, may exercise authority granted under this section.

(b) PERSONNEL AND EQUIPMENT.—The Administrator may—

(1) employ and pay personnel at per diem rates approved by the Administrator, not exceeding rates currently paid by private industry for similar services in the place where the services are performed;

(2) purchase, repair, and clean uniforms for civilian employees of the General Services Administration who are required by law or regulation to wear uniform clothing; and

(3) furnish arms and ammunition for the protection force the Administration maintains.

(c) ACQUISITION AND MANAGEMENT OF PROPERTY.—

(1) REAL ESTATE.—The Administrator may acquire, by purchase, condemnation, or otherwise, real estate and interests in real estate.

(2) GROUND RENT.—The Administrator may pay ground rent for buildings owned by the Federal Government or occupied by federal agencies, and pay the rent in advance if required by law or if the Administrator determines that advance payment is in the public interest.

(3) RENT AND REPAIRS UNDER A LEASE.—The Administrator may pay rent and make repairs, alterations, and improvements under the terms of a lease entered into by, or transferred to, the Administration for the housing of a federal agency.

(4) REPAIRS THAT ARE ECONOMICALLY ADVANTAGEOUS.—The Administrator may repair, alter, or improve rented premises if the Administrator determines that doing so is advantageous to the Government in terms of economy, efficiency, or national security. The Administrator's determination must—

(A) set forth the circumstances that make the repair, alteration, or improvement advantageous; and

(B) show that the total cost (rental, repair, alteration, and improvement) for the expected life of the lease is less than the cost of alternative space not needing repair, alteration, or improvement.

(5) INSURANCE PROCEEDS FOR DEFENSE INDUSTRIAL RESERVE.—At the direction of the Secretary of Defense, the Administrator may use insurance proceeds received for damage to property that is part of the Defense Industrial Reserve to repair or restore the property.

(6) MAINTENANCE CONTRACTS.—The Administrator may enter into a contract, for a period not exceeding five years, for the inspection, maintenance, and repair of fixed equipment in a federally owned building.

(d) LEASE OF FEDERAL BUILDING SITES.—

(1) IN GENERAL.—The Administrator may lease a federal building site or addition, including any improvements, until the site is needed for construction purposes. The lease must be for fair rental value and on other terms and conditions the Administrator considers to be in the public interest pursuant to section 545 of this title.

(2) NEGOTIATION WITHOUT ADVERTISING.—A lease under this subsection may be negotiated without public advertising for bids if—

(A) the lessee is—

(i) the former owner from whom the Government acquired the property; or

(ii) the former owner's tenant in possession; and

(B) the lease is negotiated incident to or in connection with the acquisition of the property.

(3) DEPOSIT OF RENT.—Rent received under this subsection may be deposited into the Federal Buildings Fund.

(e) ASSISTANCE TO THE INAUGURAL COMMITTEE.—The Administrator may provide direct assistance and special services for the Inaugural Committee (as defined in section 501 of title 36) during an inaugural period in connection with Presidential inaugural operations and functions. Assistance and services under this subsection may include—

(1) employment of personal services without regard to chapters 33 and 51 and subchapter III of chapter 53 of title 5;

(2) providing Government-owned and leased space for personnel and parking;

(3) paying overtime to guard and custodial forces;

(4) erecting and removing stands and platforms;

(5) providing and operating first-aid stations;

(6) providing furniture and equipment; and

(7) providing other incidental services in the discretion of the Administrator.

(f) UTILITIES FOR DEFENSE INDUSTRIAL RESERVE AND SURPLUS PROPERTY.—The Administrator may—

(1) provide utilities and services, if the utilities and services are not provided by other sources, to a person, firm, or corporation occupying or using a plant or portion of a plant that constitutes—

(A) any part of the Defense Industrial Reserve pursuant to section 2535 of title 10; or

(B) surplus real property; and

(2) credit an amount received for providing utilities and services under this subsection to an applicable appropriation of the Administration.

(g) OBTAINING PAYMENTS.—The Administrator may—

(1) obtain payments, through advances or otherwise, for services, space, quarters, maintenance, repair, or other facilities furnished, on a reimbursable basis, to a federal agency, a mixed-ownership Government corporation (as defined in chapter 91 of title 31), or the District of Columbia; and

(2) credit the payments to the applicable appropriation of the Administration.

(h) COOPERATIVE USE OF PUBLIC BUILDINGS.—

(1) LEASING SPACE FOR COMMERCIAL AND OTHER PURPOSES.—The Administrator may lease space on a major pedestrian access level, courtyard, or rooftop of a public building to a person, firm, or organization engaged in commercial, cultural, educational, or recreational activity (as defined in section 3306(a) of this title). The Administrator shall establish a rental rate for leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the public building. The lease may be negotiated without competitive bids, but shall contain terms and conditions and be negotiated pursuant to procedures that the Administrator considers necessary to promote competition and to protect the public interest.

(2) OCCASIONAL USE OF SPACE FOR NON-COMMERCIAL PURPOSES.—The Administrator may make available, on occasion, or lease at a rate and on terms and conditions that the Administrator considers to be in the public interest, an auditorium, meeting room, courtyard, rooftop, or lobby of a public building to a person, firm, or organization engaged in cultural, educational, or recreational activity (as defined in section 3306(a) of this title) that will not disrupt the operation of the building.

(3) DEPOSIT AND CREDIT OF AMOUNTS RECEIVED.—The Administrator may deposit into the Federal Buildings Fund an amount received under a lease or rental executed pursuant to paragraph (1) or (2). The amount shall be credited to the appropriation from the Fund applicable to the operation of the building.

(4) FURNISHING UTILITIES AND MAINTENANCE.—The Administrator may furnish utilities, maintenance, repair, and other services to a person, firm, or organization leasing space pursuant to paragraph (1) or (2). The services may be provided during and outside of regular working hours of federal agencies.

§ 582. Management of buildings by Administrator of General Services

(a) REQUEST BY FEDERAL AGENCY OR INSTRUMENTALITY.—At the request of a federal agency, a mixed-ownership Government corporation (as defined in chapter 91 of title 31), or the District of Columbia, the Administrator of General Services may operate, maintain, and protect a building that is owned by the Federal Government (or, in the case of a wholly owned or mixed-ownership Government corporation, by the corporation) and occupied by the agency or instrumentality making the request.

(b) TRANSFER OF FUNCTIONS BY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—When the Director of the Office of Management and Budget determines that it is in the interest of economy or efficiency, the Director shall transfer to the Administrator all functions vested in a federal agency with respect to the operation, maintenance, and custody of an office building owned by the Government or a wholly owned Government corporation, or an office building, or part of an office building, that is occupied by a federal agency under a lease.

(2) EXCEPTION FOR POST-OFFICE BUILDINGS.—A transfer of functions shall not be made under this subsection for a post-office building, unless the Director determines that the building is not used predominantly for post-office purposes. The Administrator may delegate functions with respect to a post-office building that are transferred to the Administrator under this subsection only to another officer or employee of the General Services Administration or to the Postmaster General.

(3) EXCEPTION FOR BUILDINGS IN A FOREIGN COUNTRY.—A transfer of functions shall not be made under this subsection for a building located in a foreign country.

(4) EXCEPTION FOR DEPARTMENT OF DEFENSE BUILDINGS.—A transfer of functions shall not be made under this subsection for a building located on the grounds of a facility of the Department of Defense (including a fort, camp, post, arsenal, navy yard, naval training station, airfield, proving ground, military supply depot, or school) unless and only to the extent that the

Secretary of Defense has issued a permit for use by another agency.

(5) EXCEPTION FOR GROUPS OF SPECIAL PURPOSE BUILDINGS.—A transfer of functions shall not be made under this subsection for a building that the Director finds to be a part of a group of buildings that are—

(A) located in the same vicinity;

(B) used wholly or predominantly for the special purposes of the agency with custody of the buildings; and

(C) not generally suitable for use by another agency.

(6) EXCEPTION FOR CERTAIN GOVERNMENT BUILDINGS.—A transfer of functions shall not be made under this subsection for the Treasury Building, the Bureau of Engraving and Printing Building, the buildings occupied by the National Institute of Standards and Technology, and the buildings under the jurisdiction of the regents of the Smithsonian Institution.

§ 583. Construction of buildings

(a) AUTHORITY.—At the request of a federal agency, a mixed-ownership Government corporation (as defined in chapter 91 of title 31), or the District of Columbia, the Administrator of General Services may—

(1) acquire land for a building or project authorized by Congress;

(2) make or cause to be made (under contract or otherwise) surveys and test borings and prepare plans and specifications for a building or project prior to the Attorney General's approval of the title to the site; and

(3) contract for, and supervise, the construction, development, and equipping of a building or project.

(b) TRANSFER OF AMOUNTS.—An amount available to a federal agency or instrumentality for a building or project may be transferred, in advance, to the General Services Administration for purposes the Administrator determines are necessary, including payment of salaries and expenses for preparing plans and specifications and for field supervision.

§ 584. Assignment and reassignment of space

(a) AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator of General Services may assign or reassign space for an executive agency in any Federal Government-owned or leased building.

(2) REQUIREMENTS.—The Administrator's authority under paragraph (1) may be exercised only—

(A) in accordance with policies and directives the President prescribes under section 121(a) of this title;

(B) after consultation with the head of the executive agency affected; and

(C) on a determination by the Administrator that the assignment or reassignment is advantageous to the Government in terms of economy, efficiency, or national security.

(b) PRIORITY FOR PUBLIC ACCESS.—In assigning space on a major pedestrian access level (other than space leased under section 581(h)(1) or (2) of this title), the Administrator shall, where practicable, give priority to federal activities requiring regular contact with the public. If the space is not available, the Administrator shall provide space with maximum ease of access to building entrances.

§ 585. Lease agreements

(a) IN GENERAL.—

(1) AUTHORITY.—The Administrator of General Services may enter into a lease agreement with a person, copartnership, corporation, or other public or private entity for the accommodation of a federal agency in a building (or improvement) which is in existence or being erected by the lessor to accommodate the federal agency. The Administrator may assign and reassign the leased space to a federal agency.

(2) TERMS.—A lease agreement under this subsection shall be on terms the Administrator considers to be in the interest of the Federal Government and necessary for the accommodation of the federal agency. However, the lease agreement may not bind the Government for more than 20 years and the obligation of amounts for a lease under this subsection is limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31.

(b) SUBLEASE.—

(1) APPLICATION.—This subsection applies to rent received if the Administrator—

(A) determines that an unexpired portion of a lease of space to the Government is surplus property; and

(B) disposes of the property by sublease.

(2) USE OF RENT.—Notwithstanding section 571(a) of this title, the Administrator may deposit rent received into the Federal Buildings Fund. The Administrator may defray from the fund any costs necessary to provide services to the Government's lessee and to pay the rent (not otherwise provided for) on the lease of the space to the Government.

(c) AMOUNTS FOR RENT AVAILABLE FOR LEASE OF BUILDINGS ON GOVERNMENT LAND.—Amounts made available to the General Services Administration for the payment of rent may be used to lease space, for a period of not more than 30 years, in buildings erected on land owned by the Government.

§ 586. Charges for space and services

(a) DEFINITION.—In this section, ''space and services'' means space, services, quarters, maintenance, repair, and other facilities.

(b) CHARGES BY ADMINISTRATOR OF GENERAL SERVICES.—

(1) IN GENERAL.—The Administrator of General Services shall impose a charge for furnishing space and services.

(2) RATES.—The Administrator shall, from time to time, determine the rates to be charged for furnishing space and services and shall prescribe regulations providing for the rates. The rates shall approximate commercial charges for comparable space and services. However, for a building for which the Administrator is responsible for alterations only (as the term ''alter'' is defined in section 3301(a) of this title), the rates shall be fixed to recover only the approximate cost incurred in providing alterations.

(3) EXEMPTIONS.—The Administrator may exempt anyone from the charges required by this subsection when the Administrator determines that charges would be infeasible or impractical. To the extent an exemption is granted, appropriations to the General Services Administration are authorized to reimburse the Federal Buildings Fund for any loss of revenue.

(c) CHARGES BY EXECUTIVE AGENCIES.—

(1) IN GENERAL.—An executive agency, other than the Administration, may impose a charge for furnishing space and services at rates approved by the Administrator.

(2) CREDITING AMOUNTS RECEIVED.—An amount an executive agency receives under this subsection shall be credited to the appropriation or fund initially charged for providing the space or service. However, amounts in excess of actual operating and maintenance costs shall be credited to miscellaneous receipts unless otherwise provided by law.

(d) RENT PAYMENTS FOR LEASE SPACE.—An agency may make rent payments to the Administration for lease space relating to expansion needs of the agency. Payment rates shall approximate commercial charges for comparable space as provided in subsection (b). Payments shall be deposited into the Federal Buildings Fund. The Administration may use amounts received under this subsection, in addition to amounts received as New Obligational Authority, in the Rental of Space activity of the Fund.

§ 587. Telecommuting and other alternative workplace arrangements

(a) DEFINITION.—In this section, the term ''telecommuting centers'' means flexiplace work telecommuting centers.

(b) TELECOMMUTING CENTERS ESTABLISHED BY ADMINISTRATOR OF GENERAL SERVICES.—

(1) ESTABLISHMENT.—The Administrator of General Services may acquire space for, establish, and equip telecommuting centers for use in accordance with this subsection.

(2) USE.—A telecommuting center may be used by employees of federal agencies, state and local governments, and the private sector. The Administrator shall give federal employees priority in using a telecommuting center. The Administrator may make a telecommuting center available for use by others to the extent it is not fully utilized by federal employees.

(3) USER FEES.—The Administrator shall charge a user fee for the use of a telecommuting center. The amount of the user fee shall approximate commercial charges for comparable space and services. However, the user fee may not be less than necessary to pay the cost of establishing and operating the telecommuting center, including the reasonable cost of renovation and replacement of furniture, fixtures, and equipment.

(4) DEPOSIT AND USE OF FEES.—The Administrator may—

(A) deposit user fees into the Federal Buildings Fund and use the fees to pay costs incurred in establishing and operating the telecommuting center; and

(B) accept and retain income received by the General Services Administration, from federal agencies and non-federal sources, to defray costs directly associated with the functions of telecommuting centers.

(c) DEVELOPMENT OF ALTERNATIVE WORKPLACE ARRANGEMENTS BY EXECUTIVE AGENCIES AND OTHERS.—

(1) DEFINITION.—In this subsection, the term ''alternative workplace arrangements'' includes telecommuting, hoteling, virtual offices, and other distributive work arrangements.

(2) CONSIDERATION BY EXECUTIVE AGENCIES.—In considering whether to acquire space, quarters, buildings, or other facilities for use by employees, the head of an executive agency shall consider whether needs can be met using alternative workplace arrangements.

(3) GUIDANCE FROM ADMINISTRATOR.—The Administrator may provide guidance, assistance, and oversight to any person regarding the establishment and operation of alternative workplace arrangements.

(d) AMOUNTS AVAILABLE FOR FLEXIPLACE WORK TELECOMMUTING PROGRAMS.—

(1) DEFINITION.—In this subsection, the term ''flexiplace work telecommuting program'' means a program under which employees of a department or agency set out in paragraph (2) are permitted to perform all or a portion of their duties at a telecommuting center established under this section or other federal law.

(2) MINIMUM FUNDING.—For each of the following departments and agencies, in each fiscal year at least $50,000 of amounts made available for salaries and expenses is available only for carrying out a flexiplace work telecommuting program:

(A) Department of Agriculture.
(B) Department of Commerce.
(C) Department of Defense.
(D) Department of Education.
(E) Department of Energy.
(F) Department of Health and Human Services.
(G) Department of Housing and Urban Development.
(H) Department of the Interior.
(I) Department of Justice.
(J) Department of Labor.
(K) Department of State.
(L) Department of Transportation.
(M) Department of the Treasury.
(N) Department of Veterans Affairs.
(O) Environmental Protection Agency.
(P) General Services Administration.
(Q) Office of Personnel Management.
(R) Small Business Administration.

(S) Social Security Administration.
(T) United States Postal Service.

§ 588. Movement and supply of office furniture

(a) DEFINITION.—In this section, the term ''controlled space'' means a substantial and identifiable segment of space (such as a building, floor, or wing) in a location that the Administrator of General Services controls for purposes of assignment of space.

(b) APPLICATION.—This section applies if an agency (or unit of the agency), moves from one controlled space to another, whether in the same or a different location.

(c) MOVING EXISTING FURNITURE.—The furniture and furnishings used by an agency (or organizational unit of the agency) shall be moved only if the Administrator determines, after consultation with the head of the agency and with due regard for the program activities of the agency, that it would not be more economical and efficient to make suitable replacements available in the new controlled space.

(d) PROVIDING REPLACEMENT FURNITURE.—In the absence of a determination under subsection (c), suitable furniture and furnishings for the new controlled space shall be provided from stocks under the control of the moving agency or from stocks available to the Administrator, whichever the Administrator determines to be more economical and efficient. However, the same or similar items may not be provided from both sources.

(e) CONTROL OF REPLACEMENT FURNITURE.—If furniture and furnishings for a new controlled space are provided from stocks available to the Administrator, the items being provided remain in the control of the Administrator.

(f) CONTROL OF FURNITURE NOT MOVED.—

(1) IN GENERAL.—If furniture and furnishings for a new controlled space are provided from stocks available to the Administrator, the furniture and furnishings that were previously used by the moving agency (or unit of the agency) pass to the control of the Administrator.

(2) REIMBURSEMENT.—

(A) IN GENERAL.—Furniture and furnishings passing to the control of the Administrator under this section pass without reimbursement.

(B) EXCEPTION FOR TRUST FUND.—If furniture and furnishings that were purchased from a trust fund pass to the control of the Administrator under this section, the Administrator shall reimburse the trust fund for the fair market value of the furniture and furnishings.

(3) REVOLVING OR WORKING CAPITAL FUND.—If furniture and furnishings are carried as assets of a revolving or working capital fund at the time they pass to the control of the Administrator under this section, the net book value of the furniture and furnishings shall be written off and the capital of the fund is diminished by the amount of the write-off.

§ 589. Installation, repair, and replacement of sidewalks

(a) IN GENERAL.—An executive agency may install, repair, and replace sidewalks around buildings, installations, property, or grounds that are—

(1) under the agency's control;

(2) owned by the Federal Government; and

(3) located in a State, the District of Columbia, Puerto Rico, or a territory or possession of the United States.

(b) REIMBURSEMENT.—Subsection (a) may be carried out by—

(1) reimbursement to a State or political subdivision of a State, the District of Columbia, Puerto Rico, or a territory or possession of the United States; or

(2) a means other than reimbursement.

(c) REGULATIONS.—Subsection (a) shall be carried out in accordance with regulations the Administrator of General Services prescribes with the approval of the Director of the Office of Management and Budget.

(d) USE OF AMOUNTS.—Amounts appropriated to an executive agency for installation, repair, and maintenance, generally, are available to carry out this section.

(e) LIABILITY.—This section does not increase or enlarge the tort liability of the Government for injuries to individuals or damages to property.

§ 590. Child care

(a) GUIDANCE, ASSISTANCE, AND OVERSIGHT.—Through the General Services Administration's licensing agreements, the Administrator of General Services shall provide guidance, assistance, and oversight to federal agencies for the development of child care centers to provide economical and effective child care for federal workers.

(b) ALLOTMENT OF SPACE IN FEDERAL BUILDINGS.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) CHILD CARE PROVIDER.—The term ''child care provider'' means an individual or entity that provides or proposes to provide child care services for federal employees.

(B) ALLOTMENT OFFICER.—The term ''allotment officer'' means an officer or agency of the Federal Government charged with the allotment of space in federal buildings.

(2) ALLOTMENT.—A child care provider may be allotted space in a federal building by an allotment officer if—

(A) the child care provider applies to the allotment officer in the community or district in which child care services are to be provided;

(B) the space is available; and

(C) the allotment officer determines that—

(i) the space will be used to provide child care services to children of whom at least 50 percent have one parent or guardian employed by the Government; and

(ii) the child care provider will give priority to federal employees for available child care services in the space.

(c) PAYMENT FOR SPACE AND SERVICES.—

(1) DEFINITION.—For purposes of this subsection, the term ''services'' includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, classroom furnishings and equipment, kitchen appliances, playground equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone services), and security systems (including installation and other expenses associated with security systems), including replacement equipment, as needed.

(2) NO CHARGE.—Space allotted under subsection (b) may be provided without charge for rent or services.

(3) REIMBURSEMENT FOR COSTS.—For space allotted under subsection (b), if there is an agreement for the payment of costs associated with providing space or services, neither title 31, nor any other law, prohibits or restricts payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(d) PAYMENT OF OTHER COSTS.—If an agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other federal or leased space, the agency or the Administration may—

(1) pay accreditation fees, including renewal fees, for the child care facility to be accredited by a nationally recognized early-childhood professional organization;

(2) pay travel and per diem expenses for representatives of the child care facility to attend the annual Administration child care conference; and

(3) enter into a consortium with one or more private entities under which the private entities assist in defraying costs associated with the salaries and benefits for personnel providing services at the facility.

(e) REIMBURSEMENT FOR EMPLOYEE TRAINING.—Notwithstanding section 1345 of title 31, an agency, department, or instrumentality of the Government that provides or proposes to provide child care services for federal employees may reimburse a federal employee or any individual employed to provide child care services for travel, transportation, and subsistence expenses incurred for training classes, conferences, or other meetings in connection with providing the services. A per diem allowance made under this subsection may not exceed the rate specified in regulations prescribed under section 5707 of title 5.

(f) CRIMINAL HISTORY BACKGROUND CHECKS.—

(1) DEFINITION.—In this subsection, the term ''executive facility'' means a facility owned or leased by an office or entity within the executive branch of the Government. The term includes a facility owned or leased by the General Services Administration on behalf of an office or entity within the judicial branch of the Government.

(2) IN GENERAL.—All workers in a child care center located in an executive facility shall undergo a criminal history background check as defined in section 231 of the Crime Control Act of 1990 (42 U.S.C. 13041).

(3) NONAPPLICATION TO LEGISLATIVE BRANCH FACILITIES.—This subsection does not apply to a facility owned by or leased on behalf of an office or entity within the legislative branch of the Government.

(g) APPROPRIATED AMOUNTS FOR AFFORDABLE CHILD CARE.—

(1) DEFINITION.—For purposes of this subsection, the term ''Executive agency'' has the meaning given that term in section 105 of title 5, but does not include the General Accounting Office.

(2) IN GENERAL.—In accordance with regulations the Office of Personnel Management prescribes, an Executive agency that provides or proposes to provide child care services for federal employees may use appropriated amounts that are otherwise available for salaries and expenses to provide child care in a federal or leased facility, or through contract, for civilian employees of the agency.

(3) AFFORDABILITY.—Amounts used pursuant to paragraph (2) shall be applied to improve the affordability of child care for lower income federal employees using or seeking to use the child care services.

(4) ADVANCES.—Notwithstanding section 3324 of title 31, amounts may be paid in advance to licensed or regulated child care providers for services to be rendered during an agreed period.

(5) NOTIFICATION.—No amounts made available by law may be used to implement this subsection without advance notice to the Committees on Appropriations of the House of Representatives and the Senate.

§ 591. Purchase of electricity

(a) GENERAL LIMITATION ON USE OF AMOUNTS.—A department, agency, or instrumentality of the Federal Government may not use amounts appropriated or made available by any law to purchase electricity in a manner inconsistent with state law governing the provision of electric utility service, including—

(1) state utility commission rulings; and

(2) electric utility franchises or service territories established under state statute, state regulation, or state-approved territorial agreements.

(b) EXCEPTIONS.—

(1) ENERGY SAVINGS.—This section does not preclude the head of a federal agency from entering into a contract under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287).

(2) ENERGY SAVINGS FOR MILITARY INSTALLATIONS.—This section does not preclude the Secretary of a military department from—

(A) entering into a contract under section 2394 of title 10; or

(B) purchasing electricity from any provider if the Secretary finds that the utility having the applicable state-approved franchise (or other service authorization) is unwilling or unable to meet unusual standards of service reliability that are necessary for purposes of national defense.

§ 592. Federal Buildings Fund

(a) EXISTENCE.—There is in the Treasury a fund known as the Federal Buildings Fund.

(b) DEPOSITS.—

(1) IN GENERAL.—The following revenues and collections shall be deposited into the Fund:

(A) User charges under section 586(b) of this title, payable in advance or otherwise.

(B) Proceeds from the lease of federal building sites or additions under section 581(d) of this title.

(C) Receipts from carriers and others for loss of, or damage to, property belonging to the Fund.

(2) REIMBURSEMENTS FOR SPECIAL SERVICES.—This subchapter does not preclude the Administrator of General Services from providing special services, not included in the standard level user charge, on a reimbursable basis. The reimbursements may be credited to the Fund.

(3) TRANSFER OF SURPLUS AMOUNTS.—To prevent the accumulation of excessive surpluses in the Fund, in any fiscal year an amount specified in an appropriation law may be transferred out of the Fund and deposited as miscellaneous receipts in the Treasury.

(c) USES.—

(1) IN GENERAL.—Deposits in the Fund are available for real property management and related activities in the amounts specified in annual appropriation laws without regard to fiscal year limitations.

(2) SALARIES AND EXPENSES RELATED TO CONSTRUCTION PROJECTS OR PLANNING PROGRAMS.—Deposits in the Fund that are available pursuant to annual appropriation laws may be transferred and consolidated on the books of the Treasury into a special account in accordance with, and for the purposes specified in, section 3176 of this title.

(3) REPAYMENT OF GENERAL SERVICES ADMINISTRATION BORROWING FROM FEDERAL FINANCING BANK.—The Administrator, in accordance with rules and procedures that the Office of Management and Budget and the Secretary of the Treasury establish, may transfer from the Fund an amount necessary to repay the principal amount of a General Services Administration borrowing from the Federal Financing Bank, if the borrowing is a legal obligation of the Fund.

(4) BUILDINGS DEEMED FEDERALLY OWNED.—For purposes of amounts authorized to be expended from the Fund, the following are deemed to be federally owned buildings:

(A) A building constructed pursuant to the purchase contract authority of section 5 of the Public Buildings Amendments of 1972 (Public Law 92–313, 86 Stat. 219).

(B) A building occupied pursuant to an installment purchase contract.

(C) A building under the control of a department or agency, if alterations of the building are required in connection with moving the department or agency from a former building that is, or will be, under the control of the Administration.

(d) ENERGY MANAGEMENT PROGRAMS.—

(1) RECEIVING CASH INCENTIVES.—The Administrator may receive amounts from rebates or other cash incentives related to energy savings and shall deposit the amounts in the Fund for use as provided in paragraph (4).

(2) RECEIVING GOODS OR SERVICES.—The Administrator may accept, from a utility, goods or services that enhance the energy efficiency of federal facilities.

(3) ASSIGNMENT OF ENERGY REBATES.—In the administration of real property that the Administrator leases and for which the Administrator pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in the real property if the payback period for the improvement is at least 2 years less than the remainder of the term of the lease.

(4) OBLIGATING AMOUNTS FOR ENERGY MANAGEMENT IMPROVEMENT PROGRAMS.—In addition to amounts appropriated for energy management improvement programs and without regard to subsection (c)(1), the Administrator may obligate for those programs—

(A) amounts received and deposited in the Fund under paragraph (1);

(B) goods and services received under paragraph (2); and

(C) amounts the Administrator determines are not needed for other authorized projects and that are otherwise available to implement energy efficiency programs.

(e) RECYCLING PROGRAMS.—

(1) RECEIVING AMOUNTS.—The Administrator may receive amounts from the sale of recycled materials and shall deposit the amounts in the Fund for use as provided in paragraph (2).

(2) OBLIGATING AMOUNTS FOR RECYCLING PROGRAMS.—In addition to amounts appropriated for such purposes and without regard to subsection (c)(1), the Administrator may obligate amounts received and deposited in the Fund under paragraph (1) for programs which—

(A) promote further source reduction and recycling programs; and

(B) encourage employees to participate in recycling programs by providing financing for child care.

(f) ADDITIONAL AUTHORITY RELATED TO ENERGY MANAGEMENT AND RECYCLING PROGRAMS.—The Fund may receive, in the form of rebates, cash incentives or otherwise, any revenues, collections, or other income related to energy savings or recycling efforts. Amounts received under this subsection remain in the Fund until expended and remain available for federal energy management improvement programs, recycling programs, or employee programs that are authorized by law or that the Administrator considers appropriate. The Administration may use amounts received under this subsection, in addition to amounts received as New Obligational Authority, in activities of the Fund as necessary.

§ 593. Protection for veterans preference employees

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

(1) COVERED SERVICES.—The term ''covered services'' means any guard, elevator operator, messenger, or custodial services.

(2) SHELTERED WORKSHOP.—The term ''sheltered workshop'' means a sheltered workshop employing the severely handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

(b) IN GENERAL.—Except as provided in subsection (c), amounts made available to the Administration pursuant to section 592 of this title may not be obligated or expended to procure covered services by contract if an employee who was a permanent veterans preference employee of the Administration on November 19, 1995, would be terminated as a result.

(c) EXCEPTION.—Amounts made available to the Administration pursuant to section 592 of this title may be obligated and expended to procure covered services by contract with a sheltered workshop or, if sheltered workshops decline to contract for the provision of covered services, by competitive contract for a period of no longer than 5 years. When a competitive contract expires, or is terminated for any reason, the Administration shall again offer to procure the covered services by contract with a sheltered workshop before procuring the covered services by competitive contract.

SUBCHAPTER VI—MOTOR VEHICLE POOLS AND TRANSPORTATION SYSTEMS

§ 601. Purposes

In order to provide an economical and efficient system for transportation of Federal Government personnel and property consistent with section 101 of this title, the purposes of this subchapter are—

(1) to establish procedures to ensure safe operation of motor vehicles on Government business;

(2) to provide for proper identification of Government motor vehicles;

(3) to establish an effective means to limit the use of Government motor vehicles to official purposes;

(4) to reduce the number of Government-owned vehicles to the minimum necessary to transact public business; and

(5) to provide wherever practicable for centrally operated interagency pools or systems for local transportation of Government personnel and property.

§ 602. Authority to establish motor vehicle pools and transportation systems

(a) IN GENERAL.—Subject to section 603 of this title, and regulations issued under section 603, the Administrator of General Services shall—

(1) take over from executive agencies and consolidate, or otherwise acquire, motor vehicles and related equipment and supplies;

(2) provide for the establishment, maintenance, and operation (including servicing and storage) of motor vehicle pools or systems; and

(3) furnish motor vehicles and related services to executive agencies for the transportation of property and passengers.

(b) METHODS OF PROVIDING VEHICLES AND SERVICES.—As determined by the Administrator, motor vehicles and related services may be furnished by providing an agency with—

(1) Federal Government-owned motor vehicles;

(2) the use of motor vehicles, under rental or other arrangements, through private fleet operators, taxicab companies, or local or interstate common carriers; or

(3) both.

(c) RECIPIENTS OF VEHICLES AND SERVICES.—The Administrator shall, so far as practicable, furnish motor vehicles and related services under this section to any federal agency, mixed-ownership Government corporation (as defined in chapter 91 of title 31), or the District of Columbia, on its request.

§ 603. Process for establishing motor vehicle pools and transportation systems

(a) DETERMINATION REQUIREMENT.—

(1) IN GENERAL.—The Administrator of General Services may carry out section 602 only if the Administrator determines, after consultation with the agencies concerned and with due regard to their program activities, that doing so is advantageous to the Federal Government in terms of economy, efficiency, or service.

(2) ELEMENTS OF THE DETERMINATION.—A determination under this section must be in writing. For each motor vehicle pool or system, the determination must set forth an analytical justification that includes—

(A) a detailed comparison of estimated costs for present and proposed modes of operation; and

(B) a showing that savings can be realized by the establishment, maintenance, and operation of a motor vehicle pool or system.

(b) REGULATIONS RELATED TO ESTABLISHMENT.—

(1) IN GENERAL.—The President shall prescribe regulations establishing procedures to carry out section 602 of this title.

(2) ELEMENTS OF THE REGULATIONS.—The regulations shall provide for—

(A) adequate notice to an executive agency of any determination that affects the agency or its functions;

(B) independent review and decision as directed by the President of any determination disputed by an agency, with the possibility that the decision may include a partial or complete exemption of the agency from the determination; and

(C) enforcement of determinations that become effective under the regulations.

(3) EFFECT OF THE REGULATIONS.—A determination under subsection (a) is binding on an agency only as provided in regulations issued under this subsection.

§ 604. Treatment of assets taken over to establish motor vehicle pools and transportation systems

(a) REIMBURSEMENT.—

(1) REQUIREMENT.—When the Administrator of General Services takes over motor vehicles or related equipment or supplies under section 602 of this title, reimbursement is required if the property is taken over from—

(A) a Government corporation; or

(B) an agency, if the agency acquired the property through unreimbursed expenditures made from a revolving or trust fund authorized by law.

(2) AMOUNT.—The Administrator shall reimburse a Government corporation, or a fund through which an agency acquired property, by an amount equal to the fair market value of the property. If the Administrator subsequently returns property of a similar kind under section 610 of this title, the Government corporation or the fund shall reimburse the Administrator by an amount equal to the fair market value of the property returned.

(b) ADDITION TO GENERAL SUPPLY FUND.—If the Administrator takes over motor vehicles or related equipment or supplies under section 602 of this title but reimbursement is not required under subsection (a), the value of the property taken over, as determined by the Administrator, may be added to the capital of the General Supply Fund. If the Administrator subsequently returns property of a similar kind under section 610 of this title, the value of the property may be deducted from the Fund.

§ 605. Payment of costs

(a) USE OF GENERAL SUPPLY FUND TO COVER COSTS.—The General Supply Fund provided for in section 321 of this title is available for use by or under the direction and control of the Administrator of General Services to pay the costs of carrying out section 602 of this title, including the cost of purchasing or renting motor vehicles and related equipment and supplies.

(b) SETTING PRICES TO RECOVER COSTS.—

(1) IN GENERAL.—The Administrator shall set prices for furnishing motor vehicles and related services under section 602 of this title. Prices shall be set to recover, so far as practicable, all costs of carrying out section 602 of this title.

(2) INCREMENT FOR REPLACEMENT COST.—In the Administrator's discretion, prices may include an increment for the estimated replacement cost of motor vehicles and related equipment and supplies. Notwithstanding section 321(f)(1) of this title, the increment may be retained as a part of the capital of the General Supply Fund but is available only to replace motor vehicles and related equipment and supplies.

(c) ACCOUNTING METHOD.—The purchase price of motor vehicles and related equipment, and any increment for estimated replacement cost, shall be recovered only through charges for the cost of amortization. Costs shall be determined, and financial reports prepared, in accordance with the accrual accounting method.

§ 606. Regulations related to operation

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to govern executive agencies in authorizing civilian personnel to operate Federal Government-owned motor vehicles for official purposes within the States of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) ELEMENTS OF THE REGULATIONS.—The regulations shall prescribe standards of physical fitness for authorized operators. The regulations may require operators and prospective operators to obtain state and local licenses or permits that are required to operate similar vehicles for other than official purposes.

(c) AGENCY ORDERS.—The head of each executive agency shall issue orders and directives necessary for compliance with the regulations. The orders and directives shall provide for—

(1) periodically testing the physical fitness of operators and prospective operators; and

(2) suspension and revocation of authority to operate.

§ 607. Records

The Administrator of General Services shall maintain an accurate record of the cost of establishing, maintaining, and operating each motor vehicle pool or system established under section 602 of this title.

§ 608. Scrip, tokens, tickets

The Administrator of General Services, in the operation of motor vehicle pools or systems under this subchapter, may provide for the sale and use of scrip, tokens, tickets, and similar devices to collect payment.

§ 609. Identification of vehicles

(a) IN GENERAL.—Under regulations prescribed by the Administrator of General Services, every motor vehicle acquired and used for official purposes within the United States, or the territories or possessions of the United States, by any federal agency or by the District of Columbia shall be conspicuously identified by showing, on the vehicle—

(1)(A) the full name of the department, establishment, corporation, or agency that uses the vehicle and the service for which the vehicle is used; or

(B) a title that readily identifies the department, establishment, corporation, or agency that uses the vehicle and that is descriptive of the service for which the vehicle is used; and

(2) the legend ''For official use only''.

(b) EXCEPTIONS.—The regulations prescribed pursuant to this section may provide for exemptions when conspicuous identification would interfere with the purpose for which a vehicle is acquired and used.

§ 610. Discontinuance of motor vehicle pool or system

(a) IN GENERAL.—The Administrator of General Services shall discontinue a motor vehicle pool or system if there are no actual savings realized (based on accounting as provided in section 605 of this title) during a reasonable period of not longer than two successive fiscal years.

(b) RETURN OF COMPARABLE PROPERTY.—If a motor vehicle pool or system is discontinued, the Administrator shall return to each agency involved motor vehicles and related equipment and supplies similar in kind and reasonably comparable in value to any motor vehicles and related equipment and supplies which were previously taken over by the Administrator.

§ 611. Duty to report violations

During the regular course of the duties of the Administrator of General Services, if the Administrator becomes aware of a violation of section 1343, 1344, or 1349(b) of title 31 or of section 641 of title 18 involving the conversion by a Federal Government official or employee of a Government-owned or leased motor vehicle to the official or employee's own use or to the use of others, the Administrator shall report the violation to the head of the agency in which the official or employee is employed, for further investigation and either appropriate disciplinary action under section 1343, 1344, or 1349(b) or, if appropriate, referral to the Attorney General for prosecution under section 641.

CHAPTER 7—FOREIGN EXCESS PROPERTY

§ 701. Administrative

(a) POLICIES PRESCRIBED BY THE PRESIDENT.—The President may prescribe policies that the President considers necessary to carry out this chapter. The policies must be consistent with this chapter.

(b) EXECUTIVE AGENCY RESPONSIBILITY.—

(1) IN GENERAL.—The head of an executive agency that has foreign excess property is responsible for the disposal of the property.

(2) CONFORMANCE TO POLICIES.—In carrying out functions under this chapter, the head of an executive agency shall—

(A) use the policies prescribed by the President under subsection (a) for guidance; and

(B) dispose of foreign excess property in a manner that conforms to the foreign policy of the United States.

(3) DELEGATION OF AUTHORITY.—The head of an executive agency may—

(A) delegate authority conferred by this chapter to an official in the agency or to the head of another executive agency; and

(B) authorize successive redelegation of authority conferred by this chapter.

(4) EMPLOYMENT OF PERSONNEL.—As necessary to carry out this chapter, the head of an executive agency may—

(A) appoint and fix the pay of personnel in the United States, subject to chapters 33 and 51 and subchapter III of chapter 53 of title 5; and

(B) appoint personnel outside the States of the United States and the District of Columbia, without regard to chapter 33 of title 5.

(c) SPECIAL RESPONSIBILITIES OF SECRETARY OF STATE.—

(1) USE OF FOREIGN CURRENCIES AND CREDITS.—The Secretary of State may use foreign currencies and credits acquired by the United States under section 704(b)(2) of this title—

(A) to carry out the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.);

(B) to carry out the Foreign Service Buildings Act, 1926 (22 U.S.C. 292 et seq.); and

(C) to pay other governmental expenses payable in local currencies.

(2) RENEWAL OF CERTAIN AGREEMENTS.—Except as otherwise directed by the President, the Secretary of State shall continue to perform functions under agreements in effect on July 1, 1949, related to the disposal of foreign excess property. The Secretary of State may amend, modify, and renew the agreements. Foreign currencies or credits the Secretary of State acquires under the agreements shall be administered in accordance with procedures that the Secretary of the Treasury may establish. Foreign currencies or credits reduced to United States currency must be deposited in the Treasury as miscellaneous receipts.

§ 702. Return of foreign excess property to United States

(a) IN GENERAL.—Under regulations prescribed pursuant to subsection (b), foreign excess property may be returned to the United States for handling as excess or surplus property under subchapter II of chapter 5 of this title or section 549 or 551 of this title when the head of the executive agency concerned, or the Administrator of General Services after consultation with the agency head, determines that return of the property to the United States for such handling is in the interest of the United States.

(b) REGULATIONS.—The Administrator shall prescribe regulations to carry out this section. The regulations must require that transportation costs for returning foreign excess property to the United States are paid by the federal agency, state agency, or donee receiving the property.

§ 703. Donation of medical supplies for use in foreign country

(a) APPLICATION.—This section applies to medical materials or supplies that are in a foreign country but that would, if situated within the United States, be available for donation under subchapter III of chapter 5 of this title.

(b) IN GENERAL.—An executive agency may donate medical materials or supplies that are not disposed of under section 702 of this title.

(c) CONDITIONS.—A donation under this section is subject to the following conditions:

(1) The medical materials and supplies must be donated for use in a foreign country.

(2) The donation must be made to a nonprofit medical or health organization, which may be an organization qualified to receive assistance under section 214(b) or 607 of the Foreign Assistance Act of 1961 (22 U.S.C. 2174(b), 2357).

(3) The donation must be made without cost to the donee (except for costs of care and handling).

§ 704. Other methods of disposal

(a) IN GENERAL.—Foreign excess property not disposed of under section 702 or 703 of this title may be disposed of as provided in this section.

(b) METHODS OF DISPOSAL.—

(1) SALE, EXCHANGE, LEASE, OR TRANSFER.—The head of an executive agency may dispose of foreign excess property by sale, exchange, lease, or transfer, for cash, credit or other property, with or without warranty, under terms and conditions the head of the executive agency considers proper.

(2) EXCHANGE FOR FOREIGN CURRENCY OR CREDIT.—If the head of an executive agency determines that it is in the interest of the United States, foreign excess property may be exchanged for—

(A) foreign currencies or credits; or

(B) substantial benefits or the discharge of claims resulting from the compromise or settlement of claims in accordance with law.

(3) ABANDONMENT, DESTRUCTION, OR DONATION.—The head of an executive agency may authorize the abandonment, destruction, or donation of foreign excess property if the property has no commercial value or if estimated costs of care and handling exceed the estimated proceeds from sale.

(c) ADVERTISING.—The head of an executive agency may dispose of foreign excess property without advertising if the head of the executive agency finds that disposal without advertising is the most practicable and advantageous means for the Federal Government to dispose of the property.

(d) TRANSFER OF TITLE.—The head of an executive agency may execute documents to transfer title or other interests in, and take other action necessary or proper to dispose of, foreign excess property.

§ 705. Handling of proceeds from disposal

(a) IN GENERAL.—This section applies to proceeds from the sale, lease, or other disposition of foreign excess property under this chapter.

(b) FOREIGN CURRENCIES OR CREDITS.—Proceeds in the form of foreign currencies or credits, must be administered in accordance with procedures that the Secretary of the Treasury may establish.

(c) UNITED STATES CURRENCY.—

(1) SEPARATE FUND IN TREASURY.—Section 572(a) of this title applies to proceeds of foreign excess property disposed of for United States currency under this chapter.

(2) DEPOSITED IN TREASURY AS MISCELLANEOUS RECEIPTS.—Except as provided in paragraph (1), proceeds in the form of United States currency, including foreign currencies or credits that are reduced to United States currency, must be deposited in the Treasury as miscellaneous receipts.

(d) SPECIAL ACCOUNT FOR REFUNDS OR PAYMENTS FOR BREACH.—

(1) DEPOSITS.—A federal agency that disposes of foreign excess property under this chapter may deposit, in a special account in the Treasury, amounts of the proceeds of the dispositions that the agency decides are necessary to permit—

(A) appropriate refunds to purchasers for dispositions that are rescinded or that do not become final; and

(B) payments for breach of warranty.

(2) WITHDRAWALS.—A federal agency that deposits proceeds in a special account under paragraph (1) may withdraw amounts to be refunded or paid from the account without regard to the origin of the amounts withdrawn.

CHAPTER 9—URBAN LAND USE

§ 901. Purpose and policy

The purpose of this chapter is to promote harmonious intergovernmental relations and encourage sound planning, zoning, and land use practices by prescribing uniform policies and procedures for the Administrator of General Services to acquire, use, and dispose of land in urban areas. To the greatest extent practicable, urban land transactions entered into for the General Services Administration and other federal agencies shall be consistent with zoning and land use practices and with the planning and development objectives of local governments and planning agencies.

§ 902. Definitions

In this chapter, the following definitions apply:

(1) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''unit of general local government'' means a city, county, town, parish, village, or other general-purpose political subdivision of a State.

(2) URBAN AREA.—The term ''urban area'' means—

(A) a geographical area within the jurisdiction of an incorporated city, town, borough, village, or other unit of general local government, except a county or parish, having a population of at least 10,000 inhabitants;

(B) that portion of the geographical area within the jurisdiction of a county, town, township, or similar governmental entity which contains no incorporated unit of general local government but has a population density of at least 1,500 inhabitants per square mile; and

(C) that portion of a geographical area having a population density of at least 1,500 inhabitants per square mile and situated adjacent to the boundary of an incorporated unit of general local government which has a population of at least 10,000.

§ 903. Acquisition and use

(a) NOTICE TO LOCAL GOVERNMENT.—To the extent practicable, before making a commitment to acquire real property situated in an urban area, the Administrator of General Services shall give notice of the intended acquisition and the proposed use of the property to the unit of general local government exercising zoning and land use jurisdiction. If the Administrator determines that providing advance notice would adversely impact the acquisition, the Administrator shall give notice of the acquisition and the proposed use of the property immediately after the property is acquired.

(b) OBJECTIONS TO ACQUISITION OR CHANGE OF USE.—In the acquisition or change of use of real property situated in an urban area as a site for public building, if the unit of general local government exercising zoning and land use jurisdiction objects on grounds that the proposed acquisition or change of use conflicts with zoning regulations or planning objectives, the Administrator shall, to the extent the Administrator determines is practicable, consider all the objections and comply with the zoning regulations and planning objectives.

§ 904. Disposal

(a) NOTICE TO LOCAL GOVERNMENT.—Before offering real property situated in an urban area for sale, the Administrator of General Services shall give reasonable notice to the unit of general local government exercising zoning and land use jurisdiction in order to provide an opportunity for zoning so that the property is used in accordance with local comprehensive planning described in subsection (c).

(b) NOTICE TO PROSPECTIVE PURCHASERS.—To the greatest extent practicable, the Administrator shall furnish to all prospective purchasers of real property situated in an urban area complete information concerning—

(1) current zoning regulations, prospective zoning requirements, and objectives for property if it is unzoned; and

(2)(A) the current availability of streets, sidewalks, sewers, water, street lights, and other service facilities; and

(B) the prospective availability of those service facilities if the property is included in local comprehensive planning described in subsection (c).

(c) LOCAL COMPREHENSIVE PLANNING.—Local comprehensive planning referred to in subsections (a) and (b) includes any of the following activities, to the extent the activity is directly related to the needs of a unit of general local government:

(1) As a guide for government policy and action, preparing general plans related to—

(A) the pattern and intensity of land use;

(B) the provision of public facilities (including transportation facilities) and other government services; and

(C) the effective development and use of human and natural resources.

(2) Preparing long-range physical and fiscal plans for government action.

(3) Programming capital improvements and other major expenditures, based on a determination of relative urgency, together with definitive financial planning for expenditures in the earlier years of a program.

(4) Coordinating related plans and activities of state and local governments and agencies.

(5) Preparing regulatory and administrative measures to support activities described in this subsection.

§ 905. Waiver

The procedures prescribed in sections 903 and 904 of this title may be waived during a period of national emergency proclaimed by the President.

CHAPTER 11—SELECTION OF ARCHITECTS AND ENGINEERS

§ 1101. Policy

The policy of the Federal Government is to publicly announce all requirements for architectural and engineering services and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

§ 1102. Definitions

In this chapter, the following definitions apply:

(1) AGENCY HEAD.—The term ''agency head'' means the head of a department, agency, or bureau of the Federal Government.

(2) ARCHITECTURAL AND ENGINEERING SERVICES.—The term ''architectural and engineering services'' means—

(A) professional services of an architectural or engineering nature, as defined by state law, if applicable, that are required to be performed or approved by a person licensed, registered, or certified to provide the services described in this paragraph;

(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

(C) other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their

employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

(3) FIRM.—The term ''firm'' means an individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture or engineering.

§ 1103. Selection procedure

(a) IN GENERAL.—These procedures apply to the procurement of architectural and engineering services by an agency head.

(b) ANNUAL STATEMENTS.—The agency head shall encourage firms to submit annually a statement of qualifications and performance data.

(c) EVALUATION.—For each proposed project, the agency head shall evaluate current statements of qualifications and performance data on file with the agency, together with statements submitted by other firms regarding the proposed project. The agency head shall conduct discussions with at least 3 firms to consider anticipated concepts and compare alternative methods for furnishing services.

(d) SELECTION.—From the firms with which discussions have been conducted, the agency head shall select, in order of preference, at least 3 firms that the agency head considers most highly qualified to provide the services required. Selection shall be based on criteria established and published by the agency head.

§ 1104. Negotiation of contract

(a) IN GENERAL.—The agency head shall negotiate a contract for architectural and engineering services at compensation which the agency head determines is fair and reasonable to the Federal Government. In determining fair and reasonable compensation, the agency head shall consider the scope, complexity, professional nature, and estimated value of the services to be rendered.

(b) ORDER OF NEGOTIATION.—The agency head shall attempt to negotiate a contract, as provided in subsection (a), with the most highly qualified firm selected under section 1103 of this title. If the agency head is unable to negotiate a satisfactory contract with the firm, the agency head shall formally terminate negotiations and then undertake negotiations with the next most qualified of the selected firms, continuing the process until an agreement is reached. If the agency head is unable to negotiate a satisfactory contract with any of the selected firms, the agency head shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached.

CHAPTER 13—PUBLIC PROPERTY

Sec.

§ 1301. Charge of property transferred to the Federal Government

(a) IN GENERAL.—Except as provided in subsection (b), the Administrator of General Services shall have charge of—

(1) all land and other property which has been or may be assigned, set off, or conveyed to the Federal Government in payment of debts;

(2) all trusts created for the use of the Government in payment of debts due the Government; and

(3) the sale and disposal of land—

(A) assigned or set off to the Government in payment of debt; or

(B) vested in the Government by mortgage or other security for the payment of debts.

(b) NONAPPLICATION.—This section does not apply to—

(1) real estate which has been or shall be assigned, set off, or conveyed to the Government in payment of debts arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.); or

(2) trusts created for the use of the Government in payment of debts arising under the Code and due the Government.

§ 1302. Lease of buildings

Except as otherwise specifically provided by law, the leasing of buildings and property of the Federal Government shall be for a money consideration only. The lease may not include any provision for the alteration, repair, or improvement of the buildings or property as a part of the consideration for the rent to be paid for the use and occupation of the buildings or property. Money derived from the rent shall be deposited in the Treasury as miscellaneous receipts.

§ 1303. Disposition of surplus real property

(a) DEFINITION.—In this section, the term ''federal agency'' means an executive department, independent establishment, commission, board, bureau, division, or office in the executive branch, or other agency of the Federal Government, including wholly owned Government corporations.

(b) ASSIGNMENT OF SPACE OR LEASE OR SALE OF PROPERTY.—

(1) ACTIONS OF ADMINISTRATOR.—When the President, on the recommendation of the Administrator of General Services, or the federal agency having control of any real property the agency acquires that is located outside of the District of Columbia, other than military or naval reservations, declares the property to be surplus to the needs of the agency, the Administrator—

(A) may assign space in the property to any federal agency;

(B) pending a sale, may lease the property for not more than 5 years and on terms the Administrator considers to be in the public interest; or

(C) may sell the property at public sale to the highest responsible bidder on terms and after public advertisement that the Administrator considers to be in the public interest.

(2) REVIEW OF DECISION TO ASSIGN SPACE.—If the federal agency to which space is assigned does not desire to occupy the space, the decision of the Administrator under paragraph (1)(A) is subject to review by the President.

(3) NEGOTIATED SALE.—If no bids which are satisfactory as to price and responsibility of the bidder are received as a result of public advertisement, the Administrator may sell the property by negotiation, on terms as may be considered to be to the best interest of the Government, but at a price not less than that bid by the highest responsible bidder.

(c) DEMOLITION.—The Administrator may demolish any building declared to be surplus to the needs of the Government under this section on deciding that demolition will be in the best interest of the Government. Before proceeding with the demolition, the Administrator shall inform the Secretary of the Interior in writing of the Administrator's intention to demolish the building, and shall not proceed with the demolition until receiving written notice from the Secretary that the building is not an historic building of national significance within the meaning of the Act of August 21, 1935 (16 U.S.C. 461 et seq.) (known as the Historic Sites, Buildings, and Antiquities Act). If the Secretary does not notify the Administrator of the Secretary's decision as to whether the building is an historic building of national significance within 90 days of the receipt of the notice of intention to demolish the building, the Administrator may proceed to demolish the building.

(d) REPAIRS AND ALTERATIONS TO ASSIGNED REAL PROPERTY.—When the Administrator, after investigation, decides that real property referred to in subsection (b) should be used for the accommodation of a federal agency, the Administrator may make any repairs or alterations that the Administrator considers necessary or advisable and may maintain and operate the property.

(e) PAYMENT BY FEDERAL AGENCIES.—

(1) ASSIGNED REAL PROPERTY.—To the extent that the appropriations of the General Services Administration not otherwise allocated are inadequate for repairs, alterations, maintenance, or operation, the Administrator may require each federal agency to which space has been assigned to pay promptly by check to the Administrator out of its appropriation for rent any part of the estimated or actual cost of the repairs, alterations, maintenance, and operation. Payment may be either in advance of, or on or during, occupancy of the space. The Administrator shall determine and equitably apportion the total amount to be paid among the agencies to whom space has been assigned.

(2) LEASED SPACES.—To the extent that the appropriations of the Administration not otherwise required are inadequate, the Administrator may require each federal agency to which leased space has been assigned to pay promptly by check to the Administrator out of its available appropriations any part of the estimated cost of rent, repairs, alterations, maintenance, operation, and moving. Payment may be either in advance or during occupancy of the space. When space in a building is occupied by two or more agencies, the Administrator shall determine and equitably apportion rental, operation, and other charges on the basis of the total amount of space leased.

(f) AUTHORIZATION OF APPROPRIATIONS.—Necessary amounts may be appropriated to cover the costs incident to the sale or lease of real property, or authorized demolition of buildings on the property, declared to be surplus to the needs of any federal agency under this section, and the care, maintenance, and protection of the property, including pay of employees, travel of Government employees, brokers' fees not in excess of rates paid for similar services in the community where the property is situated, appraisals, photographs, surveys, evidence of title and perfecting of defective titles, advertising, and telephone and telegraph charges. However, the agency remains responsible for the proper care, maintenance, and protection of the property until the Administrator assumes custody or other disposition of the property is made.

(g) REGULATIONS.—The Administrator may prescribe regulations as necessary to carry out this section.

§ 1304. Transfer of federal property to States

(a) OBSOLETE BUILDINGS AND SITES.—

(1) IN GENERAL.—The Administrator of General Services, in the Administrator's discretion, on terms the Administrator considers proper, and under regulations the Administrator may prescribe, may sell property described in paragraph (2) to a State or a political subdivision of a State for public use if the Administrator considers the sale to be in the best interest of the Federal Government.

(2) APPLICABLE PROPERTY.—The property referred to in paragraph (1) is any federal building, building site, or part of a building site under the Administrator's control that has been

replaced by a new structure and that the Administrator determines is no longer needed by the Government.

(3) PRICE.—The purchase price for a sale under this section must be at least 50 percent of the value of the land as appraised by the Administrator.

(4) PROCEEDS OF SALE.—The proceeds of a sale under this section shall be deposited in the Treasury as miscellaneous receipts.

(5) PAYMENT TERMS.—The Administrator may enter into a long term contract for the payment of the purchase price in installments that the Administrator considers fair and reasonable. The Administrator may waive any requirement for interest charges on deferred payment.

(6) CONVEYANCE.—The Administrator may convey property sold under this section by the usual quitclaim deed.

(b) WIDENING OF PUBLIC ROADS.—

(1) DEFINITION.—In this subsection, the term ''executive agency'' means an executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

(2) IN GENERAL.—When a State or a political subdivision of a State applies for a conveyance or transfer of real property of the Government in connection with an authorized widening of a public highway, street, or alley, the head of the executive agency that controls the affected real property may convey or transfer to the State or political subdivision, with or without consideration, an interest in the real property that the agency head determines is not adverse to the interests of the Government. A conveyance or transfer under this subsection is subject to terms and conditions the agency head considers necessary to protect the interests of the Government.

(3) LIMITATION ON TRANSFERS FOR HIGHWAY PURPOSES.—An interest in real property which can be transferred to a State or a political subdivision of a State for highway purposes under title 23 may not be conveyed or transferred under this subsection.

(4) LIMITATION ON ISSUANCE OF RIGHTS OF WAY.—Rights of way over, under, and through public lands and lands in the National Forest System may not be granted under this subsection.

§ 1305. Disposition of land acquired by devise

The General Services Administration may take custody, for disposal as excess property under this subtitle and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), of land acquired by the Federal Government by devise.

§ 1306. Disposition of abandoned or forfeited personal property

(a) DEFINITIONS.—In this section—

(1) AGENCY.—The term ''agency'' includes any executive department, independent establishment, board, commission, bureau, service, or division of the Federal Government, and any corporation in which the Government owns at least a majority of the stock.

(2) PROPERTY.—The term ''property'' means all personal property, including vessels, vehicles, and aircraft.

(b) VOLUNTARILY ABANDONED PROPERTY.—Property voluntarily abandoned to any agency in a way that vests title to the property in the Government may be retained by the agency and devoted to official use only. If the agency does not desire to retain the property, the head of the agency immediately shall notify the Administrator of General Services to that effect, and the Administrator, within a reasonable time, shall—

(1) order the agency to deliver the property to another agency that requests the property and that the Administrator believes should be given the property; or

(2) order disposal of the property as otherwise provided by law.

(c) FORFEITED PROPERTY.—

(1) AGENCY RETAINS PROPERTY.—An agency that seizes property that has been forfeited to the Government other than by court decree may retain the property and devote it only to official use instead of disposing of the property as otherwise provided by law if competent authority does not order the property returned to any claimant.

(2) AGENCY DOES NOT DESIRE TO RETAIN PROPERTY.—If the agency does not desire to retain the property, the head of the agency immediately shall notify the Administrator to that effect, and the property—

(A) if not ordered by competent authority to be returned to any claimant, or disposed of as otherwise provided by law, shall be delivered by the agency, on order of the Administrator given within a reasonable time, to another agency that requests the property and that the Administrator believes should be given the property; or

(B) on order of the Administrator given within a reasonable time, shall be disposed of as otherwise provided by law.

(d) PROPERTY SUBJECT TO COURT PROCEEDING FOR FORFEITURE.—

(1) NOTIFICATION OF ADMINISTRATOR.—If a proceeding has begun for the forfeiture of any property by court decree, the agency that seized the property immediately shall notify the Administrator and at the same time may file with the Administrator a request for the property for its official use.

(2) APPLICATION FOR COURT ORDER TO DELIVER PROPERTY.—

(A) IN GENERAL.—Before entry of a decree, the Administrator shall apply to the court to order delivery of the property in accordance with this paragraph.

(B) DELIVERY TO SEIZING AGENCY.—If the agency that seized the property files a request for the property under paragraph (1), the Administrator shall apply to the court to order delivery of the property to the agency that seized the property.

(C) DELIVERY TO OTHER REQUESTING AGENCY.—If the agency that seized the property does not file a request for the property under paragraph (1) but another agency requests the property, the Administrator shall apply to the court to order delivery of the property to the requesting agency if the Administrator believes that the requesting agency should be given the property.

(D) DELIVERY TO SEIZING AGENCY FOR TEMPORARY HOLDING.—If application to the court cannot be made under subparagraph (B) or (C) and the Administrator believes the property may later become necessary to any agency for official use, the Administrator shall apply to the court to order delivery of the property to the agency that seized the property, to be retained in its custody. Within a reasonable time, the Administrator shall order the agency to—

(i) deliver the property to another agency that requests the property and that the Administrator believes should be given the property; or

(ii) dispose of the property as otherwise provided by law.

(3) FORFEITURE DECREED.—If forfeiture is decreed and the property is not ordered by competent authority to be returned to any claimant, the court shall order delivery as provided in paragraph (2).

(4) WHEN NO APPLICATION MADE.—The court shall dispose of property for which no application is made in accordance with law.

(e) RETENTION OR DELIVERY OF PROPERTY DEEMED SALE.—Retention or delivery of forfeited or abandoned property under this section is deemed to be a sale of the property for the purpose of laws providing for informer's fees or remission or mitigation of a forfeiture. Property acquired under this section when no longer needed for official use shall be disposed of in the same manner as other surplus property.

(f) PAYMENT OF COSTS RELATED TO PROPERTY.—

(1) AVAILABILITY OF APPROPRIATIONS.—The appropriation available to an agency for the purchase, hire, operation, maintenance, and repair of any property is available for—

(A) the payment of expenses of operation, maintenance, and repair of property of the same kind the agency receives under this section for official use;

(B) the payment of a lien recognized and allowed under law;

(C) the payment of amounts found to be due a person on the authorized remission or mitigation of a forfeiture; and

(D) reimbursement of other agencies as provided in paragraph (2).

(2) PAYMENT AND REIMBURSEMENT OF CERTAIN COSTS.—The agency that receives property under this section shall pay the cost of hauling, transporting, towing, and storing the property. If the property is later delivered to another agency for official use under this section, the agency to which the property is delivered shall make reimbursement for all of those costs incurred prior to the date the property is delivered.

(g) REPORT.—With the approval of the Secretary of the Treasury, the Administrator may require an agency to make a report of all property abandoned to it or seized and the disposal of the property.

(h) ADMINISTRATIVE.—

(1) REGULATIONS.—With the approval of the Secretary, the Administrator may prescribe regulations necessary to carry out this section.

(2) OTHER LAWS NOT REPEALED.—This section does not repeal any other laws relating to the disposition of forfeited or abandoned property, except provisions of those laws directly in conflict with this section which were enacted prior to August 27, 1935.

(3) PROPERTY NOT SUBJECT TO ALLOCATION UNDER THIS SECTION.—The following classes of property are not subject to allocation under this section, but shall be disposed of in the manner otherwise provided by law:

(A) narcotic drugs, as defined in the Controlled Substances Act (21 U.S.C. 801 et seq.).

(B) firearms, as defined in section 5845 of the Internal Revenue Code of 1986 (26 U.S.C. 5845).

(C) other classes or kinds of property the disposal of which the Administrator, with the approval of the Secretary, may consider in the public interest, and may by regulation provide.

§ 1307. Disposition of securities

The President, or an officer, agent, or agency the President may designate, may dispose of any securities acquired on behalf of the Federal Government under the provisions of the Transportation Act of 1920 (ch. 91, 41 Stat. 456), including any securities acquired as an incident to a case under title 11, under a receivership or reorganization proceeding, by assignment, transfer, substitution, or issuance, or by acquisition of collateral given for the payment of obligations to the Government, or may make arrangements for the extension of the maturity of the securities, in the manner, in amounts, at prices, for cash, securities, or other property or any combination of cash, securities, or other property, and on terms and conditions the President or designee considers advisable and in the public interest.

§ 1308. Disposition of unfit horses and mules

Subject to applicable regulations under this subtitle and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), horses and mules belonging to the Federal Government that have become unfit for service may be destroyed or put out to pasture, either on pastures belonging to the Government or those belonging to financially sound and reputable humane organizations whose facilities permit them to care for the horses and mules during the remainder of their natural lives, at no cost to the Government.

§ 1309. Preservation, sale, or collection of wrecked, abandoned, or derelict property

The Administrator of General Services may make contracts and provisions for the preservation, sale, or collection of property, or the proceeds of property, which may have been

wrecked, been abandoned, or become derelict, if the Administrator considers the contracts and provisions to be in the interest of the Federal Government and the property is within the jurisdiction of the United States and should come to the Government. A contract may provide compensation the Administrator considers just and reasonable to any person who gives information about the property or actually preserves, collects, surrenders, or pays over the property. Under each specific agreement for obtaining, preserving, collecting, or receiving property or making property available, the costs or claim chargeable to the Government may not exceed amounts realized and received by the Government.

§ 1310. Sale of war supplies, land, and buildings

(a) IN GENERAL.—The President, through the head of any executive department and on terms the head of the department considers expedient, may sell to a person, another department of the Federal Government, or the government of a foreign country engaged in war against a country with which the United States is at war—

(1) war supplies, material, and equipment;

(2) by-products of the war supplies, material, and equipment; and

(3) any building, plant, or factory, including the land on which the plant or factory may be situated, acquired since April 6, 1917, for the production of war supplies, materials, and equipment that, during the emergency existing on July 9, 1918, may have been purchased, acquired, or manufactured by the Government.

(b) LIMITATION ON SALE OF GUNS AND AMMUNITION.—Sales of guns and ammunition authorized under any law shall be limited to—

(1) other departments of the Government;

(2) governments of foreign countries engaged in war against a country with which the United States is at war; and

(3) members of the National Rifle Association and of other recognized associations organized in the United States for the encouragement of small-arms target practice.

§ 1311. Authority of President to obtain release

For the use or benefit of the Federal Government, the President may obtain from an individual or officer to whom land has been or will be conveyed a release of the individual's or officer's interest to the Government.

§ 1312. Release of real estate in certain cases

(a) IN GENERAL.—Real estate that has become the property of the Federal Government in payment of a debt which afterward is fully paid in money and received by the Government may be conveyed by the Administrator of General Services to the debtor from whom it was taken or to the heirs or devisees of the debtor or the person that they may appoint.

(b) NONAPPLICATION.—This section does not apply to real estate the Government acquires in payment of any debt arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

§ 1313. Releasing property from attachment

(a) STIPULATION OF DISCHARGE.—

(1) PERSON ASSERTING CLAIM ENTITLED TO BENEFITS.—In a judicial proceeding under the laws of a State, district, territory, or possession of the United States, when property owned or held by the Federal Government, or in which the Government has or claims an interest, is seized, arrested, attached, or held for the security or satisfaction of a claim made against the property, the Attorney General may direct the United States Attorney for the district in which the property is located to enter a stipulation that on discharge of the property from the seizure, arrest, attachment, or proceeding, the person asserting the claim against the property becomes entitled to all the benefits of this section.

(2) NONAPPLICATION.—This subsection does not—

(A) recognize or concede any right to enforce by seizure, arrest, attachment, or any judicial process a claim against property—

(i) of the Government; or

(ii) held, owned, or employed by the Government, or by a department of the Government, for a public use; or

(B) waive an objection to a proceeding brought to enforce the claim.

(b) PAYMENT.—After a discharge, a final judgment which affirms the claim for the security or satisfaction and the right of the person asserting the claim to enforce it against the property, notwithstanding the claims of the Government, is deemed to be a full and final determination of the rights of the person and entitles the person, as against the Government, to the rights the person would have had if possession of the property had not been changed. When the claim is for the payment of money found to be due, presentation of an authenticated copy of the record of the judgment and proceedings is sufficient evidence to the proper accounting officers for the allowance of the claim, which shall be allowed and paid out of amounts in the Treasury not otherwise appropriated. The amount allowed and paid shall not exceed the value of the interest of the Government in the property.

§ 1314. Easements

(a) DEFINITIONS.—In this section—

(1) EXECUTIVE AGENCY.—The term ''executive agency'' means an executive department or independent establishment in the executive branch of the Federal Government, including a wholly owned Government corporation.

(2) REAL PROPERTY OF THE GOVERNMENT.—The term ''real property of the Government'' excludes—

(A) public land (including minerals, vegetative, and other resources) in the United States, including—

(i) land reserved or dedicated for national forest purposes;

(ii) land the Secretary of the Interior administers or supervises in accordance with the Act of August 25, 1916 (16 U.S.C. 1, 2, 3, 4) (known as the National Park Service Organic Act);

(iii) Indian-owned trust and restricted land; and

(iv) land the Government acquires primarily for fish and wildlife conservation purposes and the Secretary administers;

(B) land withdrawn from the public domain primarily under the jurisdiction of the Secretary; and

(C) land acquired for national forest purposes.

(3) STATE.—The term ''State'' means a State of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) GRANT OF EASEMENT.—When a State, a political subdivision or agency of a State, or a person applies for the grant of an easement in, over, or on real property of the Government, the executive agency having control of the real property may grant to the applicant, on behalf of the Government, an easement that the head of the agency decides will not be adverse to the interests of the Government, subject to reservations, exceptions, limitations, benefits, burdens, terms, or conditions that the head of the agency considers necessary to protect the interests of the Government. The grant may be made without consideration, or with monetary or other consideration, including an interest in real property.

(c) RELINQUISHMENT OF LEGISLATIVE JURISDICTION.—In connection with the grant of an easement, the executive agency concerned may relinquish to the State in which the real property is located legislative jurisdiction that the executive agency considers necessary or desirable. Relinquishment of legislative jurisdiction may be accomplished by filing with the chief executive officer of the State a notice of relinquishment to take effect upon acceptance or by proceeding in the manner that the laws applicable to the State may provide.

(d) TERMINATION OF EASEMENT.—

(1) WHEN TERMINATION OCCURS.—The instrument granting the easement may provide for termination of any part of the easement if there has been—

(A) a failure to comply with a term or condition of the grant;

(B) a nonuse of the easement for a consecutive 2-year period for the purpose for which granted; or

(C) an abandonment of the easement.

(2) NOTICE REQUIRED.—If a termination provision is included, it shall require that written notice of the termination be given to the grantee, or its successors or assigns.

(3) EFFECTIVE DATE.—The termination is effective as of the date of the notice.

(e) ADDITIONAL EASEMENT AUTHORITY.—The authority conferred by this section is in addition to, and shall not affect or be subject to, any other law under which an executive agency may grant easements.

(f) LIMITATION ON ISSUANCE OF RIGHTS OF WAY.—Rights of way over, under, and through public lands and lands in the National Forest System may not be granted under this section.

§ 1315. Special police

(a) APPOINTMENT.—The Administrator of General Services, or an official of the General Services Administration authorized by the Administrator, may appoint uniformed guards of the Administration as special police without additional compensation for duty in connection with the policing of all buildings and areas owned or occupied by the Federal Government and under the charge and control of the Administrator.

(b) POWERS.—Special police appointed under this section have the same powers as sheriffs and constables on property referred to in subsection (a) to enforce laws enacted for the protection of individuals and property, prevent breaches of the peace, suppress affrays or unlawful assemblies, and enforce regulations prescribed by the Administrator or an official of the Administration authorized by the Administrator for property under their jurisdiction. However, the jurisdiction and policing powers of special police do not extend to the service of civil process.

(c) DETAIL.—On the application of the head of a department or agency of the Government having property of the Government under its administration and control, the Administrator or an official of the Administration authorized by the Administrator may detail special police for the protection of the property and, if the Administrator considers it desirable, may extend to the property the applicability of regulations and enforce them as provided in this section.

(d) USE OF OTHER LAW ENFORCEMENT AGENCIES.—When it is considered economical and in the public interest, the Administrator or an official of the Administration authorized by the Administrator may utilize the facilities and services of existing federal law enforcement agencies, and, with the consent of a state or local agency, the facilities and services of state or local law enforcement agencies.

(e) NONUNIFORMED SPECIAL POLICE.—The Administrator, or an official of the Administration authorized by the Administrator, may empower officials or employees of the Administration authorized to perform investigative functions to act as nonuniformed special police to protect property under the charge and control of the Administration and to carry firearms, whether on federal property or in travel status. When on real property under the charge and control of the Administration, officials or employees empowered to act as nonuniformed special police have the power to enforce federal laws for the protection of individuals and property and to enforce regulations for that purpose that the Administrator or an official of the Administration authorized by the Administrator prescribes and publishes. The special police may make arrests without warrant for any offense committed on the property if the police have reasonable grounds to believe the offense constitutes a felony under the laws of the United States and

that the individual to be arrested is guilty of that offense.

(f) ADMINISTRATIVE.—The Administrator or an official of the Administration authorized by the Administrator may prescribe regulations necessary for the government of the property under their charge and control, and may annex to the regulations reasonable penalties, within the limits prescribed in subsection (g), that will ensure their enforcement. The regulations shall be posted and kept posted in a conspicuous place on the property.

(g) PENALTIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), a person violating a regulation prescribed under subsection (f) shall be fined under title 18, imprisoned for not more than 30 days, or both.

(2) EXCEPTION FOR MILITARY TRAFFIC REGULATION.—

(A) DEFINITION.—For purposes of this paragraph, the term ''military traffic regulation'' means a regulation for the control of vehicular or pedestrian traffic on military installations that the Secretary of Defense prescribes under subsection (f).

(B) IN GENERAL.—A person violating a military traffic regulation shall be fined an amount not exceeding the amount of the maximum fine for a similar offense under the criminal or civil law of the State, district, territory, or possession of the United States where the military installation in which the violation occurred is located, imprisoned for not more than 30 days, or both.

SUBTITLE II—PUBLIC BUILDINGS AND WORKS

PART A—GENERAL

PART B—UNITED STATES CAPITOL

PART C—FEDERAL BUILDING COMPLEXES

PART D—PUBLIC BUILDINGS, GROUNDS, AND PARKS IN THE DISTRICT OF COLUMBIA

PART A—GENERAL

CHAPTER 31—GENERAL

SUBCHAPTER I—OVERSIGHT AND REGULATION OF PUBLIC BUILDINGS

SUBCHAPTER II—ACQUIRING LAND

SUBCHAPTER III—BONDS

SUBCHAPTER IV—WAGE RATE REQUIREMENTS

SUBCHAPTER V—VOLUNTEER SERVICES

SUBCHAPTER VI—MISCELLANEOUS

SUBCHAPTER I—OVERSIGHT AND REGULATION OF PUBLIC BUILDINGS

§ 3101. Public buildings under control of Administrator of General Services

All public buildings outside of the District of Columbia and outside of military reservations purchased or erected out of any appropriation under the control of the Administrator of General Services, and the sites of the public buildings, are under the exclusive jurisdiction and control, and in the custody of, the Administrator. The Administrator may take possession of the buildings and assign and reassign rooms in the buildings to federal officials, clerks, and employees that the Administrator believes should be furnished with offices or rooms in the buildings.

§ 3102. Naming or designating buildings

The Administrator of General Services may name or otherwise designate any building under the custody and control of the General Services Administration, regardless of whether it was previously named by statute.

§ 3103. Admission of guide dogs or other service animals accompanying individuals with disabilities

(a) IN GENERAL.—Guide dogs or other service animals accompanying individuals with disabilities and especially trained and educated for that purpose shall be admitted to any building or other property owned or controlled by the Federal Government on the same terms and conditions, and subject to the same regulations, as generally govern the admission of the public to the property. The animals are not permitted to run free or roam in a building or on the property and must be in guiding harness or on leash and under the control of the individual at all times while in a building or on the property.

(b) REGULATIONS.—The head of each department or other agency of the Government may prescribe regulations the individual considers necessary in the public interest to carry out this section as it applies to any building or other property subject to the individual's jurisdiction.

§ 3104. Furniture for new buildings

Furniture for all new public buildings shall be acquired in accordance with plans and specifications approved by the Administrator of General Services.

§ 3105. Buildings not to be draped in mourning

No building owned, or used for public purposes, by the Federal Government shall be draped in mourning nor may public money be used for that purpose.

SUBCHAPTER II—ACQUIRING LAND

§ 3111. Approval of sufficiency of title prior to acquisition

(a) APPROVAL OF ATTORNEY GENERAL REQUIRED.—Public money may not be expended to purchase land or any interest in land unless the Attorney General gives prior written approval of the sufficiency of the title to the land for the purpose for which the Federal Government is acquiring the property.

(b) DELEGATION.—

(1) IN GENERAL.—The Attorney General may delegate the responsibility under this section to other departments and agencies of the Government, subject to general supervision by the Attorney General and in accordance with regulations the Attorney General prescribes.

(2) REQUEST FOR OPINION OF ATTORNEY GENERAL.—A department or agency of the Government that has been delegated the responsibility to approve land titles under this section may request the Attorney General to render an opinion as to the validity of the title to any real property or interest in the property, or may request the advice or assistance of the Attorney General in connection with determinations as to the sufficiency of titles.

(c) PAYMENT OF EXPENSES FOR PROCURING CERTIFICATES OF TITLE.—Except where otherwise authorized by law or provided by contract, the expenses of procuring certificates of titles or other evidences of title as the Attorney General may require may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department or agency of the Government.

(d) NONAPPLICATION.—This section does not affect any provision of law in effect on September 1, 1970, that is applicable to the acquisition of land or interests in land by the Tennessee Valley Authority.

§ 3112. Federal jurisdiction

(a) EXCLUSIVE JURISDICTION NOT REQUIRED.—It is not required that the Federal Government obtain exclusive jurisdiction in the United States over land or an interest in land it acquires.

(b) ACQUISITION AND ACCEPTANCE OF JURISDICTION.—When the head of a department,

agency, or independent establishment of the Government, or other authorized officer of the department, agency, or independent establishment, considers it desirable, that individual may accept or secure, from the State in which land or an interest in land that is under the immediate jurisdiction, custody, or control of the individual is situated, consent to, or cession of, any jurisdiction over the land or interest not previously obtained. The individual shall indicate acceptance of jurisdiction on behalf of the Government by filing a notice of acceptance with the Governor of the State or in another manner prescribed by the laws of the State where the land is situated.

(c) PRESUMPTION.—It is conclusively presumed that jurisdiction has not been accepted until the Government accepts jurisdiction over land as provided in this section.

§ 3113. Acquisition by condemnation

An officer of the Federal Government authorized to acquire real estate for the erection of a public building or for other public uses may acquire the real estate for the Government by condemnation, under judicial process, when the officer believes that it is necessary or advantageous to the Government to do so. The Attorney General, on application of the officer, shall have condemnation proceedings begun within 30 days from receipt of the application at the Department of Justice.

§ 3114. Declaration of taking

(a) FILING AND CONTENT.—In any proceeding in any court of the United States outside of the District of Columbia brought by and in the name of the United States and under the authority of the Federal Government to acquire land, or an easement or right of way in land, for the public use, the petitioner may file, with the petition or at any time before judgment, a declaration of taking signed by the authority empowered by law to acquire the land described in the petition, declaring that the land is taken for the use of the Government. The declaration of taking shall contain or have annexed to it—

(1) a statement of the authority under which, and the public use for which, the land is taken;

(2) a description of the land taken that is sufficient to identify the land;

(3) a statement of the estate or interest in the land taken for public use;

(4) a plan showing the land taken; and

(5) a statement of the amount of money estimated by the acquiring authority to be just compensation for the land taken.

(b) VESTING OF TITLE.—On filing the declaration of taking and depositing in the court, to the use of the persons entitled to the compensation, the amount of the estimated compensation stated in the declaration—

(1) title to the estate or interest specified in the declaration vests in the Government;

(2) the land is condemned and taken for the use of the Government; and

(3) the right to just compensation for the land vests in the persons entitled to the compensation.

(c) COMPENSATION.—

(1) DETERMINATION AND AWARD.—Compensation shall be determined and awarded in the proceeding and established by judgment. The judgment shall include interest, in accordance with section 3116 of this title, on the amount finally awarded as the value of the property as of the date of taking and shall be awarded from that date to the date of payment. Interest shall not be allowed on as much of the compensation as has been paid into the court. Amounts paid into the court shall not be charged with commissions or poundage.

(2) ORDER TO PAY.—On application of the parties in interest, the court may order that any part of the money deposited in the court be paid immediately for or on account of the compensation to be awarded in the proceeding.

(3) DEFICIENCY JUDGMENT.—If the compensation finally awarded is more than the amount of money received by any person entitled to compensation, the court shall enter judgment against the Government for the amount of the deficiency.

(d) AUTHORITY OF COURT.—On the filing of a declaration of taking, the court—

(1) may fix the time within which, and the terms on which, the parties in possession shall be required to surrender possession to the petitioner; and

(2) may make just and equitable orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges.

(e) VESTING NOT PREVENTED OR DELAYED.—An appeal or a bond or undertaking given in a proceeding does not prevent or delay the vesting of title to land in the Government.

§ 3115. Irrevocable commitment of Federal Government to pay ultimate award when fixed

(a) REQUIREMENT FOR IRREVOCABLE COMMITMENT.—Action under section 3114 of this title irrevocably committing the Federal Government to the payment of the ultimate award shall not be taken unless the head of the executive department or agency or bureau of the Government empowered to acquire the land believes that the ultimate award probably will be within any limits Congress prescribes on the price to be paid.

(b) AUTHORIZED PURPOSES OF EXPENDITURES AFTER IRREVOCABLE COMMITMENT MADE.—When the Government has taken or may take title to real property during a condemnation proceeding and in advance of final judgment in the proceeding and has become irrevocably committed to pay the amount ultimately to be awarded as compensation, and the Attorney General believes that title to the property has been vested in the Government or that all persons having an interest in the property have been made parties to the proceeding and will be bound by the final judgment, the Government may expend amounts appropriated for that purpose to demolish existing structures on the property and to erect public buildings or public works on the property.

§ 3116. Interest as part of just compensation

(a) CALCULATION.—The district court shall calculate interest required to be paid under this subchapter as follows:

(1) PERIOD OF NOT MORE THAN ONE YEAR.—Where the period for which interest is owed is not more than one year, interest shall be calculated from the date of taking at an annual rate equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of taking.

(2) PERIOD OF MORE THAN ONE YEAR.—Where the period for which interest is owed is more than one year, interest for the first year shall be calculated in accordance with paragraph (1) and interest for each additional year shall be calculated on the amount by which the award of compensation is more than the deposit referred to in section 3114 of this title, plus accrued interest, at an annual rate equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the beginning of each additional year.

(b) DISTRIBUTION OF NOTICE OF RATES.—The Director of the Administrative Office of the United States Courts shall distribute to all federal courts notice of the rates described in paragraphs (1) and (2) of subsection (a).

§ 3117. Exclusion of certain property by stipulation of Attorney General

In any condemnation proceeding brought by or on behalf of the Federal Government, the Attorney General may stipulate or agree on behalf of the Government to exclude any part of the property, or any interest in the property, taken by or on behalf of the Government by a declaration of taking or otherwise.

§ 3118. Right of taking as addition to existing rights

The right to take possession and title in advance of final judgment in condemnation proceedings as provided by section 3114 of this title is in addition to any right, power, or authority conferred by the laws of the United States or of a State, territory, or possession of the United States under which the proceeding may be conducted, and does not abrogate, limit, or modify that right, power, or authority.

SUBCHAPTER III—BONDS

§ 3131. Bonds of contractors of public buildings or works

(a) DEFINITION.—In this subchapter, the term ''contractor'' means a person awarded a contract described in subsection (b).

(b) TYPE OF BONDS REQUIRED.—Before any contract of more than $100,000 is awarded for the construction, alteration, or repair of any public building or public work of the Federal Government, a person must furnish to the Government the following bonds, which become binding when the contract is awarded:

(1) PERFORMANCE BOND.—A performance bond with a surety satisfactory to the officer awarding the contract, and in an amount the officer considers adequate, for the protection of the Government.

(2) PAYMENT BOND.—A payment bond with a surety satisfactory to the officer for the protection of all persons supplying labor and material in carrying out the work provided for in the contract for the use of each person. The amount of the payment bond shall equal the total amount payable by the terms of the contract unless the officer awarding the contract determines, in a writing supported by specific findings, that a payment bond in that amount is impractical, in which case the contracting officer shall set the amount of the payment bond. The amount of the payment bond shall not be less than the amount of the performance bond.

(c) COVERAGE FOR TAXES IN PERFORMANCE BOND.—

(1) IN GENERAL.—Every performance bond required under this section specifically shall provide coverage for taxes the Government imposes which are collected, deducted, or withheld from wages the contractor pays in carrying out the contract with respect to which the bond is furnished.

(2) NOTICE.—The Government shall give the surety on the bond written notice, with respect to any unpaid taxes attributable to any period, within 90 days after the date when the contractor files a return for the period, except that notice must be given no later than 180 days from the date when a return for the period was required to be filed under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(3) CIVIL ACTION.—The Government may not bring a civil action on the bond for the taxes—

(A) unless notice is given as provided in this subsection; and

(B) more than one year after the day on which notice is given.

(d) WAIVER OF BONDS FOR CONTRACTS PERFORMED IN FOREIGN COUNTRIES.—A contracting officer may waive the requirement of a performance bond and payment bond for work under a contract that is to be performed in a foreign country if the officer finds that it is impracticable for the contractor to furnish the bonds.

(e) AUTHORITY TO REQUIRE ADDITIONAL BONDS.—This section does not limit the authority of a contracting officer to require a performance bond or other security in addition to those, or in cases other than the cases, specified in subsection (b).

§ 3132. Alternatives to payment bonds provided by Federal Acquisition Regulation

(a) IN GENERAL.—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred

to in section 3131(a) of this title that are more than $25,000 and not more than $100,000.

(b) RESPONSIBILITIES OF CONTRACTING OFFICER.—The contracting officer for a contract shall—

(1) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subsection (a), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for the contract; and

(2) specify in the solicitation of offers for the contract the payment protections selected.

§ 3133. Rights of persons furnishing labor or material

(a) RIGHT OF PERSON FURNISHING LABOR OR MATERIAL TO COPY OF BOND.—The department secretary or agency head of the contracting agency shall furnish a certified copy of a payment bond and the contract for which it was given to any person applying for a copy who submits an affidavit that the person has supplied labor or material for work described in the contract and payment for the work has not been made or that the person is being sued on the bond. The copy is prima facie evidence of the contents, execution, and delivery of the original. Applicants shall pay any fees the department secretary or agency head of the contracting agency fixes to cover the cost of preparing the certified copy.

(b) RIGHT TO BRING A CIVIL ACTION.—

(1) IN GENERAL.—Every person that has furnished labor or material in carrying out work provided for in a contract for which a payment bond is furnished under section 3131 of this title and that has not been paid in full within 90 days after the day on which the person did or performed the last of the labor or furnished or supplied the material for which the claim is made may bring a civil action on the payment bond for the amount unpaid at the time the civil action is brought and may prosecute the action to final execution and judgment for the amount due.

(2) PERSON HAVING DIRECT CONTRACTUAL RELATIONSHIP WITH A SUBCONTRACTOR.—A person having a direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the contractor furnishing the payment bond may bring a civil action on the payment bond on giving written notice to the contractor within 90 days from the date on which the person did or performed the last of the labor or furnished or supplied the last of the material for which the claim is made. The action must state with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. The notice shall be served—

(A) by any means that provides written, third-party verification of delivery to the contractor at any place the contractor maintains an office or conducts business or at the contractor's residence; or

(B) in any manner in which the United States marshal of the district in which the public improvement is situated by law may serve summons.

(3) VENUE.—A civil action brought under this subsection must be brought—

(A) in the name of the United States for the use of the person bringing the action; and

(B) in the United States District Court for any district in which the contract was to be performed and executed, regardless of the amount in controversy.

(4) PERIOD IN WHICH ACTION MUST BE BROUGHT.—An action brought under this subsection must be brought no later than one year after the day on which the last of the labor was performed or material was supplied by the person bringing the action.

(5) LIABILITY OF FEDERAL GOVERNMENT.—The Government is not liable for the payment of any costs or expenses of any civil action brought under this subsection.

(c) A waiver of the right to bring a civil action on a payment bond required under this subchapter is void unless the waiver is—

(1) in writing;

(2) signed by the person whose right is waived; and

(3) executed after the person whose right is waived has furnished labor or material for use in the performance of the contract.

§ 3134. Waivers for certain contracts

(a) MILITARY.—The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Transportation may waive this subchapter with respect to cost-plus-a-fixed fee and other cost-type contracts for the construction, alteration, or repair of any public building or public work of the Federal Government and with respect to contracts for manufacturing, producing, furnishing, constructing, altering, repairing, processing, or assembling vessels, aircraft, munitions, materiel, or supplies for the Army, Navy, Air Force, or Coast Guard, respectively, regardless of the terms of the contracts as to payment or title.

(b) TRANSPORTATION.—The Secretary of Transportation may waive this subchapter with respect to contracts for the construction, alteration, or repair of vessels when the contract is made under sections 1535 and 1536 of title 31, the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.), or the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1735 et seq.), regardless of the terms of the contracts as to payment or title.

SUBCHAPTER IV—WAGE RATE REQUIREMENTS

§ 3141. Definitions

In this subchapter, the following definitions apply:

(1) FEDERAL GOVERNMENT.—The term ''Federal Government'' has the same meaning that the term ''United States'' had in the Act of March 3, 1931 (ch. 411, 46 Stat. 1494 (known as the Davis-Bacon Act).

(2) WAGES, SCALE OF WAGES, WAGE RATES, MINIMUM WAGES, AND PREVAILING WAGES.—The terms ''wages'', ''scale of wages'', ''wage rates'', ''minimum wages'', and ''prevailing wages'' include—

(A) the basic hourly rate of pay; and

(B) for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the forgoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of—

(i) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and

(ii) the rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

§ 3142. Rate of wages for laborers and mechanics

(a) APPLICATION.—The advertised specifications for every contract in excess of $2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics.

(b) BASED ON PREVAILING WAGE.—The minimum wages shall be based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.

(c) STIPULATIONS REQUIRED IN CONTRACT.—Every contract based upon the specifications referred to in subsection (a) must contain stipulations that—

(1) the contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;

(2) the contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and

(3) there may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.

(d) DISCHARGE OF OBLIGATION.—The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, under this subchapter and other laws incorporating this subchapter by reference, may be discharged by making payments in cash, by making contributions described in section 3141(2)(B)(i) of this title, by assuming an enforceable commitment to bear the costs of a plan or program referred to in section 3141(2)(B)(ii) of this title, or by any combination of payment, contribution, and assumption, where the aggregate of the payments, contributions, and costs is not less than the basic hourly rate of pay plus the amount referred to in section 3141(2)(B).

(e) OVERTIME PAY.—In determining the overtime pay to which a laborer or mechanic is entitled under any federal law, the regular or basic hourly rate of pay (or other alternative rate on which premium rate of overtime compensation is computed) of the laborer or mechanic is deemed to be the rate computed under section 3141(2)(A) of this title, except that where the amount of payments, contributions, or costs incurred with respect to the laborer or mechanic exceeds the applicable prevailing wage, the regular or basic hourly rate of pay (or other alternative rate) is the amount of payments, contributions, or costs actually incurred with respect to the laborer or mechanic minus the greater of the amount of contributions or costs of the types described in section 3141(2)(B) of this title actually incurred with respect to the laborer or mechanic or the amount determined under section 3141(2)(B) but not actually paid.

§ 3143. Termination of work on failure to pay agreed wages

Every contract within the scope of this subchapter shall contain a provision that if the contracting officer finds that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid, the Federal Government by written notice to the contractor

may terminate the contractor's right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The Government may have the work completed, by contract or otherwise, and the contractor and the contractor's sureties shall be liable to the Government for any excess costs the Government incurs.

§ 3144. Authority of Comptroller General to pay wages and list contractors violating contracts

(a) PAYMENT OF WAGES.—

(1) IN GENERAL.—The Comptroller General shall pay directly to laborers and mechanics from any accrued payments withheld under the terms of a contract any wages found to be due laborers and mechanics under this subchapter.

(2) RIGHT OF ACTION.—If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this subchapter, the laborers and mechanics have the same right to bring a civil action and intervene against the contractor and the contractor's sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(b) LIST OF CONTRACTORS VIOLATING CONTRACTS.—

(1) IN GENERAL.—The Comptroller General shall distribute to all departments of the Federal Government a list of the names of persons whom the Comptroller General has found to have disregarded their obligations to employees and subcontractors.

(2) RESTRICTION ON AWARDING CONTRACTS.—No contract shall be awarded to persons appearing on the list or to any firm, corporation, partnership, or association in which the persons have an interest until three years have elapsed from the date of publication of the list.

§ 3145. Regulations governing contractors and subcontractors

(a) IN GENERAL.—The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the prior week.

(b) APPLICATION.—Section 1001 of title 18 applies to the statements.

§ 3146. Effect on other federal laws

This subchapter does not supersede or impair any authority otherwise granted by federal law to provide for the establishment of specific wage rates.

§ 3147. Suspension of this subchapter during a national emergency

The President may suspend the provisions of this subchapter during a national emergency.

§ 3148. Application of this subchapter to certain contracts

This subchapter applies to a contract authorized by law that is made without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), or on a cost-plus-a-fixed-fee basis or otherwise without advertising for proposals, if this subchapter otherwise would apply to the contract.

SUBCHAPTER V—VOLUNTEER SERVICES

§ 3161. Purpose

It is the purpose of this subchapter to promote and provide opportunities for individuals who wish to volunteer their services to state or local governments, public agencies, or nonprofit charitable organizations in the construction, repair, or alteration (including painting and decorating) of public buildings and public works that at least partly are financed with federal financial assistance authorized under certain federal programs and that otherwise might not be possible without the use of volunteers.

§ 3162. Waiver for individuals who perform volunteer services

(a) CRITERIA FOR RECEIVING WAIVER.—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of subchapter IV of this chapter as set forth in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.), and the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) does not apply to an individual—

(1) who volunteers to perform a service directly to a state or local government, a public agency, or a public or private nonprofit recipient of federal assistance—

(A) for civic, charitable, or humanitarian reasons;

(B) only for the personal purpose or pleasure of the individual;

(C) without promise, expectation, or receipt of compensation for services rendered, except as provided in subsection (b); and

(D) freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who otherwise is not employed by the same public agency or recipient of federal assistance to perform the same type of services as those for which the individual proposes to volunteer.

(b) PAYMENTS.—

(1) IN ACCORDANCE WITH REGULATIONS.—Volunteers described in subsection (a) who are performing services directly to a state or local government or public agency may receive payments of expenses, reasonable benefits, or a nominal fee only in accordance with regulations the Secretary of Labor prescribes. Volunteers who are performing services directly to a public or private nonprofit entity may not receive those payments.

(2) CRITERIA AND CONTENT OF REGULATIONS.—In prescribing the regulations, the Secretary shall consider criteria such as the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities. The regulations shall include provisions that provide that—

(A) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or the cost or expense of meals and transportation;

(B) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker's compensation plan) or pension plan, or the awarding of a length of service award; and

(C) a nominal fee may not be used as a substitute for compensation and may not be connected to productivity.

(3) NOMINAL FEE.—The Secretary shall decide what constitutes a nominal fee for purposes of paragraph (2)(C). The decision shall be based on the context of the economic realities of the situation involved.

(c) ECONOMIC REALITY.—In determining whether an expense, benefit, or fee described in subsection (b) may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary may not permit any expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

SUBCHAPTER VI—MISCELLANEOUS

§ 3171. Contract authority when appropriation is for less than full amount

Unless specifically directed otherwise, the Administrator of General Services may make a contract within the full limit of the cost fixed by Congress for the acquisition of land for sites, or for the enlargement of sites, for public buildings, or for the erection, remodeling, extension, alteration, and repairs of public buildings, even though an appropriation is made for only part of the amount necessary to carry out legislation authorizing that purpose.

§ 3172. Extension of state workers' compensation laws to buildings, works, and property of the Federal Government

(a) AUTHORIZATION OF EXTENSION.—The state authority charged with enforcing and requiring compliance with the state workers' compensation laws and with the orders, decisions, and awards of the authority may apply the laws to all land and premises in the State which the Federal Government owns or holds by deed or act of cession, and to all projects, buildings, constructions, improvements, and property in the State and belonging to the Government, in the same way and to the same extent as if the premises were under the exclusive jurisdiction of the State in which the land, premises, projects, buildings, constructions, improvements, or property are located.

(b) LIMITATION ON RELINQUISHING JURISDICTION.—The Government under this section does not relinquish its jurisdiction for any other purpose.

(c) NONAPPLICATION.—This section does not modify or amend subchapter I of chapter 81 of title 5.

§ 3173. Working capital fund for blueprinting, photostating, and duplicating services in General Services Administration

(a) ESTABLISHMENT AND PURPOSE.—There is a working capital fund for the payment of salaries and other expenses necessary to the operation of a central blue-printing, photostating, and duplicating service.

(b) COMPONENTS.—The fund consists of—

(1) $50,000 without fiscal year limitation; and

(2) reimbursements from available amounts of constituents of the Administrator of General Services, or of any other federal agency for which services are performed, at rates to be determined by the Administrator on the basis of estimated or actual charges for personal services, material, equipment (including maintenance, repair, and depreciation on existing and new equipment) and other expenses, to ensure continuous operation.

(c) DEPOSIT OF EXCESS AMOUNTS IN THE TREASURY.—At the close of each fiscal year any excess amount resulting from operation of the service, after adequately providing for the replacement of mechanical and other equipment and for accrued annual leave of employees engaged in this work by the establishment of reserves for those purposes, shall be deposited in the Treasury as miscellaneous receipts.

§ 3174. Operation of public utility communications services serving governmental activities

The Administrator of General Services may provide and operate public utility communications services serving any governmental activity when the services are economical and in the interest of the Federal Government. This section does not apply to communications systems for handling messages of a confidential or secret nature, the operation of cryptographic equipment or transmission of secret, security, or coded messages, or buildings operated or occupied by the United States Postal Service, except on request of the department or agency concerned.

§ 3175. Acceptance of gifts of property

The Administrator of General Services, and the United States Postal Service where that office is concerned, may accept on behalf of the Federal Government unconditional gifts of property in aid of any project or function within their respective jurisdictions.

§ 3176. Administrator of General Services to furnish services in continental United States to international bodies

Sections 1535 and 1536 of title 31 are extended so that the Administrator of General Services, at the request of the Secretary of State, may furnish services in the continental United States, on a reimbursable basis, to any international body with which the Federal Government is affiliated.

CHAPTER 33—ACQUISITION, CONSTRUCTION, AND ALTERATION

§ 3301. Definitions and nonapplication

(a) DEFINITIONS.—In this chapter—

(1) ALTER.—The term ''alter'' includes—

(A) preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the alteration of a public building; and

(B) repairing, remodeling, improving, or extending, or other changes in, a public building.

(2) CONSTRUCT.—The term ''construct'' includes preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the construction of a public building.

(3) EXECUTIVE AGENCY.–The term ''executive agency'' means an executive department or independent establishment in the executive branch of the Federal Government, including—

(A) any wholly owned Government corporation;

(B) the Central-Bank for Cooperatives and the regional banks for cooperatives;

(C) federal land banks;

(D) federal intermediate credit banks;

(E) the Federal Deposit Insurance Corporation; and

(F) the Government National Mortgage Association.

(4) FEDERAL AGENCY.—The term ''federal agency'' means an executive agency or an establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the direction of the Architect).

(5) PUBLIC BUILDING.—The term ''public building''—

(A) means a building, whether for single or multitenant occupancy, and its grounds, approaches, and appurtenances, which is generally suitable for use as office or storage space or both by one or more federal agencies or mixed-ownership Government corporations;

(B) includes—

(i) federal office buildings;

(ii) post offices;

(iii) customhouses;

(iv) courthouses;

(v) appraisers stores;

(vi) border inspection facilities;

(vii) warehouses;

(viii) record centers;

(ix) relocation facilities;

(x) telecommuting centers;

(xi) similar federal facilities; and

(xii) any other buildings or construction projects the inclusion of which the President considers to be justified in the public interest; but

(C) does not include a building or construction project described in subparagraphs (A) and (B)—

(i) that is on the public domain (including that reserved for national forests and other purposes);

(ii) that is on property of the Government in foreign countries;

(iii) that is on Indian and native Eskimo property held in trust by the Government;

(iv) that is on land used in connection with federal programs for agricultural, recreational, and conservation purposes, including research in connection with the programs;

(v) that is on or used in connection with river, harbor, flood control, reclamation or power projects, for chemical manufacturing or development projects, or for nuclear production, research, or development projects;

(vi) that is on or used in connection with housing and residential projects;

(vii) that is on military installations (including any fort, camp, post, naval training station, airfield, proving ground, military supply depot, military school, or any similar facility of the Department of Defense);

(viii) that is on installations of the Department of Veterans Affairs used for hospital or domiciliary purposes; or

(ix) the exclusion of which the President considers to be justified in the public interest.

(6) UNITED STATES.—The term ''United States'' includes the States of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) NONAPPLICATION.—This chapter does not apply to the construction of any public building to which section 241(g) of the Immigration and Nationality Act (8 U.S.C. 1231(g)) or section 1 of the Act of June 26, 1930 (19 U.S.C. 68) applies.

§ 3302. Prohibition on construction of buildings except by Administrator of General Services

Only the Administrator of General Services may construct a public building. The Administrator shall construct a public building in accordance with this chapter.

§ 3303. Continuing investigation and survey of public buildings

(a) CONDUCTED BY ADMINISTRATOR.—The Administrator of General Services shall—

(1) make a continuing investigation and survey of the public buildings needs of the Federal Government so that the Administrator may carry out the duties of the Administrator under this chapter; and

(2) submit to Congress prospectuses of proposed projects in accordance with section 3307(a) and (b) of this title.

(b) COOPERATION WITH FEDERAL AGENCIES.—

(1) DUTIES OF ADMINISTRATOR.—In carrying out the duties of the Administrator under this chapter, the Administrator—

(A) shall cooperate with all federal agencies in order to keep informed of their needs;

(B) shall advise each federal agency of the program with respect to the agency; and

(C) may request the cooperation and assistance of each federal agency in carrying out duties under this chapter.

(2) DUTY OF FEDERAL AGENCIES.—Each federal agency shall cooperate with, advise, and assist the Administrator in carrying out the duties of the Administrator under this chapter as determined necessary by the Administrator to carry out the purposes of this chapter.

(c) REQUEST FOR IDENTIFICATION OF EXISTING BUILDINGS OF HISTORICAL, ARCHITECTURAL, OR CULTURAL SIGNIFICANCE.—When the Administrator undertakes a survey of the public buildings needs of the Government within a geographical area, the Administrator shall request that, within 60 days, the Advisory Council on Historic Preservation established by title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.) identify any existing buildings in the geographical area that—

(1) are of historical, architectural, or cultural significance (as defined in section 3306(a) of this title); and

(2) whether or not in need of repair, alteration, or addition, would be suitable for acquisition to meet the public buildings needs of the Government.

(d) STANDARD FOR CONSTRUCTION AND ACQUISITION OF PUBLIC BUILDINGS.—In carrying out the duties of the Administrator under this chapter, the Administrator shall provide for the construction and acquisition of public buildings equitably throughout the United States with due regard to the comparative urgency of the need for each particular building. In developing plans for new buildings, the Administrator shall give due consideration to excellence of architecture and design.

§ 3304. Acquisition of buildings and sites

(a) IN GENERAL.—The Administrator of General Services may acquire, by purchase, condemnation, donation, exchange, or otherwise, any building and its site which the Administrator decides is necessary to carry out the duties of the Administrator under this chapter.

(b) ACQUISITION OF LAND OR INTEREST IN LAND FOR USE AS SITES.—The Administrator may acquire land or an interest in land the Administrator considers necessary for use as sites, or additions to sites, for public buildings authorized to be constructed or altered under this chapter.

(c) PUBLIC BUILDINGS USED FOR POST OFFICE PURPOSES.—When any part of a public building is to be used for post office purposes, the Administrator shall act jointly with the United States Postal Service in selecting the town or city where the building is to be constructed, and in selecting the site in the town or city for the building.

(d) SOLICITATION OF PROPOSALS FOR SALE, DONATION, OR EXCHANGE OF REAL PROPERTY.—When the Administrator is to acquire a site under subsection (b), the Administrator, if the Administrator considers it necessary, by public advertisement may solicit proposals for the sale, donation, or exchange of real property to the Federal Government to be used as the site. In selecting a site under subsection (b) the Administrator (with the concurrence of the United States Postal Service if any part of the public building to be constructed on the site is to be used for post office purposes) may—

(1) select the site that the Administrator believes is the most advantageous to the Government, all factors considered; and

(2) acquire the site without regard to title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

§ 3305. Construction and alteration of buildings

(a) CONSTRUCTION.—

(1) REPLACEMENT OF EXISTING BUILDINGS.—When the Administrator of General Services considers it to be in the best interest of the Federal Government to construct a new public building to take the place of an existing public building, the Administrator may demolish the existing building and use the site on which it is located for the site of the proposed public building. If the Administrator believes that it is more

advantageous to construct the public building on a different site in the same city, the Administrator may exchange the building and site, or the site, for another site, or may sell the building and site in accordance with subtitle I of this title and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(2) SALE OR EXCHANGE OF SITES.—When the Administrator decides that a site acquired for the construction of a public building is not suitable for that purpose, the Administrator may exchange the site for another site, or may sell it in accordance with subtitle I of this title and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(3) COMMITTEE APPROVAL REQUIRED.—This subsection does not permit the Administrator to use any land as a site for a public building if the project has not been approved in accordance with section 3307 of this title.

(b) ALTERATION OF BUILDINGS.—

(1) AUTHORITY TO ALTER BUILDINGS AND ACQUIRE LAND.—The Administrator may—

(A) alter any public building; and

(B) acquire in accordance with section 3304(b)–(d) of this title land necessary to carry out the alteration.

(2) COMMITTEE APPROVAL NOT REQUIRED.—

(A) THRESHOLD AMOUNT.—Approval under section 3307 of this title is not required for any alteration and acquisition authorized by this subsection for which the estimated maximum cost does not exceed $1,500,000.

(B) DOLLAR AMOUNT ADJUSTMENT.—The Administrator annually may adjust the dollar amount referred to in subparagraph (A) to reflect a percentage increase or decrease in construction costs during the prior calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(c) CONSTRUCTION OR ALTERATION BY CONTRACT.—The Administrator may carry out any construction or alteration authorized by this chapter by contract if the Administrator considers it to be most advantageous to the Government.

§ 3306. Accommodating federal agencies

(a) DEFINITIONS.—In this section—

(1) COMMERCIAL ACTIVITIES.—The term ''commercial activities'' includes the operations of restaurants, food stores, craft stores, dry goods stores, financial institutions, and display facilities.

(2) CULTURAL ACTIVITIES.—The term ''cultural activities'' includes film, dramatic, dance, and musical presentations, and fine art exhibits, whether or not those activities are intended to make a profit.

(3) EDUCATIONAL ACTIVITIES.—The terms ''educational activities'' includes the operations of libraries, schools, day care centers, laboratories, and lecture and demonstration facilities.

(4) HISTORICAL, ARCHITECTURAL, OR CULTURAL SIGNIFICANCE.—The term ''historical, architectural, or cultural significance'' includes buildings listed or eligible to be listed on the National Register established under section 101 of the National Historic Preservation Act (16 U.S.C. 470a).

(5) RECREATIONAL ACTIVITIES.—The term ''recreational activities'' includes the operations of gymnasiums and related facilities.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''unit of general local government'' means a city, county, town, parish, village, or other general-purpose political subdivision of a State.

(b) DUTIES OF ADMINISTRATOR.—To carry out the duties of the Administrator of General Services under sections 581(h), 584(b), 3303(c), and 3307(b)(3) and (5) of this title and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary to accommodate federal agencies and to accomplish the purposes of sections 581(h), 584(b), 3303(c), and 3307(b)(3) and (5), the Administrator shall—

(1) acquire and utilize space in suitable buildings of historical, architectural, or cultural significance, unless use of the space would not prove feasible and prudent compared with available alternatives;

(2) encourage the location of commercial, cultural, educational, and recreational facilities and activities in public buildings;

(3) provide and maintain space, facilities, and activities, to the extent practicable, that encourage public access to, and stimulate public pedestrian traffic around, into, and through, public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that the activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(4) encourage the public use of public buildings for cultural, educational, and recreational activities.

(c) CONSULTATION AND SOLICITATION OF COMMENTS.—In carrying out the duties under subsection (b), the Administrator shall—

(1) consult with chief executive officers of the States, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3331 et seq.) and section 6506 of title 31, and chief executive officers of those units of general local government in each area served by an existing or proposed public building; and

(2) solicit the comments of other community leaders and members of the general public as the Administrator considers appropriate.

§ 3307. Congressional approval of proposed projects

(a) RESOLUTIONS REQUIRED BEFORE APPROPRIATIONS MAY BE MADE.—The following appropriations may be made only if the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives adopt resolutions approving the purpose for which the appropriation is made:

(1) An appropriation to construct, alter, or acquire any building to be used as a public building which involves a total expenditure in excess of $1,500,000, so that the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for the buildings, except as provided in section 3305(b) of this title, is ensured.

(2) An appropriation to lease any space at an average annual rental in excess of $1,500,000 for use for public purposes.

(3) An appropriation to alter any building, or part of the building, which is under lease by the Federal Government for use for a public purpose if the cost of the alteration will exceed $750,000.

(b) TRANSMISSION TO CONGRESS OF PROSPECTUS OF PROPOSED PROJECT.—To secure consideration for the approval referred to in subsection (a), the Administrator of General Services shall transmit to Congress a prospectus of the proposed facility, including—

(1) a brief description of the building to be constructed, altered, or acquired, or the space to be leased, under this chapter;

(2) the location of the building or space to be leased and an estimate of the maximum cost to the Government of the facility to be constructed, altered, or acquired, or the space to be leased;

(3) a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed facility or the space to be leased, having due regard for suitable space which may continue to be available in existing Government-owned or occupied buildings, especially those buildings that enhance the architectural, historical, social, cultural, and economic environment of the locality;

(4) with respect to any project for the construction, alteration, or acquisition of any building, a statement by the Administrator that suitable space owned by the Government is not available and that suitable rental space is not available at a price commensurate with that to be afforded through the proposed action;

(5) a statement by the Administrator of the economic and other justifications for not acquiring a building identified to the Administrator under section 3303(c) of this title as suitable for the public building needs of the Government; and

(6) a statement of rents and other housing costs currently being paid by the Government for federal agencies to be housed in the building to be constructed, altered, or acquired, or the space to be leased.

(c) INCREASE OF ESTIMATED MAXIMUM COST.—The estimated maximum cost of any project approved under this section as set forth in any prospectus may be increased by an amount equal to any percentage increase, as determined by the Administrator, in construction or alteration costs from the date the prospectus is transmitted to Congress. The increase authorized by this subsection may not exceed 10 percent of the estimated maximum cost.

(d) RESCISSION OF APPROVAL.— If an appropriation is not made within one year after the date a project for construction, alteration, or acquisition is approved under subsection (a), the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives by resolution may rescind its approval before an appropriation is made.

(e) EMERGENCY LEASES BY THE ADMINISTRATOR.—This section does not prevent the Administrator from entering into emergency leases during any period declared by the President to require emergency leasing authority. An emergency lease may not be for more than 180 days without approval of a prospectus for the lease in accordance with subsection (a).

(f) LIMITATION ON LEASING CERTAIN SPACE.—

(1) IN GENERAL.—The Administrator may not lease space to accommodate any of the following if the average rental cost of leasing the space will exceed $1,500,000:

(A) Computer and telecommunications operations.

(B) Secure or sensitive activities related to the national defense or security, except when it would be inappropriate to locate those activities in a public building or other facility identified with the Government.

(C) A permanent courtroom, judicial chamber, or administrative office for any United States court.

(2) EXCEPTION.—The Administrator may lease space with respect to which paragraph (1) applies if the Administrator—

(A) decides, for reasons set forth in writing, that leasing the space is necessary to meet requirements which cannot be met in public buildings; and

(B) submits the reasons to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(g) DOLLAR AMOUNT ADJUSTMENT.—The Administrator annually may adjust any dollar amount referred to in this section to reflect a percentage increase or decrease in construction costs during the prior calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

§ 3308. Architectural or engineering services

(a) EMPLOYMENT BY ADMINISTRATOR.—When the Administrator of General Services decides it to be necessary, the Administrator may employ,

by contract or otherwise, without regard to chapters 33 and 51 and subchapter III of chapter 53 of title 5, civil service rules and regulations, or section 3709 of the Revised Statutes (41 U.S.C. 5), the services of established architectural or engineering corporations, firms, or individuals, to the extent the Administrator may require those services for any public building authorized to be constructed or altered under this chapter.

(b) EMPLOYMENT ON PERMANENT BASIS NOT PERMITTED.—A corporation, firm, or individual shall not be employed under authority of subsection (a) on a permanent basis.

(c) RESPONSIBILITY OF ADMINISTRATOR.—Notwithstanding any other provision of this section, the Administrator is responsible for all construction authorized by this chapter, including the interpretation of construction contracts, approval of material and workmanship supplied under a construction contract, approval of changes in the construction contract, certification of vouchers for payments due the contractor, and final settlement of the contract.

§ 3309. Buildings and sites in the District of Columbia

(a) IN GENERAL.—The purposes of this chapter shall be carried out in the District of Columbia as nearly as may be practicable in harmony with the plan of Peter Charles L'Enfant. Public buildings shall be constructed or altered to combine architectural beauty with practical utility.

(b) CLOSING OF STREETS AND ALLEYS.—When the Administrator of General Services decides that constructing or altering a public building under this chapter in the District of Columbia requires using contiguous squares as a site for the building, parts of streets that lie between the squares, and alleys that intersect the squares, may be closed and vacated if agreed to by the Administrator, the Council of the District of Columbia, and the National Capital Planning Commission. Those streets and alleys become part of the site.

(c) CONSULTATIONS PRIOR TO ACQUISITIONS.—

(1) WITH HOUSE OFFICE BUILDING COMMISSION.—The Administrator must consult with the House Office Building Commission created by the Act of March 4, 1907 (ch. 2918, 34 Stat. 1365), before the Administrator may acquire land located south of Independence Avenue, between Third Street SW and Eleventh Street SE, in the District of Columbia, for use as a site or an addition to a site.

(2) WITH ARCHITECT OF CAPITOL.—The Administrator must consult with the Architect of the Capitol before the Administrator may acquire land located in the area extending from the United States Capitol Grounds to Eleventh Street NE and SE and bounded by Independence Avenue on the south and G Street NE on the north, in the District of Columbia, for use as a site or an addition to a site.

(d) CONTRACTS FOR EVENTS IN STADIUM.—Notwithstanding the District of Columbia Stadium Act of 1957 (Public Law 85–300, 71 Stat. 619) or any other provision of law, the Armory Board may make contracts to conduct events in Robert F. Kennedy Stadium.

§ 3310. Special rules for leased buildings

For any building to be constructed for lease to, and for predominant use by, the Federal Government, the Administrator of General Services—

(1) notwithstanding section 585(a)(1) of this title, shall not make any agreement or undertake any commitment which will result in the construction of the building until the Administrator has established detailed specification requirements for the building;

(2) may acquire a leasehold interest in the building only by the use of competitive procedures required by section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253);

(3) shall inspect every building during construction to establish that the specifications established for the building are complied with;

(4) on completion of the building, shall evaluate the building to determine the extent of failure to comply with the specifications referred to in clause (1); and

(5) shall ensure that any contract entered into for the building shall contain provisions permitting a reduction of rent during any period when the building is not in compliance with the specifications.

§ 3311. State administration of criminal and health and safety laws

When the Administrator of General Services considers it desirable, the Administrator may assign to a State or a territory or possession of the United States any part of the authority of the Federal Government to administer criminal laws and health and safety laws with respect to land or an interest in land under the control of the Administrator and located in the State, territory, or possession. Assignment of authority under this section may be accomplished by filing with the chief executive officer of the State, territory, or possession a notice of assignment to take effect on acceptance, or in another manner as may be prescribed by the laws of the State, territory, or possession in which the land or interest is located.

§ 3312. Compliance with nationally recognized codes

(a) APPLICATION.—

(1) IN GENERAL.—This section applies to any project for construction or alteration of a building for which amounts are first appropriated for a fiscal year beginning after September 30, 1989.

(2) NATIONAL SECURITY WAIVER.—This section does not apply to a building for which the Administrator of General Services or the head of the federal agency authorized to construct or alter the building decides that the application of this section to the building would adversely affect national security. A decision under this subsection is not subject to administrative or judicial review.

(b) BUILDING CODES.—Each building constructed or altered by the General Services Administration or any other federal agency shall be constructed or altered, to the maximum extent feasible as determined by the Administrator or the head of the federal agency, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes, including electrical codes, fire and life safety codes, and plumbing codes, as the Administrator decides is appropriate. In carrying out this subsection, the Administrator or the head of the federal agency shall use the latest edition of the nationally recognized codes.

(c) ZONING LAWS.—Each building constructed or altered by the Administration or any other federal agency shall be constructed or altered only after consideration of all requirements (except procedural requirements) of the following laws of a State or a political subdivision of a State, which would apply to the building if it were not a building constructed or altered by a federal agency:

(1) Zoning laws.

(2) Laws relating to landscaping, open space, minimum distance of a building from the property line, maximum height of a building, historic preservation, esthetic qualities of a building, and other similar laws.

(d) COOPERATION WITH STATE AND LOCAL OFFICIALS.—

(1) STATE AND LOCAL GOVERNMENT CONSULTATION, REVIEW, AND INSPECTIONS.—To meet the requirements of subsections (b) and (c), the Administrator or the head of the federal agency authorized to construct or alter the building—

(A) in preparing plans for the building, shall consult with appropriate officials of the State or political subdivision of a State, or both, in which the building will be located;

(B) on request shall submit the plans in a timely manner to the officials for review by the officials for a reasonable period of time not exceeding 30 days; and

(C) shall permit inspection by the officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if the officials provide to the Administrator or the head of the federal agency—

(i) a copy of the schedule before construction of the building is begun; and

(ii) reasonable notice of their intention to conduct any inspection before conducting the inspection.

(2) LIMITATION ON RESPONSIBILITIES.—This section does not impose an obligation on any State or political subdivision to take any action under paragraph (1).

(e) STATE AND LOCAL GOVERNMENT RECOMMENDATIONS.—Appropriate officials of a State or political subdivision of a State may make recommendations to the Administrator or the head of the federal agency authorized to construct or alter a building concerning measures necessary to meet the requirements of subsections (b) and (c). The officials also may make recommendations to the Administrator or the head of the federal agency concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Administrator or the head of the agency shall give due consideration to the recommendations.

(f) EFFECT OF NONCOMPLIANCE.—An action may not be brought against the Federal Government and a fine or penalty may not be imposed against the Government for failure to meet the requirements of subsection (b), (c), or (d) or for failure to carry out any recommendation under subsection (e).

(g) LIMITATION ON LIABILITY.—The Government and its contractors shall not be required to pay any amount for any action a State or a political subdivision of a State takes to carry out this section, including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations.

§ 3313. Delegation

(a) WHEN ALLOWED.—Except for the authority contained in section 3305(b) of this title, the carrying out of the duties and powers of the Administrator of General Services under this chapter, in accordance with standards the Administrator prescribes—

(1) shall be delegated on request to the appropriate executive agency when the estimated cost of the project does not exceed $100,000; and

(2) may be delegated to the appropriate executive agency when the Administrator determines that delegation will promote efficiency and economy.

(b) NO EXEMPTION FROM OTHER PROVISIONS OF CHAPTER.—Delegation under subsection (a) does not exempt the person to whom the delegation is made, or the carrying out of the delegated duty or power, from any other provision of this chapter.

§ 3314. Report to Congress

(a) REQUEST BY EITHER HOUSE OF CONGRESS OR ANY COMMITTEE.—Within a reasonable time after a request of either House of Congress or any committee of Congress, the Administrator of General Services shall submit a report showing the location, space, cost, and status of each public building the construction, alteration, or acquisition of which—

(1) is to be under authority of this chapter; and

(2) was uncompleted as of the date of the request, or as of another date the request may designate.

(b) REQUEST OF COMMITTEE ON PUBLIC WORKS AND ENVIRONMENT OR COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.—The Administrator and the United States Postal Service shall make building project surveys requested by resolution by the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of

the House of Representatives, and within a reasonable time shall make a report on the survey to Congress. The report shall contain all other information required to be included in a prospectus of the proposed public building project under section 3307(b) of this title.

§ 3315. Certain authority not affected

This chapter does not limit or repeal the authority conferred by law on the United States Postal Service.

CHAPTER 35—NON-FEDERAL PUBLIC WORKS

§ 3501. Definitions

In this chapter, the following definitions apply:

(1) PUBLIC AGENCY.—The term ''public agency'' means a State or a public agency or political subdivision of a State.

(2) PUBLIC WORKS.—The term ''public works'' includes any public works other than housing.

(3) STATE.—The term ''State'' means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and any territory or possession of the United States.

§ 3502. Planned public works

(a) ADVANCES TO ENSURE PLANNING.—Notwithstanding section 3324(a) and (b) of title 31, the Secretary of Housing and Urban Development may make advances to public agencies and Indian tribes—

(1) to encourage public agencies and Indian tribes to maintain at all times a current and adequate reserve of planned public works the construction of which can rapidly be commenced, particularly when the national or local economic situation makes that action desirable; and

(2) to help attain maximum economy and efficiency in the planning and construction of public works.

(b) USES OF ADVANCES.—A public agency or Indian tribe shall use an advance under subsection (a) to aid in financing the cost of feasibility studies, engineering and architectural surveys, designs, plans, working drawings, specifications, or other action preliminary to and in preparation for the construction of public works, and for construction in connection with the development of a medical center, a general plan for the development of the center.

(c) NO FUTURE COMMITMENT.—An advance under subsection (a) does not commit the Congress to appropriate amounts to assist in financing the construction of any public works planned with the aid of that advance. Outstanding advances to public agencies and Indian tribes in a State shall not exceed 12.5 percent of the aggregate then authorized to be appropriated to the revolving fund established under section 3503 of this title.

(d) REQUIREMENTS FOR ADVANCES.—An advance shall not be made under subsection (a) for an individual project (including a regional, metropolitan, or other areawide project) unless—

(1) the project is planned to be constructed within or over a reasonable period of time considering the nature of the project;

(2) the project conforms to an overall state, local, or regional plan approved by a competent state, local, or regional authority; and

(3) the public agency or Indian tribe formally contracts with the Federal Government to complete the plan preparation promptly and to repay part or all of the advance when due.

(e) REGULATIONS.—The Secretary may prescribe regulations to carry out this chapter.

§ 3503. Revolving fund

(a) ESTABLISHMENT.—There is a revolving fund established by the Secretary of Housing and Urban Development to provide amounts for advances under this chapter. The fund comprises amounts appropriated under this chapter and all repayments and other receipts received in connection with advances made under this chapter.

(b) AUTHORIZATIONS.—Not more than $70,000,000 may be appropriated to the revolving fund as necessary to carry out the purposes of this chapter.

§ 3504. Surveys of public works planning

The Secretary of Housing and Urban Development may use during a fiscal year not more than $100,000 of the amount in the revolving fund established under section 3503 of this title to conduct surveys of the status and current volume of state and local public works planning and surveys of estimated requirements for state and local public works. In conducting a survey, the Secretary, may use or act through any department or agency of the Federal Government, with the consent of the department or agency.

§ 3505. Forgiveness of outstanding advances

In accordance with accounting and other procedures the Secretary of Housing and Urban Development prescribes, each advance made by the Secretary under this chapter that had any principal amount outstanding on February 5, 1988, was forgiven. The terms and conditions of any contract, or any amendment to a contract, for that advance with respect to any promise to repay the advance were canceled.

CHAPTER 37—CONTRACT WORK HOURS AND SAFETY STANDARDS

§ 3701. Definition and application

(a) DEFINITION.—In this chapter, the term ''Federal Government'' has the same meaning that the term ''United States'' had in the Contract Work Hours and Safety Standards Act (Public Law 87–581, 76 Stat. 357).

(b) APPLICATION.—

(1) CONTRACTS.—This chapter applies to—

(A) any contract that may require or involve the employment of laborers or mechanics on a public work of the Federal Government, a territory of the United States, or the District of Columbia; and

(B) any other contract that may require or involve the employment of laborers or mechanics if the contract is one—

(i) to which the Government, an agency or instrumentality of the Government, a territory, or the District of Columbia is a party;

(ii) which is made for or on behalf of the Government, an agency or instrumentality, a territory, or the District of Columbia; or

(iii) which is a contract for work financed at least in part by loans or grants from, or loans insured or guaranteed by, the Government or an agency or instrumentality under any federal law providing wage standards for the work.

(2) LABORERS AND MECHANICS.—This chapter applies to all laborers and mechanics employed by a contractor or subcontractor in the performance of any part of the work under the contract—

(A) including watchmen, guards, and workers performing services in connection with dredging or rock excavation in any river or harbor of the United States, a territory, or the District of Columbia; but

(B) not including an employee employed as a seaman.

(3) EXCEPTIONS.—

(A) THIS CHAPTER.—This chapter does not apply to—

(i) a contract for—

(I) transportation by land, air, or water;

(II) the transmission of intelligence; or

(III) the purchase of supplies or materials or articles ordinarily available in the open market;

(ii) any work required to be done in accordance with the provisions of the Walsh-Healey Act (41 U.S.C. 35 et seq.); and

(iii) a contract in an amount that is not greater than $100,000.

(B) SECTION 3902.—Section 3902 of this title does not apply to work where the assistance described in subsection (a)(2)(C) from the Government or an agency or instrumentality is only a loan guarantee or insurance.

§ 3702. Work hours

(a) STANDARD WORKWEEK.—The wages of every laborer and mechanic employed by any contractor or subcontractor in the performance of work on a contract described in section 3701 of this title shall be computed on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permitted subject to this section. For each workweek in which the laborer or mechanic is so employed, wages include compensation, at a rate not less than one and one-half times the basic rate of pay, for all hours worked in excess of 40 hours in the workweek.

(b) CONTRACT REQUIREMENTS.—A contract described in section 3701 of this title, and any obligation of the Federal Government, a territory of the United States, or the District of Columbia in connection with that contract, must provide that—

(1) a contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall not require or permit any laborer or mechanic, in any workweek in which the laborer or mechanic is employed on that work, to work more than 40 hours in that workweek, except as provided in this chapter; and

(2) when a violation of clause (1) occurs, the contractor and any subcontractor responsible for the violation are liable—

(A) to the affected employee for the employee's unpaid wages; and

(B) to the Government, the District of Columbia, or a territory for liquidated damages as provided in the contract.

(c) LIQUIDATED DAMAGES.—Liquidated damages under subsection (b)(2)(B) shall be computed for each individual employed as a laborer or mechanic in violation of this chapter and shall be equal to $10 for each calendar day on which the individual was required or permitted to work in excess of the standard workweek without payment of the overtime wages required by this chapter.

(d) AMOUNTS WITHHELD TO SATISFY LIABILITIES.—Subject to section 3703 of this title, the governmental agency for which the contract work is done or which is providing financial assistance for the work may withhold, or have withheld, from money payable because of work performed by a contractor or subcontractor, amounts administratively determined to be necessary to satisfy the liabilities of the contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

§ 3703. Report of violations and withholding of amounts for unpaid wages and liquidated damages

(a) REPORTS OF INSPECTORS.—An officer or individual designated as an inspector of the work to be performed under a contract described in section 3701 of this title, or to aid in the enforcement or fulfillment of the contract, on observation or after investigation immediately shall report to the proper officer of the Federal Government, a territory of the United States, or the

District of Columbia all violations of this chapter occurring in the performance of the work, together with the name of each laborer or mechanic who was required or permitted to work in violation of this chapter and the day the violation occurred.

(b) WITHHOLDING AMOUNTS.—

(1) DETERMINING AMOUNT.—The amount of unpaid wages and liquidated damages owing under this chapter shall be determined administratively.

(2) AMOUNT DIRECTED TO BE WITHHELD.—The officer or individual whose duty it is to approve the payment of money by the Government, territory, or District of Columbia in connection with the performance of the contract work shall direct the amount of—

(A) liquidated damages to be withheld for the use and benefit of the Government, territory, or District; and

(B) unpaid wages to be withheld for the use and benefit of the laborers and mechanics who were not compensated as required under this chapter.

(3) PAYMENT.—The Comptroller General shall pay the amount administratively determined to be due directly to the laborers and mechanics from amounts withheld on account of underpayments of wages if the amount withheld is adequate. If the amount withheld is not adequate, the Comptroller General shall pay an equitable proportion of the amount due.

(c) RIGHT OF ACTION AND INTERVENTION AGAINST CONTRACTORS AND SURETIES.—If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this chapter, the laborers and mechanics, in the case of a department or agency of the Government, have the same right of action and intervention against the contractor and the contractor's sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(d) REVIEW PROCESS.—

(1) TIME LIMIT FOR APPEAL.—Within 60 days after an amount is withheld as liquidated damages, any contractor or subcontractor aggrieved by the withholding may appeal to the head of the agency of the Government or territory for which the contract work is done or which is providing financial assistance for the work, or to the Mayor of the District of Columbia in the case of liquidated damages withheld for the use and benefit of the District.

(2) REVIEW BY AGENCY HEAD OR MAYOR.—The agency head or Mayor may review the administrative determination of liquidated damages. The agency head or Mayor may issue a final order affirming the determination or may recommend to the Secretary of Labor that an appropriate adjustment in liquidated damages be made, or that the contractor or subcontractor be relieved of liability for the liquidated damages, if it is found that the amount is incorrect or that the contractor or subcontractor violated this chapter inadvertently, notwithstanding the exercise of due care by the contractor or subcontractor and the agents of the contractor or subcontractor.

(3) REVIEW BY SECRETARY.—The Secretary shall review all pertinent facts in the matter and may conduct any investigation the Secretary considers necessary in order to affirm or reject the recommendation. The decision of the Secretary is final.

(4) JUDICIAL ACTION.—A contractor or subcontractor aggrieved by a final order for the withholding of liquidated damages may file a claim in the United States Court of Federal Claims within 60 days after the final order. A final order of the agency head, Mayor, or Secretary is conclusive with respect to findings of fact if supported by substantial evidence.

(e) APPLICABILITY OF OTHER LAWS.—

(1) REORGANIZATION PLAN.—Reorganization Plan Numbered 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) applies to this chapter.

(2) SECTION 3145.—Section 3145 of this title applies to contractors and subcontractors referred to in section 3145 who are engaged in the performance of contracts subject to this chapter.

§ 3704. Health and safety standards in building trades and construction industry

(a) CONDITION OF CONTRACTS.—

(1) IN GENERAL.—Each contract in an amount greater than $100,000 that is entered into under legislation subject to Reorganization Plan Numbered 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and is for construction, alteration, and repair, including painting and decorating, must provide that no contractor or subcontractor contracting for any part of the contract work shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health or safety, as established under construction safety and health standards the Secretary of Labor prescribes by regulation based on proceedings pursuant to section 553 of title 5, provided that the proceedings include a hearing similar in nature to that authorized by section 553.

(2) CONSULTATION.—In formulating standards under this section, the Secretary shall consult with the Advisory Committee created by subsection (d) of this section.

(b) COMPLIANCE.—

(1) ACTIONS TO GAIN COMPLIANCE.—The Secretary may make inspections, hold hearings, issue orders, and make decisions based on findings of fact as the Secretary considers necessary to gain compliance with this section and any health and safety standard the Secretary prescribes under subsection (a). For those purposes the Secretary and the United States district courts have the authority and jurisdiction provided by sections 4 and 5 of the Walsh-Healey Act (41 U.S.C. 38, 39).

(2) REMEDY WHEN NONCOMPLIANCE FOUND.—When the Secretary, after an opportunity for an adjudicatory hearing by the Secretary, establishes noncompliance under this section of any condition of a contract described in—

(A) section 3701(b)(1)(B)(i) or (ii) of this title, the governmental agency for which the contract work is done may cancel the contract and make other contracts for the completion of the contract work, charging any additional cost to the original contractor; or

(B) section 3701(b)(1)(B)(iii) of this title, the governmental agency which is providing the financial guarantee, assistance, or insurance for the contract work may withhold the guarantee, assistance, or insurance attributable to the performance of the contract.

(3) NONAPPLICABILITY.—Section 3703 of this title does not apply to the enforcement of this section.

(c) REPEATED VIOLATIONS.—

(1) TRANSMITTAL OF NAMES OF REPEAT VIOLATORS TO COMPTROLLER GENERAL.—When the Secretary, after an opportunity for an agency hearing, decides on the record that, by repeated willful or grossly negligent violations of this chapter, a contractor or subcontractor has demonstrated that subsection (b) is not effective to protect the safety and health of the employees of the contractor or subcontractor, the Secretary shall make a finding to that effect and, not sooner than 30 days after giving notice of the finding to all interested persons, shall transmit the name of the contractor or subcontractor to the Comptroller General.

(2) BAN ON AWARDING CONTRACTS.—The Comptroller General shall distribute each name transmitted under paragraph (1) to all agencies of the Federal Government. Unless the Secretary otherwise recommends, the contractor, subcontractor, or any person in which the contractor or subcontractor has a substantial interest may not be awarded a contract subject to this section until three years have elapsed from the date the name is transmitted to the Comptroller General. The Secretary shall terminate the ban if, before the end of the three-year period, the Secretary, after affording interested persons due notice and an opportunity for a hearing, is satisfied that a contractor or subcontractor whose name was transmitted to the Comptroller General will comply responsibly with the requirements of this section. The Comptroller General shall inform all Government agencies after being informed of the Secretary's action.

(3) JUDICIAL REVIEW.—A person aggrieved by the Secretary's action under this subsection or subsection (b) may file with the appropriate United States court of appeals a petition for review of the Secretary's action within 60 days after receiving notice of the Secretary's action. The clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary then shall file with the court the record on which the action is based. The findings of fact by the Secretary, if supported by substantial evidence, are final. The court may enter a decree enforcing, modifying, modifying and enforcing, or setting aside any part of, the order of the Secretary or the appropriate Government agency. The judgment of the court may be reviewed by the Supreme Court as provided in section 1254 of title 28.

(d) ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH.—

(1) ESTABLISHMENT.—There is an Advisory Committee on Construction Safety and Health in the Department of Labor.

(2) COMPOSITION.—The Committee is composed of nine members appointed by the Secretary, without regard to chapter 33 of title 5, as follows:

(A) Three members shall be individuals representative of contractors to whom this section applies.

(B) Three members shall be individuals representative of employees primarily in the building trades and construction industry engaged in carrying out contracts to which this section applies.

(C) Three members shall be public representatives who shall be selected on the basis of their professional and technical competence and experience in the construction health and safety field.

(3) CHAIRMAN.—The Secretary shall appoint one member as Chairman.

(4) DUTIES.—The Committee shall advise the Secretary—

(A) in formulating construction safety and health standards and other regulations; and

(B) on policy matters arising in carrying out this section.

(5) EXPERTS AND CONSULTANTS.—The Secretary may appoint special advisory and technical experts or consultants as may be necessary to carry out the functions of the Committee.

(6) COMPENSATION AND EXPENSES.—Committee members are entitled to receive compensation at rates the Secretary fixes, but not more than $100 a day, including traveltime, when performing Committee business, and expenses under section 5703 of title 5.

§ 3705. Safety programs

The Secretary of Labor shall—

(1) provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe working conditions in employment covered by this chapter; and

(2) collect reports and data and consult with and advise employers as to the best means of preventing injuries.

§ 3706. Limitations, variations, tolerances, and exemptions

The Secretary of Labor may provide reasonable limitations to, and may prescribe regulations allowing reasonable variations to, tolerances from, and exemptions from, this chapter

that the Secretary may find necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment of the conduct of Federal Government business.

§ 3707. Contractor certification or contract clause in acquisition of commercial items not required

In a contract to acquire a commercial item (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)), a certification by a contractor or a contract clause may not be required to implement a prohibition or requirement in this chapter.

§ 3708. Criminal penalties

A contractor or subcontractor having a duty to employ, direct, or control a laborer or mechanic employed in the performance of work contemplated by a contract to which this chapter applies that intentionally violates this chapter shall be fined under title 18, imprisoned for not more than six months, or both.

PART B—UNITED STATES CAPITOL

CHAPTER 51—UNITED STATES CAPITOL BUILDINGS AND GROUNDS

§ 5101. Definition

In this chapter, the term ''Capitol Buildings'' means the United States Capitol, the Senate and House Office Buildings and garages, the Capitol Power Plant, all subways and enclosed passages connecting two or more of those structures, and the real property underlying and enclosed by any of those structures.

§ 5102. Legal description and jurisdiction of United States Capitol Grounds

(a) LEGAL DESCRIPTION.—The United States Capitol Grounds comprises all squares, reservations, streets, roadways, walks, and other areas as defined on a map entitled ''Map showing areas comprising United States Capitol Grounds'', dated June 25, 1946, approved by the Architect of the Capitol, and recorded in the Office of the Surveyor of the District of Columbia in book 127, page 8, including all additions added by law after June 25, 1946.

(b) JURISDICTION.—

(1) ARCHITECT OF THE CAPITOL.—The jurisdiction and control over the Grounds, vested prior to July 31, 1946, by law in the Architect, is extended to the entire area of the Grounds. Except as provided in paragraph (2), the Architect is responsible for the maintenance and improvement of the Grounds, including those streets and roadways in the Grounds as shown on the map referred to in subsection (a) as being under the jurisdiction and control of the Commissioners of the District of Columbia.

(2) MAYOR OF THE DISTRICT OF COLUMBIA.—

(A) IN GENERAL.—The Mayor of the District of Columbia is responsible for the maintenance and improvement of those portions of the following streets which are situated between the curblines of those streets: Constitution Avenue from Second Street Northeast to Third Street Northwest, First Street from D Street Northeast to D Street Southeast, D Street from First Street Southeast to Washington Avenue Southwest, and First Street from the north side of Louisiana Avenue to the intersection of C Street and Washington Avenue Southwest, Pennsylvania Avenue Northwest from First Street Northwest to Third Street Northwest, Maryland Avenue Southwest from First Street Southwest to Third Street Southwest, Second Street Northeast from F Street Northeast to C Street Southeast; C Street Southeast from Second Street Southeast to First Street Southeast; that portion of Maryland Avenue Northeast from Second Street Northeast to First Street Northeast; that portion of New Jersey Avenue Northwest from D Street Northwest to Louisiana Avenue; that portion of Second Street Southwest from the north curb of D Street to the south curb of Virginia Avenue Southwest; that portion of Virginia Avenue Southwest from the east curb of Second Street Southwest to the west curb of Third Street Southwest; that portion of Third Street Southwest from the south curb of Virginia Avenue Southwest to the north curb of D Street Southwest; that portion of D Street Southwest from the west curb of Third Street Southwest to the east curb of Second Street Southwest; that portion of Washington Avenue Southwest, including sidewalks and traffic islands, from the south curb of Independence Avenue Southwest to the west curb of South Capitol Street.

(B) REPAIR AND MAINTENANCE OF UTILITY SERVICES.—The Mayor may enter any part of the Grounds to repair or maintain or, subject to the approval of the Architect, construct or alter, any utility service of the District of Columbia Government.

§ 5103. Restrictions on public use of United States Capitol Grounds

Public travel in, and occupancy of, the United States Capitol Grounds is restricted to the roads, walks, and places prepared for that purpose.

§ 5104. Unlawful activities

(a) DEFINITIONS.—In this section—

(1) ACT OF PHYSICAL VIOLENCE.—The term ''act of physical violence'' means any act involving—

(A) an assault or other infliction or threat of infliction of death or bodily harm on an individual; or

(B) damage to, or destruction of, real or personal property.

(2) DANGEROUS WEAPON.—The term ''dangerous weapon'' includes—

(A) all articles enumerated in section 14(a) of the Act of July 8, 1932 (ch. 465, 47 Stat. 654); and

(B) a device designed to expel or hurl a projectile capable of causing injury to individuals or property, a dagger, a dirk, a stiletto, and a knife having a blade over three inches in length.

(3) EXPLOSIVES.—The term ''explosives'' has the meaning given that term in section 841(d) of title 18.

(4) FIREARM.—The term ''firearm'' has the meaning given that term in section 921(3) of title 18.

(b) OBSTRUCTION OF ROADS.—A person may not occupy the roads in the United States Capitol Grounds in a manner that obstructs or hinders their proper use, or use the roads in the area of the Grounds, south of Constitution Avenue and B Street and north of Independence Avenue and B Street, to convey goods or merchandise, except to or from the United States Capitol on Federal Government service.

(c) SALE OF ARTICLES, DISPLAY OF SIGNS, AND SOLICITATIONS.—A person may not carry out any of the following activities in the Grounds:

(1) offer or expose any article for sale.

(2) display a sign, placard, or other form of advertisement.

(3) solicit fares, alms, subscriptions, or contributions.

(d) INJURIES TO PROPERTY.—A person may not step or climb on, remove, or in any way injure any statue, seat, wall, fountain, or other erection or architectural feature, or any tree, shrub, plant, or turf, in the Grounds.

(e) CAPITOL GROUNDS AND BUILDINGS SECURITY.—

(1) FIREARMS, DANGEROUS WEAPONS, EXPLOSIVES, OR INCENDIARY DEVICES.—An individual or group of individuals—

(A) except as authorized by regulations prescribed by the Capitol Police Board—

(i) may not carry on or have readily accessible to any individual on the Grounds or in any of the Capitol Buildings a firearm, a dangerous weapon, explosives, or an incendiary device;

(ii) may not discharge a firearm or explosives, use a dangerous weapon, or ignite an incendiary device, on the Grounds or in any of the Capitol Buildings; or

(iii) may not transport on the Grounds or in any of the Capitol Buildings explosives or an incendiary device; or

(B) may not knowingly, with force and violence, enter or remain on the floor of either House of Congress.

(2) VIOLENT ENTRY AND DISORDERLY CONDUCT.—An individual or group of individuals may not willfully and knowingly—

(A) enter or remain on the floor of either House of Congress or in any cloakroom or lobby adjacent to that floor, in the Rayburn Room of the House of Representatives, or in the Marble Room of the Senate, unless authorized to do so pursuant to rules adopted, or an authorization given, by that House;

(B) enter or remain in the gallery of either House of Congress in violation of rules governing admission to the gallery adopted by that House or pursuant to an authorization given by that House;

(C) with the intent to disrupt the orderly conduct of official business, enter or remain in a room in any of the Capitol Buildings set aside or designated for the use of either House of Congress or a Member, committee, officer, or employee of Congress or either House of Congress;

(D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress;

(E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings;

(F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; or

(G) parade, demonstrate, or picket in any of the Capitol Buildings.

(3) EXEMPTION OF GOVERNMENT OFFICIALS.—This subsection does not prohibit any act performed in the lawful discharge of official duties by—

(A) a Member of Congress;

(B) an employee of a Member of Congress;

(C) an officer or employee of Congress or a committee of Congress; or

(D) an officer or employee of either House of Congress or a committee of that House.

(f) PARADES, ASSEMBLAGES, AND DISPLAY OF FLAGS.—Except as provided in section 5106 of this title, a person may not—

(1) parade, stand, or move in processions or assemblages in the Grounds; or

(2) display in the Grounds a flag, banner, or device designed or adapted to bring into public notice a party, organization, or movement.

§ 5105. Assistance to authorities by Capitol employees

Each individual employed in the service of the Federal Government in the United States Capitol or within the United States Capitol Grounds shall prevent, as far as may be in the individual's power, a violation of a provision of this chapter or section 9, 9A, 9B, 9C, or 14 of the Act of July 31, 1946 (ch. 707, 60 Stat. 719, 720), and shall aid the police in securing the arrest and conviction of the individual violating the provision.

§ 5106. Suspension of prohibitions

(a) AUTHORITY TO SUSPEND.—To allow the observance in the United States Capitol Grounds of occasions of national interest becoming the cognizance and entertainment of Congress, the President of the Senate and the Speaker of the

House of Representatives concurrently may suspend any of the prohibitions contained in sections 5103 and 5104 of this title that would prevent the use of the roads and walks within the Grounds by processions or assemblages, and the use in the Grounds of suitable decorations, music, addresses, and ceremonies, if responsible officers have been appointed and the President and the Speaker determine that adequate arrangements have been made to maintain suitable order and decorum in the proceedings and to guard the United States Capitol and its grounds from injury.

(b) POWER TO SUSPEND PROHIBITIONS IN ABSENCE OF PRESIDENT OR SPEAKER.—If either the President or Speaker is absent from the District of Columbia, the authority to suspend devolves on the other officer. If both officers are absent, the authority devolves on the Capitol Police Board.

(c) AUTHORITY OF MAYOR TO PERMIT USE OF LOUISIANA AVENUE.—Notwithstanding subsection (a) and section 5104(f) of this title, the Capitol Police Board may grant the Mayor of the District of Columbia authority to permit the use of Louisiana Avenue for any of the purposes prohibited by section 5104(f).

§ 5107. Concerts on grounds

Sections 5102, 5103, 5104(b)–(f), 5105, 5105, and 5109 of this title and sections 9, 9A, 9B, and 9C of the Act of July 31, 1946 (ch. 707, 60 Stat. 719, 720), do not prohibit a band in the service of the Federal Government from giving concerts in the United States Capitol Grounds at times which will not interfere with Congress and as authorized by the Architect of the Capitol.

§ 5108. Audit of private organizations

A private organization (except a political party or committee constituted for the election of federal officials), whether or not organized for profit and whether or not any of its income inures to the benefit of any person, that performs services or conducts activities in the United States Capitol Buildings or Grounds is subject to a special audit of its accounts for each year in which it performs those services or conducts those activities. The Comptroller General shall conduct the audit and report the results of the audit to the Senate and the House of Representatives.

§ 5109. Penalties

(a) FIREARMS, DANGEROUS WEAPONS, EXPLOSIVES, OR INCENDIARY DEVICE OFFENSES.—An individual or group violating section 5104(e)(1) of this title, or attempting to commit a violation, shall be fined under title 18, imprisoned for not more than five years, or both.

(b) OTHER OFFENSES.—A person violating section 5103 or 5104(b), (c), (d), (e)(2), or (f) of this title, or attempting to commit a violation, shall be fined under title 18, imprisoned for not more than six months, or both.

(c) PROCEDURE.—

(1) IN GENERAL.—An action for a violation of this chapter or section 9, 9A, 9B, 9C or 14 of the Act of July 31, 1946 (ch. 707, 60 Stat. 719, 720), including an attempt or a conspiracy to commit a violation, shall be brought by the Attorney General in the name of the United States. This chapter and sections 9, 9A, 9B, 9C and 14 do not supersede any provision of federal law or the laws of the District of Columbia. Where the conduct violating this chapter or section 9, 9A, 9B, 9C or 14 also violates federal law or the laws of the District of Columbia, both violations may be joined in a single action.

(2) VENUE.—An action under this section for a violation of—

(A) section 5104(e)(1) of this title or for conduct that constitutes a felony under federal law or the laws of the District of Columbia shall be brought in the United States District Court for the District of Columbia; and

(B) any other section referred to in subsection (a) may be brought in the Superior Court of the District of Columbia.

(3) AMOUNT OF PENALTY.— The penalty which may be imposed on a person convicted in an action under this subsection is the highest penalty authorized by any of the laws the defendant is convicted of violating.

PART C—FEDERAL BUILDING COMPLEXES

CHAPTER 61—UNITED STATES SUPREME COURT BUILDING AND GROUNDS

SUBCHAPTER I—GENERAL

SUBCHAPTER II—BUILDINGS AND GROUNDS

SUBCHAPTER III—POLICING AUTHORITY

SUBCHAPTER IV—PROHIBITIONS AND PENALTIES

SUBCHAPTER I—GENERAL

§ 6101. Definitions and application

(a) DEFINITIONS.—In this chapter, the following definitions apply:

(1) OFFICIAL GUEST OF THE SUPREME COURT.—The term ''official guest of the Supreme Court'' means an individual who is a guest of the Supreme Court, as determined by the Chief Justice of the United States or any Associate Justice of the Supreme Court;

(2) STATE.—The term ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and any territory or possession of the United States; and

(b) APPLICATION.—For purposes of section 6102 of this title and subchapters III and IV, the Supreme Court grounds—

(1) extend to the line of the face of—

(A) the east curb of First Street Northeast, between Maryland Avenue Northeast and East Capitol Street;

(B) the south curb of Maryland Avenue Northeast, between First Street Northeast and Second Street Northeast;

(C) the west curb of Second Street Northeast, between Maryland Avenue Northeast and East Capitol Street; and

(D) the north curb of East Capitol Street between First Street Northeast and Second Street Northeast; and

(2) comprise any property under the custody and control of the Supreme Court as part of the Supreme Court grounds, including property acquired as provided by law on behalf of the Federal Government in lots 2, 3, 800, 801, and 802 in square 758 in the District of Columbia as an addition to the grounds of the Supreme Court Building.

§ 6102. Regulations

(a) AUTHORITY OF THE MARSHAL.—In addition to the restrictions and requirements specified in subchapter IV, the Marshal of the Supreme Court may prescribe regulations, approved by the Chief Justice of the United States, that are necessary for—

(1) the adequate protection of the Supreme Court Building and grounds and of individuals and property in the Building and grounds; and

(2) the maintenance of suitable order and decorum within the Building and grounds.

(b) POSTING REQUIREMENT.—All regulations prescribed under this section shall be posted in a public place at the Building and shall be made reasonably available to the public in writing.

SUBCHAPTER II—BUILDINGS AND GROUNDS

§ 6111. Supreme Court Building

(a) IN GENERAL.—

(1) STRUCTURAL AND MECHANICAL CARE.—The Architect of the Capitol shall have charge of the structural and mechanical care of the Supreme Court Building, including—

(A) the care and maintenance of the grounds; and

(B) the supplying of all mechanical furnishings and mechanical equipment for the Building.

(2) OPERATION AND MAINTENANCE.—The Architect shall direct the operation and maintenance of the mechanical equipment and repair of the building.

(3) CONTRACT AUTHORITY.—The Architect may enter into all necessary contracts to carry out this subsection.

(b) AVAILABILITY OF APPROPRIATIONS..—Amounts appropriated under—

(1) subsection (a) and sections 6112 and 6113 of this title are available for—

(A) expenses of heating and air-conditioning refrigeration supplied by the Capitol Power Plant, advancements for which shall be made and deposited in the Treasury to the credit of appropriations provided for the Capitol Power Plant; and

(B) the purchase of electrical energy; and

(2) the heading ''SUPREME COURT OF THE UNITED STATES'' and ''CARE OF THE BUILDING AND GROUNDS'' are available for—

(A) improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances;

(B) special clothing for workers;

(C) personal and other services (including temporary labor without regard to chapter 51, subchapter III of chapter 53, and subchapter III of chapter 83, of title 5); and

(D) without compliance with section 3709 of the Revised Statutes (41 U.S.C. 5)—

(i) for snow removal (by hire of personnel and equipment or under contract); and

(ii) for the replacement of electrical transformers containing polychlorinated biphenyls.

§ 6112. Supreme Court Building and grounds employees

Employees required to carry out section 6111(a) of this title shall be—

(1) appointed by the Architect of the Capitol with the approval of the Chief Justice of the United States;

(2) compensated in accordance with chapter 51 and subchapter III of chapter 53 of title 5; and

(3) subject to subchapter III of chapter 83 of title 5.

§ 6113. Duties of the Superintendent of the Supreme Court Building

Except as provided in section 6111(a) of this title, all duties and work required for the operation, domestic care, and custody of the Supreme Court Building shall be performed under the direction of the Marshal of the Supreme Court. The Marshal serves as the superintendent of the Building.

§ 6114. Oliver Wendell Holmes Garden

The Architect of the Capitol shall maintain and care for the Oliver Wendell Holmes Garden

in accordance with the provisions of law on the maintenance and care of the grounds of the Supreme Court Building.

SUBCHAPTER III—POLICING AUTHORITY

§ 6121. General

(a) AUTHORITY OF MARSHAL OF THE SUPREME COURT AND SUPREME COURT POLICE.—In accordance with regulations prescribed by the Marshal of the Supreme Court and approved by the Chief Justice of the United States, the Marshal and the Supreme Court Police shall have authority—

(1) to police the Supreme Court Building and grounds and adjacent streets to protect individuals and property;

(2) in any State, to protect—

(A) the Chief Justice, any Associate Justice of the Supreme Court, and any official guest of the Supreme Court; and

(B) any officer or employee of the Supreme Court while that officer or employee is performing official duties;

(3) while performing duties necessary to carry out paragraph (1) or (2), to make arrests for any violation of federal or state law and any regulation under federal or state law; and

(4) to carry firearms as may be required while performing duties under section 6102 of this title, this subchapter, and subchapter IV.

(b) ADDITIONAL REQUIREMENTS RELATED TO SUBSECTION (a)(2).—

(1) AUTHORIZATION TO CARRY FIREARMS.—Duties under subsection (a)(2)(A) with respect to an official guest of the Supreme Court in any State (other than the District of Columbia, Maryland, and Virginia) shall be authorized in writing by the Chief Justice or an Associate Justice, if those duties require the carrying of firearms under subsection (a)(4).

(2) TERMINATION OF AUTHORITY.—The authority provided under subsection (a)(2) expires on December 29, 2004.

§ 6122. Designation of members of the Supreme Court Police

Under the general supervision and direction of the Chief Justice of the United States, the Marshal of the Supreme Court may designate employees of the Supreme Court as members of the Supreme Court Police, without additional compensation.

§ 6123. Authority of Metropolitan Police of the District of Columbia

The Metropolitan Police of the District of Columbia may make arrests within the Supreme Court Building and grounds for a violation of federal or state law or any regulation under federal or state law. This section does not authorize the Metropolitan Police to enter the Supreme Court Building to make an arrest in response to a complaint, serve a warrant, or patrol the Supreme Court Building or grounds, unless the Metropolitan Police have been requested to do so by, or have received the consent of, the Marshal of the Supreme Court or an assistant to the Marshal.

SUBCHAPTER IV—PROHIBITIONS AND PENALTIES

§ 6131. Public travel in Supreme Court grounds

Public travel in, and occupancy of, the Supreme Court grounds is restricted to the sidewalks and other paved surfaces.

§ 6132. Sale of articles, signs, and solicitation in Supreme Court Building and grounds

It is unlawful—

(1) to offer or expose any article for sale in the Supreme Court Building or grounds;

(2) to display a sign, placard, or other form of advertisement in the Building or grounds; or

(3) to solicit fares, alms, subscriptions, or contributions in the Building or grounds.

§ 6133. Property in the Supreme Court Building and grounds

It is unlawful to step or climb on, remove, or in any way injure any statue, seat, wall, fountain, or other erection or architectural feature, or any tree, shrub, plant, or turf, in the Supreme Court Building or grounds.

§ 6134. Firearms, fireworks, speeches, and objectionable language in the Supreme Court Building and grounds

It is unlawful to discharge a firearm, firework or explosive, set fire to a combustible, make a harangue or oration, or utter loud, threatening, or abusive language in the Supreme Court Building or grounds.

§ 6135. Parades, assemblages, and display of flags in the Supreme Court Building and grounds

It is unlawful to parade, stand, or move in processions or assemblages in the Supreme Court Building or grounds, or to display in the Building and grounds a flag, banner, or device designed or adapted to bring into public notice a party, organization, or movement.

§ 6136. Suspension of prohibitions against use of Supreme Court grounds

To allow the observance of authorized ceremonies in the Supreme Court Building and grounds, the Marshal of the Supreme Court may suspend for those occasions any of the prohibitions contained in this subchapter as may be necessary for the occasion if—

(1) responsible officers have been appointed; and

(2) the Marshal determines that adequate arrangements have been made—

(A) to maintain suitable order and decorum in the proceedings; and

(B) to protect the Supreme Court Building and grounds and individuals and property in the Building and grounds.

§ 6137. Penalties

(a) IN GENERAL.—An individual who violates this subchapter, or a regulation prescribed under section 6102 of this title, shall be fined under title 18, imprisoned not more than 60 days, or both.

(b) VENUE AND PROCEDURE.—Prosecution for a violation described in subsection (a) shall be in the Superior Court of the District of Columbia, on information by the United States Attorney or an Assistant United States Attorney.

(c) OFFENSES INVOLVING PROPERTY DAMAGE OVER $100.—If during the commission of a violation described in subsection (a), public property is damaged in an amount exceeding $100, the period of imprisonment for the offense may be not more than five years.

CHAPTER 63—SMITHSONIAN INSTITUTION, NATIONAL GALLERY OF ART, AND JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

§ 6301. Definition

In this chapter, the term ''specified buildings and grounds'' means—

(1) SMITHSONIAN INSTITUTION.—The Smithsonian Institution and its grounds, which include the following:

(A) SMITHSONIAN BUILDINGS AND GROUNDS ON THE NATIONAL MALL.—The Smithsonian Building, the Arts and Industries Building, the Freer Gallery of Art, the National Air and Space Museum, the National Museum of Natural History, the National Museum of American History, the National Museum of the American Indian, the Hirshhorn Museum and Sculpture Garden, the Arthur M. Sackler Gallery, the National Museum of African Art, the S. Dillon Ripley Center, and all other buildings of the Smithsonian Institution within the Mall, including the entrance walks, unloading areas, and other pertinent service roads and parking areas.

(B) NATIONAL ZOOLOGICAL PARK.—The National Zoological Park comprising all the buildings, streets, service roads, walks, and other areas within the boundary fence of the National Zoological Park in the District of Columbia and including the public space between that fence and the face of the curb lines of the adjacent city streets.

(C) OTHER SMITHSONIAN BUILDINGS AND GROUNDS.—All other buildings, service roads, walks, and other areas within the exterior boundaries of any real estate or land or interest in land (including temporary use) that the Smithsonian Institution acquires and that the Secretary of the Smithsonian Institution determines to be necessary for the adequate protection of individuals or property in the Smithsonian Institution and suitable for administration as a part of the Smithsonian Institution.

(2) NATIONAL GALLERY OF ART.—The National Gallery of Art and its grounds, which extend—

(A) to the line of the face of the south curb of Constitution Avenue Northwest, between Seventh Street Northwest, and Fourth Street Northwest, to the line of the face of the west curb of Fourth Street Northwest, between Constitution Avenue Northwest, and Madison Drive Northwest; to the line of the face of the north curb of Madison Drive Northwest, between Fourth Street Northwest, and Seventh Street Northwest; and to the line of the face of the east curb of Seventh Street Northwest, between Madison Drive Northwest, and Constitution Avenue Northwest;

(B) to the line of the face of the south curb of Pennsylvania Avenue Northwest, between Fourth Street and Third Street Northwest, to the line of the face of the west curb of Third Street Northwest, between Pennsylvania Avenue and Madison Drive Northwest, to the line of the face of the north curb of Madison Drive Northwest, between Third Street and Fourth Street Northwest, and to the line of the face of the east curb of Fourth Street Northwest, between Pennsylvania Avenue and Madison Drive Northwest; and

(C) to the line of the face of the south curb of Constitution Avenue Northwest, between Ninth Street Northwest and Seventh Street Northwest; to the line of the face of the west curb of Seventh Street Northwest, between Constitution Avenue Northwest and Madison Drive Northwest; to the line of the face of the north curb of Madison Drive Northwest, between Seventh Street Northwest and the line of the face of the east side of the east retaining wall of the Ninth Street Expressway Northwest; and to the line of the face of the east side of the east retaining wall of the Ninth Street Expressway Northwest, between Madison Drive Northwest and Constitution Avenue Northwest.

(3) JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.—The John F. Kennedy Center for the Performing Arts, which extends to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north, as generally depicted on the map entitled ''Transfer of John F. Kennedy Center for the Performing Arts'', numbered 844/82563 and dated April 20, 1994 (as amended by the map entitled ''Transfer of John F. Kennedy Center for the Performing Arts'', numbered 844/82563A and dated May 22, 1997), which shall be on file and available for public inspection in the office of the National Capital Region, National Park Service.

§ 6302. Public use of grounds

Public travel in, and occupancy of, the grounds specified under section 6301 of this title are restricted to the sidewalks and other paved surfaces, except in the National Zoological Park.

§ 6303. Unlawful activities

(a) DISPLAYS AND SOLICITATIONS.—It is unlawful for anyone other than an authorized employee or concessionaire to carry out any of the following activities within the specified buildings and grounds:

(1) Offer or expose any article for sale.

(2) Display any sign, placard, or other form of advertisement.

(3) Solicit alms, subscriptions, or contributions.

(b) TOUCHING OF, OR INJURIES TO, PROPERTY.—It is unlawful for anyone—

(1) other than an authorized employee, to touch or handle objects of art or scientific or historical objects on exhibition within the specified buildings or grounds; or

(2) to step or climb on, remove, or in any way injure any object of art, exhibit (including an exhibit animal), equipment, seat, wall, fountain, or other erection or architectural feature, or any tree, shrub, plant, or turf, within the specified buildings or grounds.

§ 6304. Additional regulations

(a) AUTHORITY TO PRESCRIBE ADDITIONAL REGULATIONS.—In addition to the restrictions and requirements specified in sections 6302 and 6303 of this title, the Secretary of the Smithsonian Institution, the Trustees of the National Gallery of Art, and the Trustees of the John F. Kennedy Center for the Performing Arts may prescribe for their respective agencies regulations necessary for—

(1) the adequate protection of the specified buildings and grounds and individuals and property in those buildings and grounds; and

(2) the maintenance of suitable order and decorum within the specified buildings and grounds, including the control of traffic and parking of vehicles in the National Zoological Park and all other areas in the District of Columbia under their control.

(b) PUBLICATION IN FEDERAL REGISTER.—A regulation prescribed under this section shall be published in the Federal Register and is not effective until the expiration of 10 days after the date of publication.

§ 6305. Suspension of regulations

To allow authorized services, training programs, and ceremonies in the specified buildings and grounds, the Secretary of the Smithsonian Institution, the Trustees of the National Gallery of Art, and the Trustees of the John F. Kennedy Center for the Performing Arts (or their designees) may suspend for their respective agencies any of the prohibitions contained in sections 6302 and 6303 of this title as may be necessary for the occasion or circumstance if—

(1) responsible officers have been appointed; and

(2) the Secretary of the Smithsonian Institution, the Trustees of the National Gallery of Art, and the Trustees of the John F. Kennedy Center for the Performing Arts (or their designees) determine that adequate arrangements have been made—

(A) to maintain suitable order and decorum in the proceedings; and

(B) to protect the specified buildings and grounds and persons and property in those buildings and on those grounds.

§ 6306. Policing of buildings and grounds

(a) DESIGNATION OF EMPLOYEES AS SPECIAL POLICE.—Subject to section 5375 of title 5, the Secretary of the Smithsonian Institution, the Trustees of the National Gallery of Art, and the Trustees of the John F. Kennedy Center for the Performing Arts (or their designees) may designate employees of their respective agencies as special police, without additional compensation, for duty in connection with the policing of their respective specified buildings and grounds.

(b) POWERS.—The employees designated as special police under subsection (a)—

(1) may, within the specified buildings and grounds, enforce, and make arrests for violations of, sections 6302 and 6303 of this title, any regulation prescribed under section 6304 of this title, federal or state law, or any regulation prescribed under federal or state law; and

(2) may enforce concurrently with the United States Park Police the laws and regulations applicable to the National Capital Parks, and may make arrests for violations of sections 6302 and 6303 of this title, within the several areas located within the exterior boundaries of the face of the curb lines of the squares within which the specified buildings and grounds are located.

(c) UNIFORMS AND OTHER EQUIPMENT.—The employees designated as special police under subsection (a) may be provided, without charge, with uniforms and other equipment as may be necessary for the proper performance of their duties, including badges, revolvers, and ammunition.

§ 6307. Penalties

(a) IN GENERAL.—

(1) PENALTY.—A person violating section 6302 or 6303 of this title, or a regulation prescribed under section 6304 of this title, shall be fined under title 18, imprisoned for not more than 60 days, or both.

(2) PROCEDURE.—Prosecution for an offense under this subsection shall be in the Superior Court of the District of Columbia, by information by the United States Attorney or an Assistant United States Attorney.

(b) OFFENSES INVOLVING PROPERTY DAMAGE OVER $100.—

(1) PENALTY.—If in the commission of a violation described in subsection (a), property is damaged in an amount exceeding $100, the period of imprisonment for the offense may be not more than five years.

(2) VENUE AND PROCEDURE.—Prosecution of an offense under this subsection shall be in the United States District Court for the District of Columbia by indictment. Prosecution may be on information by the United States Attorney or an Assistant United States Attorney if the defendant, after being advised of the nature of the charge and of rights of the defendant, waives in open court prosecution by indictment.

CHAPTER 65—THURGOOD MARSHALL FEDERAL JUDICIARY BUILDING

§ 6501. Definition

In this chapter, the term ''Chief Justice'' means the Chief Justice of the United States or the designee of the Chief Justice, except that when there is a vacancy in the office of the Chief Justice, the most senior associate justice of the Supreme Court shall be deemed to be the Chief Justice for purposes of this chapter until the vacancy is filled.

§ 6502. Thurgood Marshall Federal Judiciary Building

(a) ESTABLISHMENT AND DESIGNATION.—There is a Federal Judiciary Building in Washington, D.C., known and designated as the ''Thurgood Marshall Federal Judiciary Building''.

(b) TITLE.—

(1) SQUARES 721 AND 722.—Title to squares 721 and 722 remains in the Federal Government.

(2) BUILDING.—Title to the Building and other improvements constructed or otherwise made immediately reverts to the Government at the expiration of not more than 30 years from the effective date of the lease agreement referred to in section 6504 of this title without payment of any compensation by the Government.

(c) LIMITATIONS.—

(1) SIZE OF BUILDING.—The Building (excluding parking facilities) may not exceed 520,000 gross square feet in size above the level of Columbia Plaza in the District of Columbia.

(2) HEIGHT OF BUILDING.—The height of the Building and other improvements shall be compatible with the height of surrounding Government and historic buildings and conform to the provisions of the Act of June 1, 1910 (ch. 263, 36 Stat. 452) (known as the Building Height Act of 1910).

(3) DESIGN.—The Building and other improvements shall—

(A) be designed in harmony with historical and Government buildings in the vicinity;

(B) reflect the symbolic importance and historic character of the United States Capitol and other buildings on the United States Capitol Grounds; and

(C) represent the dignity and stability of the Government.

(d) APPROVAL OF CHIEF JUSTICE.—All final decisions regarding architectural design of the Building are subject to the approval of the Chief Justice.

(e) CHILLED WATER AND STEAM FROM CAPITOL POWER PLANT.—If the Building is connected with the Capitol Power Plant, the Architect of the Capitol shall furnish chilled water and steam from the Plant to the Building on a reimbursable basis.

(f) CONSTRUCTION STANDARDS.—The Building and other improvements constructed under this chapter shall meet all standards applicable to construction of a federal building.

(g) ACCOUNTING SYSTEM.—The Architect shall maintain an accounting system for operation and maintenance of the Building and other improvements which will allow accurate projections of the dates and cost of major repairs, improvements, reconstructions, and replacements of the Building and improvements and other capital expenditures on the Building and improvements.

(h) NONAPPLICABILITY OF CERTAIN LAWS.—

(1) BUILDING CODES, PERMITS, OR INSPECTION.—The Building is not subject to any law of the District of Columbia relating to building codes, permits, or inspection, including any such law enacted by Congress.

(2) TAXES.—The Building and other improvements constructed under this chapter are not subject to any law of the District of Columbia relating to real estate and personal property taxes, special assessments, or other taxes, including any such law enacted by Congress.

§ 6503. Commission for the Judiciary Office Building

(a) ESTABLISHMENT AND MEMBERSHIP.—There is a Commission for the Judiciary Office Building, composed of the following 13 members or their designees:

(1) Two individuals appointed by the Chief Justice from among justices of the Supreme Court and other judges of the United States.

(2) The members of the House Office Building Commission.

(3) The majority leader and minority leader of the Senate.

(4) The Chairman and the ranking minority member of the Senate Committee on Rules and Administration.

(5) The Chairman and the ranking minority member of the Senate Committee on Environment and Public Works.

(6) The Chairman and ranking minority member of the Committee on Transportation and Infrastructure of the House of Representatives.

(b) QUORUM.—Seven members of the Commission is a quorum.

(c) DUTIES.—The Commission is responsible for the supervision of the design, construction, operation, maintenance, structural, mechanical, and domestic care, and security of the Thurgood Marshall Federal Judiciary Building. The Commission shall prescribe regulations to govern the actions of the Architect of the Capitol under

this chapter and to govern the use and occupancy of all space in the Building.

§ 6504. Lease of building

(a) LEASE AGREEMENT.—Under an agreement with the person selected to construct the Thurgood Marshall Federal Judiciary Building, the Architect of the Capitol shall lease the Building to carry out the objectives of this chapter.

(b) MINIMUM REQUIREMENTS OF LEASE AGREEMENT.—The agreement includes at a minimum the following:

(1) LIMIT ON LENGTH OF LEASE.—The Architect will lease the Building and other improvements for not more than 30 years from the effective date of the agreement.

(2) RENTAL RATE.—The rental rate per square foot of occupiable space for all space in the Building and other improvements will be in the best interest of the Federal Government and will carry out the objectives of this chapter. The aggregate rental rate for all space in the Building and other improvements shall produce an amount at least equal to the amount necessary to amortize the cost of development of squares 721 and 722 in the District of Columbia over the life of the lease.

(3) AUTHORITY TO MAKE SPACE AVAILABLE AND SUBLEASE SPACE.—The Architect may make space available and sublease space in the Building and other improvements in accordance with section 6506 of this title.

(4) OTHER TERMS AND CONDITIONS.—The agreement contains terms and conditions the Architect prescribes to carry out the objectives of this chapter.

(c) OBLIGATION OF AMOUNTS.—Obligation of amounts for lease payments under this section may only be made—

(1) on an annual basis; and

(2) from the account described in section 6507 of this title.

§ 6505. Structural and mechanical care and security

(a) STRUCTURAL AND MECHANICAL CARE.—The Architect of the Capitol, under the direction of the Commission for the Judiciary Office Building—

(1) is responsible for the structural and mechanical care and maintenance of the Thurgood Marshall Federal Judiciary Building and improvements, including the care and maintenance of the grounds of the Building, in the same manner and to the same extent as for the structural and mechanical care and maintenance of the Supreme Court Building under section 6111 of this title; and

(2) shall perform all other duties and work required for the operation and domestic care of the Building and improvements.

(b) SECURITY.—

(1) CAPITOL POLICE.—The United States Capitol Police—

(A) are responsible for all exterior security of the Building and other improvements constructed under this chapter; and

(B) may police the Building and other improvements, including the interior and exterior, and may make arrests within the interior and exterior of the Building and other improvements for any violation of federal or state law or the laws of the District of Columbia, or any regulation prescribed under any of those laws.

(2) MARSHAL OF THE SUPREME COURT.—This chapter does not interfere with the obligation of the Marshal of the Supreme Court to protect justices, officers, employees, or other personnel of the Supreme Court who may occupy the Building and other improvements.

(3) REIMBURSEMENT.—The Architect shall transfer from the account described in section 6507 of this title amounts necessary to reimburse the United States Capitol Police for expenses incurred in providing exterior security under this subsection. The Capitol Police may accept amounts the Architect transfers under this paragraph. Those amounts shall be credited to the appropriation account charged by the Capitol Police in carrying out security duties.

§ 6506. Allocation of space

(a) PRIORITY.—

(1) JUDICIAL BRANCH.—Subject to this section, the Architect of the Capitol shall make available to the judicial branch of the Federal Government all space in the Thurgood Marshall Federal Judiciary Building and other improvements constructed under this chapter. The space shall be made available on a reimbursable basis and substantially in accordance with the report referred to in section 3(b)(1) of the Judiciary Office Building Development Act (Public Law 100–480, 102 Stat. 2330).

(2) OTHER FEDERAL GOVERNMENTAL ENTITIES.—The Architect may make available to federal governmental entities which are not part of the judicial branch and which are not staff of Members of Congress or congressional committees any space in the Building and other improvements that the Chief Justice decides is not needed by the judicial branch. The space shall be made available on a reimbursable basis.

(3) OTHER PERSONS.—If any space remains, the Architect may sublease it pursuant to subsection (e), under the direction of the Commission for the Judiciary Office Building, to any person.

(b) SPACE FOR JUDICIAL BRANCH AND OTHER FEDERAL GOVERNMENTAL ENTITIES.—Space made available under subsection (a)(1) or (2) is subject to—

(1) terms and conditions necessary to carry out the objectives of this chapter; and

(2) reimbursement at the rate established under section 6504(b)(2) of this title plus an amount necessary to pay each year for the cost of administering the Building and other improvements (including the cost of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) that is attributable to the space, with the amount to be determined by the Architect and—

(A) in the case of the judicial branch, the Director of the Administrative Office of the United States Courts; or

(B) in the case of any federal governmental entity not a part of the judicial branch, the entity.

(c) SPACE FOR JUDICIAL BRANCH.—

(1) ASSIGNMENT OF SPACE WITHIN JUDICIAL BRANCH.—The Director may assign space made available to the judicial branch under subsection (a)(1) among offices of the judicial branch as the Director considers appropriate.

(2) VACATING OCCUPIED SPACE.—When the Chief Justice notifies the Architect that the judicial branch requires additional space in the Building and other improvements, the Architect shall accommodate those requirements within 90 days after the date of the notification, except that if the space was made available to the Administrator of General Services, it shall be vacated expeditiously by not later than a date the Chief Justice and the Administrator agree on.

(3) UNOCCUPIED SPACE.—The Chief Justice has the right of first refusal to use unoccupied space in the Building to meet the needs of the judicial branch.

(d) LEASE BY ARCHITECT.—

(1) AUTHORITY TO LEASE.—Subject to approval by the Committees on Appropriations of the House of Representatives and the Senate, the House Office Building Commission, and the Committee on Rules and Administration of the Senate, the Architect may lease and occupy not more than 75,000 square feet of space in the Building.

(2) PAYMENTS.—Payments under the lease shall be made on vouchers the Architect approves. Necessary amounts may be appropriated—

(A) to the Architect to carry out this subsection, including amounts for acquiring and installing furniture and furnishings; and

(B) to the Sergeant at Arms of the Senate to plan for, acquire, and install telecommunications equipment and services for the Architect with respect to space leased under this subsection.

(e) SUBLEASED SPACE.—

(1) RENTAL RATE.—Space subleased by the Architect under subsection (a)(3) is subject to reimbursement at a rate which is comparable to prevailing rental rates for similar facilities in the area but not less than the rate established under section 6504(b)(2) of this title plus an amount the Architect and the person subleasing the space agree is necessary to pay each year for the cost of administering the Building (including the cost of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) that is attributable to the space.

(2) LIMITATION.—A sublease under subsection (a)(3) must be compatible with the dignity and functions of the judicial branch offices housed in the Building and must not unduly interfere with the activities and operations of the judicial branch agencies housed in the Building. Sections 5104(c) and 5108 of this title do not apply to any space in the Building and other improvements subleased to a non-Government tenant under subsection (a)(3).

(3) COLLECTION OF RENT.—The Architect shall collect rent for space subleased under subsection (a)(3).

(f) DEPOSIT OF RENT AND REIMBURSEMENTS.—Amounts received under subsection (a)(3) (including lease payments and reimbursements) shall be deposited in the account described in section 6507 of this title.

§ 6507. Account in Treasury

(a) ESTABLISHMENT AND CONTENTS OF SEPARATE ACCOUNT.—There is a separate account in the Treasury. The account includes all amounts deposited in the account under section 6506(f) of this title and amounts appropriated to the account. However, the appropriated amounts may not be more than $2,000,000.

(b) USE OF AMOUNTS.—Amounts in the account are available to the Architect of the Capitol—

(1) for paying expenses for structural, mechanical, and domestic care, maintenance, operation, and utilities of the Thurgood Marshall Federal Judiciary Building and other improvements constructed under this chapter;

(2) for reimbursing the United States Capitol Police for expenses incurred in providing exterior security for the Building and other improvements;

(3) for making lease payments under section 6504 of this title; and

(4) for necessary personnel (including consultants).

CHAPTER 67—PENNSYLVANIA AVENUE DEVELOPMENT

SUBCHAPTER I—TRANSFER AND ASSIGMENT OF RIGHTS, AUTHORITIES, TITLE, AND INTERESTS

Sec.
6701. Transfer of rights and authorities of Pennsylvania Avenue Development Corporation.
6702. Transfer and assignment of rights, title, and interests in property.

SUBCHAPTER II—PENNSYLVANIA AVENUE DEVELOPMENT

6711. Definition.
6712. Powers of other agencies and instrumentalities in the development area.
6713. Certification of new construction.
6714. Relocation services.
6715. Coordination with District of Columbia.
6716. Reports.

SUBCHAPTER III—FEDERAL TRIANGLE DEVELOPMENT

6731. Definitions.
6732. Federal Triangle development area.
6733. Federal Triangle property.
6734. Ronald Reagan Building and International Trade Center.

SUBCHAPTER I—TRANSFER AND ASSIGMENT OF RIGHTS, AUTHORITIES, TITLE, AND INTERESTS

§ 6701. Transfer of rights and authorities of Pennsylvania Avenue Development Corporation

(a) IN GENERAL.—The Administrator of General Services—

(1) may make and perform transactions with an agency or instrumentality of the Federal Government, a State, the District of Columbia, or any person as necessary to carry out the trade center plan at the Federal Triangle Project; and

(2) has all the rights and authorities of the former Pennsylvania Avenue Development Corporation with regard to property transferred from the Corporation to the General Services Administration in fiscal year 1996.

(b) USE OF AMOUNTS AND INCOME.—

(1) ACTIVITIES ASSOCIATED WITH TRANSFERRED RESPONSIBILITIES.—The Administrator may use amounts transferred from the Corporation or income earned on Corporation property for activities associated with carrying out the responsibilities of the Corporation transferred to the Administrator. Any income earned after October 1, 1998, shall be deposited to the Federal Buildings Fund to be available for the purposes authorized under this subchapter, notwithstanding section 592(c)(1) of this title.

(2) EXCESS AMOUNTS OR INCOME.—Any amounts or income the Administrator considers excess to the amount needed to fulfill the responsibilities of the Corporation transferred to the Administrator shall be applied to any outstanding debt the Corporation incurred when acquiring real estate, except debt associated with the Ronald Reagan Building and International Trade Center.

(c) PAYMENT TO DISTRICT OF COLUMBIA.—With respect to real property transferred from the Corporation to the Administrator under section 6702 of this title, the Administrator shall pay to the District of Columbia government, in the same way as previously paid by the Corporation, an amount equal to the amount of real property tax which would have been payable to the government beginning on the date the Corporation acquired the real property if legal title to the property had been held by a private citizen on that date and during all periods to which that date relates.

§ 6702. Transfer and assignment of rights, title, and interests in property

(a) IN GENERAL.—

(1) LEASES, COVENANTS, AGREEMENTS, AND EASEMENTS.—As provided in this section, the General Services Administration, the National Capital Planning Commission, and the National Park Service have the rights, title, and interest of the Pennsylvania Avenue Development Corporation in and to all leases, covenants, agreements, and easements the Corporation executed before April 1, 1996, in carrying out its powers and duties under the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578, 86 Stat. 1266) and the Federal Triangle Development Act (Public Law 100–113, 101 Stat. 735).

(2) PROPERTY.—The Administration has the rights, title, and interest of the Corporation in and to all property held in the name of the Corporation, except as provided in subsection (c).

(b) GENERAL SERVICES ADMINISTRATION.—

(1) RESPONSIBILITIES.—The responsibilities of the Corporation transferred to the Administration under subsection (a) include—

(A) the collection of revenue owed the Federal Government as a result of real estate sales or lease agreements made by the Corporation and private parties, including—

(i) the Willard Hotel property on Square 225;

(ii) the Gallery Row project on Square 457;

(iii) the Lansburgh's project on Square 431; and

(iv) the Market Square North project on Square 407;

(B) the collection of sale or lease revenue owed the Government from the sale or lease before April 1, 1996, of two undeveloped sites owned by the Corporation on Squares 457 and 406;

(C) the application of collected revenue to repay Treasury debt the Corporation incurred when acquiring real estate;

(D) performing financial audits for projects in which the Corporation has actual or potential revenue expectation, as identified in subparagraphs (A) and (B), in accordance with procedures described in applicable sale or lease agreements;

(E) the disposition of real estate properties which are or become available for sale and lease or other uses;

(F) payment of benefits in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) to which persons in the project area squares are entitled as a result of the Corporation's acquisition of real estate; and

(G) carrying out the responsibilities of the Corporation under subchapter III and the Federal Triangle Development Act (Public Law 100–113, 101 Stat. 735), including responsibilities for managing assets and liabilities of the Corporation under subchapter III and the Act.

(2) POWERS.—In carrying out the responsibilities of the Corporation transferred under this section, the Administrator of General Services may—

(A) acquire land, improvements, and property by purchase, lease or exchange, and sell, lease, or otherwise dispose of any property, as necessary to complete the development plan developed under section 5 of the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578, 86 Stat. 1269) if a notice of intention to carry out the acquisition or disposal is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of the transmission;

(B) modify the plan referred to in subparagraph (A) if the modification is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of the transmission;

(C) maintain any existing Corporation insurance programs;

(D) make and perform transactions with an agency or instrumentality of the Federal Government, a State, the District of Columbia, or any person as necessary to carry out the responsibilities of the Corporation under subchapter III and the Federal Triangle Development Act (Public Law 100–113, 101 Stat. 735);

(E) request the Council of the District of Columbia to close any alleys necessary for the completion of development in Square 457; and

(F) use all of the amount transferred from the Corporation or income earned on Corporation property to complete any pending development projects.

(c) NATIONAL PARK SERVICE.—

(1) PROPERTY.—The National Park Service has the right, title, and interest in and to the property located in the Pennsylvania Avenue National Historic Site, including the parks, plazas, sidewalks, special lighting, trees, sculpture, and memorials, depicted on a map entitled ''Pennsylvania Avenue National Historic Park'', dated June 1, 1995, and numbered 840–82441. The map shall be on file and available for public inspection in the offices of the Service.

(2) RESPONSIBILITIES.—The Service is responsible for management, administration, maintenance, law enforcement, visitor services, resource protection, interpretation, and historic preservation at the Site.

(3) SPECIAL EVENTS, FESTIVALS, CONCERTS, OR PROGRAMS.—The Service may—

(A) make transactions with an agency or instrumentality of the Government, a State, the District of Columbia, or any person as considered necessary or appropriate for the conduct of special events, festivals, concerts, or other art and cultural programs at the Site; or

(B) establish a nonprofit foundation to solicit amounts for those activities.

(4) JURISDICTION OF DISTRICT OF COLUMBIA.—Jurisdiction of Pennsylvania Avenue and all other roadways from curb to curb remains with the District of Columbia but vendors are not permitted to occupy street space except during temporary special events.

(d) NATIONAL CAPITAL PLANNING COMMISSION.—The National Capital Planning Commission is responsible for ensuring that development in the Pennsylvania Avenue area is carried out in accordance with the Pennsylvania Avenue Development Corporation Plan—1974.

SUBCHAPTER II—PENNSYLVANIA AVENUE DEVELOPMENT

§ 6711. Definition

In this subchapter, the term ''development area'' means the area to be developed, maintained, and used in accordance with this subchapter and the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578, 86 Stat. 1266) and is the area bounded as follows:

Beginning at a point on the southwest corner of the intersection of Fifteenth Street and E Street Northwest;

thence proceeding east along the southern side of E Street to the southwest corner of the intersection of Thirteenth Street and Pennsylvania Avenue Northwest;

thence southeast along the southern side of Pennsylvania Avenue to a point being the southeast corner of the intersection of Pennsylvania Avenue and Third Street Northwest;

thence north along the eastern side of Third Street to the northeast corner of the intersection of C Street and Third Street Northwest;

thence west along the northern side of C Street to the northeast corner of the intersection of C Street and Sixth Street Northwest;

thence north along the eastern side of Sixth Street to the northeast corner of the intersection of E Street and Sixth Street Northwest;

thence west along the northern side of E Street to the northeast corner of the intersection of E Street and Seventh Street Northwest;

thence north along the eastern side of Seventh Street to the northeast corner of the intersection of Seventh Street and F Street Northwest;

thence west along the northern side of F Street to the northwest corner of the intersection of F Street and Ninth Street Northwest;

thence south along the western side of Ninth Street to the northwest corner of the intersection of Ninth Street and E Street Northwest;

thence west along the northern side of E Street to the northeast corner of the intersection of E Street and Thirteenth Street Northwest;

thence north along the eastern side of Thirteenth Street to the northeast corner of the intersection of F Street and Thirteenth Street Northwest;

thence west along the northern side of F Street to the northwest corner of the intersection of F Street and Fifteenth Street Northwest;

thence north along the western side of Fifteenth Street to the northwest corner of the intersection of Pennsylvania Avenue and Fifteenth Street Northwest;

thence west along the southern side of Pennsylvania Avenue to the southeast corner of the intersection of Pennsylvania Avenue and East Executive Avenue Northwest;

thence south along the eastern side of East Executive Avenue to the intersection of South Executive Place and E Street Northwest;

thence east along the southern side of E Street to the point of beginning.

§ 6712. Powers of other agencies and instrumentalities in the development area

This subchapter and the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578, 86 Stat. 1266) do not preclude other agencies or instrumentalities of the Federal Government or of the District of Columbia from exercising any lawful powers in the development area consistent with the development plan described in section 5(a) of the Act (86 Stat. 1269) or the provisions and purposes of this subchapter and the Act. However, the agency or instrumentality shall not release, modify, or depart from any feature or detail of the development plan without the prior approval of the Administrator of General Services.

§ 6713. Certification of new construction

New construction (including substantial remodeling, conversion, rebuilding, enlargement, extension, or major structural improvement of existing building, but not including ordinary maintenance or remodeling or changes necessary to continue occupancy) shall not be authorized or conducted within the development area except on prior certification by the Administrator of General Services that the construction is, or may reasonably be expected to be, consistent with the carrying out of the development plan described in section 5(a) of the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578, 86 Stat. 1269).

§ 6714. Relocation services

(a) USE OF DISTRICT OF COLUMBIA GOVERNMENT.—The Administrator of General Services may use the services of the District of Columbia government in the administration of a relocation program pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.). The Administrator shall reimburse the government for the cost of the services.

(b) COORDINATION OF RELOCATION PROGRAMS.—All relocation services performed by or on behalf of the Administrator shall be coordinated with the District of Columbia's central relocation programs.

(c) PREFERENTIAL RIGHTS OF DISPLACED OWNERS AND TENANTS.—An owner or tenant of real property whose residence or business is terminated as a result of acquisitions made pursuant to this subchapter or the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578, 86 Stat. 1266) shall be granted a preferential right to lease or purchase from the Administrator similar real property as may become available for a similar use. The preferential right is limited to the parties in interest and is not transferable or assignable.

§ 6715. Coordination with District of Columbia

(a) LOCAL NEEDS, INITIATIVE, AND PARTICIPATION.—In carrying out the purposes of this subchapter and the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578, 86 Stat. 1266), the Administrator of General Services shall—

(1) consult and cooperate with District of Columbia officials and community leaders at the earliest practicable time;

(2) give primary consideration to local needs and desires and to local and regional goals and policies as expressed in urban renewal, community renewal, and comprehensive land use plans and regional plans; and

(3) foster local initiative and participation in connection with the planning and development of projects.

(b) COMPLIANCE WITH LOCAL REQUIREMENTS.—To the extent the Administrator constructs, rehabilitates, alters, or improves any project under this subchapter, the Administrator shall comply with all District of Columbia laws, ordinances, codes, and regulations. Section 8722(d) of this title applies to all construction, rehabilitation, alteration, and improvement of all buildings by the Administrator under this subchapter. Construction, rehabilitation, alteration, and improvement of any project by non-Federal Government sources is subject to the District of Columbia Official Code and zoning regulations.

§ 6716. Reports

(a) REPORTS TO PRESIDENT AND CONGRESS.—The Administrator of General Services shall transmit comprehensive and detailed reports of the Administrator's operations, activities, and accomplishments under this subchapter to the President and Congress. The Administrator shall transmit a report to the President each January and to the President and Congress at other times that the Administrator considers desirable.

(b) PROTECTION AND ENHANCEMENT OF SIGNIFICANT HISTORIC AND ARCHITECTURAL VALUES.—A report under subsection (a) shall include a detailed discussion of the actions the Administrator has taken in the reporting period to protect and enhance the significant historic and architectural values of structures within the boundaries of the Administrator's jurisdiction under this subchapter and shall indicate similar actions the Administrator plans to take and issues the Administrator anticipates dealing with during the upcoming fiscal year related to historic and architectural preservation. The report shall indicate the degree to which public concern has been considered and incorporated into decisions the Administrator made relative to historic and architectural preservation.

SUBCHAPTER III—FEDERAL TRIANGLE DEVELOPMENT

§ 6731. Definitions

In this subchapter—

(1) FEDERAL TRIANGLE DEVELOPMENT AREA.—The term ''Federal Triangle development area'' means the area bounded as follows:

Beginning at a point on the southwest corner of the intersection of Fourteenth Street and Pennsylvania Avenue (formerly E Street), Northwest;

thence south along the western side of Fourteenth Street to the northwest corner of the intersection of Fourteenth Street and Constitution Avenue, Northwest;

thence east along the northern side of Constitution Avenue to the northeast corner of the intersection of Twelfth Street and Constitution Avenue, Northwest;

thence north along the eastern side of Twelfth Street and Constitution Avenue, Northwest;

thence north along the eastern side of Twelfth Street to the southeast corner of the intersection of Twelfth Street and Pennsylvania Avenue, Northwest;

thence west along the southern side of Pennsylvania Avenue to the point of beginning.

(2) FEDERAL TRIANGLE PROPERTY.—The term ''Federal Triangle property'' means—

(A) the property owned by the Federal Government in the District of Columbia, known as the ''Great Plaza'' site, which consists of squares 256, 257, 258, parts of squares 259 and 260, and adjacent closed rights-of-way as shown on plate IV of the King Plats of 1803 located in the Office of the Surveyor of the District of Columbia; and

(B) except for purposes of section 6733(a) of this title, any property the Pennsylvania Avenue Development Corporation acquired under section 3(b) of the Federal Triangle Development Act (Public Law 100–113, 101 Stat. 736).

§ 6732. Federal Triangle development area

The Federal Triangle development area is deemed to be part of the development area described in section 6711 of this title. The Administrator of General Services has the same authority over the Federal Triangle development area as over the development area described in section 6711.

§ 6733. Federal Triangle property

(a) TITLE.—Title to the Federal Triangle property reverts to the Administrator of General Services not later than the date on which ownership of the Ronald Reagan Building and International Trade Center vests in the Federal Government.

(b) NONAPPLICABILITY OF CERTAIN LAWS.—

(1) BUILDING PERMITS AND INSPECTION.—For purposes of development of the Federal Triangle property, the person selected to develop the property is not subject to any state or local law relating to building permits and inspection.

(2) TAXES AND ASSESSMENTS.—The property and improvements to the property are not subject to real and personal property taxation or to special assessments.

§ 6734. Ronald Reagan Building and International Trade Center

(a) ESTABLISHMENT AND DESIGNATION.—The building constructed on the Federal Triangle property shall be known and designated as the Ronald Reagan Building and International Trade Center.

(b) TITLE.—The person selected to develop the Federal Triangle property may own the Building for not more than 35 years from the date construction of the Building began. The title to the Building shall be in the Administrator of General Services from the date title to the Federal Triangle property reverts to the Administrator.

(c) LIMITATIONS.—

(1) SIZE OF BUILDING.—The Building (including parking facilities) may not exceed 3,100,000 gross square feet in size.

(2) HEIGHT OF BUILDING.—The height of the Building shall be compatible with the height of surrounding Federal Government buildings.

(3) DESIGN.—The Building shall—

(A) be designed in harmony with historical and Government buildings in the vicinity;

(B) reflect the symbolic importance and historic character of Pennsylvania Avenue and the Nation's Capital; and

(C) represent the dignity and stability of the Government.

(d) CONSTRUCTION STANDARDS.—The Building shall meet all standards applicable to construction of a federal building.

(e) ACCOUNTING SYSTEM.—The Administrator shall maintain an accounting system for operation and maintenance of the Building which will allow accurate projections of the dates and cost of major repairs, improvements, reconstructions, and replacements of the Building and other capital expenditures on the Building. The Administrator shall act as necessary to ensure that amounts are available to cover the projected cost and expenditures.

(f) LEASE OF BUILDING.—

(1) LEASE AGREEMENT.—Under an agreement with the person selected to construct the Ronald Reagan Building and International Trade Center, the Administrator shall lease the Building for federal office space and the international cultural and trade center space.

(2) MINIMUM REQUIREMENTS OF LEASE AGREEMENT.—The agreement includes at a minimum the following:

(A) LIMIT ON LENGTH OF LEASE.—The Administrator will lease the Building for the period of time that the person selected to construct the Building owns the Building.

(B) RENTAL RATE.—The rental rate per square foot of occupiable space for all space in the Building will be in the best interest of the Government and will carry out the objectives of this subchapter and the Federal Triangle Development Act (Public Law 100–113, 101 Stat. 735). The aggregate rental rate for all space in the Building shall produce an amount at least equal to the amount necessary to amortize the cost of development of the Federal Triangle property over the life of the lease.

(C) OBLIGATION OF AMOUNTS.—Obligation of amounts from the Federal Building Fund shall only be made on an annual basis to meet lease payments.

(3) AUTHORIZATION TO OBLIGATE AMOUNTS.—Amounts may be obligated as described in paragraph (2)(C).

SUBCHAPTER I—GENERAL

§ 8101. Supervision of public buildings and grounds in District of Columbia not otherwise provided for by law

(a) IN GENERAL.—Under regulations the President prescribes, the Administrator of General Services shall have charge of the public buildings and grounds in the District of Columbia, except those buildings and grounds which otherwise are provided for by law.

(b) NOTICE OF UNLAWFUL OCCUPANCY.—If the Administrator, or the officer under the direction of the Administrator who is in immediate charge of those public buildings and grounds, decides that an individual is unlawfully occupying any part of that public land, the Administrator or officer in charge shall notify the United States marshal for the District of Columbia in writing of the unlawful occupation.

(c) EJECTION OF TRESPASSER.—The marshal shall have the trespasser ejected from the public land and shall restore possession of the land to the officer charged by law with the custody of the land.

§ 8102. Protection of Federal Government buildings in District of Columbia

The Attorney General and the Secretary of the Treasury may prohibit—

(1) a vehicle from parking or standing on a street or roadway adjacent to a building in the District of Columbia—

(A) at least partly owned or possessed by, or leased to, the Federal Government; and

(B) used by law enforcement authorities subject to their jurisdiction; and

(2) a person or entity from conducting business on property immediately adjacent to a building described in paragraph (1).

§ 8103. Application of District of Columbia laws to public buildings and grounds

(a) APPLICATION OF LAWS.—Laws and regulations of the District of Columbia for the protection of public or private property and the preservation of peace and order are extended to all public buildings and public grounds belonging to the Federal Government in the District of Columbia.

(b) PENALTIES.—A person shall be fined under title 18, imprisoned for not more than six months, or both if the person—

(1) is guilty of disorderly and unlawful conduct in or about those public buildings or public grounds;

(2) willfully injures the buildings or shrubs;

(3) pull downs, impairs, or otherwise injures any fence, wall, or other enclosure;

(4) injures any sink, culvert, pipe, hydrant, cistern, lamp, or bridge; or

(5) removes any stone, gravel, sand, or other property of the Government, or any other part of the public grounds or lots belonging to the Government in the District of Columbia.

§ 8104. Regulation of private and semipublic buildings adjacent to public buildings and grounds

(a) FACTORS FOR DEVELOPMENT.—In view of the provisions of the Constitution respecting the establishment of the seat of the National Government, the duties it imposed on Congress in connection with establishing the seat of the National Government, and the solicitude shown and the efforts exerted by President Washington in the planning and development of the Capital City, the development should proceed along the lines of good order, good taste, and with due regard to the public interests involved, and a reasonable degree of control should be exercised over the architecture of private or semipublic buildings adjacent to public buildings and grounds of major importance.

(b) SUBMISSION OF APPLICATION TO COMMISSION OF FINE ARTS.—The Mayor of the District of Columbia shall submit to the Commission on Fine Arts an application for a permit to erect or alter any building, a part of which fronts or abuts on the grounds of the Capitol, the grounds of the White House, the part of Pennsylvania Avenue extending from the Capitol to the White House, Lafayette Park, Rock Creek Park, the Zoological Park, the Rock Creek and Potomac Parkway, Potomac Park, or The Mall Park System and public buildings adjacent to the System, or abuts on any street bordering any of those grounds or parks, so far as the plans relate to height and appearance, color, and texture of the materials of exterior construction.

(c) REPORT TO MAYOR.—The Commission shall report promptly its recommendations to the Mayor, including any changes the Commission decides are necessary to prevent reasonably avoidable impairment of the public values belonging to the public building or park. If the Commission fails to report its approval or disapproval of a plan within 30 days, the report is deemed approved and a permit may be issued.

(d) ACTION BY THE MAYOR.—The Mayor shall take action the Mayor decides is necessary to effect reasonable compliance with the recommendation under subsection (c).

§ 8105. Approval by Administrator of General Services

Subject to applicable provisions of existing law relating to the functions in the District of Columbia of the National Capital Planning Commission and the Commission of Fine Arts, only the Administrator of General Services is required to approve sketches, plans, and estimates for buildings to be constructed by the Administrator, except that the Administrator and the United States Postal Service must approve buildings designed for post-office purposes.

§ 8106. Buildings on reservations, parks, or public grounds

A building or structure shall not be erected on any reservation, park, or public grounds of the Federal Government in the District of Columbia without express authority of Congress.

§ 8107. Advertisements and sales in or around Washington Monument

Except on the written authority of the Director of the National Park Service, advertisements of any kind shall not be displayed, and articles of any kind shall not be sold, in or around the Washington Monument.

§ 8108. Use of public buildings for public ceremonies

Except as expressly authorized by law, public buildings in the District of Columbia (other than the Capitol Building and the White House), and the approaches to those public buildings, shall not be used or occupied in connection with ceremonies for the inauguration of the President or other public functions.

SUBCHAPTER II—JURISDICTION

§ 8121. Improper appropriation of streets

(a) AUTHORITY.—The Secretary of the Interior shall—

(1) prevent the improper appropriation or occupation of any public street, avenue, square, or reservation in the District of Columbia that belongs to the Federal Government;

(2) reclaim the street, avenue, square, or reservation if unlawfully appropriated;

(3) prevent the erection of any permanent building on property reserved to or for the use of the Government, unless plainly authorized by law; and

(4) report to Congress at the beginning of each session on the Secretary's proceedings in the premises, together with a full statement of all property described in this subsection, and how, and by what authority, the property is occupied or claimed.

(b) APPLICATION.—This section does not interfere with the temporary and proper occupation of any part of the property described in subsection (a), by lawful authority, for the legitimate purposes of the Government.

§ 8122. Jurisdiction over portion of Constitution Avenue

The Director of the National Park Service has jurisdiction over that part of Constitution Avenue west of Virginia Avenue that was under the control of the Commissioners of the District of Columbia prior to May 27, 1908.

§ 8123. Record of transfer of jurisdiction between Director of National Park Service and Mayor of District of Columbia

When in accordance with law or mutual legal agreement, spaces or portions of public land are transferred between the jurisdiction of the Director of the National Park Service, as established by the Act of July 1, 1898 (ch. 543, 30 Stat. 570), and the Mayor of the District of Columbia, the letters of transfer and acceptance exchanged between them are sufficient authority for the necessary change in the official maps and for record when necessary.

§ 8124. Transfer of jurisdiction between Federal and District of Columbia authorities

(a) TRANSFER OF JURISDICTION.—Federal and District of Columbia authorities administering properties in the District that are owned by the Federal Government or by the District may transfer jurisdiction over any part of the property among or between themselves for purposes of administration and maintenance under conditions the parties agree on. The National Capital Planning Commission shall recommend the transfer before it is completed.

(b) REPORT TO CONGRESS.—The District authorities shall report all transfers and agreements to Congress.

(c) CERTAIN LAWS NOT REPEALED.—Subsection (a) does not repeal any law in effect on May 20, 1932, which authorized the transfer of jurisdiction of certain land among and between federal and District authorities.

§ 8125. Public spaces resulting from filling of canals

The Director of the National Park Service has jurisdiction over all public spaces resulting from the filling of canals in the original city of Washington that were not under the jurisdiction of the Chief of Engineers of the United States Army as of August 1, 1914, except spaces included in the navy yard or in actual use as roadways and sidewalks and spaces assigned by law to the District of Columbia for use as a property yard and the location of a sewage pumping station. The spaces shall be laid out as reservations as a part of the park system of the District of Columbia.

§ 8126. Temporary occupancy of Potomac Park by Secretary of Agriculture

(a) NOT MORE THAN 75 ACRES.—The Director of the National Park Service may allow the Secretary of Agriculture to temporarily occupy as a

testing ground not more than 75 acres of Potomac Park not needed in any one season for reclamation or park improvement. The Secretary shall vacate the area at the close of any season on the request of the Director.

(b) CONTINUE AS PUBLIC PARK UNDER DIRECTOR.—This section does not change the essential character of the land used, which shall continue to be a public park under the charge of the Director.

§ 8127. Part of Washington Aqueduct for playground purposes

(a) JURISDICTION OF MAYOR.—The Mayor of the District of Columbia has possession, control, and jurisdiction of the land of the Washington Aqueduct adjacent to the Champlain Avenue pumping station and lying outside of the fence around the pumping station as it—

(1) existed on August 31, 1918; and

(2) was transferred by the Chief of Engineers for playground purposes.

(b) JURISDICTION OF SECRETARY OF THE ARMY NOT AFFECTED.—This section does not affect the superintendence and control of the Secretary of the Army over the Washington Aqueduct and the rights, appurtenances, and fixtures connected with the Aqueduct.

SUBCHAPTER III—SERVICES FOR FACILITIES

§ 8141. Contract to rent buildings in the District of Columbia not to be made until appropriation enacted

A contract shall not be made for the rent of a building, or part of a building, to be used for the purposes of the Federal Government in the District of Columbia until Congress enacts an appropriation for the rent. This section is deemed to be notice to all contractors or lessors of the building or a part of the building.

§ 8142. Rent of other buildings

An executive department of the Federal Government renting a building for public use in the District of Columbia may rent a different building instead if it is in the public interest to do so. This section does not authorize an increase in the number of buildings in use or in the amount paid for rent.

§ 8143. Heat

(a) CORCORAN GALLERY OF ART.—The Administrator of General Services may furnish heat from the central heating plant to the Corcoran Gallery of Art, if the Corcoran Gallery of Art agrees to—

(1) pay for heat furnished at rates the Administrator determines; and

(2) connect the building with the Federal Government mains in a manner satisfactory to the Administrator.

(b) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—The Administrator may furnish steam from the central heating plant for the use of the Board of Governors of the Federal Reserve System on the property which the Board acquired in squares east of 87 and east of 88 in the District of Columbia if the Board agrees to—

(1) pay for the steam furnished at reasonable rates the Administrator determines but that are at least equal to cost; and

(2) provide the necessary connections with the Government mains at its own expense and in a manner satisfactory to the Administrator.

(c) NON-FEDERAL PUBLIC BUILDINGS.—The Administrator shall determine the rates to be paid for steam furnished to the Corcoran Gallery of Art, the Pan American Union Buildings, the American Red Cross Buildings, and other non-federal public buildings authorized to receive steam from the central heating plant.

§ 8144. Delivery of fuel for use during ensuing fiscal year

During April, May, and June of each year, the Administrator of General Services may deliver to all branches of the Federal Government and the government of the District of Columbia as much fuel for their use during the following fiscal year as may be practicable to store at the points of consumption. The branches of the Federal Government and the government of the District of Columbia shall pay for the fuel from their applicable appropriations for that fiscal year.

SUBCHAPTER IV—MISCELLANEOUS

§ 8161. Reservation of parking spaces for Members of Congress

The Council of the District of Columbia shall designate, reserve, and properly mark appropriate and sufficient parking spaces on the streets adjacent to all public buildings in the District for the use of Members of Congress engaged in public business.

§ 8162. Ailanthus trees prohibited

Ailanthus trees shall not be purchased for, or planted in, the public grounds.

§ 8163. Use of greenhouses and nursery for trees, shrubs, and plants

The greenhouses and nursery shall be used only for the propagation of trees, shrubs, and plants suitable for planting in the public reservations. Only those trees, shrubs, and plants shall be planted in the public reservations.

§ 8164. E. Barrett Prettyman United States Courthouse

(a) OPERATION, MAINTENANCE, AND REPAIR.—The operation, maintenance, and repair of the E. Barrett Prettyman United States Courthouse, used by the United States Court of Appeals for the District of Columbia and the United States District Court for the District of Columbia, is under the control of the Administrator of General Services.

(b) ALLOCATION OF SPACE.—The allocation of space in the Courthouse is vested in the chief judge of the United States Court of Appeals for the District of Columbia and the chief judge of the United States District Court for the District of Columbia.

§ 8165. Services for Office of Personnel Management

For carrying out the work of the Director of the Office of Personnel Management and the examinations provided for in sections 3304 and 3305 of title 5, the Administrator of General Services shall—

(1) assign or provide suitable and convenient rooms and accommodations, which are furnished, heated, and lighted, in Washington, D.C.;

(2) supply necessary stationery and other articles; and

(3) arrange for or provide necessary printing.

CHAPTER 83—WASHINGTON METROPOLITAN REGION DEVELOPMENT

§ 8301. Definition

In this chapter, the term ''Washington metropolitan region'' includes the District of Columbia, the counties of Montgomery and Prince Georges in Maryland, and the counties of Arlington and Fairfax and the cities of Alexandria and Falls Church in Virginia.

§ 8302. Necessity for coordination in the development of the Washington metropolitan region

Because the District of Columbia is the seat of the Federal Government and has become the urban center of a rapidly expanding Washington metropolitan region, the necessity for the continued and effective performance of the functions of the Government in the District of Columbia, the general welfare of the District of Columbia, the health and living standards of the people residing or working in the District of Columbia, and the conduct of industry, trade, and commerce in the District of Columbia require that to the fullest extent possible the development of the District of Columbia and the management of its public affairs, and the activities of the departments, agencies, and instrumentalities of the Government which may be carried out in, or in relation to, the other areas of the Washington metropolitan region, shall be coordinated with the development of those other areas and with the management of their public affairs so that, with the cooperation and assistance of those other areas, all of the areas in the Washington metropolitan area shall be developed and their public affairs shall be managed so as to contribute effectively toward the solution of the community development problems of the Washington metropolitan region on a unified metropolitan basis.

§ 8303. Declaration of policy of coordinated development and management

The policy to be followed for the attainment of the objective established by section 8302 of this title, and for the more effective exercise by Congress, the executive branch of the Federal Government, the Mayor of the District of Columbia, and all other officers, agencies, and instrumentalities of the District of Columbia of their respective functions, powers, and duties in respect of the Washington metropolitan region, shall be that the functions, powers, and duties shall be exercised and carried out in a manner that (with proper recognition of the sovereignty of Maryland and Virginia in respect of those areas of the Washington metropolitan region that are located within their respective jurisdictions) will best facilitate the attainment of the coordinated development of the areas of the Washington metropolitan area and the coordinated management of their public affairs so as to contribute effectively to the solution of the community development problems of the Washington metropolitan region on a unified metropolitan basis.

§ 8304. Priority projects

In carrying out the policy pursuant to section 8303 of this title for the attainment of the objective established by section 8302 of this title, priority should be given to the solution, on a unified metropolitan basis, of the problems of water supply, sewage disposal, and water pollution and transportation.

CHAPTER 85—NATIONAL CAPITAL SERVICE AREA AND DIRECTOR

§ 8501. National Capital Service Area

(a) ESTABLISHMENT.—

(1) BOUNDARIES.—The National Capital Service Area is in the District of Columbia and includes the principal federal monuments, the White House, the Capitol Building, the United States Supreme Court Building, and the federal executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building, and is more particularly described as the area bounded as follows:

Beginning at that point on the present Virginia-District of Columbia boundary due west of the northernmost point of Theodore Roosevelt Island and running due east to the eastern shore of the Potomac River;

thence generally south along the shore at the mean high water mark to the northwest corner of the Kennedy Center;

thence east along the northern side of the Kennedy Center to a point where it reaches the E Street Expressway;

thence east on the expressway to E Street Northwest and thence east on E Street Northwest to Eighteenth Street Northwest;

thence south on Eighteenth Street Northwest to Constitution Avenue Northwest;

thence east on Constitution Avenue to Seventeenth Street Northwest;

thence north on Seventeenth Street Northwest to Pennsylvania Avenue Northwest;
thence east on Pennsylvania Avenue to Jackson Place Northwest;
thence north on Jackson Place to H Street Northwest;
thence east on H Street Northwest to Madison Place Northwest;
thence south on Madison Place Northwest to Pennsylvania Avenue Northwest;
thence east on Pennsylvania Avenue Northwest to Fifteenth Street Northwest;
thence south on Fifteenth Street Northwest to Pennsylvania Avenue Northwest;
thence southeast on Pennsylvania Avenue Northwest to John Marshall Place Northwest;
thence north on John Marshall Place Northwest to C Street Northwest;
thence east on C Street Northwest to Third Street Northwest;
thence north on Third Street Northwest to D Street Northwest;
thence east on D Street Northwest to Second Street Northwest;
thence south on Second Street Northwest to the intersection of Constitution Avenue Northwest and Louisiana Avenue Northwest;
thence northeast on Louisiana Avenue Northwest to North Capitol Street;
thence north on North Capitol Street to Massachusetts Avenue Northwest;
thence southeast on Massachusetts Avenue Northwest so as to encompass Union Square;
thence following Union Square to F Street Northeast;
thence east on F Street Northeast to Second Street Northeast;
thence south on Second Street Northeast to D Street Northeast;
thence west on D Street Northeast to First Street Northeast;
thence south on First Street Northeast to Maryland Avenue Northeast;
thence generally north and east on Maryland Avenue to Second Street Northeast;
thence south on Second Street Northeast to C Street Southeast;
thence west on C Street Southeast to New Jersey Avenue Southeast;
thence south on New Jersey Avenue Southeast to D Street Southeast;
thence west on D Street Southeast to Canal Street Parkway;
thence southeast on Canal Street Parkway to E Street Southeast;
thence west on E Street Southeast to the intersection of Washington Avenue Southwest and South Capitol Street;
thence northwest on Washington Avenue Southwest to Second Street Southwest;
thence south on Second Street Southwest to Virginia Avenue Southwest;
thence generally west on Virginia Avenue to Third Street Southwest;
thence north on Third Street Southwest to C Street Southwest;
thence west on C Street Southwest to Sixth Street Southwest;
thence north on Sixth Street Southwest to Independence Avenue;
thence west on Independence Avenue to Twelfth Street Southwest;
thence south on Twelfth Street Southwest to D Street Southwest;
thence west on D Street Southwest to Fourteenth Street Southwest;
thence south on Fourteenth Street Southwest to the middle of the Washington Channel;
thence generally south and east along the mid-channel of the Washington Channel to a point due west of the northern boundary line of Fort Lesley McNair;
thence due east to the side of the Washington Channel;
thence following generally south and east along the side of the Washington Channel at the mean high water mark, to the point of confluence with the Anacostia River, and along the northern shore at the mean high water mark to the northern most point of the Eleventh Street Bridge;
thence generally south and east along the northern side of the Eleventh Street Bridge to the eastern shore of the Anacostia River;
thence generally south and west along such shore at the mean high water mark to the point of confluence of the Anacostia and Potomac Rivers;
thence generally south along the eastern shore at the mean high water mark of the Potomac River to the point where it meets the present southeastern boundary line of the District of Columbia;
thence south and west along such southeastern boundary line to the point where it meets the present Virginia-District of Columbia boundary;
thence generally north and west up the Potomac River along the Virginia-District of Columbia boundary to the point of beginning.

(2) STREETS AND SIDEWALKS INCLUDED.—Where the area in paragraph (1) is bounded by a street, the street, and any sidewalk of the street, are included in the area.

(3) FEDERAL PROPERTY THAT AFFRONTED OR ABUTTED THE AREA DEEMED TO BE IN THE AREA.—Federal real property that on December 24, 1973, affronted or abutted the area described in paragraph (1) is deemed to be in the area. For the purposes of this paragraph, federal real property affronting or abutting the area described in paragraph (1)—

(A) is deemed to include Fort Lesley McNair, the Washington Navy Yard, the Anacostia Naval Annex, the United States Naval Station, Bolling Air Force Base, and the Naval Research Laboratory; and

(B) does not include any area situated outside of the District of Columbia boundary as it existed immediately prior to December 24, 1973, any part of the Anacostia Park situated east of the northern side of the Eleventh Street Bridge, or any part of the Rock Creek Park.

(b) APPLICABILITY OF OTHER PROVISIONS.—

(1) PROVISIONS COVERING BUILDINGS AND GROUNDS IN AREA NOT AFFECTED.— Except to the extent specifically provided by this section, this section does not—

(A) apply to the United States Capitol Buildings and Grounds as defined and described in sections 5101 and 5102, any other buildings and grounds under the care of the Architect of the Capitol, the Supreme Court Building and grounds as described in section 6101 of this title, and the Library of Congress buildings and grounds as defined in section 11 of the Act of August 4, 1950 (2 U.S.C. 167j); and

(B) repeal, amend, alter, modify, or supersede—

(i) chapter 51 of this title, section 9, 9A, 9B, 9C or 14 of the Act of July 31, 1946 (ch. 707, 60 Stat. 719, 720), any other general law of the United States, any law enacted by Congress and applicable exclusively to the District of Columbia, or any rule or regulation prescribed pursuant to any of those provisions, that was in effect on January 1, 1975, and that pertained to those buildings and grounds; or

(ii) any authority which existed on December 24, 1973, with respect to those buildings and grounds and was vested on January 1, 1975, in the Senate, the House of Representatives, Congress, any committee, commission, or board of the Senate, the House of Representatives, or Congress, the Architect of the Capitol or any other officer of the legislative branch, the Chief Justice of the United States, the Marshal of the Supreme Court, or the Librarian of Congress.

(2) CONTINUED APPLICATION OF LAWS, REGULATIONS, AND RULES.—Except to the extent otherwise specifically provided in this section, all general laws of the United States and all laws enacted by the Congress and applicable exclusively to the District of Columbia, including regulations and rules prescribed pursuant to any of those laws, that were in effect on January 1, 1975, and which applied to and in the areas included in the National Capital Service Area pursuant to this section continue to be applicable to and in the National Capital Service Area in the same manner and to the same extent as if this section had not been enacted and remain applicable until repealed, amended, altered, modified, or superseded.

(c) AVAILABILITY OF SERVICES AND FACILITIES.—As far as practicable, any service or facility authorized by the District of Columbia Home Rule Act (Public Law 93–198, 87 Stat. 774) to be rendered or furnished (including maintenance of streets and highways, and services under section 1537 of title 31) shall be made available to the Senate, the House of Representatives, Congress, any committee, commission, or board of the Senate, the House of Representatives, or Congress, the Architect of the Capitol, any other officer of the legislative branch who on January 1, 1975, was vested with authority over those buildings and grounds, the Chief Justice of the United States, the Marshal of the Supreme Court, and the Librarian of Congress on their request. If payment would be required for the rendition or furnishing of a similar service or facility to any other federal agency, the recipient, on presentation of proper vouchers and as agreed on by the parties, shall pay for the service or facility in advance or by reimbursement.

(d) RIGHT TO PARTICIPATE IN ELECTION NOT AFFECTED BY RESIDENCY.—An individual may not be denied the right to vote or otherwise participate in any manner in any election in the District of Columbia solely because the individual resides in the National Capital Service Area.

§ 8502. National Capital Service Director

(a) ESTABLISHMENT AND COMPENSATION.—There is in the Executive Office of the President the National Capital Service Director who shall be appointed by the President. The Director shall receive compensation at the maximum rate established for level IV of the Executive Schedule under section 5314 of title 5.

(b) PERSONNEL.—The Director may appoint and fix the rate of compensation of necessary personnel, subject to chapters 33 and 51 and subchapter III of chapter 53 of title 5.

(c) DUTIES.—

(1) PRESIDENT.—The President, through the Director and using District of Columbia governmental services to the extent practicable, shall ensure that there is provided in the area described in section 8501(a) of this title adequate fire protection and sanitation services.

(2) DIRECTOR.—Except with respect to that part of the National Capital Service Area comprising the United States Capitol Buildings and Grounds as defined and described in sections 5101 and 5102, the Supreme Court Building and grounds as described in section 6101 of this title, and the Library of Congress buildings and grounds as defined in section 11 of the Act of August 4, 1950 (2 U.S.C. 167j), the Director shall ensure that there is provided in the remainder of the area described in section 8501(a) of this title adequate police protection and maintenance of streets and highways.

CHAPTER 87—PHYSICAL DEVELOPMENT OF NATIONAL CAPITAL REGION

SUBCHAPTER I—GENERAL

SUBCHAPTER II—PLANNING AGENCIES

SUBCHAPTER III—PLANNING PROCESS

SUBCHAPTER I—GENERAL

§ 8701. Findings and purposes

(a) FINDINGS.—Congress finds that—

(1) the location of the seat of government in the District of Columbia has brought about the development of a metropolitan region extending well into adjoining territory in Maryland and Virginia;

(2) effective comprehensive planning is necessary on a regional basis and of continuing importance to the federal establishment;

(3) the distribution of federal installations throughout the region has been and will continue to be a major influence in determining the extent and character of development;

(4) there is needed a central planning agency for the National Capital region to coordinate certain developmental activities of the many different agencies of the Federal and District of Columbia Governments so that those activities may conform with general objectives;

(5) there is an increasing mutuality of interest and responsibility between the various levels of government that calls for coordinate and unified policies in planning both federal and local development in the interest of order and economy;

(6) there are developmental problems of an interstate character, the planning of which requires collaboration between federal, state, and local governments in the interest of equity and constructive action; and

(7) the instrumentalities and procedures provided in this chapter will aid in providing Congress with information and advice requisite to legislation.

(b) PURPOSES.—

(1) IN GENERAL.—The purposes of this chapter (except sections 8733–8736) are—

(A) to secure comprehensive planning for the physical development of the National Capital and its environs;

(B) to provide for the participation of the appropriate planning agencies of the environs in the planning; and

(C) to establish the agency and procedures requisite to the administration of the functions of the Federal and District Governments related to the planning.

(2) OBJECTIVE.—The general objective of this chapter (except sections 8733–8736) is to enable appropriate agencies to plan for the development of the federal establishment at the seat of government in a manner—

(A) consistent with the nature and function of the National Capital and with due regard for the rights and prerogatives of the adjoining States and local governments to exercise control appropriate to their functions; and

(B) which will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development.

§ 8702. Definitions

In this chapter—

(1) ENVIRONS.—The term ''environs'' means the territory surrounding the District of Columbia included in the National Capital region.

(2) NATIONAL CAPITAL.—The term ''National Capital'' means the District of Columbia and territory the Federal Government owns in the environs.

(3) NATIONAL CAPITAL REGION.—The term ''National Capital region'' means—

(A) the District of Columbia;

(B) Montgomery and Prince Georges Counties in Maryland;

(C) Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and

(D) all cities in Maryland or Virginia in the geographic area bounded by the outer boundaries of the combined area of the counties listed in subparagraphs (B) and (C).

(4) PLANNING AGENCY.—The term ''planning agency'' means any city, county, bi-county, part-county, or regional planning agency authorized under state and local laws to make and adopt comprehensive plans.

SUBCHAPTER II—PLANNING AGENCIES

§ 8711. National Capital Planning Commission

(a) ESTABLISHMENT AND PURPOSE.—The National Capital Planning Commission is the central federal planning agency for the Federal Government in the National Capital, created to preserve the important historical and natural features of the National Capital, except for the United States Capitol Buildings and Grounds (as defined and described in sections 5101 and 5102), any extension of, or additions to, those Buildings and Grounds, and buildings and grounds under the care of the Architect of the Capitol.

(b) COMPOSITION.—

(1) MEMBERSHIP.—The National Capital Planning Commission is composed of—

(A) ex officio, the Secretary of the Interior, the Secretary of Defense, the Administrator of General Services, the Mayor of the District of Columbia, the Chairman of the Council of the District of Columbia, the chairman of the Committee on Governmental Affairs of the Senate, and the chairman of the Committee on Government Reform of the House of Representatives, or an alternate any of those individuals designates; and

(B) five citizens with experience in city or regional planning, three of whom shall be appointed by the President and two of whom shall be appointed by the Mayor.

(2) RESIDENCY REQUIREMENT.—The citizen members appointed by the Mayor shall be residents of the District of Columbia. Of the three appointed by the President, at least one shall be a resident of Virginia and at least one shall be a resident of Maryland.

(3) TERMS.—An individual appointed by the President serves for six years. An individual appointed by the Mayor serves for four years. An individual appointed to fill a vacancy shall be appointed only for the unexpired term of the individual being replaced.

(4) PAY AND EXPENSES.—Citizen members are entitled to $100 a day when performing duties vested in the Commission and to reimbursement for necessary expenses incurred in performing those duties.

(c) CHAIRMAN AND OFFICERS.—The President shall designate the Chairman of the National Capital Planning Commission. The Commission may elect from among its members other officers as it considers desirable.

(d) PERSONNEL.—The National Capital Planning Commission may employ a Director, an executive officer, and other technical and administrative personnel as it considers necessary. Without regard to section 3709 of the Revised Statues (41 U.S.C. 5) and section 3109, chapters 33 and 51, and subchapter III of chapter 53, of title 5, the Commission may employ, by contract or otherwise, the temporary or intermittent (not more than one year) services of city planners, architects, engineers, appraisers, and other experts or organizations of experts, as may be necessary to carry out its functions. The Commission shall fix the rate of compensation so as not to exceed the rate usual for similar services.

(e) PRINCIPAL DUTIES.—The principal duties of the National Capital Planning Commission include—

(1) preparing, adopting, and amending a comprehensive plan for the federal activities in the National Capital and making related recommendations to the appropriate developmental agencies; and

(2) serving as the central planning agency for the Government within the National Capital region and reviewing the development programs of the developmental agencies to advise as to consistency with the comprehensive plan.

(f) TRANSFER OF OTHER FUNCTIONS, POWERS, AND DUTIES.—The National Capital Planning Commission shall carry out all other functions, powers, and duties of the National Capital Park and Planning Commission, including those formerly vested in the Highway Commission established by the Act of March 2, 1893 (ch. 197, 27 Stat. 532), and those formerly vested in the National Capital Park Commission by the Act of June 6, 1924 (ch. 270, 43 Stat. 463).

(g) ESTIMATE.—The National Capital Planning Commission shall submit to the Office of Management and Budget before December 16 of each year its estimate of the total amount to be appropriated for expenditure under this chapter (except sections 8732–8736) during the next fiscal year.

(h) FEES.—The National Capital Planning Commission may charge fees to cover the full cost of Geographic Information System products and services the Commission supplies. The fees shall be credited to the applicable appropriation account as an offsetting collection and remain available until expended.

§ 8712. Mayor of the District of Columbia

(a) PLANNING RESPONSIBILITIES.—The Mayor of the District of Columbia is the central planning agency for the government of the District of Columbia in the National Capital and is responsible for coordinating the planning activities of the District government and for preparing and implementing the District elements of the comprehensive plan for the National Capital, which may include land use elements, urban renewal and redevelopment elements, a multiyear program of public works for the District, and physical, social, economic, transportation, and population elements. The Mayor's planning responsibility shall not extend to—

(1) federal or international projects and developments in the District, as determined by the National Capital Planning Commission; or

(2) the United States Capitol Buildings and Grounds as defined and described in sections 5101 and 5102, any extension of, or additions to, those Buildings and Grounds, and buildings and grounds under the care of the Architect of the Capitol.

(b) PARTICIPATION AND CONSULTATION.—In carrying out the responsibilities under this section and section 8721 of this title, the Mayor shall establish procedures for citizen participation in the planning process and for appropriate meaningful consultation with any state or local government or planning agency in the National Capital region affected by any aspect of a comprehensive plan, including amendments, affecting or relating to the District.

SUBCHAPTER III—PLANNING PROCESS

§ 8721. Comprehensive plan for the National Capital

(a) PREPARATION AND ADOPTION BY COMMISSION.—The National Capital Planning Commission shall prepare and adopt a comprehensive, consistent, and coordinated plan for the National Capital. The plan shall include the Commission's recommendations or proposals for federal developments or projects in the environs and District elements of the comprehensive plan, or amendments to the elements, adopted by the Council of the District of Columbia and with respect to which the Commission has not determined a negative impact exists. Those elements

or amendments shall be incorporated into the comprehensive plan without change. The Commission may include in its plan any part of a plan adopted by any planning agency in the environs and may make recommendations of collateral interest to the agencies. The Commission may adopt any part of an element. The Commission shall review and may amend or extend the plan so that its recommendations may be kept up to date.

(b) REVIEW BY DISTRICT OF COLUMBIA.—The Mayor of the District of Columbia shall submit each District element of the comprehensive plan, and any amendment, to the Council for revision or modification, and adoption, by act, following public hearings. Following adoption and prior to implementation, the Council shall submit each element or amendment to the Commission for review and comment with regard to the impact of the element or amendment on the interests or functions of the federal establishment in the National Capital.

(c) COMMISSION RESPONSE TO COUNCIL ACTION.—

(1) PERIOD OF REVIEW.—Within 60 days after receiving an element or amendment from the Council, the Commission shall certify to the Council whether the element or amendment has a negative impact on the interests or functions of the federal establishment in the National Capital.

(2) NO NEGATIVE IMPACT.—If the Commission takes no action in the 60-day period, the element or amendment is deemed to have no negative impact and shall be incorporated into the comprehensive plan for the National Capital and implemented.

(3) NEGATIVE IMPACT.—

(A) CERTIFICATION TO COUNCIL.—If the Commission finds a negative impact, it shall certify its findings and recommendations to the Council.

(B) RESPONSE OF COUNCIL.—On receipt of the Commission's findings and recommendations, the Council may—

(i) accept the findings and recommendations and modify the element or amendment accordingly; or

(ii) reject the findings and recommendations and resubmit a modified form of the element or amendment to the Commission for reconsideration.

(C) FINDINGS AND RECOMMENDATIONS ACCEPTED.—If the Council accepts the findings and recommendations and modifies the element or amendment, the Council shall submit the element or amendment to the Commission for the Commission to determine whether the modification has been made in accordance with the Commission's findings and recommendations. If the Commission does not act on the modified element or amendment within 30 days after receiving it, the element or amendment is deemed to have been modified in accordance with the findings and recommendations and shall be incorporated into the comprehensive plan for the National Capital and implemented. If within the 30-day period the Commission again determines the element or amendment has a negative impact on the functions or interests of the federal establishment in the National Capital, the element or amendment shall not be implemented.

(D) FINDINGS AND RECOMMENDATIONS REJECTED.—If the Council rejects the findings and recommendations and resubmits a modified element or amendment, the Commission, within 60 days after receiving it, shall decide whether the modified element or amendment has a negative impact on the interests or functions of the federal establishment within the National Capital. If the Commission does not act within the 60-day period, the modified element or amendment is deemed to have no negative impact and shall be incorporated into the comprehensive plan and implemented. If the Commission finds a negative impact, it shall certify its findings (in sufficient detail that the Council can understand the basis of the objection of the Commission) and recommendations to the Council and the element or amendment shall not be implemented.

(d) RESUBMISSION DEEMED NEW ELEMENT OR AMENDMENT.—Any element or amendment which the Commission has determined has a negative impact on the federal establishment in the National Capital which is submitted again in a modified form not less than one year from the day it was last rejected by the Commission is deemed to be a new element or amendment for purposes of the review procedure specified in this section.

(e) REVIEW, HEARINGS, AND CITIZEN ADVISORY COUNCILS.—

(1) REVIEW.—Before the comprehensive plan, any element of the plan, or any revision is adopted, the Commission shall present the plan, element, or revision to the appropriate federal or District of Columbia authorities for comment and recommendations. The Commission may present the proposed revisions annually in a consolidated form. Recommendations by federal and District of Columbia authorities are not binding on the Commission, but the Commission shall give careful consideration to any views and recommendations submitted prior to final adoption.

(2) HEARINGS AND CITIZEN ADVISORY COUNCILS.—The Commission—

(A) may provide periodic opportunity for review and comments by nongovernmental agencies or groups through public hearings, meetings, or conferences, exhibitions, and publication of its plans; and

(B) in consultation with the Council, may encourage the formation of citizen advisory councils.

(f) EXTENSION OF TIME LIMITATIONS.—On request of the Commission, the Council may grant an extension of any time limitation contained in this section.

(g) PUBLISHING COMPREHENSIVE PLAN.—As appropriate, the Commission and the Mayor jointly shall publish a comprehensive plan for the National Capital, consisting of the elements of the comprehensive plan for the federal activities in the National Capital developed by the Commission and the District elements developed by the Mayor and the Council in accordance with this section.

(h) PROCEDURES FOR CONSULTATION.—

(1) COMMISSION AND MAYOR.—The Commission and the Mayor jointly shall establish procedures for appropriate meaningful continuing consultation throughout the planning process for the National Capital.

(2) GOVERNMENT AGENCIES.—In order that the National Capital may be developed in accordance with the comprehensive plan, the Commission, with the consent of each agency concerned as to its representation, may establish advisory and coordinating committees composed of representatives of agencies of the Federal and District of Columbia Governments as may be necessary or helpful to obtain the maximum amount of cooperation and correlation of effort among the various agencies. As it considers appropriate, the Commission may invite representatives of the planning and developmental agencies of the environs to participate in the work of the committees.

§ 8722. Proposed federal and district developments and projects

(a) AGENCIES TO USE COMMISSION AS CENTRAL PLANNING AGENCY.—Agencies of the Federal Government responsible for public developments and projects shall cooperate and correlate their efforts by using the National Capital Planning Commission as the central planning agency for federal activities in the National Capital region. To aid the Commission in carrying out this function, federal and District of Columbia governmental agencies on request of the Commission shall furnish plans, data, and records the Commission requires. The Commission on request shall furnish related plans, data, and records to federal and District of Columbia governmental agencies.

(b) CONSULTATION BETWEEN AGENCIES AND COMMISSION.—

(1) BEFORE CONSTRUCTION PLANS PREPARED.—To ensure the comprehensive planning and orderly development of the National Capital, a federal or District of Columbia agency, before preparing construction plans the agency originates for proposed developments and projects or before making a commitment to acquire land, to be paid for at least in part from federal or District amounts, shall advise and consult with the Commission as the agency prepares plans and programs in preliminary and successive stages that affect the plan and development of the National Capital. After receiving the plans, maps, and data, the Commission promptly shall make a preliminary report and recommendations to the agency. If the agency, after considering the report and recommendations of the Commission, does not agree, it shall advise the Commission and provide the reasons why it does not agree. The Commission then shall submit a final report. After consultation and suitable consideration of the views of the Commission, the agency may proceed to take action in accordance with its legal responsibilities and authority.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1) does not apply to projects within the Capitol grounds or to structures erected by the Department of Defense during wartime or national emergency within existing military, naval, or Air Force reservations, except that the appropriate defense agency shall consult with the Commission as to any developments which materially affect traffic or require coordinated planning of the surrounding area.

(B) ADVANCE DECISIONS OF COMMISSION.—The Commission shall determine in advance the type or kinds of plans, developments, projects, improvements, or acquisitions which do not need to be submitted for review by the Commission as to conformity with its plans.

(c) ADDITIONAL PROCEDURE FOR DEVELOPMENTS AND PROJECTS WITHIN ENVIRONS.—

(1) SUBMISSION TO COMMISSION.—Within the environs, general plans showing the location, character, and extent of, and intensity of use for, proposed federal and District developments and projects involving the acquisition of land shall be submitted to the Commission for report and recommendations before a final commitment to the acquisition is made, unless the matter specifically has been approved by law.

(2) COMMISSION ACTION.—Before acting on any general plan, the Commission shall advise and consult with the appropriate planning agency having jurisdiction over the affected part of the environs. When the Commission decides that proposed developments or projects submitted to the Commission under subsection (b) involve a major change in the character or intensity of an existing use in the environs, the Commission shall advise and consult with the planning agency. The report and recommendations shall be submitted within 60 days and shall be accompanied by any reports or recommendations of the planning agency.

(3) WORKING WITH STATE OR LOCAL AUTHORITY OR AGENCY.—In carrying out its planning functions with respect to federal developments or projects in the environs, the Commission may work with, and make agreements with, any state or local authority or planning agency as the Commission considers necessary to have a plan or proposal adopted and carried out.

(d) APPROVAL OF FEDERAL PUBLIC BUILDINGS.—The provisions of the Act of June 20, 1938 (ch. 534, 52 Stat. 802) shall not apply to federal public buildings. In order to ensure the orderly development of the National Capital, the location, height, bulk, number of stories, and size of federal public buildings in the District of Columbia and the provision for open space in and around federal public buildings in the District of Columbia is subject to the approval of the Commission.

(e) APPROVAL OF DISTRICT GOVERNMENT BUILDINGS IN CENTRAL AREA.—Subsection (d) is

extended to include public buildings erected by any agency of the Government of the District of Columbia in the central area of the District (as defined by concurrent action of the Commission and the Council of the District of Columbia), except that the Commission shall transmit its approval or disapproval within 30 days after the day the proposal was submitted to the Commission.

§ 8723. Capital improvements

(a) SIX-YEAR PROGRAM OF PUBLIC WORKS PROJECTS.—The National Capital Planning Commission shall recommend a six-year program of public works projects for the Federal Government which the Commission shall review annually with the agencies concerned. Each federal agency shall submit to the Commission in the first quarter of each fiscal year a copy of its advance program of capital improvements within the National Capital and its environs.

(b) SUBMISSION OF MULTIYEAR CAPITAL IMPROVEMENT PLAN.—By February 1 of each year, the Mayor of the District of Columbia shall submit to the Commission a copy of the multiyear capital improvements plan for the District of Columbia that the Mayor develops under section 444 of the District of Columbia Home Rule Act (Public Law 93–198, 87 Stat. 800). The Commission has 30 days in which to comment on the plan but may not change or disapprove of the plan.

§ 8724. Zoning regulations and maps

(a) AMENDMENTS OF ZONING REGULATIONS AND MAPS.—The National Capital Planning Commission may make a report and recommendation to the Zoning Commission of the District of Columbia, as provided in section 5 of the Act of June 20, 1938 (ch. 534, 52 Stat. 798), on the relation, conformity, or consistency of proposed amendments of the zoning regulations and maps with the comprehensive plan for the National Capital. The Planning Commission may also submit to the Zoning Commission proposed amendments or general revisions to the zoning regulations or the zoning map for the District of Columbia.

(b) ADDITIONAL REPORT BY PLANNING COMMISSION.—When requested by an authorized representative of the Planning Commission, the Zoning Commission may recess for a reasonable period of time any public hearing it is holding to consider a proposed amendment to the zoning regulations or map so that the Planning Commission may have an opportunity to present to the Zoning Commission an additional report on the proposed amendment.

(c) ZONING COMMITTEE OF NATIONAL CAPITAL PLANNING COMMISSION.—

(1) ESTABLISHMENT AND COMPOSITION.—There is a Zoning Committee of the National Capital Planning Commission. The Committee consists of at least three members of the Planning Commission the Planning Commission designates for that purpose. The number of members serving on the Committee may vary.

(2) DUTIES.—The Committee shall carry out the functions vested in the Planning Commission under this section and section 8725 of this title—

(A) to the extent the Planning Commission decides; and

(B) when requested by the Zoning Commission and approved by the Planning Commission.

§ 8725. Recommendations on platting and subdividing land

(a) BY COUNCIL OF THE DISTRICT OF COLUMBIA.—The Council of the District of Columbia shall submit any proposed change in, or addition to, the regulations or general orders regulating the platting and subdividing of lands and grounds in the District of Columbia to the National Capital Planning Commission for report and recommendation before the Council adopts the change or addition. The Council shall advise the Commission when it does not agree with the recommendations of the Commission and shall give the reasons why it disagrees. The Commission then shall submit a final report within 30 days. After considering the final report, the Council may act in accordance with its legal responsibilities and authority.

(b) BY PLANNING COMMISSION.—The Commission shall submit to the Council any proposed change in, or amendment to, the general orders that the Commission considers appropriate. The Council shall treat the amendments proposed in the same manner as other proposed amendments.

§ 8726. Authorization of appropriations

Amounts necessary to carry out this subchapter may be appropriated from money in the Treasury not otherwise appropriated and from any appropriate appropriation law, except the annual District of Columbia Appropriation Act.

SUBCHAPTER IV—ACQUIRING AND DISPOSING OF LAND

§ 8731. Acquiring land for park, parkway, or playground purposes

(a) AUTHORITY TO ACQUIRE LAND.—The National Capitol Planning Commission shall acquire land the Planning Commission believes is necessary and desirable in the District of Columbia and adjacent areas in Maryland and Virginia for suitable development of the National Capital park, parkway, and playground system. The acquisition must be within the limits of the appropriations made for those purposes. The Planning Commission shall request the advice of the Commission of Fine Arts in selecting land to be acquired.

(b) HOW LAND MAY BE ACQUIRED.—

(1) PURCHASE OR CONDEMNATION PROCEEDING.—The National Capital Planning Commission may buy land when the land can be acquired at a price the Planning Commission considers reasonable or by a condemnation proceeding when the land cannot be bought at a reasonable price.

(2) LAND IN THE DISTRICT OF COLUMBIA.—A condemnation proceeding to acquire land in the District of Columbia shall be conducted in accordance with section 1 of the Act of December 23, 1963 (Public Law 88–241, 77 Stat. 571).

(3) LAND IN MARYLAND OR VIRGINIA.—The Planning Commission may acquire land in Maryland or Virginia under arrangements agreed to by the Commission and the proper officials of Maryland or Virginia.

(c) CONTROL OF LAND.—

(1) LAND IN THE DISTRICT OF COLUMBIA.—Land acquired in the District of Columbia shall be a part of the park system of the District of Columbia and be under the control of the Director of the National Park Service. The National Capital Planning Commission may assign areas suitable for playground purposes to the control of the Mayor of the District of Columbia for playground purposes.

(2) LAND IN MARYLAND OR VIRGINIA.—Land acquired in Maryland or Virginia shall be controlled as determined by agreement between the Planning Commission and the proper officials of Maryland or Virginia.

(d) PRESIDENTIAL APPROVAL REQUIRED.—The designation of all land to be acquired by condemnation, all contracts to purchase land, and all agreements between the National Capital Planning Commission and the officials of Maryland and Virginia are subject to the approval of the President.

§ 8732. Acquiring land subject to limited rights reserved to grantor and limited permanent rights in land adjoining park property

(a) IN GENERAL.—The National Capital Planning Commission in accordance with this chapter may acquire, for and on behalf of the Federal Government, by gift, devise, purchase, or condemnation—

(1) fee title to land subject to limited rights, but not for business purposes, reserved to the grantor; and

(2) permanent rights in land adjoining park property sufficient to prevent the use of the land in certain specified ways which would essentially impair the value of the park property for its purposes.

(b) PREREQUISITES TO ACQUISITION.—

(1) FEE TITLE TO LAND SUBJECT TO LIMITED RIGHTS.—The reservation of rights to the grantor shall not continue beyond the life of the grantor of the fee. The Commission must decide that the permanent public park purposes for which control over the land is needed are not essentially impaired by the reserved rights and that there is a substantial saving in cost by acquiring the land subject to the limited rights as compared with the cost of acquiring unencumbered title to the land.

(2) PERMANENT RIGHTS IN LAND ADJOINING PARK PROPERTY.—The Commission must decide that the protection and maintenance of the essential public values of the park can be secured more economically by acquiring the permanent rights than by acquiring the land.

(c) PRESIDENTIAL APPROVAL REQUIRED.—All contracts to acquire land or rights under this section are subject to the approval of the President.

§ 8733. Lease of land acquired for park, parkway, or playground purposes

The Secretary of the Interior may lease, for not more than five years, land or an existing building or structure on land acquired for park, parkway, or playground purposes, and may renew the lease for an additional five years. A lease or renewal under this section is—

(1) subject to the approval of the National Capital Planning Commission;

(2) subject to the need for the immediate use of the land, building, or structure in other ways by the public; and

(3) on terms the Administrator decides.

§ 8734. Sale of land by Mayor

(a) AUTHORITY TO SELL.—With the approval of the National Capital Planning Commission, the Mayor of the District of Columbia, for the best interests of the District of Columbia, may sell to the highest bidder at public or private sale real estate in the District of Columbia owned in fee simple by the District of Columbia for municipal use that the Council of the District of Columbia and the Commission find to be no longer required for public purposes.

(b) PAYING EXPENSES AND DEPOSITING PROCEEDS.—The Mayor—

(1) may pay the reasonable and necessary expenses of the sale of each parcel of land sold; and

(2) shall deposit the net proceeds of each sale in the Treasury to the credit of the District of Columbia.

§ 8735. Sale of land by Secretary of the Interior

(a) AUTHORITY TO SELL.—With the approval of the National Capital Planning Commission, the Secretary of the Interior, for the best interests of the Federal Government, may sell, by deed or instrument, real estate held by the Government in the District of Columbia and under the jurisdiction of the National Park Service which may be no longer needed for public purposes. The land may be sold for cash or on a deferred-payment plan the Secretary approves, at a price not less than the Government paid for it and not less than its present appraised value as determined by the Secretary.

(b) SALE TO HIGHEST BIDDER.—In selling any parcel of land under this section, the Secretary shall have public or private solicitation for bids or offers be made as the Secretary considers appropriate. The Secretary shall sell the parcel to the party agreeing to pay the highest price if the price is otherwise satisfactory. If the price offered or bid by the owner of land abutting the land to be sold equals the highest price offered or bid by any other party, the parcel may be sold to the owner of the abutting land.

(c) PAYING EXPENSES AND DEPOSITING PROCEEDS.—The Secretary—

(1) may pay the reasonable and necessary expenses of the sale of each parcel of land sold; and

(2) shall deposit the net proceeds of each sale in the Treasury to the credit of the Government and the District of Columbia in the proportion that each—

(A) paid the appropriations used to acquire the parcels; or

(B) was obligated to pay the appropriations, at the time of acquisition, by reimbursement.

§ 8736. Execution of deeds

The Mayor of the District of Columbia may execute deeds of conveyance for real estate sold under this subchapter. The deeds shall contain a full description of the land sold as required by law.

§ 8737. Authorization of appropriations

An amount equal to not more than one cent for each inhabitant of the continental United States as determined by the last preceding decennial census may be appropriated each year in the District of Columbia Appropriation Act for the National Capital Planning Commission to use for the payment of its expenses and for the acquisition of land the Commission may acquire under section 8731 of this title for the purposes named, including compensation for the land, surveys, ascertainment of title, condemnation proceedings, and necessary conveyancing. The appropriated amounts shall be paid from the revenues of the District of Columbia and the general amounts of the Treasury in the same proportion as other expenses of the District of Columbia.

CHAPTER 89—NATIONAL CAPITAL MEMORIALS AND COMMEMORATIVE WORKS

§ 8901. Purposes

The purposes of this chapter are—

(1) to preserve the integrity of the comprehensive design of the L'Enfant and McMillan plans for the Nation's Capital;

(2) to ensure the continued public use and enjoyment of open space in the District of Columbia;

(3) to preserve, protect and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital; and

(4) to ensure that future commemorative works in areas administered by the National Park Service and the Administrator of General Services in the District of Columbia and its environs—

(A) are appropriately designed, constructed, and located; and

(B) reflect a consensus of the lasting national significance of the subjects involved.

§ 8902. Definitions and nonapplication

(a) DEFINITIONS.—In this chapter, the following definitions apply:

(1) COMMEMORATIVE WORK.—The term ''commemorative work''—

(A) means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history; but

(B) does not include an item described in subclause (A) that is located within the interior of a structure or a structure which is primarily used for other purposes.

(2) PERSON.—The term ''person'' means—

(A) a public agency; and

(B) an individual, group or organization—

(i) described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of the Code (26 U.S.C. 501(a)); and

(ii) authorized by Congress to establish a commemorative work in the District of Columbia and its environs.

(3) THE DISTRICT OF COLUMBIA AND ITS ENVIRONS.—The term ''the District of Columbia and its environs'' means land and property located in Areas I and II as depicted on the map numbered 869/86501, and dated May 1, 1986, that the National Park Service and the Administrator of General Services administer.

(b) NONAPPLICATION.—This chapter does not apply to commemorative works authorized by a law enacted before January 3, 1985.

§ 8903. Congressional authorization of commemorative works

(a) IN GENERAL.—Commemorative works—

(1) may be established on federal lands referred to in section 8901(4) of this title only as specifically authorized by law; and

(2) are subject to applicable provisions of this chapter.

(b) MILITARY COMMEMORATIVE WORKS.—A military commemorative work may be authorized only to commemorate a war or similar major military conflict or a branch of the armed forces. A commemorative work commemorating a lesser conflict or a unit of an armed force may not be authorized. Commemorative works to a war or similar major military conflict may not be authorized until at least 10 years after the officially designated end of the event.

(c) WORKS COMMEMORATING EVENTS, INDIVIDUALS, OR GROUPS.—A commemorative work commemorating an event, individual, or group of individuals, except a military commemorative work as described in subsection (b), may not be authorized until after the 25th anniversary of the event, death of the individual, or death of the last surviving member of the group.

(d) CONSULTATION WITH NATIONAL CAPITAL MEMORIAL COMMISSION.—In considering legislation authorizing commemorative works in the District of Columbia and its environs, the Committee on House Administration of the House of Representatives and the Committee on Energy and Natural Resources of the Senate shall solicit the views of the National Capital Memorial Commission.

(e) EXPIRATION OF LEGISLATIVE AUTHORITY.—Legislative authority for a commemorative work expires at the end of the seven-year period beginning on the date the authority is enacted unless the Secretary of the Interior or Administrator of General Services, as appropriate, has issued a construction permit for the commemorative work during that period.

§ 8904. National Capital Memorial Commission

(a) ESTABLISHMENT AND COMPOSITION.—There is a National Capital Memorial Commission. The membership of the Commission consists of—

(1) the Director of the National Park Service;

(2) the Architect of the Capitol;

(3) the Chairman of the American Battle Monuments Commission;

(4) the Chairman of the Commission of Fine Arts;

(5) the Chairman of the National Capital Planning Commission;

(6) the Mayor of the District of Columbia;

(7) the Commissioner of the Public Buildings Service of the General Services Administration; and

(8) the Secretary of Defense.

(b) CHAIRMAN.—The Director is the Chairman of the National Capital Memorial Commission.

(c) ADVISORY ROLE.—The National Capital Memorial Commission shall advise the Secretary of the Interior and the Administrator of General Services on policy and procedures for establishment of, and proposals to establish, commemorative works in the District of Columbia and its environs and on other matters concerning commemorative works in the Nation's Capital as the Commission considers appropriate.

(d) MEETINGS.—The National Capital Memorial Commission shall meet at least twice annually.

§ 8905. Site and design approval

(a) CONSULTATION ON, AND SUBMISSION OF, PROPOSALS.—A person authorized by law to establish a commemorative work in the District of Columbia and its environs may request a permit for construction of the commemorative work only after the following requirements are met:

(1) CONSULTATION.—The person must consult with the National Capital Memorial Commission regarding the selection of alternative sites and designs for the commemorative work.

(2) SUBMITTAL.—Following consultation in accordance with clause (1), the Secretary of the Interior or the Administrator of General Services, as appropriate, must submit, on behalf of the person, site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission for their approval.

(b) DECISION CRITERIA.—In considering site and design proposals, the Commission of Fine Arts, National Capital Planning Commission, Secretary, and Administrator shall be guided by, but not limited by, the following criteria:

(1) SURROUNDINGS.—To the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to the subject of the work.

(2) LOCATION.—A commemorative work shall be located so that—

(A) it does not interfere with, or encroach on, an existing commemorative work; and

(B) to the maximum extent practicable, it protects open space and existing public use.

(3) MATERIAL.—A commemorative work shall be constructed of durable material suitable to the outdoor environment.

(4) LANDSCAPE FEATURES.—Landscape features of commemorative works shall be compatible with the climate.

§ 8906. Criteria for issuance of construction permit

(a) CRITERIA FOR ISSUING PERMIT.—Before issuing a permit for the construction of a commemorative work in the District of Columbia and its environs, the Secretary of the Interior or Administrator of General Services, as appropriate, shall determine that—

(1) the site and design have been approved by the Secretary or Administrator, the National Capital Planning Commission and the Commission of Fine Arts;

(2) knowledgeable individuals qualified in the field of preservation and maintenance have been consulted to determine structural soundness and durability of the commemorative work and to ensure that the commemorative work meets high professional standards;

(3) the person authorized to construct the commemorative work has submitted contract documents for construction of the commemorative work to the Secretary or Administrator; and

(4) the person authorized to construct the commemorative work has available sufficient amounts to complete construction of the project.

(b) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION.—

(1) AMOUNT.—In addition to the criteria described in subsection (a), a construction permit may not be issued unless the person authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. The amounts shall be credited to a separate account in the Treasury.

(2) AVAILABILITY.—The Secretary of the Treasury shall make any part of the donated amount available to the Secretary of the Interior or Administrator for maintenance at the request

of the Secretary of the Interior or Administrator. The Secretary of the Interior or Administrator shall not request more from the separate account than the total amount deposited by persons establishing commemorative works in areas the Secretary of the Interior or Administrator administers.

(3) INVENTORY OF AVAILABLE AMOUNTS.—The Secretary of the Interior and Administrator shall maintain an inventory of amounts available under this subsection. The amounts are not subject to annual appropriations.

(4) NONAPPLICABILITY.—This subsection does not apply when a department or agency of the Federal Government constructs the work and less than 50 percent of the funding for the work is provided by private sources.

(c) SUSPENSION FOR MISREPRESENTATION IN FUNDRAISING.—The Secretary of the Interior or Administrator may suspend any activity under this chapter that relates to the establishment of a commemorative work if the Secretary or Administrator determines that fundraising efforts relating to the work have misrepresented an affiliation with the work or the Federal Government.

(d) ANNUAL REPORT.—The person authorized to construct a commemorative work under this chapter must submit to the Secretary of the Interior or Administrator an annual report of operations, including financial statements audited by an independent certified public accountant. The person shall pay for the report.

§ 8907. Temporary site designation

(a) CRITERION FOR DESIGNATION.—If the Secretary of the Interior, in consultation with the National Capital Memorial Commission, determines that a site where commemorative works may be displayed on a temporary basis is necessary to aid in the preservation of the limited amount of open space available to residents of, and visitors to, the Nation's Capital, a site may be designated on land the Secretary administers in the District of Columbia.

(b) PLAN.—A designation may be made under subsection (a) only if, at least 120 days before the designation, the Secretary, in consultation with the Commission, prepares and submits to Congress a plan for the site. The plan shall include specifications for the location, construction, and administration of the site and criteria for displaying commemorative works at the site.

(c) RISK AND AGREEMENT TO INDEMNIFY.—A commemorative work displayed at the site shall be installed, maintained, and removed at the sole expense and risk of the person authorized to display the work. The person shall agree to indemnify the United States for any liability arising from the display of the commemorative work under this section.

§ 8908. Areas I and II

(a) AVAILABILITY OF MAP.—The Secretary of the Interior and Administrator of General Services shall make available, for public inspection at appropriate offices of the National Park Service and the General Services Administration, the map numbered 869/86501, and dated May 1, 1986.

(b) SPECIFIC CONDITIONS APPLICABLE TO AREA I AND AREA II.—

(1) AREA I.—After seeking the advice of the National Capital Memorial Commission, the Secretary or Administrator, as appropriate, may recommend the location of a commemorative work in Area I only if the Secretary or Administrator decides that the subject of the commemorative work is of preeminent historical and lasting significance to the United States. The Secretary or Administrator shall notify the Commission, the Committee on House Administration of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate of the recommendation that a commemorative work should be located in Area I. The location of a commemorative work in Area I is deemed to be authorized only if the recommendation is approved by law not later than 150 calendar days after the notification.

(2) AREA II.—Commemorative works of subjects of lasting historical significance to the American people may be located in Area II.

§ 8909. Administrative

(a) MAINTENANCE OF DOCUMENTATION OF DESIGN AND CONSTRUCTION.—Complete documentation of design and construction of each commemorative work located in the District of Columbia and its environs shall be provided to the Secretary of the Interior or Administrator of General Services, as appropriate, and shall be permanently maintained in the manner provided by law.

(b) RESPONSIBILITY FOR MAINTENANCE OF COMPLETED WORK.—On completion of any commemorative work in the District of Columbia and its environs, the Secretary or Administrator, as appropriate, shall assume responsibility for maintaining the work.

(c) REGULATIONS OR STANDARDS.—The Secretary and Administrator shall prescribe appropriate regulations or standards to carry out this chapter.

CHAPTER 91—COMMISSION OF FINE ARTS

§ 9101. Establishment, composition, and vacancies

(a) ESTABLISHMENT.—There is a Commission of Fine Arts.

(b) COMPOSITION.—The Commission is composed of seven well-qualified judges of the fine arts, appointed by the President, who serve for four years each or until their successors are appointed and qualified.

(c) VACANCIES.—The President shall fill vacancies on the Commission.

(d) EXPENSES.—Members of the Commission shall be paid actual expenses in traveling to and from the District of Columbia to attend Commission meetings and while attending those meetings.

§ 9102. Duties

(a) IN GENERAL.—The Commission of Fine Arts shall advise on—

(1) the location of statues, fountains, and monuments in the public squares, streets, and parks in the District of Columbia;

(2) the selection of models for statues, fountains, and monuments erected under the authority of the Federal Government;

(3) the selection of artists to carry out clause (2); and

(4) questions of art generally when required to do so by the President or a committee of Congress.

(b) DUTY TO REQUEST ADVICE.—The officers required to decide the questions described in subsection (a)(1)–(3) shall request the Commission to provide the advice.

(c) NONAPPLICATION.—This section does not apply to the Capitol Building and the Library of Congress buildings.

§ 9103. Personnel

The Commission of Fine Arts has a secretary and other assistance the Commission authorizes. The secretary is the executive officer of the Commission.

§ 9104. Authorization of appropriations

Necessary amounts may be appropriated to carry out this chapter.

CHAPTER 93—THEODORE ROOSEVELT ISLAND

§ 9301. Maintenance and administration

The Director of the National Park Service shall maintain and administer Theodore Roosevelt Island as a natural park for the recreation and enjoyment of the public.

§ 9302. Consent of Theodore Roosevelt Association required for development

(a) GENERAL PLAN FOR DEVELOPMENT.—The Theodore Roosevelt Association must approve every general plan for the development of Theodore Roosevelt Island.

(b) DEVELOPMENT INCONSISTENT WITH PLAN.—As long as the Association remains in existence, development inconsistent with the general plan may not be carried out without the Association's consent.

§ 9303. Access to Theodore Roosevelt Island

Subject to the approval of the National Capital Planning Commission and the availability of appropriations, the Director of the National Park Service may provide suitable means of access to and on Theodore Roosevelt Island.

§ 9304. Source of appropriations

The appropriations needed for construction of suitable means of access to and on Theodore Roosevelt Island and annually for the care, maintenance, and improvement of the land and improvements may be made from amounts not otherwise appropriated from the Treasury.

CHAPTER 95—WASHINGTON AQUEDUCT AND OTHER PUBLIC WORKS IN THE DISTRICT OF COLUMBIA

§ 9501. Chief of Engineers

(a) SUPERINTENDENCE DUTIES.—

(1) WASHINGTON AQUEDUCT AND OTHER PUBLIC WORKS AND IMPROVEMENTS IN THE DISTRICT OF COLUMBIA.—The Chief of Engineers has the immediate superintendence of—

(A) the Washington Aqueduct, together with all rights, appurtenances, and fixtures connected with the Aqueduct and belonging to the Federal Government; and

(B) all other public works and improvements in the District of Columbia in which the Government has an interest and which are not otherwise specially provided for by law.

(2) OBEYING REGULATIONS.—In carrying out paragraph (1), the Chief of Engineers shall obey regulations the President prescribes, through the Secretary of the Army.

(b) NO INCREASE IN COMPENSATION.—The Chief of Engineers shall not receive additional compensation for the services required under this chapter.

(c) OFFICE.—The Chief of Engineers shall be furnished an office in one of the public buildings in the District of Columbia, as the Administrator of General Services directs, and shall be supplied by the Federal Government with stationery, instruments, books, and furniture which may be required for the performance of the duties of the Chief of Engineers.

§ 9502. Authority of Chief of Engineers

(a) IN GENERAL.—The Chief of Engineers and necessary assistants may use all lawful means to carry out their duties.

(b) SUPPLY OF WATER IN DISTRICT OF COLUMBIA.—

(1) PROVIDING WATER.—The Chief of Engineers has complete control over the Washington Aqueduct to regulate the manner in which the authorities of the District of Columbia may tap the supply of water to the inhabitants of the District of Columbia.

(2) STOPPAGE OF WATER FLOW.—The Chief of Engineers shall stop the authorities of the District of Columbia from tapping the supply of water when the supply is no more than adequate to the wants of the public buildings and grounds.

(3) APPEAL OF DECISION.—The decision of the Chief of Engineers on all questions concerning the supply of water under this subsection may be appealed only to the Secretary of the Army.

§ 9503. Record of property

The Chief of Engineers shall keep in the office a complete record of all land and other property connected with or belonging to the Washington Aqueduct and other public works under the charge of the Chief of Engineers, together with accurate plans and surveys of the public grounds and reservations in the District of Columbia.

§ 9504. Reports

As superintendent of the Washington Aqueduct, the Chief of Engineers annually shall submit to the Secretary of the Army, within nine months after the end of the fiscal year, a report of the Chief of Engineers' operations for that year and a report of the condition, progress, repairs, casualties, and expenditures of the Washington Aqueduct and other public works under the charge of the Chief of Engineers.

§ 9505. Paying for main pipes

(a) FEDERAL GOVERNMENT.—The Federal Government shall only pay for the number of main pipes of the Washington Aqueduct needed to furnish public buildings, offices, and grounds with the necessary supply of water.

(b) DISTRICT OF COLUMBIA.—The District of Columbia shall pay the cost of any main pipe of the Washington Aqueduct which supplies water to the inhabitants of the District of Columbia, in the manner provided by law.

§ 9506. Civil penalty

A person that, without the consent of the Chief of Engineers, taps or opens the mains or pipes laid by the Federal Government is liable to the Government for a civil penalty of at least $50 and not more than $500.

§ 9507. Control of expenditures

Unless expressly provided for by law, the Secretary of the Army shall direct the expenditure of amounts appropriated for the Washington Aqueduct and for other public works in the District of Columbia.

SUBTITLE III—INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 111—GENERAL

§ 11101. Definitions

In this subtitle, the following definitions apply:

(1) COMMERCIAL ITEM.—The term ''commercial item'' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 4 of the Act (41 U.S.C. 403).

(3) INFORMATION RESOURCES.—The term ''information resources'' has the meaning given that term in section 3502 of title 44.

(4) INFORMATION RESOURCES MANAGEMENT.—The term ''information resources management'' has the meaning given that term in section 3502 of title 44.

(5) INFORMATION SYSTEM.—The term ''information system'' has the meaning given that term in section 3502 of title 44.

(6) INFORMATION TECHNOLOGY.—The term ''information technology''—

(A) with respect to an executive agency means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) of that equipment; or

(ii) of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(B) includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources; but

(C) does not include any equipment acquired by a federal contractor incidental to a federal contract.

§ 11102. Sense of Congress

It is the sense of Congress that, during the five-year period beginning with 1996, executive agencies should achieve each year through improvements in information resources management by the agency—

(1) at least a five percent decrease in the cost (in constant fiscal year 1996 dollars) incurred by the agency in operating and maintaining information technology; and

(2) a five percent increase in the efficiency of the agency operations.

§ 11103. Applicability to national security systems

(a) DEFINITION.—

(1) NATIONAL SECURITY SYSTEM.—In this section, the term ''national security system'' means a telecommunications or information system operated by the Federal Government, the function, operation, or use of which—

(A) involves intelligence activities;

(B) involves cryptologic activities related to national security;

(C) involves command and control of military forces;

(D) involves equipment that is an integral part of a weapon or weapons system; or

(E) subject to paragraph (2), is critical to the direct fulfillment of military or intelligence missions.

(2) LIMITATION.—Paragraph (1)(E) does not include a system to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

(b) IN GENERAL.—Except as provided in subsection (c), chapter 113 of this title does not apply to national security systems.

(c) EXCEPTIONS.—

(1) IN GENERAL.—Sections 11313, 11315, and 11316 of this title apply to national security systems.

(2) CAPITAL PLANNING AND INVESTMENT CONTROL.—The heads of executive agencies shall apply sections 11302 and 11312 of this title to national security systems to the extent practicable.

(3) APPLICABILITY OF PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT TO NATIONAL SECURITY SYSTEMS.—

(A) IN GENERAL.—Subject to subparagraph (B), the heads of executive agencies shall apply section 11303 of this title to national security systems to the extent practicable.

(B) EXCEPTION.—National security systems are subject to section 11303(b)(5) of this title, except for subparagraph (B)(iv).

CHAPTER 113—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

SUBCHAPTER I—DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER II—EXECUTIVE AGENCIES

SUBCHAPTER III—OTHER RESPONSIBILITIES

SUBCHAPTER I—DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

§ 11301. Responsibility of Director

In fulfilling the responsibility to administer the functions assigned under chapter 35 of title 44, the Director of the Office of Management and Budget shall comply with this chapter with respect to the specific matters covered by this chapter.

§ 11302. Capital planning and investment control

(a) FEDERAL INFORMATION TECHNOLOGY.—The Director of the Office of Management and Budget shall perform the responsibilities set forth in this section in fulfilling the responsibilities under section 3504(h) of title 44.

(b) USE OF INFORMATION TECHNOLOGY IN FEDERAL PROGRAMS.—The Director shall promote and improve the acquisition, use, and disposal of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

(c) USE OF BUDGET PROCESS.—

(1) ANALYZING, TRACKING, AND EVALUATING CAPITAL INVESTMENTS.—As part of the budget process, the Director shall develop a process for analyzing, tracking, and evaluating the risks and results of all major capital investments made by an executive agency for information systems. The process shall cover the life of each system and shall include explicit criteria for analyzing the projected and actual costs, benefits, and risks associated with the investments.

(2) REPORT TO CONGRESS.—At the same time that the President submits the budget for a fiscal year to Congress under section 1105(a) of title 31, the Director shall submit to Congress a report on the net program performance benefits achieved as a result of major capital investments made by executive agencies for information systems and how the benefits relate to the accomplishment of the goals of the executive agencies.

(d) INFORMATION TECHNOLOGY STANDARDS.—The Director shall oversee the development and implementation of standards and guidelines pertaining to federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 11331 of this title and section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

(e) DESIGNATION OF EXECUTIVE AGENTS FOR ACQUISITIONS.— The Director shall designate the head of one or more executive agencies, as the Director considers appropriate, as executive agent for Government-wide acquisitions of information technology.

(f) USE OF BEST PRACTICES IN ACQUISITIONS.—The Director shall encourage the heads of the executive agencies to develop and use the best practices in the acquisition of information technology.

(g) ASSESSMENT OF OTHER MODELS FOR MANAGING INFORMATION TECHNOLOGY.—On a continuing basis, the Director shall assess the experiences of executive agencies, state and local governments, international organizations, and the private sector in managing information technology.

(h) COMPARISON OF AGENCY USES OF INFORMATION TECHNOLOGY.—The Director shall compare the performances of the executive agencies in using information technology and shall disseminate the comparisons to the heads of the executive agencies.

(i) MONITORING TRAINING.—The Director shall monitor the development and implementation of training in information resources management for executive agency personnel.

(j) INFORMING CONGRESS.—The Director shall keep Congress fully informed on the extent to which the executive agencies are improving the performance of agency programs and the accomplishment of the agency missions through the use of the best practices in information resources management.

(k) COORDINATION OF POLICY DEVELOPMENT AND REVIEW.—The Director shall coordinate with the Office of Federal Procurement Policy the development and review by the Administrator of the Office of Information and Regulatory Affairs of policy associated with federal acquisition of information technology.

§ 11303. Performance-based and results-based management

(a) IN GENERAL.—The Director of the Office of Management and Budget shall encourage the use of performance-based and results-based management in fulfilling the responsibilities assigned under section 3504(h) of title 44.

(b) EVALUATION OF AGENCY PROGRAMS AND INVESTMENTS.—

(1) REQUIREMENT.—The Director shall evaluate the information resources management practices of the executive agencies with respect to the performance and results of the investments made by the executive agencies in information technology.

(2) DIRECTION FOR EXECUTIVE AGENCY ACTION.—The Director shall issue to the head of each executive agency clear and concise direction that the head of each agency shall—

(A) establish effective and efficient capital planning processes for selecting, managing, and evaluating the results of all of its major investments in information systems;

(B) determine, before making an investment in a new information system—

(i) whether the function to be supported by the system should be performed by the private sector and, if so, whether any component of the executive agency performing that function should be converted from a governmental organization to a private sector organization; or

(ii) whether the function should be performed by the executive agency and, if so, whether the function should be performed by a private sector source under contract or by executive agency personnel;

(C) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes, as appropriate, before making significant investments in information technology to be used in support of those missions; and

(D) ensure that the information security policies, procedures, and practices are adequate.

(3) GUIDANCE FOR MULTIAGENCY INVESTMENTS.—The direction issued under paragraph (2) shall include guidance for undertaking efficiently and effectively interagency and Federal Government-wide investments in information technology to improve the accomplishment of missions that are common to the executive agencies.

(4) PERIODIC REVIEWS.—The Director shall implement through the budget process periodic reviews of selected information resources management activities of the executive agencies to ascertain the efficiency and effectiveness of information technology in improving the performance of the executive agency and the accomplishment of the missions of the executive agency.

(5) ENFORCEMENT OF ACCOUNTABILITY.—

(A) IN GENERAL.—The Director may take any action that the Director considers appropriate, including an action involving the budgetary process or appropriations management process, to enforce accountability of the head of an executive agency for information resources management and for the investments made by the executive agency in information technology.

(B) SPECIFIC ACTIONS.—Actions taken by the Director may include—

(i) recommending a reduction or an increase in the amount for information resources that the head of the executive agency proposes for the budget submitted to Congress under section 1105(a) of title 31;

(ii) reducing or otherwise adjusting apportionments and reapportionments of appropriations for information resources;

(iii) using other administrative controls over appropriations to restrict the availability of amounts for information resources; and

(iv) designating for the executive agency an executive agent to contract with private sector sources for the performance of information resources management or the acquisition of information technology.

SUBCHAPTER II—EXECUTIVE AGENCIES

§ 11311. Responsibilities

In fulfilling the responsibilities assigned under chapter 35 of title 44, the head of each executive agency shall comply with this subchapter with respect to the specific matters covered by this subchapter.

§ 11312. Capital planning and investment control

(a) DESIGN OF PROCESS.—In fulfilling the responsibilities assigned under section 3506(h) of title 44, the head of each executive agency shall design and implement in the executive agency a process for maximizing the value, and assessing and managing the risks, of the information technology acquisitions of the executive agency.

(b) CONTENT OF PROCESS.—The process of an executive agency shall—

(1) provide for the selection of information technology investments to be made by the executive agency, the management of those investments, and the evaluation of the results of those investments;

(2) be integrated with the processes for making budget, financial, and program management decisions in the executive agency;

(3) include minimum criteria to be applied in considering whether to undertake a particular investment in information systems, including criteria related to the quantitatively expressed projected net, risk-adjusted return on investment and specific quantitative and qualitative criteria for comparing and prioritizing alternative information systems investment projects;

(4) identify information systems investments that would result in shared benefits or costs for other federal agencies or state or local governments;

(5) identify quantifiable measurements for determining the net benefits and risks of a proposed investment; and

(6) provide the means for senior management personnel of the executive agency to obtain timely information regarding the progress of an investment in an information system, including a system of milestones for measuring progress, on an independently verifiable basis, in terms of cost, capability of the system to meet specified requirements, timeliness, and quality.

§ 11313. Performance and results-based management

In fulfilling the responsibilities under section 3506(h) of title 44, the head of an executive agency shall—

(1) establish goals for improving the efficiency and effectiveness of agency operations and, as appropriate, the delivery of services to the public through the effective use of information technology;

(2) prepare an annual report, to be included in the executive agency's budget submission to Congress, on the progress in achieving the goals;

(3) ensure that performance measurements—

(A) are prescribed for information technology used by, or to be acquired for, the executive agency; and

(B) measure how well the information technology supports programs of the executive agency;

(4) where comparable processes and organizations in the public or private sectors exist, quantitatively benchmark agency process performance against those processes in terms of cost, speed, productivity, and quality of outputs and outcomes;

(5) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes as appropriate before making significant investments in information technology to be used in support of the performance of those missions; and

(6) ensure that the information security policies, procedures, and practices of the executive agency are adequate.

§ 11314. Authority to acquire and manage information technology

(a) IN GENERAL.—The authority of the head of an executive agency to acquire information technology includes—

(1) acquiring information technology as authorized by law;

(2) making a contract that provides for multiagency acquisitions of information technology in accordance with guidance issued by the Director of the Office of Management and Budget; and

(3) if the Director finds that it would be advantageous for the Federal Government to do so, making a multiagency contract for procurement of commercial items of information technology that requires each executive agency covered by the contract, when procuring those items, to procure the items under that contract or to justify an alternative procurement of the items.

(b) FTS 2000 PROGRAM.—The Administrator of General Services shall continue to manage the FTS 2000 program, and to coordinate the follow-on to that program, for and with the advice of the heads of executive agencies.

§ 11315. Agency Chief Information Officer

(a) DEFINITION.—In this section, the term ''information technology architecture'', with respect to an executive agency, means an integrated framework for evolving or maintaining existing information technology and acquiring new information technology to achieve the agency's strategic goals and information resources management goals.

(b) GENERAL RESPONSIBILITIES.—The Chief Information Officer of an executive agency is responsible for—

(1) providing advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the executive agency in a manner that implements the policies and procedures of this subtitle, consistent with chapter 35 of title 44 and the priorities established by the head of the executive agency;

(2) developing, maintaining, and facilitating the implementation of a sound and integrated information technology architecture for the executive agency; and

(3) promoting the effective and efficient design and operation of all major information resources management processes for the executive agency, including improvements to work processes of the executive agency.

(c) DUTIES AND QUALIFICATIONS.—The Chief Information Officer of an agency listed in section 901(b) of title 31—

(1) has information resources management duties as that official's primary duty;

(2) monitors the performance of information technology programs of the agency, evaluates the performance of those programs on the basis of the applicable performance measurements, and advises the head of the agency regarding whether to continue, modify, or terminate a program or project; and

(3) annually, as part of the strategic planning and performance evaluation process required (subject to section 1117 of title 31) under section 306 of title 5 and sections 1105(a)(28), 1115–1117, and 9703 (as added by section 5(a) of the Government Performance and Results Act of 1993 (Public Law 103–62, 107 Stat. 289)) of title 31—

(A) assesses the requirements established for agency personnel regarding knowledge and skill in information resources management and the adequacy of those requirements for facilitating the achievement of the performance goals established for information resources management;

(B) assesses the extent to which the positions and personnel at the executive level of the agency and the positions and personnel at management level of the agency below the executive level meet those requirements;

(C) develops strategies and specific plans for hiring, training, and professional development to rectify any deficiency in meeting those requirements; and

(D) reports to the head of the agency on the progress made in improving information resources management capability.

§ 11316. Accountability

The head of each executive agency, in consultation with the Chief Information Officer and the Chief Financial Officer of that executive agency (or, in the case of an executive agency without a chief financial officer, any comparable official), shall establish policies and procedures to ensure that—

(1) the accounting, financial, asset management, and other information systems of the executive agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the executive agency;

(2) financial and related program performance data are provided on a reliable, consistent, and timely basis to executive agency financial management systems; and

(3) financial statements support—

(A) assessments and revisions of mission-related processes and administrative processes of the executive agency; and

(B) measurement of the performance of investments made by the agency in information systems.

§ 11317. Significant deviations

The head of each executive agency shall identify in the strategic information resources management plan required under section 3506(b)(2) of title 44 any major information technology acquisition program, or any phase or increment of that program, that has significantly deviated from the cost, performance, or schedule goals established for the program.

§ 11318. Interagency support

The head of an executive agency may use amounts available to the agency for oversight, acquisition, and procurement of information technology to support jointly with other executive agencies the activities of interagency groups that are established to advise the Director of the Office of Management and Budget in carrying out the Director's responsibilities under this chapter. The use of those amounts for that purpose is subject to requirements and limitations on uses and amounts that the Director may prescribe. The Director shall prescribe the requirements and limitations during the Director's review of the executive agency's proposed budget submitted to the Director by the head of the executive agency for purposes of section 1105 of title 31.

SUBCHAPTER III—OTHER RESPONSIBILITIES

§ 11331. Responsibilities regarding efficiency, security, and privacy of federal computer systems

(a) DEFINITIONS.—In this section, the terms ''federal computer system'' and ''operator of a federal computer system'' have the meanings given those terms in section 20(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(d)).

(b) STANDARDS AND GUIDELINES.—

(1) AUTHORITY TO PRESCRIBE AND DISAPPROVE OR MODIFY.—

(A) AUTHORITY TO PRESCRIBE.—On the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the Act (15 U.S.C. 278g–3(a)(2), (3)), the Secretary of Commerce shall prescribe standards and guidelines pertaining to federal computer systems. The Secretary shall make those standards compulsory and binding to the extent the Secretary determines necessary to improve the efficiency of operation or security and privacy of federal computer systems.

(B) AUTHORITY TO DISAPPROVE OR MODIFY.—The President may disapprove or modify those standards and guidelines if the President determines that action to be in the public interest. The President's authority to disapprove or modify those standards and guidelines may not be delegated. Notice of disapproval or modification shall be published promptly in the Federal Register. On receiving notice of disapproval or modification, the Secretary shall immediately rescind or modify those standards or guidelines as directed by the President.

(2) EXERCISE OF AUTHORITY.—To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction by the President and in coordination with the Director of the Office of Management and Budget.

(c) APPLICATION OF MORE STRINGENT STANDARDS.—The head of a federal agency may employ standards for the cost-effective security and privacy of sensitive information in a federal computer system in or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this section if the more stringent standards contain at least the applicable standards the Secretary makes compulsory and binding.

(d) WAIVER OF STANDARDS.—

(1) AUTHORITY OF THE SECRETARY.—The Secretary may waive in writing compulsory and binding standards under subsection (b) if the Secretary determines that compliance would—

(A) adversely affect the accomplishment of the mission of an operator of a federal computer system; or

(B) cause a major adverse financial impact on the operator that is not offset by Federal Government-wide savings.

(2) DELEGATION OF WAIVER AUTHORITY.—The Secretary may delegate to the head of one or more federal agencies authority to waive those standards to the extent the Secretary determines that action to be necessary and desirable to allow for timely and effective implementation of federal computer system standards. The head of the agency may redelegate that authority only to a chief information officer designated pursuant to section 3506 of title 44.

(3) NOTICE.—Notice of each waiver and delegation shall be transmitted promptly to Congress and published promptly in the Federal Register.

§ 11332. Federal computer system security training and plan

(a) DEFINITIONS.—In this section, the terms ''computer system'', ''federal agency'', ''federal computer system'', ''operator of a federal computer system'', and ''sensitive information'' have the meanings given those terms in section 20(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(d)).

(b) TRAINING—

(1) IN GENERAL.—Each federal agency shall provide for mandatory periodic training in computer security awareness and accepted computer security practice of all employees who are involved with the management, use, or operation of each federal computer system within or under the supervision of the agency. The training shall be—

(A) provided in accordance with the guidelines developed pursuant to section 20(a)(5) of the Act (15 U.S.C. 278g-3(a)(5)) and the regulations prescribed under paragraph (3) for federal civilian employees; or

(B) provided by an alternative training program that the head of the agency approves after determining that the alternative training program is at least as effective in accomplishing the objectives of the guidelines and regulations.

(2) TRAINING OBJECTIVES.—Training under this subsection shall be designed—

(A) to enhance employees' awareness of the threats to, and vulnerability of, computer systems; and

(B) to encourage the use of improved computer security practices.

(3) REGULATIONS.—The Director of the Office of Personnel Management shall maintain regulations that establish the procedures and scope of the training to be provided federal civilian employees under this subsection and the manner in which the training is to be carried out.

(c) PLAN.—

(1) IN GENERAL.—Consistent with standards, guidelines, policies, and regulations prescribed pursuant to section 11331 of this title, each federal agency shall maintain a plan for the security and privacy of each federal computer system the agency identifies as being within or under its supervision and as containing sensitive information. The plan must be commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to, or modification of, the information contained in the system.

(2) REVISION AND REVIEW.—The plan shall be revised annually as necessary and is subject to disapproval by the Director of the Office of Management and Budget.

(d) HANDLING OF INFORMATION NOT AFFECTED.—This section does not—

(1) constitute authority to withhold information sought pursuant to section 552 of title 5; or

(2) authorize a federal agency to limit, restrict, regulate, or control the collection, maintenance, disclosure, use, transfer, or sale of any information (regardless of the medium in which the information may be maintained) that is—

(A) privately owned information;

(B) disclosable under section 552 of title 5 or another law requiring or authorizing the public disclosure of information; or

(C) public domain information.

CHAPTER 115—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS

SUBCHAPTER I—CONDUCT OF PILOT PROGRAMS

SUBCHAPTER II—SPECIFIC PILOT PROGRAMS

SUBCHAPTER I—CONDUCT OF PILOT PROGRAMS

§ 11501. Authority to conduct pilot programs

(a) IN GENERAL.—

(1) PURPOSE.—In consultation with the Administrator for the Office of Information and Regulatory Affairs, the Administrator for Federal Procurement Policy may conduct pilot programs to test alternative approaches for the acquisition of information technology by executive agencies.

(2) MULTIAGENCY, MULTI-ACTIVITY CONDUCT OF EACH PROGRAM.—Except as otherwise provided in this chapter, each pilot program conducted under this chapter shall be carried out in not more than two procuring activities in each of the executive agencies that are designated by the Administrator for Federal Procurement Policy in accordance with this chapter to carry out the pilot program. With the approval of the Administrator for Federal Procurement Policy, the head of each designated executive agency shall select the procuring activities of the executive agency that are to participate in the test and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of the pilot program within the executive agency.

(b) LIMITATIONS.—

(1) NUMBER.—Not more than two pilot programs may be conducted under this chapter, including one pilot program each pursuant to the requirements of sections 11521 and 11522 of this title.

(2) AMOUNT.—The total amount obligated for contracts entered into under the pilot programs conducted under this chapter may not exceed $750,000,000. The Administrator for Federal Procurement Policy shall monitor those contracts and ensure that contracts are not entered into in violation of this paragraph.

(c) PERIOD OF PROGRAMS.—

(1) IN GENERAL.—Subject to paragraph (2), a pilot program may be carried out under this chapter for the period, not in excess of five years, the Administrator for Federal Procurement Policy determines is sufficient to establish reliable results.

(2) CONTINUING VALIDITY OF CONTRACTS.—A contract entered into under the pilot program before the expiration of that program remains in effect according to the terms of the contract after the expiration of the program.

§ 11502. Evaluation criteria and plans

(a) MEASURABLE TEST CRITERIA.—To the maximum extent practicable, the head of each executive agency conducting a pilot program under section 11501 of this title shall establish measurable criteria for evaluating the effects of the procedures or techniques to be tested under the program.

(b) TEST PLAN.—Before a pilot program may be conducted under section 11501 of this title, the Administrator for Federal Procurement Policy shall submit to Congress a detailed test plan for the program, including a detailed description of the procedures to be used and a list of regulations that are to be waived.

§ 11503. Report

(a) REQUIREMENT.—Not later than 180 days after the completion of a pilot program under this chapter, the Administrator for Federal Procurement Policy shall—

(1) submit to the Director of the Office of Management and Budget a report on the results and findings under the program; and

(2) provide a copy of the report to Congress.

(b) CONTENT.—The report shall include—

(1) a detailed description of the results of the program, as measured by the criteria established for the program; and

(2) a discussion of legislation that the Administrator recommends, or changes in regulations that the Administrator considers necessary, to improve overall information resources management in the Federal Government.

§ 11504. Recommended legislation

If the Director of the Office of Management and Budget determines that the results and findings under a pilot program under this chapter indicate that legislation is necessary or desirable to improve the process for acquisition of information technology, the Director shall transmit the Director's recommendations for that legislation to Congress.

§ 11505. Rule of construction

This chapter does not authorize the appropriation or obligation of amounts for the pilot programs authorized under this chapter.

SUBCHAPTER II—SPECIFIC PILOT PROGRAMS

§ 11521. Share-in-savings pilot program

(a) REQUIREMENT.—The Administrator for Federal Procurement Policy may authorize the heads of two executive agencies to carry out a pilot program to test the feasibility of—

(1) contracting on a competitive basis with a private sector source to provide the Federal Government with an information technology solution for improving mission-related or administrative processes of the Federal Government; and

(2) paying the private sector source an amount equal to a portion of the savings derived by the Federal Government from any improvements in mission-related processes and administrative processes that result from implementation of the solution.

(b) LIMITATIONS.—The head of an executive agency authorized to carry out the pilot program may carry out one project and enter into not more than five contracts for the project under the pilot program.

(c) SELECTION OF PROJECTS.—In consultation with the Administrator for the Office of Information and Regulatory Affairs, the Administrator for Federal Procurement Policy shall select the projects.

§ 11522. Solutions-based contracting pilot program

(a) DEFINITION.—For purposes of this section, ''solutions-based contracting'' is an acquisition method under which the acquisition objectives are defined by the Federal Government user of the technology to be acquired, a streamlined contractor selection process is used, and industry sources are allowed to provide solutions that attain the objectives effectively.

(b) IN GENERAL.—The Administrator for Federal Procurement Policy may authorize the head of an executive agency, in accordance with subsection (d), to carry out a pilot program to test the feasibility of using solutions-based contracting for the acquisition of information technology.

(c) PROCESS REQUIREMENTS.—The Administrator shall require use of a process with the following aspects for acquisitions under the pilot program:

(1) ACQUISITION PLAN EMPHASIZING DESIRED RESULT.—Preparation of an acquisition plan that defines the functional requirements of the intended users of the information technology to be acquired, identifies the operational improvements to be achieved, and defines the performance measurements to be applied in determining whether the information technology acquired satisfies the defined requirements and attains the identified results.

(2) RESULTS-ORIENTED STATEMENT OF WORK.—Use of a statement of work that is limited to an expression of the end results or performance capabilities desired under the acquisition plan.

(3) SMALL ACQUISITION ORGANIZATION.—Assembly of a small acquisition organization consisting of the following:

(A) An acquisition management team, the members of which are to be evaluated and rewarded under the pilot program for contributions toward attainment of the desired results identified in the acquisition plan.

(B) A small source selection team composed of representatives of the specific mission or administrative area to be supported by the information technology to be acquired, a contracting officer, and individuals with relevant expertise.

(4) USE OF SOURCE SELECTION FACTORS EMPHASIZING SOURCE QUALIFICATIONS AND COSTS.—Use of source selection factors that emphasize—

(A) the qualifications of the offeror, including personnel skills, previous experience in providing other private or public sector organizations with solutions for attaining objectives similar to the objectives of the acquisition, past contract performance, qualifications of the proposed program manager, and the proposed management plan; and

(B) the costs likely to be associated with the conceptual approach proposed by the offeror.

(5) OPEN COMMUNICATIONS WITH CONTRACTOR COMMUNITY.—Open availability of the following information to potential offerors:

(A) The agency mission to be served by the acquisition.

(B) The functional process to be performed by use of information technology.

(C) The process improvements to be attained.

(6) SIMPLE SOLICITATION.—Use of a simple solicitation that sets forth only the functional work description, the source selection factors to be used in accordance with paragraph (4), the required terms and conditions, instructions regarding submission of offers, and the estimate of the Government's budget for the desired work.

(7) SIMPLE PROPOSALS.—Submission of oral presentations and written proposals that are limited in size and scope and contain information on—

(A) the offeror's qualifications to perform the desired work;

(B) past contract performance;

(C) the proposed conceptual approach; and

(D) the costs likely to be associated with the proposed conceptual approach.

(8) SIMPLE EVALUATION.—Use of a simplified evaluation process, to be completed within 45 days after receipt of proposals, that consists of the following:

(A) Identification of the most qualified offerors that are within the competitive range.

(B) Issuance of invitations for at least three and not more than five of the identified offerors to make oral presentations to, and engage in discussions with, the evaluating personnel regarding, for each offeror—

(i) the qualifications of the offeror, including how the qualifications of the offeror relate to the approach proposed to be taken by the offeror in the acquisition; and

(ii) the costs likely to be associated with the approach.

(C) Evaluation of the qualifications of the identified offerors and the costs likely to be associated with the offerors' proposals on the basis of submissions required under the process and any oral presentations made by, and any discussions with, the offerors.

(9) SELECTION OF MOST QUALIFIED OFFEROR.—A selection process consisting of the following:

(A) Identification of the most qualified sources, primarily on the basis of the oral proposals, presentations, and discussions, and written proposals, submitted in accordance with paragraph (7).

(B) A program definition phase of 30–60 days (or a longer period the Administrator approves)—

(i) during which the sources identified under subparagraph (A), in consultation with one or more intended users, develop a conceptual system design and technical approach, define logical phases for the project, and estimate the total cost and the cost for each phase; and

(ii) after which a contract for performance of the work may be awarded to the source whose offer is determined to be most advantageous to the Government on the basis of cost, the responsiveness, reasonableness, and quality of the proposed performance, and a sharing of risk and benefits between the source and the Government.

(C) As many successive program definition phases as necessary to award a contract in accordance with subparagraph (B).

(10) SYSTEM IMPLEMENTATION PHASING.—System implementation to be executed in phases that are tailored to the solution, with appropriate contract arrangements being used for various phases and activities.

(11) MUTUAL AUTHORITY TO TERMINATE.—Authority for the Government or the contractor to terminate the contract without penalty at the end of any phase defined for the project.

(12) TIME MANAGEMENT DISCIPLINE.—Application of a standard for awarding a contract within 105 to 120 days after issuance of the solicitation, except that the Administrator may approve the application of a longer standard period.

(d) PILOT PROGRAM PROJECTS.—The Administrator shall authorize to be carried out under the pilot program—

(1) not more than 10 projects, each of which has an estimated cost of at least $25,000,000 and not more than $100,000,000; and

(2) not more than 10 projects for small business concerns, each of which has an estimated cost of at least $1,000,000 and not more than $5,000,000.

(e) MONITORING BY COMPTROLLER GENERAL.—The Comptroller General shall—

(1) monitor the conduct, and review the results, of acquisitions under the pilot program; and

(2) submit to Congress periodic reports containing the views of the Comptroller General on the activities, results, and findings under the pilot program.

CHAPTER 117—ADDITIONAL INFORMATION RESOURCES MANAGEMENT MATTERS

§ 11701. On-line multiple award schedule contracting

(a) AUTOMATION OF MULTIPLE AWARD SCHEDULE CONTRACTING.—To provide for the economic and efficient procurement of information technology and other commercial items, the Administrator of General Services shall provide Federal Government-wide on-line computer access to information on products and services that are available for ordering through the multiple award schedules.

(b) REQUIREMENTS.—The system for providing on-line computer access shall—

(1) have the capability to—

(A) provide basic information on prices, features, and performance of all products and services available for ordering through the multiple award schedules;

(B) provide for updating that information to reflect changes in prices, features, and performance as soon as information on the changes becomes available; and

(C) enable users to make on-line computer comparisons of the prices, features, and performance of similar products and services offered by various vendors; and

(2) be used to place orders under the multiple award schedules in a fiscal year for an amount equal to at least 60 percent of the total amount spent for all orders under the multiple award schedules in that fiscal year.

(c) STREAMLINED PROCEDURES.—

(1) PILOT PROGRAM.—On certification by the Administrator of General Services that the system for providing on-line computer access meets the requirements of subsection (b)(1) and was used as required by subsection (b)(2) in the fiscal year preceding the fiscal year in which the certification is made, the Administrator for Federal Procurement Policy may establish a pilot program to test streamlined procedures for the procurement of information technology products and services available for ordering through the multiple award schedules.

(2) APPLICABILITY TO MULTIPLE AWARD SCHEDULE CONTRACTS.—Except as provided in paragraph (4), the pilot program shall be applicable to all multiple award schedule contracts for the purchase of information technology and shall test the following procedures:

(A) A procedure under which negotiation of the terms and conditions for a covered multiple award schedule contract is limited to terms and conditions other than price.

(B) A procedure under which the vendor establishes the prices under a covered multiple award schedule contract and may adjust those prices at any time in the discretion of the vendor.

(C) A procedure under which a covered multiple award schedule contract is awarded to any responsible offeror that—

(i) has a suitable record of past performance, which may include past performance on multiple award schedule contracts;

(ii) agrees to terms and conditions that the Administrator for Federal Procurement Policy determines are required by law or are appropriate for the purchase of commercial items; and

(iii) agrees to establish and update prices, features, and performance and to accept orders electronically through the automated system established pursuant to subsection (a).

(3) COMPTROLLER GENERAL REVIEW AND REPORT.—

(A) AUTHORITY TO CONDUCT REVIEW AND MAKE REPORT.—Not later than three years after the date on which the pilot program is established, the Comptroller General shall review the pilot program and report to Congress on the results of the pilot program.

(B) CONTENT OF REPORT.—The report shall include the following:

(i) An evaluation of the extent to which there is competition for the orders placed under the pilot program.

(ii) The effect that the streamlined procedures under the pilot program have on prices charged under multiple award schedule contracts.

(iii) The effect that those procedures have on paperwork requirements for multiple award schedule contracts and orders.

(iv) The impact of the pilot program on small businesses and socially and economically disadvantaged small businesses.

(4) WITHDRAWAL OF SCHEDULE OR PORTION OF SCHEDULE FROM PILOT PROGRAM.—

(A) WHEN ALLOWED.—The Administrator for Federal Procurement Policy may withdraw a multiple award schedule or portion of a schedule from the pilot program if the Administrator determines that—

(i) price competition is not available under that schedule or portion of that schedule; or

(ii) the cost to the Government for that schedule or portion for the previous year was higher than it would have been if the contract for that schedule or portion had been awarded using procedures that would apply if the pilot program were not in effect.

(B) NOTICE.—The Administrator for Federal Procurement Policy shall notify Congress at least 30 days before the date on which the Administrator withdraws a schedule or portion under this paragraph.

(C) AUTHORITY NOT DELEGABLE.—The authority under this paragraph may not be delegated.

(5) TERMINATION OF PILOT PROGRAM.—Unless reauthorized by law, the authority of the Administrator for Federal Procurement Policy to award contracts under the pilot program shall expire four years after the date on which the pilot program is established. A contract entered into before the authority expires remains in effect according to the terms of the contract after the expiration of the authority to award new contracts under the pilot program.

§ 11702. Identification of excess and surplus computer equipment

In accordance with chapter 5 of this title, the head of an executive agency shall maintain an inventory of all computer equipment under the control of that official that is excess or surplus property.

§ 11703. Index of certain information in information systems included in directory established under section 4101 of title 44

If in designing an information technology system pursuant to this subtitle, the head of an executive agency determines that a purpose of the system is to disseminate information to the public, then the head of that executive agency shall reasonably ensure that an index of information disseminated by the system is included in the directory created pursuant to section 4101 of title 44. This section does not authorize the dissemination of information to the public unless otherwise authorized.

§ 11704. Procurement procedures

To the maximum extent practicable, the Federal Acquisition Regulatory Council shall ensure that the process for acquisition of information technology is a simplified, clear, and understandable process that specifically addresses the management of risk, incremental acquisitions, and the need to incorporate commercial information technology in a timely manner.

SUBTITLE IV—APPALACHIAN REGIONAL DEVELOPMENT

CHAPTER 141—GENERAL PROVISIONS

§ 14101. Findings and purposes

(a) 1965 FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds and declares that the Appalachian region of the United States, while abundant in natural resources and rich in potential, lags behind the rest of the Nation in its economic growth and that its people have not shared properly in the Nation's prosperity. The region's uneven past development, with its historical reliance on a few basic industries and a marginal agriculture, has failed to provide the economic base that is a vital prerequisite for vigorous, self-sustaining growth. State and local governments and the people of the region understand their problems and have been working, and will continue to work, purposefully toward their solution. Congress recognizes the comprehensive report of the President's Appalachian Regional Commission documenting these findings and concludes that regionwide development is feasible, desirable, and urgently needed.

(2) PURPOSE.—It is the purpose of this subtitle to assist the region in meeting its special problems, to promote its economic development, and to establish a framework for joint federal and state efforts toward providing the basic facilities essential to its growth and attacking its common problems and meeting its common needs on a coordinated and concerted regional basis. The public investments made in the region under this subtitle shall be concentrated in areas where there is a significant potential for future growth and where the expected return on public dollars invested will be the greatest. States will be responsible for recommending local and state projects within their borders that will receive assistance under this subtitle. As the region obtains the needed physical and transportation facilities and develops its human resources, Congress expects that the region will generate a diversified industry and that the region will then be able to support itself through the workings of a strengthened free enterprise economy.

(b) 1975 FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress further finds and declares that while substantial progress has been made toward achieving the purposes set out in subsection (a), especially with respect to the provision of essential public facilities, much remains to be accomplished, especially with respect to the provision of essential health, education, and other public services. Congress recognizes that changes and evolving national purposes in the decade since 1965 affect not only the Appalachian region but also its relationship to a nation that on December 31, 1975, is assigning higher priority to conservation and the quality of life, values long cherished within the region. Appalachia as of December 31, 1975, has the opportunity, in accommodating future growth and development, to demonstrate local leadership and coordinated planning so that housing, public services, transportation and other community facilities will be provided in a way congenial to the traditions and beauty of the region and compatible with conservation values and an enhanced quality of life for the people of the region, and consistent with that goal, the Appalachian region should be able to take advantage of eco-industrial development, which promotes both employment and economic growth and the preservation of natural resources. Congress recognizes also that fundamental changes are occurring in national energy requirements and production, which not only risk short-term dislocations but will undoubtedly result in major long-term effects in the region. It is essential that the opportunities for expanded energy production be used so as to maximize the social and economic benefits and minimize the social and environmental costs to the region and its people.

(2) PURPOSE.—It is also the purpose of this subtitle to provide a framework for coordinating federal, state and local efforts toward—

(A) anticipating the effects of alternative energy policies and practices;

(B) planning for accompanying growth and change so as to maximize the social and economic benefits and minimize the social and environmental costs; and

(C) implementing programs and projects carried out in the region by federal, state, and local governmental agencies so as to better meet the special problems generated in the region by the Nation's energy needs and policies, including problems of transportation, housing, community facilities, and human services.

(c) 1998 FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress further finds and declares that while substantial progress has been made in fulfilling many of the objectives of this subtitle, rapidly changing national and global economies over the decade ending November 13, 1998, have created new problems and challenges for rural areas throughout the United States and especially for the Appalachian region.

(2) PURPOSE.—In addition to the purposes stated in subsections (a) and (b), it is the purpose of this subtitle—

(A) to assist the Appalachian region in—

(i) providing the infrastructure necessary for economic and human resource development;

(ii) developing the region's industry;

(iii) building entrepreneurial communities;

(iv) generating a diversified regional economy; and

(v) making the region's industrial and commercial resources more competitive in national and world markets;

(B) to provide a framework for coordinating federal, state, and local initiatives to respond to the economic competitiveness challenges in the Appalachian region through—

(i) improving the skills of the region's workforce;

(ii) adapting and applying new technologies for the region's businesses, including eco-industrial development technologies; and

(iii) improving the access of the region's businesses to the technical and financial resources necessary to development of the businesses; and

(C) to address the needs of severely and persistently distressed areas of the Appalachian region and focus special attention on the areas of greatest need so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across the United States.

§ 14102. Definitions

(a) DEFINITIONS.—In this subtitle—

(1) APPALACHIAN REGION.—The term ''Appalachian region'' means that area of the eastern United States consisting of the following counties (including any political subdivision located within the area):

(A) In Alabama, the counties of Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, De Kalb, Elmore, Etowah, Fayette, Franklin, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Macon, Madison, Marion, Marshall, Morgan, Pickens, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston.

(B) In Georgia, the counties of Banks, Barrow, Bartow, Carroll, Catoosa, Chattooga, Cherokee, Dade, Dawson, Douglas, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Gwinnett, Habersham, Hall, Haralson, Hart, Heard, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield.

(C) In Kentucky, the counties of Adair, Bath, Bell, Boyd, Breathitt, Carter, Casey, Clark, Clay, Clinton, Cumberland, Edmonson, Elliott, Estill, Fleming, Floyd, Garrard, Green, Greenup, Harlan, Hart, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Menifee, Monroe, Montgomery, Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe.

(D) In Maryland, the counties of Allegany, Garrett, and Washington.

(E) In Mississippi, the counties of Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Kemper, Lee, Lowndes, Marshall, Monroe, Montgomery, Noxubee, Oktibbeha, Panola, Pontotoc, Prentiss, Tippah, Tishomingo, Union, Webster, Winston, and Yalobusha.

(F) In New York, the counties of Allegany, Broome, Cattaraugus, Chautauqua, Chemung, Chenango, Cortland, Delaware, Otsego, Schoharie, Schuyler, Steuben, Tioga, and Tompkins.

(G) In North Carolina, the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Davie, Forsyth, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey.

(H) In Ohio, the counties of Adams, Athens, Belmont, Brown, Carroll, Clermont, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Tuscarawas, Vinton, and Washington.

(I) In Pennsylvania, the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Columbia, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lawrence, Luzerne, Lycoming, McKean, Mercer, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland, and Wyoming.

(J) In South Carolina, the counties of Anderson, Cherokee, Greenville, Oconee, Pickens, and Spartanburg.

(K) In Tennessee, the counties of Anderson, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Claiborne, Clay, Cocke, Coffee, Cumberland, De Kalb, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, McMinn, Macon, Marion, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Smith, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White.

(L) In Virginia, the counties of Alleghany, Bath, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Highland, Lee, Montgomery, Pulaski, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe.

(M) All the counties of West Virginia.

(2) LOCAL DEVELOPMENT DISTRICT.—The term ''local development district'' means any of the following entities for which the Governor of the State in which the entity is located, or the appropriate state officer, certifies to the Appalachian Regional Commission that the entity has a charter or authority that includes the economic development of counties or parts of counties or other political subdivisions within the region:

(A) a nonprofit incorporated body organized or chartered under the law of the State in which it is located.

(B) a nonprofit agency or instrumentality of a state or local government.

(C) a nonprofit agency or instrumentality created through an interstate compact.

(D) a nonprofit association or combination of bodies, agencies, and instrumentalities described in this paragraph.

(b) CHANGE IN DEFINITION.—The Commission may not propose or consider a recommendation for any change in the definition of the Appalachian region as set forth in this section without a prior resolution by the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives that directs a study of the change.

CHAPTER 143—APPALACHIAN REGIONAL COMMISSION

SUBCHAPTER I—ORGANIZATION AND ADMINISTRATION

SUBCHAPTER II—FINANCIAL ASSISTANCE

SUBCHAPTER I—ORGANIZATION AND ADMINISTRATION

§ 14301. Establishment, membership, and employees

(a) ESTABLISHMENT.—There is an Appalachian Regional Commission.

(b) MEMBERSHIP.—

(1) FEDERAL AND STATE MEMBERS.—The Commission is composed of the Federal Cochairman, appointed by the President by and with the advice and consent of the Senate, and the Governor of each participating State in the Appalachian region.

(2) ALTERNATE MEMBERS.—Each state member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff. The President, by and with the advice and consent of the Senate, shall appoint an alternate for the Federal Cochairman. An alternate shall

vote in the event of the absence, death, disability, removal, or resignation of the member for whom the individual is an alternate. A state alternate shall not be counted toward the establishment of a quorum of the Commission when a quorum of the state members is required.

(3) COCHAIRMEN.—The Federal Cochairman is one of the two Cochairmen of the Commission. The state members shall elect a Cochairman of the Commission from among themselves for a term of not less than one year.

(c) COMPENSATION.—The Federal Cochairman shall be compensated by the Federal Government at level III of the Executive Schedule as set out in section 5314 of title 5. The Federal Cochairman's alternate shall be compensated by the Government at level V of the Executive Schedule as set out in section 5316 of title 5. Each state member and alternate shall be compensated by the State which they represent at the rate established by law of that State.

(d) DELEGATION.—

(1) POWERS AND RESPONSIBILITIES.—Commission powers and responsibilities specified in section 14302(c) and (d) of this title, and the vote of any Commission member, may not be delegated to an individual who is not a Commission member or who is not entitled to vote in Commission meetings.

(2) ALTERNATE FEDERAL COCHAIRMAN.—The alternate to the Federal Cochairman shall perform the functions and duties the Federal Cochairman delegates when not actively serving as the alternate.

(e) EXECUTIVE DIRECTOR.—The Commission has an executive director. The executive director is responsible for carrying out the administrative functions of the Commission, for directing the Commission staff, and for other duties the Commission may assign.

(f) STATUS OF PERSONNEL.—Members, alternates, officers, and employees of the Commission are not federal employees for any purpose, except the Federal Cochairman, the alternate to the Federal Cochairman, the staff of the Federal Cochairman, and federal employees detailed to the Commission under section 14306(a)(3) of this title.

§ 14302. Decisions

(a) REQUIREMENTS FOR APPROVAL.—Except as provided in section 14306(d) of this title, decisions by the Appalachian Regional Commission require the affirmative vote of the Federal Cochairman and of a majority of the state members, exclusive of members representing States delinquent under section 14306(d).

(b) CONSULTATION.—In matters coming before the Commission, the Federal Cochairman, to the extent practicable, shall consult with the federal departments and agencies having an interest in the subject matter.

(c) DECISIONS REQUIRING QUORUM OF STATE MEMBERS.—A decision involving Commission policy, approval of state, regional or subregional development plans or strategy statements, modification or revision of the Appalachian Regional Commission Code, allocation of amounts among the States, or designation of a distressed county or an economically strong county shall not be made without a quorum of state members.

(d) PROJECT AND GRANT PROPOSALS.—The approval of project and grant proposals is a responsibility of the Commission and shall be carried out in accordance with section 14322 of this title.

§ 14303. Functions

(a) IN GENERAL.—In carrying out the purposes of this subtitle, the Appalachian Regional Commission shall—

(1) develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities under those plans and programs, giving due consideration to other federal, state, and local planning in the Appalachian region;

(2) conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of the region, and, in cooperation with federal, state, and local agencies, sponsor demonstration projects designed to foster regional productivity and growth;

(3) review and study, in cooperation with the agency involved, federal, state, and local public and private programs and, where appropriate, recommend modifications or additions which will increase their effectiveness in the region;

(4) formulate and recommend, where appropriate, interstate compacts and other forms of interstate cooperation and work with state and local agencies in developing appropriate model legislation;

(5) encourage the formation of, and support, local development districts;

(6) encourage private investment in industrial, commercial, and recreational projects;

(7) serve as a focal point and coordinating unit for Appalachian programs;

(8) provide a forum for consideration of problems of the region and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences;

(9) encourage the use of eco-industrial development technologies and approaches; and

(10) seek to coordinate the economic development activities of, and the use of economic development resources by, federal agencies in the region.

(b) IDENTIFY NEEDS AND GOALS OF SUBREGIONAL AREAS.—In carrying out its functions under this section, the Commission shall identify the characteristics of, and may distinguish between the needs and goals of, appropriate subregional areas, including central, northern, and southern Appalachia.

§ 14304. Recommendations

The Appalachian Regional Commission may make recommendations to the President and to the Governors and appropriate local officials with respect to—

(1) the expenditure of amounts by federal, state, and local departments and agencies in the Appalachian region in the fields of natural resources, agriculture, education, training, and health and welfare and in other fields related to the purposes of this subtitle; and

(2) additional federal, state, and local legislation or administrative actions as the Commission considers necessary to further the purposes of this subtitle.

§ 14305. Liaison between Federal Government and Commission

(a) PRESIDENT.—The President shall provide effective and continuing liaison between the Federal Government and the Appalachian Regional Commission and a coordinated review within the Government of the plans and recommendations submitted by the Commission pursuant to sections 14303 and 14304 of this title.

(b) INTERAGENCY COORDINATING COUNCIL ON APPALACHIA.—In carrying out subsection (a), the President shall establish the Interagency Coordinating Council on Appalachia, to be composed of the Federal Cochairman and representatives of federal agencies that carry out economic development programs in the Appalachian region. The Federal Cochairman is the Chairperson of the Council.

§ 14306. Administrative powers and expenses

(a) POWERS.—To carry out its duties under this subtitle, the Appalachian Regional Commission may—

(1) adopt, amend, and repeal bylaws and regulations governing the conduct of its business and the performance of its functions;

(2) appoint and fix the compensation of an executive director and other personnel as necessary to enable the Commission to carry out its functions, except that the compensation shall not exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5;

(3) request the head of any federal department or agency to detail to temporary duty with the Commission personnel within the administrative jurisdiction of the head of the department or agency that the Commission may need for carrying out its functions, each detail to be without loss of seniority, pay, or other employee status;

(4) arrange for the services of personnel from any state or local government, subdivision or agency of a state or local government, or intergovernmental agency;

(5)(A) make arrangements, including contracts, with any participating state government for inclusion in a suitable retirement and employee benefit system of Commission personnel who may not be eligible for, or continue in, another governmental retirement or employee benefit system; or

(B) otherwise provide for coverage of its personnel;

(6) accept, use, and dispose of gifts or donations of services or any property;

(7) enter into and perform contracts, leases (including the lease of office space for any term), cooperative agreements, or other transactions, necessary in carrying out its functions, on terms as it may consider appropriate, with any—

(A) department, agency, or instrumentality of the Federal Government;

(B) State or political subdivision, agency, or instrumentality of a State; or

(C) person;

(8) maintain a temporary office in the District of Columbia and establish a permanent office at a central and appropriate location it may select and field offices at other places it may consider appropriate; and

(9) take other actions and incur other expenses as may be necessary or appropriate.

(b) AUTHORIZATIONS.—

(1) DETAIL EMPLOYEES.—The head of a federal department or agency may detail personnel under subsection (a)(3).

(2) ENTER INTO AND PERFORM TRANSACTIONS.—A department, agency, or instrumentality of the Government, to the extent not otherwise prohibited by law, may enter into and perform a contract, lease, cooperative agreement, or other transaction under subsection (a)(7).

(c) RETIREMENT AND OTHER EMPLOYEE BENEFIT PROGRAMS.—The Director of the Office of Personnel Management may contract with the Commission for continued coverage of Commission employees, if the employees are federal employees when they begin Commission employment, in the retirement program and other employee benefit programs of the Government.

(d) EXPENSES.—Administrative expenses of the Commission shall be paid equally by the Government and the States in the Appalachian region, except that the expenses of the Federal Cochairman, the alternate to the Federal Cochairman, and the staff of the Federal Cochairman shall be paid only by the Government. The Commission shall determine the amount to be paid by each State. The Federal Cochairman shall not participate or vote in that determination. Assistance authorized by this subtitle shall not be furnished to any State or to any political subdivision or any resident of any State, and a state member of the Commission shall not participate or vote in any decision by the Commission, while the State is delinquent in payment of its share of administrative expenses.

§ 14307. Meetings

(a) IN GENERAL.—The Appalachian Regional Commission shall conduct at least one meeting each year with the Federal Cochairman and at least a majority of the state members present.

(b) ADDITIONAL MEETINGS BY ELECTRONIC MEANS.—The Commission may conduct additional meetings by electronic means as the Commission considers advisable, including meetings to decide matters requiring an affirmative vote.

§ 14308. Information

(a) ACTIONS OF COMMISSION.—To obtain information needed to carry out its duties, the Appalachian Regional Commission shall—

(1) hold hearings, sit and act at times and places, take testimony, receive evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports on the proceedings as the Commission may deem advisable;

(2) arrange for the head of any federal, state, or local department or agency to furnish to the Commission information as may be available to or procurable by the department or agency; and

(3) keep accurate and complete records of its doings and transactions which shall be made available for—

(A) public inspection; and

(B) audit and examination by the Comptroller General or an authorized representative of the Comptroller General.

(b) AUTHORIZATIONS.—

(1) ADMINISTER OATHS.—A Cochairman of the Commission, or any member of the Commission designated by the Commission, may administer oaths when the Commission decides that testimony shall be taken or evidence received under oath.

(2) FURNISH INFORMATION.—The head of any federal, state, or local department or agency, to the extent not otherwise prohibited by law, may carry out section (a)(2).

(c) PUBLIC PARTICIPATION.—Public participation in the development, revision, and implementation of all plans and programs under this subtitle by the Commission, any State, or any local development district shall be provided for, encouraged, and assisted. The Commission shall develop and publish regulations specifying minimum guidelines for public participation, including public hearings.

§ 14309. Personal financial interests

(a) CONFLICT OF INTEREST.—

(1) NO ROLE ALLOWED.—Except as permitted by paragraph (2), an individual who is a state member or alternate, or an officer or employee of the Appalachian Regional Commission, shall not participate personally and substantially as a member, alternate, officer, or employee in any way in any particular matter in which, to the individual's knowledge, any of the following has a financial interest:

(A) the individual.

(B) the individual's spouse, minor child, or partner.

(C) an organization (except a State or political subdivision of a State) in which the individual is serving as an officer, director, trustee, partner, or employee.

(D) any person or organization with whom the individual—

(i) is serving as an officer, director, trustee, partner, or employee; or

(ii) is negotiating or has any arrangement concerning prospective employment.

(2) EXCEPTION.—Paragraph (1) does not apply if the individual first advises the Commission of the nature and circumstances of the particular matter and makes full disclosure of the financial interest and receives in advance a written decision of the Commission that the interest is not so substantial as to be considered likely to affect the integrity of the services which the Commission may expect from the individual.

(3) CRIMINAL PENALTY.—An individual violating this subsection shall be fined under title 18, imprisoned for not more than two years, or both.

(b) ADDITIONAL SOURCES OF SALARY DISALLOWED.—

(1) STATE MEMBER OR ALTERNATE.—A state member or alternate may not receive any salary, or any contribution to, or supplementation of, salary, for services on the Commission from a source other than the State of the member or alternate.

(2) INDIVIDUALS DETAILED TO COMMISSION.—An individual detailed to serve the Commission under section 14306(a)(4) of this title may not receive any salary, or any contribution to, or supplementation of, salary, for services on the Commission from a source other than the state, local, or intergovernmental department or agency from which the individual was detailed or from the Commission.

(3) CRIMINAL PENALTY.—An individual violating this subsection shall be fined under title 18, imprisoned for not more than one year, or both.

(c) FEDERAL COCHAIRMAN, ALTERNATE TO FEDERAL COCHAIRMAN, AND FEDERAL OFFICERS AND EMPLOYEES.—The Federal Cochairman, the alternate to the Federal Cochairman, and any federal officer or employee detailed to duty with the Commission under section 14306(a)(3) of this title are not subject to this section but remain subject to sections 202–209 of title 18.

(d) RESCISSION.—The Commission may declare void and rescind any contract, loan, or grant of or by the Commission in relation to which it finds that there has been a violation of subsection (a)(1) or (b) of this section or any of the provisions of sections 202–209 of title 18.

§ 14310. Annual report

Not later than six months after the close of each fiscal year, the Appalachian Regional Commission shall prepare and submit to the Governor of each State in the Appalachian region and to the President, for transmittal to Congress, a report on the activities carried out under this subtitle during the fiscal year.

SUBCHAPTER II—FINANCIAL ASSISTANCE

§ 14321. Grants and other assistance

(a) AUTHORIZATION TO MAKE GRANTS.—

(1) IN GENERAL.—The Appalachian Regional Commission may make grants—

(A) for administrative expenses, including the development of areawide plans or action programs and technical assistance activities, of local development districts, but—

(i) the amount of a grant shall not exceed 50 percent of administrative expenses or, at the discretion of the Commission, 75 percent of administrative expenses if the grant is to a local development district that has a charter or authority that includes the economic development of a county or part of a county for which a distressed county designation is in effect under section 14526 of this title;

(ii) grants for administrative expenses shall not be made for a state agency certified as a local development district for a period of more than three years beginning on the date the initial grant is made for the development district; and

(iii) the local development district contributions for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services;

(B) for assistance to States for a period of not more than two years to strengthen the state development planning process for the Appalachian region and the coordination of state planning under this subtitle, the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), and other federal and state programs; and

(C) for investigation, research, studies, evaluations, and assessments of needs, potentials, or attainments of the people of the region, technical assistance, training programs, demonstrations, and the construction of necessary facilities incident to those activities, which will further the purposes of this subtitle.

(2) LIMITATION ON AVAILABLE AMOUNTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for financial assistance under this section may be provided from amounts appropriated to carry out this subtitle.

(B) DISCRETIONARY GRANTS.—

(i) GRANTS TO WHICH PERCENTAGE LIMITATION DOESN'T APPLY.—Discretionary grants made by the Commission to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in the region may be made without regard to the percentage limitations specified in subparagraph (A).

(ii) LIMITATION ON AGGREGATE AMOUNT.—For each fiscal year, the aggregate amount of discretionary grants referred to in clause (i) shall not be more than 10 percent of the amount appropriated under section 14703 of this title for the fiscal year.

(3) SOURCES OF GRANTS.—Grant amounts may be provided entirely from appropriations to carry out this section, in combination with amounts available under other federal or federal grant programs, or from any other source.

(4) FEDERAL SHARE.—Notwithstanding any law limiting the federal share in any other federal or federal grant program, amounts appropriated to carry out this section may be used to increase that federal share, as the Commission decides is appropriate.

(b) ASSISTANCE FOR DEMONSTRATIONS OF ENTERPRISE DEVELOPMENT.—

(1) IN GENERAL.—The Commission may provide assistance under this section for demonstrations of enterprise development, including site acquisition or development where necessary for the feasibility of the project, in connection with the development of the region's energy resources and the development and stimulation of indigenous arts and crafts of the region.

(2) COOPERATION BY FEDERAL AGENCIES.—In carrying out the purposes of this subtitle and in implementing this section, the Secretary of Energy, the Environmental Protection Agency, and other federal agencies shall cooperate with the Commission and shall provide assistance that the Federal Cochairman may request.

(3) AVAILABLE AMOUNTS.—In any fiscal year, not more than—

(A) $3,000,000 shall be obligated for energy resource related demonstrations; and

(B) $2,500,000 shall be obligated for indigenous arts and crafts demonstrations.

(c) RECORDS.—

(1) COMMISSION.—The Commission, as required by the President, shall maintain accurate and complete records of transactions and activities financed with federal amounts and report to the President on the transactions and activities. The records of the Commission with respect to grants are available for audit by the President and the Comptroller General.

(2) RECIPIENTS OF FEDERAL ASSISTANCE.—Recipients of federal assistance under this section, as required by the Commission, shall maintain accurate and complete records of transactions and activities financed with federal amounts and report to the Commission on the transactions and activities. The records are be available for audit by the President, the Comptroller General, and the Commission.

§ 14322. Approval of development plans, strategy statements, and projects

(a) ANNUAL REVIEW AND APPROVAL REQUIRED.—The Appalachian Regional Commission annually shall review and approve, in accordance with section 14302 of this title, state and regional development plans and strategy statements, and any multistate subregional plans which may be developed.

(b) APPLICATION PROCESS.—An application for a grant or for other assistance for a specific project under this subtitle shall be made through the state member of the Commission representing the applicant. The state member shall evaluate the application for approval. To be approved, the state member must certify, and the Federal Cochairman must determine, that the application—

(1) implements the Commission-approved state development plan;

(2) is included in the Commission-approved strategy statement;

(3) adequately ensures that the project will be properly administered, operated, and maintained; and

(4) otherwise meets the requirements for assistance under this subtitle.

(c) AFFIRMATIVE VOTE REQUIREMENT DEEMED MET.—After the appropriate state development plan and strategy statement are approved, certification by a state member, when joined by an affirmative vote of the Federal Cochairman, is deemed to satisfy the requirements for affirmative votes for decisions under section 14302(a) of this title.

CHAPTER 145—SPECIAL APPALACHIAN PROGRAMS

SUBCHAPTER I—PROGRAMS

SUBCHAPTER II—ADMINISTRATIVE

SUBCHAPTER I—PROGRAMS

§ 14501. Appalachian development highway system

(a) PURPOSE.—To provide a highway system which, in conjunction with the Interstate System and other Federal-aid highways in the Appalachian region, will open up an area with a developmental potential where commerce and communication have been inhibited by lack of adequate access, the Secretary of Transportation may assist in the construction of an Appalachian development highway system and local access roads serving the Appalachian region. Construction on the development highway system shall not be more than 3,025 miles. There shall not be more than 1,400 miles of local access roads that serve specific recreational, residential, educational, commercial, industrial, or similar facilities or facilitate a school consolidation program.

(b) COMMISSION DESIGNATIONS.—

(1) WHAT IS TO BE DESIGNATED.—The Appalachian Regional Commission shall transmit to the Secretary its designations of—

(A) the general corridor location and termini of the development highways;

(B) local access roads to be constructed;

(C) priorities for the construction of segments of the development highways; and

(D) other criteria for the program authorized by this section.

(2) STATE TRANSPORTATION DEPARTMENT RECOMMENDATION REQUIRED.—Before a state member participates in or votes on designations, the member must obtain the recommendations of the state transportation department of the State which the member represents.

(c) ADDITION TO FEDERAL-AID PRIMARY SYSTEM.—When completed, each development highway not already on the Federal-aid primary system shall be added to the system.

(d) USE OF SPECIFIC MATERIALS AND PRODUCTS.—

(1) INDIGENOUS MATERIALS AND PRODUCTS.—In the construction of highways and roads authorized under this section, a State may give special preference to the use of materials and products indigenous to the Appalachian region.

(2) COAL DERIVATIVES.—For research and development in the use of coal and coal products in highway construction and maintenance, the Secretary may require each participating State, to the maximum extent possible, to use coal derivatives in the construction of not more than 10 percent of the roads authorized under this subtitle.

(e) FEDERAL SHARE.—Federal assistance to any construction project under this section shall not be more than 80 percent of the cost of the project.

(f) CONSTRUCTION WITHOUT FEDERAL AMOUNTS.—

(1) PAYMENT OF FEDERAL SHARE.—When a participating State constructs a segment of a development highway without the aid of federal amounts and the construction is in accordance with all procedures and requirements applicable to the construction of segments of Appalachian development highways with those amounts, except for procedures and requirements that limit a State to the construction of projects for which federal amounts have previously been appropriated, the Secretary, on application by the State and with the approval of the Commission, may pay to the State the federal share, which shall not be more than 80 percent of the cost of the construction of the segment, from any amounts appropriated and allocated to the State to carry out this section.

(2) NO COMMITMENT OR OBLIGATION.—This subsection does not commit or obligate the Federal Government to provide amounts for segments of development highways constructed under this subsection.

(g) APPLICATION OF TITLE 23.—

(1) SECTIONS 106(a) AND 118.—Sections 106(a) and 118 of title 23 apply to the development highway system and the local access roads.

(2) CONSTRUCTION AND MAINTENANCE.—States are required to maintain each development highway and local access road as provided for Federal-aid highways in title 23. All other provisions of title 23 that are applicable to the construction and maintenance of Federal-aid primary and secondary highways and which the Secretary decides are not inconsistent with this subtitle shall apply to the system and roads, respectively.

§ 14502. Demonstration health projects

(a) PURPOSE.—To demonstrate the value of adequate health facilities and services to the economic development of the Appalachian region, the Secretary of Health and Human Services may make grants for the planning, construction, equipment, and operation of multicounty demonstration health, nutrition, and child care projects, including hospitals, regional health diagnostic and treatment centers, and other facilities and services necessary for the purposes of this section.

(b) PLANNING GRANTS.—

(1) AUTHORITY TO PROVIDE AMOUNTS AND MAKE GRANTS.—The Secretary may provide amounts to the Appalachian Regional Commission for the support of its Health Advisory Committee and may make grants for expenses of planning necessary for the development and operation of demonstration health projects for the region.

(2) LIMITATION ON AVAILABLE AMOUNTS.—The amount of a grant under this section for planning shall not be more than 75 percent of expenses.

(3) SOURCES OF ASSISTANCE.—The federal contribution may be provided entirely from amounts authorized under this section or in combination with amounts provided under other federal or federal grant programs.

(4) FEDERAL SHARE.—Notwithstanding any provision of law limiting the federal share in those other programs, amounts appropriated to carry out this section may be used to increase the federal share to the maximum percentage cost of a grant authorized by this subsection.

(c) CONSTRUCTION AND EQUIPMENT GRANTS.—

(1) ADDITIONAL USES FOR CONSTRUCTION GRANTS.—Grants under this section for construction may also be used for—

(A) the acquisition of privately owned facilities—

(i) not operated for profit; or

(ii) previously operated for profit if the Commission finds that health services would not otherwise be provided in the area served by the facility if the acquisition is not made; and

(B) initial equipment.

(2) STANDARDS FOR MAKING GRANTS.—Grants under this section for construction shall be made in accordance with section 14523 of this title and shall not be incompatible with the applicable provisions of title VI of the Public Health Service Act (42 U.S.C. 291 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.), and other laws authorizing grants for the construction of health-related facilities, without regard to any provisions in those laws relating to appropriation authorization ceilings or to allotments among the States.

(3) LIMITATION ON AVAILABLE AMOUNTS.—A grant for the construction or equipment of any component of a demonstration health project shall not be more than 80 percent of the cost.

(4) SOURCES OF ASSISTANCE.—The federal contribution may be provided entirely from amounts authorized under this section or in combination with amounts provided under other federal grant programs for the construction or equipment of health-related facilities.

(5) FEDERAL SHARE.—Notwithstanding any provision of law limiting the federal share in those other programs, amounts authorized under this section may be used to increase federal grants for component facilities of a demonstration health project to a maximum of 80 percent of the cost of the facilities.

(d) OPERATION GRANTS.—

(1) STANDARDS FOR MAKING GRANTS.—A grant for the operation of a demonstration health project shall not be made—

(A) unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit;

(B) after five years following the commencement of the initial grant for operation of the project, except that child development demonstrations assisted under this section during fiscal year 1979 may be approved under section 14322 of this title for continued support beyond that period, on request of the State, if the Commission finds that no federal, state, or local amounts are available to continue the project; and

(C) unless the Secretary of Health and Human Services is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits.

(2) LIMITATION ON AVAILABLE AMOUNTS.—Grants under this section for the operation (including initial operating amounts and operating deficits, which include the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with amounts authorized by this section, may be made for up to 50 percent of the cost of that operation (or 80 percent of the cost of that operation for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title).

(3) SOURCES OF ASSISTANCE.—The federal contribution may be provided entirely from amounts appropriated to carry out this section or in combination with amounts provided under other federal grant programs for the operation of health related facilities and the provision of health and child development services, including parts A and B of title IV and title XX of the Social Security Act (42 U.S.C. 601 et seq., 620 et seq., 1397 et seq.).

(4) FEDERAL SHARE.—Notwithstanding any provision of law limiting the federal share in those other programs, amounts appropriated to carry out this section may be used to increase federal grants for operating components of a demonstration health project to the maximum percentage cost of a grant authorized by this subsection.

(5) STATE DEEMED TO MEET REQUIREMENT OF PROVIDING ASSISTANCE OR SERVICES ON STATEWIDE BASIS.—Notwithstanding any provision of the Social Security Act (42 U.S.C. 301 et seq.) requiring assistance or services on a statewide basis, a State providing assistance or services under a federal grant program described in paragraph (2) in any area of the region approved by the Commission is deemed to be meeting that requirement.

(e) GRANT SOURCES AND USE OF GRANTS IN COMPUTING ALLOTMENTS.—Grants under this section—

(1) shall be made only out of amounts specifically appropriated for the purpose of carrying out this subtitle; and

(2) shall not be taken into account in computing allotments among the States under any other law.

(f) MAXIMUM COMMISSION CONTRIBUTION.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission may contribute not more than 50 percent of any project cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.

(2) DISTRESSED COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title may be increased to the lesser of—

(A) 80 percent; or

(B) the maximum federal contribution percentage authorized by this section.

(g) EMPHASIS ON OCCUPATIONAL DISEASES FROM COAL MINING.—To provide for the further development of the Appalachian region's human resources, grants under this section shall give special emphasis to programs and research for the early detection, diagnosis, and treatment of occupational diseases arising from coal mining, such as black lung.

§ 14503. Assistance for proposed low- and middle-income housing projects

(a) APPALACHIAN HOUSING FUND.—

(1) ESTABLISHMENT.—There is an Appalachian Housing Fund.

(2) SOURCE AND USE OF AMOUNTS IN FUND.—Amounts allocated to the Secretary of Housing and Urban Development for the purposes of this section shall be deposited in the Fund. The Secretary shall use the Fund as a revolving fund to carry out those purposes. Amounts in the Fund not needed for current operation may be invested in bonds or other obligations the Federal Government guarantees as to principal and interest. General expenses of administration of this section may be charged to the Fund.

(b) PURPOSE.—To encourage and facilitate the construction or rehabilitation of housing to meet the needs of low- and moderate-income families and individuals, the Secretary may make grants and loans from the Fund, under terms and conditions the Secretary may prescribe. The grants and loans may be made to nonprofit, limited dividend, or cooperative organizations and public bodies and are for planning and obtaining federally insured mortgage financing or other financial assistance for housing construction or rehabilitation projects for low- and moderate-income families and individuals, in any area of the Appalachian region the Appalachian Regional Commission establishes, under—

(1) section 221 of the National Housing Act (12 U.S.C. 1715l);

(2) section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(3) section 515 of the Housing Act of 1949 (42 U.S.C. 1485); or

(4) any other law of similar purpose administered by the Secretary or any other department, agency, or instrumentality of the Federal Government or a state government.

(c) PROVIDING AMOUNTS TO STATES FOR GRANTS AND LOANS.—The Secretary or the Commission may provide amounts to the States for making grants and loans to nonprofit, limited dividend, or cooperative organizations and public bodies for the purposes for which the Secretary may provide amounts under this section.

(d) LOANS.—

(1) LIMITATION ON AVAILABLE AMOUNTS.—A loan under subsection (b) shall not be more than 50 percent (or 80 percent for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of planning and obtaining financing for a project, including preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts.

(2) INTEREST.—A loan shall be made without interest, except that a loan made to an organization established for profit shall bear interest at the prevailing market rate authorized for an insured or guaranteed loan for that type of project.

(3) PAYMENT.—The Secretary shall require payment of a loan made under this section, under terms and conditions the Secretary may require, no later than on completion of the project. Except for a loan to an organization established for profit, the Secretary may cancel any part of a loan made under this section on determining that a permanent loan to finance the project cannot be obtained in an amount adequate for repayment of a loan made under this section.

(e) GRANTS.—

(1) IN GENERAL.—A grant under this section shall not be made to an organization established for profit and, except as provided in paragraph (2), shall not exceed 50 percent (or 80 percent for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of expenses, incident to planning and obtaining financing for a project, which the Secretary considers not to be recoverable from the proceeds of a permanent loan made to finance the project.

(2) SITE DEVELOPMENT COSTS AND OFFSITE IMPROVEMENTS.—The Secretary may make grants and commitments for grants, and may advance amounts under terms and conditions the Secretary may require, to nonprofit, limited dividend, or cooperative organizations and public bodies for reasonable site development costs and necessary offsite improvements, such as sewer and water line extensions, when the grant, commitment, or advance is essential to the economic feasibility of a housing construction or rehabilitation project for low- and moderate-income families and individuals which otherwise meets the requirements for assistance under this section. A grant under this paragraph for—

(A) the construction of housing shall not be more than 10 percent of the cost of the project; and

(B) the rehabilitation of housing shall not be more than 10 percent of the reasonable value of the rehabilitation housing, as determined by the Secretary.

(f) INFORMATION, ADVICE, AND TECHNICAL ASSISTANCE.—The Secretary or the Commission may provide, or contract with public or private organizations to provide, information, advice, and technical assistance with respect to the construction, rehabilitation, and operation by nonprofit organizations of housing for low- or moderate- income families in areas of the region the Commission establishes.

(g) APPLICATION OF CERTAIN PROVISIONS.—Programs and projects assisted under this section are subject to the provisions cited in section 14701 of this title to the extent provided in the laws authorizing assistance for low- and moderate-income housing.

§ 14504. Telecommunications and technology initiative

(a) PROJECTS TO BE ASSISTED.—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to persons or entities in the region for projects—

(1) to increase affordable access to advanced telecommunications, entrepreneurship, and management technologies or applications in the region;

(2) to provide education and training in the use of telecommunications and technology;

(3) to develop programs to increase the readiness of industry groups and businesses in the region to engage in electronic commerce; or

(4) to support entrepreneurial opportunities for businesses in the information technology sector.

(b) LIMITATION ON AVAILABLE AMOUNTS.—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for a grant under this section may be provided from amounts appropriated to carry out this section.

(c) SOURCES OF ASSISTANCE.—Assistance under this section may be provided entirely from amounts made available to carry out this section, in combination with amounts made available under other federal programs, or from any other source.

(d) FEDERAL SHARE.—Notwithstanding any provision of law limiting the federal share under any other federal program, amounts made available to carry out this section may be used to increase that federal share, as the Commission decides is appropriate.

§ 14505. Entrepreneurship initiative

(a) BUSINESS INCUBATOR SERVICE.—In this section, the term ''business incubator service'' means a professional or technical service necessary for the initiation and initial sustainment of the operations of a newly established business, including a service such as—

(1) a legal service, including aid in preparing a corporate charter, partnership agreement, or basic contract;

(2) a service in support of the protection of intellectual property through a patent, a trademark, or any other means;

(3) a service in support of the acquisition and use of advanced technology, including the use of Internet services and Web-based services; and

(4) consultation on strategic planning, marketing, or advertising.

(b) PROJECTS TO BE ASSISTED.—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to persons or entities in the region for projects—

(1) to support the advancement of, and provide, entrepreneurial training and education for youths, students, and businesspersons;

(2) to improve access to debt and equity capital by such means as facilitating the establishment of development venture capital funds;

(3) to aid communities in identifying, developing, and implementing development strategies for various sectors of the economy;

(4) to develop a working network of business incubators; and

(5) to support entities that provide business incubator services.

(c) LIMITATION ON AVAILABLE AMOUNTS.—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for a grant under this section may be provided from amounts appropriated to carry out this section.

(d) SOURCES OF ASSISTANCE.—Assistance under this section may be provided entirely from amounts made available to carry out this section, in combination with amounts made available under other federal programs, or from any other source.

(e) FEDERAL SHARE.—Notwithstanding any provision of law limiting the federal share under

any other federal program, amounts made available to carry out this section may be used to increase that federal share, as the Commission decides is appropriate.

§ 14506. Regional skills partnerships

(a) ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means a consortium that—

(1) is established to serve one or more industries in a specified geographic area; and

(2) consists of representatives of—

(A) businesses (or a nonprofit organization that represents businesses);

(B) labor organizations;

(C) State and local governments; or

(D) educational institutions.

(b) PROJECTS TO BE ASSISTED.—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to eligible entities in the region for projects to improve the job skills of workers for a specified industry, including projects for—

(1) the assessment of training and job skill needs for the industry;

(2) the development of curricula and training methods, including, in appropriate cases, electronic learning or technology-based training;

(3) the identification of training providers;

(4) the development of partnerships between the industry and educational institutions, including community colleges;

(5) the development of apprenticeship programs;

(6) the development of training programs for workers, including dislocated workers; and

(7) the development of training plans for businesses.

(c) ADMINISTRATIVE COSTS.— An eligible entity may use not more than 10 percent of amounts made available to the eligible entity under subsection (b) to pay administrative costs associated with the projects described in subsection (b).

(d) LIMITATION ON AVAILABLE AMOUNTS.—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for a grant under this section may be provided from amounts appropriated to carry out this section.

(e) SOURCES OF ASSISTANCE.—Assistance under this section may be provided entirely from amounts made available to carry out this section, in combination with amounts made available under other federal programs, or from any other source.

(f) FEDERAL SHARE.—Notwithstanding any provision of law limiting the federal share under any other federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Commission decides is appropriate.

§ 14507. Supplements to federal grant programs

(a) DEFINITION.—

(1) FEDERAL GRANT PROGRAMS.—In this section, the term ''federal grant programs''—

(A) means any federal grant program that provides assistance for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including a federal grant program authorized by—

(i) the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.);

(iii) the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.);

(iv) the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.);

(v) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (known as the Clean Water Act);

(vi) title VI of the Public Health Services Act (42 U.S.C. 291 et seq.);

(vii) sections 201 and 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141, 3149);

(viii) title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); and

(ix) part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.); but

(B) does not include—

(i) the program for the construction of the development highway system authorized by section 14501 of this title or any other program relating to highway or road construction authorized by title 23; or

(ii) any other program to the extent that financial assistance other than a grant is authorized.

(2) CERTAIN SEWAGE TREATMENT WORKS DEEMED CONSTRUCTED WITH FEDERAL GRANT ASSISTANCE.—For the purpose of this section, any sewage treatment works constructed pursuant to title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) (known as the Clean Water Act) without federal grant assistance under that title is deemed to be constructed with that assistance.

(b) PURPOSE.—To enable the people, States, and local communities of the Appalachian region, including local development districts, to take maximum advantage of federal grant programs for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share, or for which there are insufficient amounts available under the federal law authorizing the programs to meet pressing needs of the region, the Federal Cochairman may use amounts made available to carry out this section—

(1) for any part of the basic federal contribution to projects or activities under the federal grant programs authorized by federal laws; and

(2) to increase the federal contribution to projects and activities under the programs above the fixed maximum part of the cost of the projects or activities otherwise authorized by the applicable law.

(c) CERTIFICATION REQUIRED.—For a program, project, or activity for which any part of the basic federal contribution to the project or activity under a federal grant program is proposed to be made under subsection (b), the contribution shall not be made until the responsible federal official administering the federal law authorizing the contribution certifies that the program, project, or activity meets the applicable requirements of the federal law and could be approved for federal contribution under that law if amounts were available under the law for the program, project, or activity.

(d) LIMITATIONS IN OTHER LAWS INAPPLICABLE.—Amounts provided pursuant to this subtitle are available without regard to any limitations on areas eligible for assistance or authorizations for appropriation in any other law.

(e) ACCEPTANCE OF CERTAIN MATERIAL.—For a supplemental grant for a project or activity under a federal grant program, the Federal Cochairman shall accept any finding, report, certification, or documentation required to be submitted to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the program.

(f) FEDERAL SHARE.—The federal portion of the cost of a project or activity shall not—

(1) be increased to more than the percentages the Commission establishes; nor

(2) be more than 80 percent of the cost.

(g) MAXIMUM COMMISSION CONTRIBUTION.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission may contribute not more than 50 percent of a project or activity cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.

(2) DISTRESSED COUNTIES.— The maximum Commission contribution for a project or activity to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title may be increased to 80 percent.

SUBCHAPTER II—ADMINISTRATIVE

§ 14521. Required level of expenditure

A State or political subdivision of a State is not eligible to receive benefits under this subtitle unless the aggregate expenditure of state amounts, except expenditures for participation in the Dwight D. Eisenhower System of Interstate and Defense Highways and local and federal amounts, for the benefit of the area within the State located in the Appalachian region is maintained at a level which does not fall below the average level of those expenditures for the State's last two full fiscal years prior to March 9, 1965. In computing the level, a State's past expenditure for participation in the Dwight D. Eisenhower System of Interstate and Defense Highways and expenditures of local and federal amounts shall not be included. The Commission shall recommend to the President a lesser requirement when it finds that a substantial population decrease in that part of a State which lies within the region would not justify a state expenditure equal to the average level of the last two years or when it finds that a State's average level of expenditure in an individual program has been disproportionate to the present need for that part of the State.

§ 14522. Consent of States

This subtitle does not require a State to engage in or accept a program under this subtitle without its consent.

§ 14523. Program implementation

(a) REQUIREMENTS.—A program or project authorized under this chapter shall not be implemented until—

(1) the responsible federal official has decided that applications and plans relating to the program or project are not incompatible with the provisions and objectives of federal laws that the official administers that are not inconsistent with this subtitle; and

(2) the Appalachian Regional Commission has approved the program or project and has determined that it—

(A) meets the applicable criteria under section 14524 of this title and the requirements of the development planning process under section 14525 of this title; and

(B) will contribute to the development of the Appalachian region.

(b) DECISION IS CONTROLLING.—A decision under subsection (a)(2) is controlling and shall be accepted by the federal agencies.

§ 14524. Program development criteria

(a) FACTORS TO BE CONSIDERED.—In considering programs and projects to be given assistance under this subtitle, and in establishing a priority ranking of the requests for assistance presented to the Appalachian Regional Commission, the Commission shall follow procedures that will ensure consideration of—

(1) the relationship of the project or class of projects to overall regional development, including its location in a severely and persistently distressed county or area;

(2) the population and area to be served by the project or class of projects, including the per capita market income and the unemployment rates in the area;

(3) the relative financial resources available to the State or political subdivisions or instrumentalities of the State that seek to undertake the project;

(4) the importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same amounts;

(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic and social development of the area served by the project; and

(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures may be evaluated.

(b) LIMITATION ON USE.—Financial assistance made available under this subtitle shall not be used to assist establishments relocating from one area to another.

(c) DETERMINATION REQUIRED BEFORE AMOUNTS MAY BE PROVIDED.—Amounts may be provided for programs and projects in a State under this subtitle only if the Commission determines that the level of federal and state financial assistance under other laws for the same type of programs or projects in that part of the State within the Appalachian region will not be diminished in order to substitute amounts authorized by this subtitle.

(d) MINIMUM AMOUNT OF ASSISTANCE TO DISTRESSED COUNTIES AND AREAS.—For each fiscal year, not less than 50 percent of the amount of grant expenditures the Commission approves shall support activities or projects that benefit severely and persistently distressed counties and areas.

§ 14525. State development planning process

(a) STATE DEVELOPMENT PLAN.—Pursuant to policies the Appalachian Regional Commission establishes, each state member shall submit a development plan for the area of the State within the Appalachian region. The plan shall—

(1) be submitted according to a schedule the Commission prescribes;

(2) reflect the goals, objectives, and priorities identified in the regional development plan and in any subregional development plan that may be approved for the subregion of which the State is a part;

(3) describe the state organization and continuous process for Appalachian development planning, including—

(A) the procedures established by the State for the participation of local development districts in the process;

(B) how the process is related to overall statewide planning and budgeting processes; and

(C) the method of coordinating planning and projects in the region under this subtitle, the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), and other federal, state, and local programs;

(4) set forth the goals, objectives, and priorities of the State for the region, as established by the Governor, and identify the needs on which the goals, objectives, and priorities are based; and

(5) describe the development strategies for achieving the goals, objectives, and priorities, including funding sources, and recommendations for specific projects to receive assistance under this subtitle.

(b) AREAWIDE ACTION PROGRAMS.—The Commission shall encourage the preparation and execution of areawide action programs that specify interrelated projects and schedules of actions, the necessary agency funding, and other commitments to implement the programs. The programs shall make appropriate use of existing plans affecting the area.

(c) LOCAL DEVELOPMENT DISTRICTS.—Local development districts certified by the State as described in section 14102(a)(2) of this title provide the linkage between state and substate planning and development. The districts shall assist the States in the coordination of areawide programs and projects and may prepare and adopt areawide plans or action programs. In carrying out the development planning process, including the selection of programs and projects for assistance, States shall consult with local development districts, local units of government, and citizen groups and shall consider the goals, objectives, priorities, and recommendations of those bodies.

(d) FEDERAL RESPONSIBILITIES.—To the maximum extent practicable, federal departments, agencies, and instrumentalities undertaking or providing financial assistance for programs or projects in the region shall—

(1) take into account the policies, goals, and objectives the Commission and its member States establish pursuant to this subtitle;

(2) recognize Appalachian state development strategies approved by the Commission as satisfying requirements for overall economic development planning under the programs or projects; and

(3) accept the boundaries and organization of any local development district certified under this subtitle that the Governor may designate as the areawide agency required under any of those programs undertaken or assisted by those federal departments, agencies, and instrumentalities.

§ 14526. Distressed and economically strong counties

(a) DESIGNATIONS.—

(1) IN GENERAL.—The Appalachian Regional Commission, in accordance with criteria the Commission may establish, each year shall—

(A) designate as ''distressed counties'' those counties in the Appalachian region that are the most severely and persistently distressed; and

(B) designate two categories of economically strong counties, consisting of—

(i) ''competitive counties'', which shall be those counties in the region that are approaching economic parity with the rest of the United States; and

(ii) ''attainment counties'', which shall be those counties in the region that have attained or exceeded economic parity with the rest of the United States.

(2) ANNUAL REVIEW OF DESIGNATIONS.—The Commission shall—

(A) conduct an annual review of each designation of a county under paragraph (1) to determine if the county still meets the criteria for the designation; and

(B) renew the designation for another one-year period only if the county still meets the criteria.

(b) DISTRESSED COUNTIES.—In program and project development and implementation and in the allocation of appropriations made available to carry out this subtitle, the Commission shall give special consideration to the needs of counties for which a distressed county designation is in effect under this section.

(c) ECONOMICALLY STRONG COUNTIES.—

(1) COMPETITIVE COUNTIES.—Except as provided in paragraphs (3) and (4), assistance under this subtitle for a project that is carried out in a county for which a competitive county designation is in effect under this section shall not be more than 30 percent of the project cost.

(2) ATTAINMENT COUNTIES.—Except as provided in paragraphs (3) and (4), amounts may not be provided under this subtitle for a project that is carried out in a county for which an attainment county designation is in effect under this section.

(3) EXCEPTIONS.—Paragraphs (1) and (2) do not apply to—

(A) a project on the Appalachian development highway system authorized by section 14501 of this title;

(B) a local development district administrative project assisted under section 14321(a)(1)(A) of this title; or

(C) a multicounty project that is carried out in at least two counties designated under this section if—

(i) at least one of the participating counties is designated as a distressed county under this section; and

(ii) the project will be of substantial direct benefit to at least one distressed county.

(4) WAIVER.—

(A) IN GENERAL.—The Commission may waive the requirements of paragraphs (1) and (2) for a project when the recipient of assistance for the project shows the existence of any of the following:

(i) a significant pocket of distress in the part of the county in which the project is carried out.

(ii) a significant potential benefit from the project in at least one area of the region outside the designated county.

(B) REPORTS TO CONGRESS.—The Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report describing each waiver granted under subparagraph (A) during the period covered by the report.

CHAPTER 147—MISCELLANEOUS

§ 14701. Applicable labor standards

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are financially assisted through federal amounts authorized under this subtitle shall be paid wages at rates not less than those prevailing on similar construction in the locality as the Secretary of Labor determines in accordance with sections 3141–3144, 3146, and 3147 of this title. With respect to those labor standards, the Secretary has the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 3145 of this title.

§ 14702. Nondiscrimination

An individual in the United States shall not, because of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, a program or activity receiving federal financial assistance under this subtitle.

§ 14703. Authorization of appropriations

(a) IN GENERAL.—In addition to amounts authorized by section 14501 of this title and other amounts made available for the Appalachian development highway system program, the following amounts may be appropriated to the Appalachian Regional Commission to carry out this subtitle:

(1) $88,000,000 for each of the fiscal years 2002–2004.

(2) $90,000,000 for fiscal year 2005.

(3) $92,000,000 for fiscal year 2006.

(b) TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.—Of the amounts made available under subsection (a), the following amounts are available to carry out section 14504 of this title:

(1) $10,000,000 for fiscal year 2002.

(2) $8,000,000 for fiscal year 2003.

(3) $5,000,000 for each of the fiscal years 2004–2006.

(c) AVAILABILITY.—Amounts made available under subsection (a) remain available until expended.

§ 14704. Termination

This subtitle, except sections 14102(a)(1) and (b) and 14501, ceases to be in effect on October 1, 2006.

SUBTITLE V—MISCELLANEOUS

CHAPTER 171—SAFETY STANDARDS FOR MOTOR VEHICLES

Sec.

§ 17101. Definitions

In this chapter, the following definitions apply:

(1) FEDERAL GOVERNMENT.—The term ''Federal Government'' includes the government of the District of Columbia.

(2) MOTOR VEHICLE.—The term ''motor vehicle'' means a vehicle, self-propelled or drawn by mechanical power, designed for use on the highways principally for the transportation of passengers, except a vehicle designed or used for military field training, combat, or tactical purposes.

§ 17102. Prohibition on acquisition or purchase of motor vehicles by Federal Government

The Federal Government shall not purchase a motor vehicle for use by the Government unless that motor vehicle is equipped with reasonable passenger safety devices that the Administrator of General Services requires. Those devices shall conform with standards the Administrator prescribes under section 17103 of this title.

§ 17103. Commercial standards for passenger safety devices

The Administrator of General Services shall prescribe and publish in the Federal Register commercial standards for passenger safety devices the Administrator requires under section 17102 of this title. Changes in the standards take effect one year and 90 days after the publication of the standards in the Federal Register.

CHAPTER 173—GOVERNMENT LOSSES IN SHIPMENT

§ 17301. Definitions

In this chapter, the following definitions apply:

(1) REPLACEMENT.—The term ''replacement'' means payment, reimbursement, replacement, or duplication or the expenses incident to payment, reimbursement, replacement, or duplication.

(2) SHIPMENT.—The term ''shipment''—

(A) means the transportation, or the effecting of transportation, of valuables, without limitation as to the means or facilities used or by which the transportation is effected or the person to whom it is made; and

(B) includes shipments made to any executive department, independent establishment, agency, wholly owned or mixed-ownership Government corporation, officer, or employee of the Federal Government, or any person acting on behalf of, or at the direction of, the executive department, independent establishment, agency, wholly or partly owned Government corporation, officer, or employee.

(3) VALUABLES.—

(A) DEFINITION.—The term ''valuables'' means any articles or things or representatives of value—

(i) in which the Government, its executive departments, independent establishments, and agencies, including wholly owned Government corporations, and officers and employees of the Government or its executive departments, independent establishments, and agencies while acting in their official capacity, have any interest, or in connection with which they have any obligation or responsibility; and

(ii) which the Secretary of the Treasury declares to be valuables within the meaning of this chapter.

(B) REQUIREMENT FOR DECLARING ARTICLES OR THINGS VALUABLE.—The Secretary shall not declare articles or things that are lost, destroyed, or damaged in the course of shipment to be valuables unless the Secretary determines that replacement of the articles or things in accordance with the procedure established in this chapter would be in the public interest.

(4) WHOLLY OWNED GOVERNMENT CORPORATION.—The term ''wholly owned Government corporation''—

(A) means any corporation, regardless of the law under which it is incorporated, the capital of which is entirely owned by the Government; and

(B) includes the authorized officers, employees, and agents of the corporation.

§ 17302. Compliance

(a) PRESCRIBING REGULATIONS.—With the approval of the President, the Secretary of the Treasury and the United States Postal Service jointly shall prescribe regulations governing the shipment of valuables by an executive department, independent establishment, agency, wholly owned Government corporation, officer, or employee of the Federal Government, with a view to minimizing the risk of loss and destruction of, and damage to, valuables in shipment.

(b) COMPLIANCE.—Each executive department, independent establishment, agency, wholly owned Government corporation, officer, and employee of the Government, and each person acting for, or at the direction of, the executive department, independent establishment, agency, wholly owned Government corporation, officer, or employee, must comply with the regulations when making any shipment of valuables.

§ 17303. Fund for the payment of Government losses in shipment

(a) ESTABLISHMENT.—There is a revolving fund in the Treasury known as ''the fund for the payment of Government losses in shipment''.

(b) USE.—The fund shall be used for the replacement of valuables, or the value of valuables, lost, destroyed, or damaged while being shipped in accordance with regulations prescribed under section 17302 of this title.

(c) UNAVAILABILITY.—The fund is not available with respect to any loss, destruction, or damage affecting valuables—

(1) that relates to property of the United States Postal Service that is chargeable to its officers or employees; or

(2) of which shipment shall have been made at the risk of persons other than the Federal Government and the executive departments, independent establishments, agencies, wholly owned Government corporations, officers and employees of the Government.

(d) CREDITING OF RECOVERIES AND REPAYMENTS.—All recoveries and repayments on account of loss, destruction, or damage to valuables for which replacement is made out of the fund shall be credited to it and are available for the purposes of the fund.

(e) APPROPRIATIONS.—Necessary amounts are appropriated for the fund.

§ 17304. Claim for replacement

(a) PRESENTATION OF CLAIM.—When valuables that have been shipped in accordance with regulations prescribed under section 17302 of this title are lost, destroyed, or damaged, a claim in writing for replacement shall be made on the Secretary of the Treasury.

(b) DECISION OF THE SECRETARY OF THE TREASURY.—

(1) REPLACEMENT MADE FROM FUND.—If the Secretary is satisfied that the loss, destruction, or damage has occurred and that shipment was made substantially in accordance with the regulations, the Secretary shall have replacement be made out of the fund described in section 17303 of this title through an officer the Secretary designates.

(2) REPLACEMENT MADE BY CREDIT.—When the Secretary decides that any part of the replacement can be made, without actual or ultimate injury to the Federal Government, by a credit in the accounts of the executive department, independent establishment, agency, officer, employee, or other accountable person making the claim, the Secretary shall—

(A) certify the decision to the Comptroller General who, on receiving the certification, shall make the credit in the settlement of accounts in the General Accounting Office; and

(B) use the fund only to the extent that the replacement cannot be made by the credit.

(c) DECISION OF SECRETARY NOT REVIEWABLE.—The decision of the Secretary that a loss, destruction, or damage has occurred or that a shipment was made substantially in accordance with regulations is final and conclusive and is not subject to review by any other officer of the Government.

§ 17305. Replacing lost, destroyed, or damaged stamps, securities, obligations, or money

Stamps, securities, or other obligations of the Federal Government, or money lost, destroyed, or damaged while in the custody or possession of, or charged to, the United States Postal Service while it is acting as agent for, or on behalf of, the Secretary of the Treasury for the sale of the stamps, securities, or obligations and for the collection of the money, shall be replaced out of the fund described in section 17303 of this title under regulations the Secretary may prescribe, regardless of how the loss, destruction, or damage occurs.

§ 17306. Agreements of indemnity

(a) DEFINITION.—In this section, the term ''Federal Government'' includes wholly owned Government corporations, and officers and employees of the Government or its executive departments, independent establishments, and agencies while acting in their official capacity.

(b) AUTHORITY TO MAKE AGREEMENT.—The Secretary of the Treasury may make and deliver, on behalf of the Federal Government, a binding agreement of indemnity the Secretary considers necessary and proper to enable the Government to obtain the replacement of any instrument or document—

(1) received by the Government or an agent of the Government in the agent's official capacity; and

(2) which, after having been received, is lost, destroyed, or so mutilated as to impair its value.

(c) WHEN FEDERAL GOVERNMENT NOT OBLIGATED.—The Government is not obligated under an agreement of indemnity if the obligee named in the agreement makes a payment or delivery not required by law on the original of the instrument or document covered by the agreement.

(d) USE OF FUND FOR THE PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT.—The fund described in section 17303 of this title is available to pay any obligation arising out of an agreement the Secretary makes under this section.

§ 17307. Purchase of insurance

An executive department, independent establishment, agency, wholly owned Government corporation, officer, or employee may expend money, or incur an obligation, for insurance, or for the payment of premiums on insurance, against loss, destruction, or damage in the shipment of valuables only as specifically authorized by the Secretary of the Treasury. The Secretary may give the authorization if the Secretary finds that the risk of loss, destruction, or damage in the shipment cannot be guarded against adequately by the facilities of the Federal Government or that adequate replacement cannot be provided under this chapter.

§ 17308. Presumption of lawful conduct

For purposes of the propriety of an act or omission related to a shipment to which the regulations prescribed under section 17302 of this title apply, every officer and employee of the Federal Government and every individual acting on behalf of a wholly owned Government corporation who makes a shipment of valuables in good faith under, and substantially in accordance with, the regulations is deemed to be acting in the faithful execution of the officer's, employee's, or individual's duties of office and in full performance of any conditions of the officer's, employee's, or individual's bond and oath of office.

§ 17309. Rules and regulations

(a) GENERAL AUTHORITY.—With the approval of the President, the Secretary of the Treasury may prescribe regulations necessary to carry out the duties and powers vested in the Secretary under this chapter.

(b) PROVIDING INFORMATION.—To carry out subsection (a), the Secretary may require a person making a shipment of valuables or a claim for replacement to make a declaration or to provide other information the Secretary considers necessary.

CHAPTER 175—FEDERAL MOTOR VEHICLE EXPENDITURE CONTROL

Sec.

§ 17501. Definitions

In this chapter, the following definitions apply:

(1) EXECUTIVE AGENCY.—The term ''executive agency''—

(A) means an executive agency (as that term is defined in section 105 of title 5) that operates at least 300 motor vehicles; but

(B) does not include the Tennessee Valley Authority.

(2) MOTOR VEHICLE.—The term ''motor vehicle'' means—

(A) a vehicle self-propelled or drawn by mechanical power; but not

(B) a vehicle designed or used for military field training, combat, or tactical purposes, or any other special purpose vehicle exempted from the requirements of this chapter by the Administrator of General Services.

§ 17502. Monitoring system

The head of each executive agency shall designate one office, officer, or employee of the agency—

(1) to establish and operate a central monitoring system for the motor vehicle operations of the agency, related activities, and related reporting requirements; and

(2) provide oversight of those operations, activities, and requirements.

§ 17503. Data collection

(a) COST IDENTIFICATION AND ANALYSIS.—The head of each executive agency shall develop a system to identify, collect, and analyze data with respect to all costs (including obligations and outlays) the agency incurs in the operation, maintenance, acquisition, and disposition of motor vehicles, including vehicles owned or leased by the Federal Government and privately owned vehicles used for official purposes.

(b) REQUIREMENTS FOR DATA SYSTEMS.—

(1) SCOPE OF REQUIREMENTS.—In cooperation with the Comptroller General of the United States and the Director of the Office of Management and Budget, the Administrator of General Services shall prescribe requirements governing the establishment and operation by executive agencies of the systems required by subsection (a), including requirements with respect to data on the costs and uses of motor vehicles and with respect to the uniform collection and submission of the data.

(2) CONFORMITY WITH PRINCIPLES AND STANDARDS.—Requirements prescribed under this section shall conform to accounting principles and standards issued by the Comptroller General. Each executive agency shall comply with those requirements.

§ 17504. Agency statements with respect to motor vehicle use

(a) CONTENTS OF STATEMENT.—The head of each executive agency shall include with the appropriation request the agency submits under section 1108 of title 31 for each fiscal year, a statement—

(1) specifying—

(A) the total motor vehicle acquisition, maintenance, leasing, operation, and disposal costs (including obligations and outlays) the agency incurred in the most recently completed fiscal year; and

(B) an estimate of those costs for the fiscal year in which the request is submitted and for the succeeding fiscal year; and

(2) justifying why the existing and any new motor vehicle acquisition, maintenance, leasing, operation, and disposal requirements of the agency cannot be met through the Interagency Fleet Management System the Administrator of General Services operates, a qualified private fleet management firm, or any other method which is less costly to the Federal Government.

(b) COMPLIANCE WITH REQUIREMENTS.—The head of each executive agency shall comply with the requirements prescribed under section 17503(b) of this title in preparing each statement required under subsection (a).

§ 17505. Presidential report

(a) SUMMARY AND ANALYSIS OF AGENCY STATEMENTS.—The President shall include with the budget transmitted under section 1105 of title 31 for each fiscal year, or in a separate written report to Congress for that fiscal year, a summary and analysis of the statements most recently submitted by the heads of executive agencies pursuant to section 17504(a) of this title.

(b) CONTENTS OF SUMMARY AND ANALYSIS.—Each summary and analysis shall include a review, for the fiscal year preceding the fiscal year in which the budget is submitted, the current fiscal year, and the fiscal year for which the budget is submitted, of the cost savings that have been achieved, that are estimated will be achieved, and that could be achieved, in the acquisition, maintenance, leasing, operation, and disposal of motor vehicles by executive agencies through—

(1) the use of a qualified private fleet management firm or another private contractor;

(2) increased reliance by executive agencies on the Interagency Fleet Management System the Administrator of General Services operates; or

(3) other existing motor vehicle management systems.

§ 17506. Reduction of storage and disposal costs

The Administrator of General Services shall take such actions as may be necessary to reduce motor vehicle storage and disposal costs and to improve the rate of return on motor vehicle sales through a program of vehicle reconditioning prior to sale.

§ 17507. Savings

(a) ACTIONS BY PRESIDENT REQUIRED.—The President shall establish, for each executive agency, goals to reduce outlays for the operation, maintenance, leasing, acquisition, and disposal of motor vehicles in order to reduce, by fiscal year 1988, the total amount of outlays by all executive agencies for the operation, maintenance, leasing, acquisition, and disposal of motor vehicles to an amount which is $150,000,000 less than the amount for the operation, maintenance, leasing, acquisition, and disposal of motor vehicles requested by the President in the budget submitted under section 1105 of title 31 for fiscal year 1986.

(b) MONITORING OF COMPLIANCE.—The Director of the Office of Management and Budget shall monitor compliance by executive agencies with the goals established by the President under subsection (a) and shall include, in each summary and analysis required under section 17505 of this title, a statement specifying the reductions in expenditures by executive agencies, including the Department of Defense, achieved under those goals.

§ 17508. Compliance

(a) ADMINISTRATOR OF GENERAL SERVICES.—The Administrator of General Services shall comply with and be subject to this chapter with regard to all motor vehicles that are used within the General Services Administration for official purposes.

(b) MANAGERS OF OTHER MOTOR POOLS.—This chapter with respect to motor vehicles from the Interagency Fleet Management System shall be complied with by the executive agencies to which such motor vehicles are assigned.

§ 17509. Applicability

(a) PRIORITY IN REDUCING HEADQUARTERS USE.—The heads of executive agencies shall give first priority to meeting the goals established by the President under section 17507(a) of this title by reducing the costs of administrative motor vehicles used at the headquarters and regional headquarters of executive agencies, rather than by reducing the costs of motor vehicles used by line agency personnel working in agency field operations or activities.

(b) REGULATIONS, STANDARDS, AND DEFINITIONS.—The President shall require the Administrator of General Services, in cooperation with the Director of the Office of Management and Budget, to prescribe appropriate regulations, standards, and definitions to ensure that executive agencies meet the goals established under section 17507(a) of this title in the manner prescribed by subsection (a).

§ 17510. Cooperation

The Director of the Office of Management and Budget and the Administrator of General Services shall cooperate closely in the implementation of this chapter.

CHAPTER 177—ALASKA COMMUNICATIONS DISPOSAL

Sec.

§ 17701. Definitions

In this chapter, the following definitions apply:

(1) AGENCY CONCERNED.—The term ''agency concerned'' means a department, agency, wholly owned corporation, or instrumentality of the Federal Government.

(2) LONG-LINES COMMUNICATION FACILITIES.—The term ''long-lines communication facilities'' means the transmission systems connecting points inside the State with each other and with points outside the State by radio or wire, and includes all kinds of property and rights of way necessary to accomplish this interconnection.

(3) TRANSFER.—The term ''transfer'' means the conveyance by the Government of any element of ownership, including any estate or interest in property, and franchise rights, by sale, exchange, lease, easement, or permit, for cash, credit, or other property with or without warranty.

§ 17702. Transfer of Government-owned long-lines communication facilities in and to Alaska

(a) IN GENERAL.—

(1) AUTHORITY OF THE SECRETARY OF DEFENSE.—

(A) REQUIREMENTS PRIOR TO TRANSFER.—Subject to section 17703 of this title and with the advice, assistance, and, in the case of an agency not under the jurisdiction of the Secretary of Defense, the consent of the agency concerned, and after approval of the President, the Secretary of Defense shall transfer for adequate consideration any or all long-lines communication facilities in or to Alaska under the jurisdiction of the Federal Government to any person qualifying under section 17703.

(B) AUTHORITY TO CARRY OUT CHAPTER.—The Secretary of Defense may take action and exercise powers as may be necessary or appropriate to carry out the purposes of this chapter.

(2) CONSENT OF SECRETARY CONCERNED.—An interest in public lands, withdrawn or otherwise appropriated, shall not be transferred under this chapter without the prior consent of the Secretary of the Interior, or, with respect to lands in a national forest, of the Secretary of Agriculture.

(3) PROCEDURES AND METHODS.—The Secretary of Defense shall carry out a transfer under this chapter in accordance with the procedures and methods required of the Administrator of General Services by section 545(a) and (b) of this title.

(b) DOCUMENTS OF TITLE OR OTHER PROPERTY INTERESTS.—The head of the agency concerned (or a designee of the head) shall execute documents for the transfer of title or other interest in property, except any mineral rights in the property, and take other action that the Secretary of Defense decides is necessary or proper to transfer the property under this chapter. A copy of a deed, lease, or other instrument executed by or on behalf of the head of the agency concerned purporting to transfer title or another interest in public land shall be provided to the Secretary of the Interior.

(c) SOLICITATION OF OFFERS TO PURCHASE CERTAIN FACILITIES.—In connection with soliciting offers to purchase long-lines facilities of the Alaska Communication System, the Secretary of Defense shall—

(1) provide any prospective purchaser who requests it data on—

(A) the facilities available for purchase;

(B) the amounts considered to be the current fair and reasonable value of those facilities; and

(C) the initial rates that will be charged to the purchaser for capacity in facilities retained by the Government and available for commercial use;

(2) provide in the request for offers to purchase that offerors must specify the rates the offerors propose to charge for service and the improvements in service the offerors propose to initiate;

(3) provide an opportunity for prospective purchasers to meet as a group with Department of Defense representatives to ensure that the data and public interest requirements described in clauses (1) and (2) are fully understood; and

(4) seek the advice and assistance of the Federal Communications Commission and the Governor of Alaska (or a designee of the Governor) to ensure consideration of all public interest factors associated with the transfer.

(d) APPLICABILITY OF ANTITRUST PROVISIONS.—The requirements of section 559 of this title apply to transfers under this chapter.

§ 17703. National defense considerations and qualification of transferee

A transfer under this chapter shall not be made unless the Secretary of Defense determines that—

(1) the Federal Government does not need to retain the property involved in the transfer for national defense purposes;

(2) the transfer is in the public interest;

(3) the person to whom the transfer is made is prepared and qualified to provide the communication service involved in the transfer without interruption; and

(4) the long-lines communication facilities will not directly or indirectly be owned, operated, or controlled by a person that would legally be disqualified from holding a radio station license by section 310(a) of the Communications Act of 1934 (47 U.S.C. 310(a)).

§ 17704. Contents of agreements for transfer

An agreement by which a transfer is made under this chapter shall provide that—

(1) subject to regulations of the Federal Communications Commission and of any body or commission established by Alaska to govern and regulate communications services to the public and all applicable statutes, treaties, and conventions, the person to whom the transfer is made shall provide the communication services involved in the transfer without interruption, except those services reserved by the Federal Government in the transfer;

(2) the rates and charges for those services applicable at the time of transfer shall not be changed for a period of one year from the date of the transfer unless approved by a governmental body or commission having jurisdiction; and

(3) the transfer will not be final until the transferee receives the requisite license and certificate of convenience and necessity to operate interstate and intrastate commercial communications in Alaska from the appropriate governmental regulatory bodies.

§ 17705. Approval of Federal Communications Commission

A transfer under this chapter does not require the approval of the Federal Communications Commission except to the extent that the approval of the Commission is necessary under section 17704(3) of this title.

§ 17706. Gross proceeds as miscellaneous receipts in the Treasury

The gross proceeds of each transfer shall be deposited in the Treasury as miscellaneous receipts.

§ 17707. Reports

The Secretary of Defense shall report to the Congress and the President—

(1) in January of each year, the actions taken under this chapter during the preceding 12 months; and

(2) not later than 90 days after completion of each transfer under this chapter, a full account of that transfer.

§ 17708. Nonapplication

This chapter does not modify in any manner the Communications Act of 1934 (47 U.S.C. 151 et seq.).

CHAPTER 179—ALASKA FEDERAL-CIVILIAN ENERGY EFFICIENCY SWAP

§ 17901. Definitions

In this chapter, the following definitions apply:

(1) FEDERAL AGENCY.—The term ''federal agency'' means a department, agency, or instrumentality of the Federal Government.

(2) FEDERALLY GENERATED ELECTRIC ENERGY.—The term ''federally generated electric energy'' means any electric power generated by an electric generating facility owned and operated by a federal agency.

(3) NON-FEDERAL PERSON.—The term ''non-federal person'' means a corporation, cooperative, municipality, or other non-federal entity that generates electric energy through a facility other than a federally owned electric generating facility.

§ 17902. Sale of electric energy

(a) IN GENERAL.—To conserve oil and natural gas and better utilize coal, the head of a federal agency may sell, or enter into a contract to sell, to any non-federal person electric energy generated by coal-fired electric generating facilities of that agency in Alaska without regard to any provision of law that precludes the sale when the electric energy to be sold is available from other local sources, if the head of the federal agency determines that—

(1) the electric energy to be sold is generated by an existing coal-fired generating facility;

(2) the electric energy to be sold is surplus to the federal agency's needs and is in excess of the electric energy specifically generated for consumption by, or necessary to serve the requirements of, another federal agency;

(3) the cost to the ultimate consumers of the electric energy to be sold is less than the cost that, in the absence of the sale, would be incurred by those consumers for the purchase of an equivalent amount of energy; and

(4) the sale will reduce the total consumption of oil or natural gas by the non-federal person purchasing the electric energy below the level of consumption that would occur in the absence of the sale.

(b) PRICING POLICIES.—Federally generated electric energy sold by the head of a federal agency under subsection (a) shall be priced to recover the fuel and variable operation and maintenance costs of the facility generating the energy that are attributable to that sale, plus an amount equal to one-half the difference between—

(1) the costs of producing the electric energy by coal generation; and

(2) the costs of producing electric energy by the oil or gas generation being displaced.

§ 17903. Purchase of electric power

For purposes of economy, efficiency, and conserving oil and natural gas, the head of a federal agency, when practicable and consistent with other laws and requirements applicable to that agency, shall endeavor to purchase electric energy from a non-federal person for consumption in Alaska by a facility of that agency when (taking into account the remaining useful life of any facility available to that agency to generate electric energy for that agency and the cost of maintaining the facility on a standby basis) the purchase will result in—

(1) a savings to other consumers of electric energy sold by that non-federal person without increasing the cost incurred by any federal agency for electric energy; or

(2) a cost savings to the federal agency purchasing the electric energy without increasing costs to other consumers of electric energy.

§ 17904. Implementation powers and limitations

(a) ACCOMMODATION OF NEEDS FOR ELECTRIC ENERGY.—This chapter does not require or authorize a federal agency to construct a new electric generating facility or related facility, to modify an existing facility, or to employ reserve or standby equipment to accommodate the needs of a non-federal person for electric energy.

(b) AVAILABILITY OF REVENUE FROM SALES.—Revenue received by a federal agency pursuant to section 17902 of this title from the sale of electric energy generated from a facility of that agency is available to the agency without fiscal year limitation to purchase fuel and for operation, maintenance, and other costs associated with that facility.

(c) EXERCISE OF AUTHORITIES.—The authority under this chapter shall be exercised for those periods and pursuant to terms and conditions that the head of the federal agency concerned decides are necessary consistent with—

(1) this chapter; and

(2) responsibilities of the head of the federal agency under other law.

(d) NEGOTIATION AND EXECUTION OF CONTRACTS AND OTHER AGREEMENTS.—A contract or other agreement executed under this chapter shall be negotiated and executed by the head of the federal agency selling or purchasing electric energy under this chapter.

CHAPTER 181—TELECOMMUNICATIONS ACCESSIBILITY FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS

§ 18101. Definitions

In this chapter—

(1) FEDERAL AGENCY.—The term ''federal agency'' has the same meaning given that term in section 102 of this title.

(2) TTY.—The term ''TTY'' means a text-telephone used in the transmission of coded signals through the nationwide telecommunications system.

§ 18102. Federal telecommunications system

(a) REGULATIONS TO ENSURE ACCESSIBILITY.—The Administrator of General Services, after consultation with the Architectural and Transportation Barriers Compliance Board, the Interagency Committee on Computer Support of Handicapped Employees, the Federal Communications Commission, and affected federal agencies, shall prescribe regulations to ensure that the federal telecommunications system is fully accessible to hearing-impaired and speech-impaired individuals, including federal employees, for communications with and within federal agencies.

(b) FEDERAL RELAY SYSTEM.—The Administrator shall provide for the continuation of the existing federal relay system for users of TTY's.

(c) DIRECTORY.—The Administrator shall assemble, publish, and maintain a directory of TTY's and other devices used by federal agencies to comply with regulations prescribed under subsection (a).

(d) PUBLICATION OF ACCESS NUMBERS.—The Administrator shall publish access numbers of TTY's and such other devices in federal agency directories.

(e) LOGO.—After consultation with the Board, the Administrator shall adopt the design of a standard logo to signify the presence of a TTY or other device used by a federal agency to comply with regulations prescribed under subsection (a).

§ 18103. Research and development

(a) SUPPORT FOR RESEARCH.—The Administrator of General Services, in consultation with the Federal Communications Commission, shall seek to promote research by federal agencies, state agencies, and private entities to reduce the cost and improve the capabilities of telecommunications devices and systems that provide accessibility to hearing-impaired and speech-impaired individuals.

(b) PLANNING TO ASSIMILATE TECHNOLOGICAL DEVELOPMENTS.—In planning future alterations to and modifications of the federal telecommunications system, the Administrator shall take into account—

(1) modifications that the Administrator determines are necessary to achieve the objectives of section 18102(a) of this title; and

(2) technological improvements in telecommunications devices and systems that provide accessibility to hearing-impaired and speech-impaired individuals.

§ 18104. TTY installation by Congress

Each House of Congress shall establish a policy under which Members of the House of Representatives and the Senate may obtain TTY's for use in communicating with hearing-impaired and speech-impaired individuals, and for the use of hearing-impaired and speech-impaired employees.

CHAPTER 183—NATIONAL CAPITAL AREA INTEREST ARBITRATION STANDARDS

§ 18301. Findings and purposes

(a) FINDINGS.—Congress finds that—

(1) affordable public transportation is essential to the economic vitality of the national capital area and is an essential component of regional efforts to improve air quality to meet environmental requirements and to improve the health of both residents of and visitors to the national capital area as well as to preserve the beauty and dignity of the Nation's capital;

(2) use of mass transit by both residents of and visitors to the national capital area is substantially affected by the prices charged for mass transit services, prices that are substantially affected by labor costs, since more than two-thirds of operating costs are attributable to labor costs;

(3) labor costs incurred in providing mass transit in the national capital area have increased at an alarming rate and wages and benefits of operators and mechanics currently are among the highest in the Nation;

(4) higher operating costs incurred for public transit in the national capital area cannot be offset by increasing costs to patrons, since this often discourages ridership and thus undermines the public interest in promoting the use of public transit;

(5) spiraling labor costs cannot be offset by the governmental entities that are responsible for subsidy payments for public transit services since local governments generally, and the District of Columbia government in particular, are operating under severe fiscal constraints;

(6) imposition of mandatory standards applicable to arbitrators resolving arbitration disputes involving interstate compact agencies operating in the national capital area will ensure that wage increases are justified and do not exceed the ability of transit patrons and taxpayers to fund the increase; and

(7) federal legislation is necessary under section 8 of Article I of the United States Constitution to balance the need to moderate and lower labor costs while maintaining industrial peace.

(b) PURPOSE.—The purpose of this chapter is to adopt standards governing arbitration that must be applied by arbitrators resolving disputes involving interstate compact agencies operating in the national capital area in order to lower operating costs for public transportation in the Washington metropolitan area.

§ 18302. Definitions

In this chapter, the following definitions apply:

(1) ARBITRATION.—The term ''arbitration''—

(A) means the arbitration of disputes, regarding the terms and conditions of employment, that is required under an interstate compact governing an interstate compact agency operating in the national capital area; but

(B) does not include the interpretation and application of rights arising from an existing collective bargaining agreement.

(2) ARBITRATOR.—The term ''arbitrator'' refers to either a single arbitrator, or a board of arbitrators, chosen under applicable procedures.

(3) INTERSTATE COMPACT AGENCY OPERATING IN THE NATIONAL CAPITAL AREA.—The term ''interstate compact agency operating in the national capital area'' means any interstate compact agency that provides public transit services and that was established by an interstate compact to which the District of Columbia is a signatory.

§ 18303. Standards for arbitrators

(a) DEFINITION.—In this section, the term ''public welfare'' includes, with respect to arbitration under an interstate compact—

(1) the financial ability of the individual jurisdictions participating in the compact to pay for the costs of providing public transit services; and

(2) the average per capita tax burden, during the term of the collective bargaining agreement to which the arbitration relates, of the residents of the Washington metropolitan area, and the effect of an arbitration award rendered under that arbitration on the respective income or property tax rates of the jurisdictions that provide subsidy payments to the interstate compact agency established under the compact.

(b) FACTORS IN MAKING ARBITRATION AWARD.—An arbitrator rendering an arbitration award involving the employees of an interstate compact agency operating in the national capital area may not make a finding or a decision for inclusion in a collective bargaining agreement governing conditions of employment without considering the following factors:

(1) The existing terms and conditions of employment of the employees in the bargaining unit.

(2) All available financial resources of the interstate compact agency.

(3) The annual increase or decrease in consumer prices for goods and services as reflected in the most recent consumer price index for the Washington metropolitan area, published by the Bureau of Labor Statistics.

(4) The wages, benefits, and terms and conditions of the employment of other employees who perform, in other jurisdictions in the Washington standard metropolitan statistical area, services similar to those in the bargaining unit.

(5) The special nature of the work performed by the employees in the bargaining unit, including any hazards or the relative ease of employment, physical requirements, educational qualifications, job training and skills, shift assignments, and the demands placed upon the employees as compared to other employees of the interstate compact agency.

(6) The interests and welfare of the employees in the bargaining unit, including—

(A) the overall compensation presently received by the employees, having regard not only for wage rates but also for wages for time not worked, including vacations, holidays, and other excused absences;

(B) all benefits received by the employees, including previous bonuses, insurance, and pensions; and

(C) the continuity and stability of employment.

(7) The public welfare.

(c) ABILITY TO FINANCE SALARIES AND BENEFITS PROVIDED IN AWARD.—An arbitrator rendering an arbitration award involving the employees of an interstate compact agency operating in the national capital area may not, with respect to a collective bargaining agreement governing conditions of employment, provide for salaries and other benefits that exceed the ability of the interstate compact agency, or of any governmental jurisdiction that provides subsidy payments or budgetary assistance to the interstate compact agency, to obtain the necessary financial resources to pay for wage and benefit increases for employees of the interstate compact agency.

(d) REQUIREMENTS FOR FINAL AWARD.—

(1) WRITTEN AWARD.—In resolving a dispute submitted to arbitration involving the employees of an interstate compact agency operating in the national capital area, the arbitrator shall issue a written award that demonstrates that all the factors set forth in subsections (b) and (c) have been considered and applied.

(2) PREREQUISITES.—An award may grant an increase in pay rates or benefits (including insurance and pension benefits), or reduce hours

of work, only if the arbitrator concludes that any costs to the agency do not adversely affect the public welfare.

(3) SUBSTANTIAL EVIDENCE.—The arbitrator's conclusion regarding the public welfare must be supported by substantial evidence.

§ 18304. Procedures for enforcement of awards

(a) MODIFICATIONS AND FINALITY OF AWARD.—Within 10 days after the parties receive an arbitration award to which section 18303 of this title applies, the interstate compact agency and the employees, through their representative, may agree in writing on any modifications to the award. After the end of that 10-day period, the award, and any modifications, become binding on the interstate compact agency, the employees in the bargaining unit, and the employees' representative.

(b) IMPLEMENTATION.—Each party to an award that becomes binding under subsection (a) shall take all actions necessary to implement the award.

(c) JUDICIAL REVIEW.—Within 60 days after an award becomes binding under subsection (a), the interstate compact agency or the exclusive representative of the employees concerned may bring a civil action in a court that has jurisdiction over the interstate compact agency for review of the award. The court shall review the award on the record, and shall vacate the award or any part of the award, after notice and a hearing, if—

(1) the award is in violation of applicable law;

(2) the arbitrator exceeded the arbitrator's powers;

(3) the decision by the arbitrator is arbitrary or capricious;

(4) the arbitrator conducted the hearing contrary to the provisions of this chapter or other laws or rules that apply to the arbitration so as to substantially prejudice the rights of a party;

(5) there was partiality or misconduct by the arbitrator prejudicing the rights of a party;

(6) the award was procured by corruption, fraud, or bias on the part of the arbitrator; or

(7) the arbitrator did not comply with the provisions of section 18303 of this title.

SEC. 2. TRANSFER OF MATERIAL AND EQUIPMENT TO THE ARCHITECT OF THE CAPITOL.

Chapter 443 of title 10, United States Code, is amended as follows:

(1) Insert immediately after section 4688 the following new section:

*''**§ 4689. Transfer of material and equipment to the Architect of the Capitol***

''The Secretary of the Army is authorized to transfer, without payment, to the Architect of the Capitol, such material and equipment, not required by the Department of the Army, as the Architect may request for use at the Capitol power plant, the Capitol Building, and the Senate and House Office Buildings.''.

(2) Insert immediately below item 4688 in the analysis of the chapter the following new item:

''4689. Transfer of material and equipment to the Architect of the Capitol.''.

SEC. 3. CONFORMING CROSS-REFERENCES.

(a) TITLE 5.—Title 5, United States Code, is amended as follows:

(1) In section 7342(e)(1)—

(A) insert ''subtitle I of title 40 and title III of'' before ''the Federal''; and

(B) insert ''(41 U.S.C. 251 et seq.)'' after ''of 1949''.

(2) In section 9505(b), strike ''division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679)'' and substitute ''subtitle III of title 40''.

(3) In section 9508(a)(2)(A), strike ''division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679)'' and substitute ''subtitle III of title 40''.

(b) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) In section 2223—

(A) in subsection (a), strike ''section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425)'' and substitute ''section 11315 of title 40'';

(B) in subsection (b), strike ''section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425)'' and substitute ''section 11315 of title 40'';

(C) in subsection (c)(2), strike ''section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401)'' and substitute ''section 11101 of title 40''; and

(D) in subsection (c)(3), strike ''section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452)'' and substitute ''section 11103 of title 40''.

(2) In section 2302(2)(A), strike ''title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)'' and substitute ''chapter 11 of title 40''.

(3) In section 2304(h)—

(A) before clause (1), strike ''laws''; and

(B) strike clause (2) and substitute ''(2) Sections 3141–3144, 3146, and 3147 of title 40.''.

(4) In section 2305a(a), strike ''the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.)'' and substitute ''chapter 11 of title 40''.

(5) In section 2315(a), strike ''division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)'' and substitute ''subtitle III of title 40''.

(6) In section 2381(c)—

(A) strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''; and

(B) strike ''section 201(a) of that Act (40 U.S.C. 481(a))'' and substitute ''section 501(a)(2) of title 40''.

(7) In section 2535(b)(1)(G), strike ''title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)'' and substitute ''chapter 5 of title 40''.

(8) In subsection 2562(a)(1)—

(A) insert ''subtitle I of title 40 and title III of'' before ''the Federal''; and

(B) strike ''(40 U.S.C. 472 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''.

(9) In section 2572(d)(1), strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(10) In section 2576(a)—

(A) insert ''subtitle I of title 40 and title III of'' before ''the Federal''; and

(B) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''.

(11) In section 2577(a)(2), strike ''section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484)'' and substitute ''sections 541–555 of title 40''.

(12) In section 2667—

(A) in subsection (a)(2), strike ''section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)'' and substitute ''section 102 of title 40'';

(B) in subsection (b)(5), strike ''section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)'' and substitute ''section 1302 of title 40''; and

(C) in subsection (f)(1)—

(i) insert ''subtitle I of title 40 and title III of'' before ''the Federal''; and

(ii) strike ''such Act is'' and substitute ''subtitle I and title III are''.

(13) In section 2667a(a)(3), strike ''section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)'' and substitute ''section 102 of title 40''.

(14) In section 2676(a)—

(A) insert ''subtitle I of title 40 and title III of'' before ''the Federal''; and

(B) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''41 U.S.C. 251 et seq.)''.

(15) In section 2691(b)—

(A) insert ''subtitle I of title 40 and title III of'' before ''the Federal''; and

(B) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''.

(16) In section 2696—

(A) in subsection (a)—

(i) insert ''subtitle I of title 40 and title III of'' before ''the Federal''; and

(ii) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''; and

(B) strike subsection (e)(5) and substitute—

''(5) Chapter 5 of title 40.''.

(17) In section 2701(i)(1)—

(A) strike ''the Miller Act (40 U.S.C. 270a et seq.)'' and substitute ''sections 3131 and 3133 of title 40'';

(B) strike ''the Act of April 29, 1941 (40 U.S.C. 270e–270f)'' and substitute ''section 3134 of title 40''; and

(C) strike ''the Miller Act'' and substitute ''sections 3131 and 3133''.

(18) In section 2814(j)(3), strike ''Sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484)'' and substitute ''Subchapter II of chapter 5 and sections 541–555 of title 40''.

(19) In section 2831(b)(3), strike ''section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b))'' and substitute ''section 572(a) of title 40''.

(20) In section 2852(b)(1), strike ''section 355 of the Revised Statutes (40 U.S.C. 255)'' and substitute ''section 3111 of title 40''.

(21) In section 2854a(d)(1)—

(A) strike ''The'' and substitute ''Subtitle I of title 40 and title III of the''; and

(B) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''.

(22) In subsection 2855(a), strike ''title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)'' and substitute ''chapter 11 of title 40''.

(23) In section 2878(d)—

(A) in clause (2)—

(i) strike ''The'' and substitute ''Subtitle I of title 40 and title III of the''; and

(ii) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''; and

(B) strike clause (3) and substitute—

''(3) Section 1302 of title 40.''.

(24) In section 4681, strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(25) In section 4682, strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(26) In section 4684, strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(27) In section 4686, strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(28) In section 7305(d)—

(A) insert ''subtitle I of title 40 and title III of'' before ''the Federal'';

(B) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''; and

(C) strike ''that Act'' and substitute ''subtitle I of title 40 and title III''.

(29) In section 7306(a), strike ''subsections (c) and (d) of section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474)'' and substitute ''section 113 of title 40''.

(30) In section 7422(c)(1), strike ''the Act of February 26, 1931 (40 U.S.C. 258a–258e)'' and substitute ''sections 3114–3116 and 3118 of title 40''.

(31) In section 7541, strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(32) In section 7541a, strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(33) In section 7542(a), strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(34) In section 7545(a), strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(35) In section 9444(b)(1)—

(A) insert ''subtitle I of title 40 and title III of'' before ''the Federal''; and

(B) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''.

(36) In section 9681, strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(37) In section 9682, strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(38) In section 9684, strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(39) In section 9686, strike ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' and substitute ''section 121 of title 40''.

(40) In section 9781—

(A) in subsection (b)(2)(D), strike ''title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)'' and substitute ''chapter 5 of title 40'';

(B) in subsection (d), strike ''title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)'' and substitute ''chapter 5 of title 40''; and

(C) in subsection (g)—

(i) insert ''subtitle I of title 40 and subtitle III of'' before ''the Federal''; and

(ii) add at the end of the subsection ''(41 U.S.C. 251 et seq.)''.

(41) In section 12603(d), strike ''section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a))'' and substitute ''section 501 of title 40''.

(42) In section 18239(b)(1), strike ''section 355 of the Revised Statutes (40 U.S.C. 255)'' and substitute ''section 3111 of title 40''.

(c) TITLE 14.—Title 14, United States Code, is amended as follows:

(1) In section 92—

(A) insert ''subtitle I of title 40 and title III of'' before ''the Federal''; and

(B) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''.

(2) In section 93(h)—

(A) insert ''subtitle I of title 40 and title III of'' before ''the Federal''; and

(B) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''.

(3) In section 641—

(A) in subsection (a)—

(i) insert ''subtitle I of title 40 and title III of'' before ''the Federal''; and

(ii) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''; and

(B) in subsection (c)(2), strike ''section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484)'' and substitute ''sections 541–555 of title 40''.

(4) In section 685(c)—

(A) in clause (1), strike—

(i) ''The'' and substitute ''Subtitle I of title 40 and title III of the''; and

(ii) ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''; and

(B) strike clause (2) and substitute—

''(2) Section 1302 of title 40.''.

(d) TITLE 18.—Section 3668(c) of title 18, United States Code, is amended by striking ''sections 304f–304m of Title 40'' and substituting ''section 1306 of title 40''.

(e) TITLE 23.—Title 23, United States Code, is amended as follows:

(1) In section 112(b)(2)(A), strike ''title IX of the Federal Property and Administrative Services Act of 1949'' and substitute ''chapter 11 of title 40''.

(2) In section 113(a), strike ''the Act of March 3, 1931, known as the Davis-Bacon Act (40 U.S.C. 276a)'' and substitute ''sections 3141–3144, 3146, and 3147 of title 40''.

(f) THE INTERNAL REVENUE CODE OF 1986.—Section 7608(c)(1)(A)(i)(IV) of the Internal Revenue Code of 1986 (26 U.S.C. 7608(c)(1)(A)(i)(IV)) is amended by striking ''section 34 of title 40, United States Code'' and substituting ''section 8141 of title 40''.

(g) TITLE 28.—Title 28, United States Code, is amended as follows:

(1) In section 604(g)(3)(B), strike ''section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484)'' and substitute ''sections 541–555 of title 40''.

(2) In section 612(f), strike ''section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481)'' and substitute ''sections 501–505 of title 40''.

(3) In section 1499, strike ''section 104 of the Contract Work Hours and Safety Standards Act'' and substitute ''section 3703 of title 40''.

(h) TITLE 31.—Title 31, United States Code, is amended as follows:

(1) In section 781(a), strike ''section 7 of the Public Buildings Act of 1959, as amended (40 U.S.C. 606)'' and substitute ''section 3307 of title 40''.

(2) In section 782, strike ''(as defined in section 105 of the Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 612a))'' and substitute ''(as defined in section 3306(a) of title 40)''.

(3) In section 1105(g)(2)(B)(ii), strike ''section 901 of the Brooks Architect-Engineers Act (40 U.S.C. 541)'' and substitute section ''1102 of title 40''.

(4) In section 3126—

(A) in subsection (a), strike ''section 2 of the Government Losses in Shipment Act (40 U.S.C. 722)'' and substitute ''section 17303(a) of title 40''; and

(B) in subsection (b), strike ''Section 3 of the Government Losses in Shipment Act (40 U.S.C. 723) (related to finality of decisions of the Secretary)'' and substitute ''Section 17304(c) of title 40''.

(5) In section 3511(c)(1), strike ''section 205(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(b))'' and substitute ''section 121(b) of title 40''.

(6) In section 3551(3), strike ''section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)'' and substitute ''section 102 of title 40''.

(7) In section 3905(f)(1), strike ''section 2 of the Act of August 24, 1935 (40 U.S.C. 270b)'' and substitute ''section 3133(b) of title 40''.

(8) In section 6703(d)(5)—

(A) strike ''the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5)'' and substitute ''sections 3141–3144, 3146, and 3147 of title 40''; and

(B) strike ''section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act), as amended (40 U.S.C. 276c, 48 Stat. 948)'' and substitute ''section 3145 of title 40''.

(9) In section 9303—

(A) in subsection (d), before clause (1)—

(i) strike ''the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a–270d)'' and substitute ''sections 3131 and 3133 of title 40''; and

(ii) strike ''section 3 of the Act (40 U.S.C. 270c)'' and substitute ''section 3133(a) of title 40'';

(B) in subsection (d)(1)—

(i) strike ''the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a–270d)'' and substitute ''sections 3131 and 3133 of title 40''; and

(ii) strike ''section 2 of the Act (40 U.S.C. 270b)'' and substitute ''section 3133(b) of title 40''; and

(C) in subsection (e)(2)(A), strike ''the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a–270d)'' and substitute ''sections 3131 and 3133 of title 40''.

(i) TITLE 36.—Title 36, United States Code, is amended as follows:

(1) In section 2103(a)(1), strike ''section 355 of the Revised Statutes (40 U.S.C. 255)'' and substitute ''section 3111 of title 40''.

(2) In section 220314(b), strike ''section 451 of the Legislative Reorganization Act of 1970 (40 U.S.C. 193m–1)'' and substitute ''section 5108 of title 40''.

(j) TITLE 38.—Title 38, United States Code, is amended as follows:

(1) In section 115(1), strike ''section 355 of the Revised Statutes (40 U.S.C. 255)'' and substitute ''section 3111 of title 40''.

(2) In section 310(b), strike ''division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)'' and substitute ''subtitle III of title 40''.

(3) In section 8122(a)(1), strike ''section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)'' and substitute ''section 1302 of title 40''.

(4) In section 8135(a)(8), strike ''the Act of March 3, 1931 (40 U.S.C. 276a—276a–5) (known as the Davis-Bacon Act)'' and substitute ''sections 3141–3144, 3146, and 3147 of title 40''.

(5) In section 8162(a)—

(A) in paragraph (1), strike ''section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484)'' and substitute ''subchapter II of chapter 5 of title 40, sections 541–555 and 1302 of title 40''; and

(B) in paragraph (3), strike ''the Act of March 3, 1931 (40 U.S.C. 276a et seq.)'' and substitute ''sections 3141–3144, 3146, and 3147 of title 40''.

(6) In section 8165(c), strike ''section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) or the Act of June 8, 1896 (40 U.S.C. 485a)'' and substitute ''subchapter IV of chapter 5 of title 40''.

(7) In section 8201(e), strike ''section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)'' and substitute ''section 1302 of title 40''.

(k) TITLE 39.—Section 410(b)(4) of title 39, United States Code, is amended to read as follows:

''(4) the following provisions of title 40:

''(A) sections 3114–3116, 3118, 3131, 3133, and 3141–3147; and

''(B) chapters 37 and 173;''.

(l) TITLE 44.—Title 44, United States Code, is amended as follows:

(1) In section 311(a), strike ''the Federal Property and Administrative Services Act, approved June 30, 1949, as amended,'' and substitute ''subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)''.

(2) In section 2901(13), strike ''section 3(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(a))'' and substitute ''section 102 of title 40''.

(3) In section 3501(8)(B), strike ''the Computer Security Act of 1987 (Public Law 100–235)'' and substitute ''section 11332 of title 40''.

(4) In section 3502(9)—

(A) strike ''section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401)'' and substitute ''section 11101 of title 40''; and

(B) strike ''section 5142 of that Act (40 U.S.C. 1452)'' and substitute ''section 11103 of title 40''.

(5) In section 3504—

(A) in subsection (g)(2), strike ''section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)'' and substitute ''sections 11331 and 11332(b) and (c) of title 40'';

(B) in subsection (g)(3), strike ''section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)'' and substitute ''sections 11331 and 11332(b) and (c) of title 40'';

(C) in subsection (h)(1)(B), strike ''section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441)'' and substitute ''section 11331 of title 40''; and

(D) in subsection (h)(2)—

(i) strike ''division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)'' and substitute ''subtitle III of title 40''; and

(ii) strike ''section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757)'' and substitute ''section 322 of title 40''.

(6) In section 3506—

(A) in subsection (g)(2), strike ''the Computer Security Act of 1987 (40 U.S.C. 759 note)'' and substitute ''section 11332 of title 40''; and

(B) in subsection (g)(3), strike ''the Computer Security Act of 1987 (40 U.S.C. 759 note)'' and substitute ''section 11332 of title 40''.

(7) In section 3518(d), strike ''section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and the Computer Security Act of 1987 (40 U.S.C. 759 note)'' and substitute ''sections 11331 and 11332 of title 40''.

(m) TITLE 46.—Title 46, United States Code, is amended as follows:

(1) In section 2101(17), strike ''section 13 of the Coast Guard Authorization Act of 1986'' and substitute ''section 558 of title 40''.

(2) In section 3305(c), strike ''section 13 of the Coast Guard Authorization Act of 1986'' and substitute ''section 558 of title 40''.

(n) TITLE 49.—Title 49, United States Code, is amended as follows:

(1) In section 103(e)—

(A) insert ''subtitle I of title 40 and title III of'' before ''the Federal Property''; and

(B) strike ''(40 U.S.C. 471 et seq.)'' and substitute ''(41 U.S.C. 251 et seq.)''.

(2) In section 5325(b), strike ''title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)'' and substitute ''chapter 11 of title 40''.

(3) In section 5333(a)—

(A) strike ''the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5)'' and substitute ''sections 3141–3144, 3146, and 3147 of title 40''; and

(B) strike ''section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)'' and substitute ''section 3145 of title 40''.

(4) In section 24312—

(A) in subsection (a)—

(i) strike ''the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5)'' and substitute ''sections 3141–3144, 3146, and 3147 of title 40''; and

(ii) strike ''section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333)'' and substitute ''section 3704 of title 40''; and

(B) in subsection (b), strike ''the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5)'' and substitute ''sections 3141–3144, 3146, and 3147 of title 40''

(5) In section 40110(c)(2)—

(A) in subclause (C), strike ''(as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612))'' and substitute ''(as defined in section 3301(a) of title 40)''; and

(B) in subclause (F), strike ''title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)'' and substitute ''sections 121, 123, and 126 and chapter 5 of title 40''.

(6) In section 44305(a)(1), strike ''sections 1 and 2 of the Government Losses in Shipment Act (40 U.S.C. 721, 722)'' and substitute ''sections 17302 and 17303 of title 40''.

(7) In section 47107(a)(17), strike ''title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)'' and substitute ''chapter 11 of title 40''.

(8) In section 47112(b), strike ''the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5)'' and substitute ''sections 3141–3144, 3146, and 3147 of title 40''.

(9) In section 49111(d)(1), strike ''section 5 of the Act of June 6, 1924 (40 U.S.C. 71d),'' and substitute ''section 8722 of title 40''.

(o) VETERANS' BENEFITS PROGRAMS IMPROVEMENT ACT OF 1991.—Section 403(e) of the Veterans' Benefits Programs Improvement Act of 1991 (Pub. L. 102–86, 105 Stat. 424) is amended by striking ''section 303b of title 40, sections 483 and 484 of title 40'' and substituting ''subchapter II of chapter 5 of title 40, sections 541–555 and 1302 of title 40''.

SEC. 4. REPEAL OF TITLE V OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.

Title V of the Federal Property and Administrative Services Act of 1949 (ch. 288), as added by section 6(d) of the Act of September 5, 1950 (ch. 849, 64 Stat. 583), is repealed.

SEC. 5. LEGISLATIVE PURPOSE AND CONSTRUCTION.

(a) PURPOSE.—The purpose of this Act is to revise, codify, and enact without substantive change the general and permanent laws of the United States related to public buildings, property, and works, in order to remove ambiguities, contradictions, and other imperfections and to repeal obsolete, superfluous, and superseded provisions.

(b) NO SUBSTANTIVE CHANGE.—

(1) IN GENERAL.—This Act makes no substantive change in existing law and may not be construed as making a substantive change in existing law.

(2) DEEMED DATE OF ENACTMENT FOR CERTAIN PURPOSES.—For purposes of determining whether one provision of law supersedes another based on enactment later in time, and otherwise to ensure that this Act makes no substantive change in existing law, the date of enactment of a provision restated in section 1 or 2 of this Act is deemed to remain unchanged, continuing to be the date of enactment of the underlying provision of public law that is being restated.

(3) INCONSISTENT LAWS ENACTED AFTER MARCH 31, 2002.—This Act restates certain laws enacted before April 1, 2002. Any law enacted after March 31, 2002, that is inconsistent with this Act, including any law purporting to amend or repeal a provision that is repealed by this Act, supersedes this Act to the extent of the inconsistency.

(c) REFERENCES.—A reference to a law replaced by section 1 or 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(d) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by section 1 or 2 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(e) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by section 1 or 2 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(f) INFERENCES.—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a caption or catch line of the provision.

(g) SEVERABILITY.—If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

SEC. 6. REPEALS.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) REPEALER SCHEDULE.—The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
1822					
May 7	96	3	3	692	307
1874					
Feb. 4	22		18	14	28
Mar. 7	50	(proviso)	18	20	29
1876					
July 31	246	(proviso (related to report) in 1st par. on p. 115)	19	115	27
1877					
Mar. 3	105	(proviso (related to report) in 16th par. on p. 359)	19	359	27
	106	(words after 2d semicolon in 3d par. under heading ''Miscellaneous'').	19	370	34
1878					
June 20	359	(proviso in 2d par. under heading ''Building and Grounds in and Around Washington and the Executive Mansion'').	20	220	103
1879					
Mar. 3	182	1 (words after semicolon in 5th par. on p. 388)	20	388	30
July 1	62		21	47	307
1882					
Aug. 5	389	1 (2d sentence in 8th par. on p. 241)	22	241	35
1883					
Jan. 16	27	4	22	405	42
1888					
Aug. 1	728		25	357	257, 258

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
1890					
Aug. 30	*837*	*3*	*26*	*412*	*120*
1892					
July 29	*320*	*15*	*27*	*325*	*101*
Aug. 1	*352*	*3*	*27*	*340*	*323*
1893					
Mar. 3	*211*	*3*	*27*	*715*	*286*
1895					
Mar. 2	*189*	*(words after last comma in 1st par. on p. 959)*	*28*	*959*	*190a*
1896					
June 8	*373*		*29*	*268*	*485a*
1898					
July 1	*543*	*5*	*30*	*570*	*79*
	546	*1 (6th complete par. on p. 614)*	*30*	*614*	*285*
July 7	*571*	*(last par. under catchline ''Capitol and Grounds'')*	*30*	*672*	*164*
1899					
Mar. 3	*458*	*2 (2d par.)*	*30*	*1378*	*89*
1900					
Apr. 17	*192*	*(words between 1st and 2d semicolons (related to absence, disability, or vacancy) under catchline ''Office of the Architect of the Capitol'').*	*31*	*125*	*164*
1901					
Mar. 3	*830*	*1 (words between 1st and 2d semicolons (related to absence, disability, or vacancy) under catchline ''Office of the Architect of the Capitol'').*	*31*	*1000*	*164*
1902					
Apr. 28	*594*	*1 (6th, last pars. on p. 152)*	*32*	*152*	*19, 31*
1903					
Feb. 25	*755*	*1 (7th par. on p. 865)*	*32*	*865*	*484–1*
Mar. 3	*1007*	*1 (4th complete par. on p. 1112)*	*32*	*1112*	*304*
1905					
Mar. 3	*1483*	*1 (words before ''namely'' in last sentence of 9th par. on p. 1161).*	*33*	*1161*	*279*
1908					
May 27	*200*	*1 (7th complete par. on p. 327, 1st complete par. on p. 356, proviso on p. 358).*	*35*	*327, 356, 358*	*43 note, 64, 283*
May 30	*228*	*34*	*35*	*545*	*261*
1909					
Feb. 9	*101*	*(3d par. under heading ''War Department'')*	*35*	*615*	*43 note*
Mar. 4	*299*	*1 (proviso in 2d par. on p. 997)*	*35*	*997*	*43*
1910					
May 17	*243*		*36*	*371*	*104, 106*
June 25	*384*	*1 (8th complete par. on p. 728 (less appropriations))*	*36*	*728*	*105*
1912					
Aug. 23	*350*	*1 (2d complete par. on p. 375)*	*37*	*375*	*251*
Aug. 24	*355*	*1 (last proviso in last par. on p. 432, 10th par. on p. 444)*	*37*	*432, 444*	*68, 280*
Aug. 26	*408*	*1 (last par. on p. 605)*	*37*	*605*	*174*
1913					
Mar. 3	*106*	*1 ''Sec. 3'', 4*	*37*	*727*	*323*
Mar. 4	*142*	*1 (words after 4th comma in last par. on p. 771)*	*37*	*771*	*38.*
June 23	*3*	*1 (proviso on p. 17, last proviso in 2d complete par. on p. 22, 1st, 3d pars. under heading ''Central Heating and Power Plant'').*	*38*	*17, 22, 25*	*22, 253, 281*
1914					
Aug. 1	*223*	*1 (last par. on p. 633)*	*38*	*633*	*82*
1916					
May 10	*117*	*1 (last par. under catchline ''Contingent Expenses'', last par. less proviso under catchline ''Rent'').*	*39*	*109, 118*	*39, 40*
1917					
June 12	*27*	*1 (words before 10th comma in 4th par. on p. 112, last par. on p. 133).*	*40*	*112, 133*	*22, 91*
1918					
July 9	*143*	*(last par. on p. 850)*	*40*	*850*	*314*
Aug. 31	*164*	*1 (6th par., words before ''and over'' in last par. under heading ''Washington Aqueduct.'').*	*40*	*951*	*100*
1919					
Feb. 25	*39*	*3*	*40*	*1173*	*314*
Aug. 25	*52*		*41*	*281*	*271*
1920					
Feb. 28	*91*	*213*	.....		*316*
Mar. 6	*94*	*(proviso in last par. under heading ''Public Buildings'')*	*41*	*507*	*272*
May 29	*214*	*1 (1st complete par. on p. 642, words in par. under heading ''Independent Treasury'').*	*41*	*642, 654*	*42, 285*
June 5	*235*	*(2d complete par. on p. 913)*	*41*	*913*	*113*
	253	*1 (1st par. under heading ''Legislative'')*	*41*	*1035*	*186*
1921					
Mar. 3	*123*		*41*	*1251*	*307*
1922					
Feb. 17	*55*	*(last proviso in 2d par. and 3d par. under heading ''General Supply Committee'', last proviso in 1st complete par. on p. 387, 1st proviso on p. 388).*	*42*	*369, 387, 388*	*25, 284, 312, 313*
Mar. 20	*103*	*(last par. (related to inspection) on p. 430)*	*42*	*430*	*26*

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
1923					
Jan. 3	22	(last proviso in 2d par. and 3d par. under heading ''General Supply Committee'', last proviso in 2d par. on p. 1108, 1st proviso on p. 1109).	42	1090, 1108, 1109	25, 284, 312, 313
Jan. 24	42	(proviso in 1st complete par. on p. 1211)	42	1211	115
Feb. 20	98	(par. (related to inspection) under catchline ''Capitol Power Plant'').	42	1273	26
1924					
Apr. 4	84	(proviso in 1st par. and 1st complete par. on. p. 67, last proviso in 2d par. under heading ''Public Buildings, Operating Expenses'', 1st proviso on p. 83).	43	67, 82, 83	25, 284, 312, 313
June 5	264	(proviso in 2d complete par. on p. 422)	43	422	115
June 6	270	1–4(a), (d), (e), 5, 7–13	43	463	71–71d, 71f–72, 73, 74
June 7	303	1(words between 1st and 2d semicolons (related to inspection) in 9th par. under heading ''Capitol Buildings and Grounds'').	43	587	26
1925					
Jan. 22	87	(last proviso in 2d par. and 3d par. under heading ''General Supply Committee'', last proviso in complete par. and 1st proviso in last par. on p. 781)).	43	766, 781	25, 284, 312, 313
Feb. 26	339		43	983	2–6
Mar. 3	462	(proviso in 1st par. on p. 1176)	43	1176	115
Mar. 4	549	1 (words between 1st and 2d semicolons (related to inspection) in 1st par. on p. 1296).	43	1296	26
	556	1 (1st par. under heading ''Public Buildings and Grounds'')	43	1323	91
1926					
Mar. 2	43	1 (proviso in 1st par. and 1st complete par. on p. 139, last proviso in 2d par. under heading ''Public Buildings, Operating Expenses'', 1st proviso on p. 154).	44	139, 153, 154	25, 284, 312, 313
Mar. 3	44	1 (last par. under heading ''Department of the Interior, Contingent Expenses'').	44	173	117
Apr. 29	195	(proviso in 3d complete par. on p. 368)	44	368	115
Apr. 30	198		44	374	71
May 13	294	1 (words between 1st and 2d semicolons (related to inspection) in 1st par. and 4th complete par. on p. 547).	44	547	26, 222
May 25	380	3, 5 (related to ''amendment'' by Act of Feb. 16, 1931 (ch. 203, 46 Stat. 1164)), 8.	44	632, 633, 635	343, 345a
1927					
Jan. 26	58	1 (last proviso in 1st par. and 1st complete par. on p. 1030, last proviso in 2d par. under heading ''Public Buildings, Operating Expenses'', 1st proviso on p. 1045).	44	1030, 1044, 1045	25, 284, 312, 313
Feb. 23	168	1 (words between 1st and 2d semicolons (related to inspection) in 5th par. on p. 1156).	44	1156	26
Feb. 24	189	(provisos in 3d par. on p. 1219)	44	1219	115, 115a
1928					
Feb. 15	57	(provisos in 3d complete par. on p. 103)	45	103	115, 115a
Mar. 5	126	1 (last proviso in 1st par. and 1st complete par. on p. 165, last proviso in 2d par. under heading ''Public Buildings, Operating Expenses'', provisos and last sentence in 1st par. on p. 186).	45	165, 185, 186	25, 112a, 284, 312, 313
May 14	551	1 (words between 1st and 2d semicolons (related to inspection) in last par. on p. 526).	45	526	26
May 24	726		45	726	71
May 29	901	1(8), (85)	45	986, 992	174, 314
Dec. 20	39	1 (1st par. on p. 1031, 2d proviso and provisos in 1st complete par. on p. 1048).	45	1031, 1048	25, 30a, 284, 313
Dec. 22	48		45	1070	72a, 72b
1929					
Jan. 25	102	(provisos in 4th par. on p. 1133)	45	1133	115, 155a
Feb. 28	367	1 (words between 1st and 2d semicolons (related to inspection) in 8th par. on p. 1396).	45	1396	26
Mar. 1	423		45	1425	271
June 20	33	6 (words after 1st comma)	46	39	161a
1930					
Apr. 18	184	(provisos in 2d complete par. on p. 212)	46	212	115, 115a
May 15	289	1 (5th par. under heading ''Division of Supply'', 1st proviso and provisos in 1st complete par. on p. 358).	46	337, 358	25, 30a, 284, 313
May 16	291		46	366	121, 121 note
June 6	407	1 (words between 5th and 6th semicolons (related to inspection) in 1st par. under heading ''Capitol Buildings and Grounds'', 1st complete par. on p. 514 (related to care and operation of Senate Office Building)).	46	513, 514	26, 174a
June 28	710		46	828	255
1931					
Feb. 16	203	1	46	1164	345a
Feb. 20	234	1 (words between 5th and 6th semicolons (related to inspection) in 1st par. under heading ''Capitol Buildings and Grounds'', 1st complete par. on p. 1184 (related to care and operation of Senate Office Building)).	46	1183, 1184	26, 174a
Feb. 23	277	1 (3d par. on p. 1219, last proviso in complete par. and proviso in last par. on p. 1234, proviso in 1st par. on p. 1235).	46	1219, 1234, 1235	25, 30a, 284, 313
	280	1 (provisos in 3d par. on p. 1349)	46	1349	115, 115a
Feb. 26	307		46	1421	258a—258e–1
Mar. 3	411		46	1494	276a—276a–6
1932					
May 20	197		47	161	122, 123
May 21	200		47	163	124–126

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
June 30	314	1 (words between 5th and 6th semicolons (related to inspection) in 1st par. under heading ''Capitol Buildings and Grounds'', 1st par. on p. 392 (related to care and operation of Senate Office Building)), 320, 321.	47	391, 392, 412	26, 174a, 267a, 303b
July 1	361	1 (2d, last provisos in 1st par. on p. 517)	47	517	115, 115a
July 5	430	1 (1st complete par. on p. 582, last proviso in 1st complete par. and provisos in last par. on p. 596).	47	582, 596	25, 30a, 284, 313
1933					
Feb. 11	48	1	47	799	124, 125
Feb. 28	134	1 (words between 5th and 6th semicolons (related to inspection) in 1st par. under heading ''Capitol Buildings and Grounds'', last par. on p. 1360 (related to care and operation of Senate Office Building)).	47	1360	26, 174a
Mar. 1	144	1 (provisos in 4th par. on p. 1406)	47	1406	115, 115a
Mar. 3	212	(2d par. under heading ''General Supply Committee'', last proviso in complete par. and last proviso on p. 1505, proviso in 1st par. on p. 1506).	47	1491, 1505, 1506	25, 30a, 284, 313
June 16	90	202–210, 220, 303, 304	48	201, 210, 211	402–411, 413, 414
	101	7	48	305	315
1934					
Jan. 24	4	34	48	336	191
Feb. 15	13	1 (words before 1st proviso (related to continuation of Civil-Works program)).	48	351	411a
Mar. 15	70	1 (1st complete par. on p. 438, last proviso in 2d par. under heading ''Public Buildings, Operating Expenses'', provisos in 1st par. on p. 442, last proviso in 4th par. under heading ''Public Buildings, Maintenance and Operation'').	48	438, 441, 442, 449	25, 30a, 284, 313
May 7	222	1–3	48	668	13a–13c
May 30	372	1 (words between 5th and 6th semicolons (related to inspection) in 1st par. and 5th complete par. on p. 827 (related to care and operation of Senate Office Building)).	48	827	26, 174a
June 13	482	2	48	948	276c
June 19	648	(last par. on p. 1044)	48	1044	22a
1935					
May 14	110	1 (last proviso in 3d par. on p. 233, last proviso and last par. on p. 234).	49	233, 234	284, 313, 313a
June 27	320		49	425	22b, 22b note, 22c
July 8	374	(3d complete par. on p. 470 (related to care and operation of Senate Office Building)).	49	470	174a
Aug. 24	642		49	793	270, 270a, 270a notes, 270b—270d–1
Aug. 26	684		49	800	345b, 345c
Aug. 27	740	301–308	49	879	304f–304m
	744		49	885	304a–304e
Aug. 30	825		49	1011	276a—276a–6
1936					
June 23	725	1 (last proviso in 2d complete par. on p. 1843, last proviso and last par. on p. 1844).	49	1843, 1844	284, 313, 313a
June 25	822		49	1938	290
June 29	860		49	2025	421–425
1937					
May 14	180	1 (last proviso in 2d complete par. on p. 153, last proviso and last par. on p. 154, last proviso in 1st par. on p. 163).	50	153, 154, 163	284, 313, 313a
May 18	223	(last par. on p. 179 (related to care and operation of Senate Office Building)).	50	179	174a
July 8	444	1–7, 10, 11	50	479, 484	721, 721 notes, 722–729
1938					
Mar. 28	55	1 (last proviso on p. 137, last proviso and 1st complete par. on p. 139, last proviso in 1st complete par. on p. 147).	52	137, 139, 147	284, 313, 313a
May 17	236	(1st par. under catchline ''Senate Office Building'' (related to care and operation of Senate Office Building)).	52	391	174a
June 15	400		52	693	311b
June 20	534	16	52	802	None
1939					
May 6	115	1 (last proviso in 2d complete par. on p. 672, 4th and last provisos and 1st complete par. on p. 674, last proviso in 1st complete par. on p. 682).	53	672, 674, 682	109a, 284, 313, 313a
June 3	176		53	808	311b
July 15	281	(3d par. under heading ''Department of Vehicles and Traffic'').	53	1033	60a
July 31	400		53	1144	121
Aug. 5	449		53	1211	72c, 72c note, 72d, 72d note, 72e, 72e note, 74a, 74a note, 74b, 74c
Aug. 10	665	1–3	53	1358	723–725, 729
1940					
Feb. 1	18		54	19	255
Mar. 25	71	(6th and last provisos on p. 69, 1st par. on p. 70, last proviso in 2d complete par. on p. 77).	54	69, 70, 77	109a, 284, 313, 313a
June 12	333	(3d par. under heading ''Department of Vehicles and Traffic'').	54	334	60a
June 15	373		54	399	276a, 276a note
June 18	396	(last par. under heading ''Office of the Architect of the Capitol'').	54	472	166a
July 18	634		54	764	109, 109a

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
	635		54	764	304a–304d
Aug. 13	666		54	788	316
Sept. 9	717	(3d proviso under heading ''Military Posts'')	54	873	269a
Oct. 8	756	(1st proviso on p. 968)	54	968	269a
Oct. 9	793		54	1083	255
Oct. 22	908	6	54	1208	13e
1941					
Mar. 23	26	(last proviso in 5th complete par. on p. 53)	55	53	276a–7
Apr. 29	81		55	147	270e, 270f
May 31	156	1 (6th and last provisos on p. 226, 2d par. under heading ''Procurement Division'', last proviso in 1st complete par. on p. 234).	55	226, 234	109a, 284, 313, 313a
June 30	262	(2d proviso under heading ''Military Posts'')	55	375	269a
July 1	268	(last par. under heading ''Office of the Architect of the Capitol'').	55	457	166a
	271	(1st par. on p. 529)	55	529	60a
Aug. 21	395	(last proviso in 14th par. on p. 664)	55	664	276a–7
Dec. 10	563		55	796	291
1942					
Feb. 21	108	(words after last comma in 1st par. on p. 109)	56	109	313
Mar. 10	178	(5th and 6th provisos and 1st complete par. on p. 161, 2d proviso on p. 169).	56	161, 169	109a, 284, 313, 313a
Apr. 28	249		56	247	278b
June 8	396	(last par. under heading ''Office of the Architect of the Capitol'').	56	341	166a
June 27	450	(1st proviso in 2d complete par. and last par. on p. 407)	56	407	277a, 284
	452	(1st complete par. on p. 451)	56	451	60a
Oct. 21	618		56	797	258f
1943					
June 26	145	101 (proviso in par. under heading ''Office of the Administrator'', last proviso on p. 177, 1st and 2d complete pars. on p. 178).	57	176, 177, 178	7a, 265a, 277a, 284
June 28	173	(1st complete par. on p. 232)	57	232	166a
June 30	179	(5th and 6th provisos and 1st complete par. on p. 262), 201 (last proviso).	57	262, 269	109a, 284, 313, 313a
July 1	184	(3d par. under heading ''Department of Vehicles and Traffic'').	57	338	60a
1944					
Apr. 1	152	(words before proviso in last par. under heading ''Treasury Department'').	58	162	756 note
Apr. 22	175	(7th proviso and 1st complete par. on p. 206, last proviso in 1st complete par. on p. 214).	58	206, 214	284, 313, 313a
June 26	277	101 (last par. under heading ''Office of the Architect of the Capitol'').	58	346	166a
June 27	286	101 (1st proviso on p. 367, 1st proviso in 2d complete par. and last par. on p. 368, 1st complete par. on p. 369).	58	367, 368, 369	7a, 265a, 277a,284
June 28	300	(last proviso on p. 526)	58	526	60a
1945					
Apr. 24	92	(2d proviso and 1st complete par. on p. 67, last proviso in 3d par. under heading ''Public Buildings, Maintenance and Operation'').	59	67, 74	284, 313, 313a
May 3	106	101 (proviso in 1st par. under heading ''Office of the Administrator'', proviso in 1st and 2d complete pars., last complete par., and last par. on p. 114, 1st and 2d complete pars. on p. 115).	59	112, 114	7a, 265a, 277a, 284, 292, 293
June 13	189	101 (2d par. under heading ''Office of the Architect of the Capitol'').	59	251	166a
June 30	209	(4th proviso in 1st complete par. on p. 289)	59	289	60a
1946					
Mar. 28	113	101 (proviso in 1st par. under heading ''Office of the Administrator'', proviso in 1st and 2d pars. and 3d–last pars. on p. 67).	60	65, 67	7a, 265a, 277a, 284, 292
June 14	404	1–4, 7–9	60	257, 258	128, 295, 296, 304b, 304c, 341 note
July 1	530	101 (2d par. under heading ''Office of the Architect of the Capitol'').	60	400	166a
July 9	544	(4th proviso in 1st complete par. on p. 518)	60	518	60a
July 20	588	101 (5th proviso and 1st complete par. on p. 579, last proviso in 3d par. under heading ''Public Buildings, Maintenance and Operation'').	60	579, 585	284, 313, 313a
	589	302	60	595	33a
July 31	707	1–8, 10–13, 15, 16(a)	60	718, 719, 720	193a–193h, 193h note, 193i–193m, 194–205, 213
Aug. 7	770	(55)	60	870	314
1947					
July 1	186	(last proviso and 1st complete par. on p. 224, last proviso in 1st complete par. on p. 233).	61	224, 233	284, 313, 313a
July 17	262	101 (2d par. under heading ''Office of the Architect of the Capitol'').	61	369	166a
July 25	324	(4th proviso in 1st par. on p. 443)	61	443	60a
	327	2(a) (5th par.)	61	451	101 note
July 30	358	302	61	583	33a
	359	101 (proviso in last complete par. and last par. on p. 593, 1st and 2d complete pars. on p. 594).	61	593, 594	277a, 284, 292
Aug. 5	493	2 (1st sentence)	61	774	303
1948					
Apr. 20	219	101 (proviso in 1st and 2d complete pars., last complete par., and last par. on p. 183).	62	183	277a, 284, 292

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
May 14	290		62	235	129a–130a
June 1	359		62	281	318–318d
June 14	466	(5th proviso and 1st complete par. on p. 415, 3d complete par. on p. 416, last proviso on p. 421).	62	415, 416, 421	284, 313, 313a, 756 note
	467	101 (last par. under heading ''Office of the Architect of the Capitol'').	62	430	166a
June 19	555	(4th proviso in 1st complete par. on p. 553)	62	553	60a
June 25	646	6, 27	62	986, 990	13c, 257
June 30	773	302	62	1194	33a
1949					
May 24	139	134	63	108	276c
June 16	218	404, 405, 410–413	63	199, 200	298a, 298a note, 298b, 298d, 356, 356a
June 22	235	101 (1st complete par. on p. 224)	63	224	166a
June 29	279	(1st proviso on p. 319)	63	319	60a
June 30	286	(last proviso in 1st par. under heading ''Bureau of Federal Supply'', 2d–last sentences in 1st complete par. on p. 364, par. under heading ''General Supply Fund'').	63	363, 364	313–1, 314a, 756 note
	288	1–3, 101–103, 106, 107, 109(a)–(c), (e)–(g), 110, 112, 201, 202(a)–(e), (g), (h), 203–212, 401–404, 601, 602(a), (c)–(e), 603, 605, 606, 801–806, 901–905.	63	377, 381, 382, 383, 385, 397, 399, 401, 403.	471, 471 notes, 472–476, 481, 483, 484, 485, 486–490, 491, 492, 511–514, 531, 531 note, 532–535, 541, 541 note, 542–544, 751–755, 756, 757, 758, 760
Aug. 18	479		63	616	13f–13p
Aug. 24	506	101 (provisos and 3d and 4th complete pars. on p. 640), 307	63	640, 662	33a, 277a, 284, 292
Oct. 13	685	1–5, 7, 8	63	841, 842	451–455, 457, 458
Oct. 26	737		63	920	482
1950					
July 18	467	(3d proviso on p. 364)	64	364	60a
Sept. 5	849	1–5, 6(a) (related to §§601, 602(a) and (c)–(e), 603, and 605), (b) (related to §§601, 602(a) and (c)–(e), 603, and 605), (c), 7(a)–(d), (e)(''Sec. 602(c)''), (f), (g), 8(a), (b), (c) (related to §602(e)), 9, 10(b), 11.	64	578, 583, 590, 591	471 note, 472, 472 note, 473, 474, 475, 481, 484, 486, 490, 491, 492, 752, 756, 756 note, 758
Sept. 6	896	(last par. under heading ''Office of the Architect of the Capitol'', 1st complete par. on p. 706, 1st par. and 2d–last sentences in last par. on p. 708, ''Sec. 1207'').	64	602, 706, 708, 764	33a, 166a, 278c, 313–1, 756 note
Sept. 27	1052	(par. under heading ''General Supply Fund'')	64	1056	756 note
1951					
Aug. 3	292	(3d proviso in 1st par. on p. 167)	65	167	60a
Aug. 31	376	(1st proviso on p. 275)	65	275	313–2
Oct. 11	485	(last par. under heading ''Office of the Architect of the Capitol'').	65	396	166a
Oct. 24	559	1–9, 11	65	634	193n–193v, 193x
Oct. 31	654	1(73)–(97), 2(1), (20), (24), 4(8)	65	704, 706, 707, 709	5a, 7, 8–13, 14, 15–18, 20, 21, 27a, 44, 110–112, 114, 116, 117, 119, 266, 269, 273, 287, 294, 302, 303a, 304, 311b, 312, 484–1, 485a
Nov. 1	664	1307	65	756	33a
1952					
July 5	576	(3d proviso in 1st complete par. on p. 385, proviso on p. 400)	66	385, 400	60a, 313–2
July 9	598	(last par. under heading ''Office of the Architect of the Capitol'').	66	472	166a
July 10	630	633	66	537	483a
July 12	703	1(a)–(l)	66	593	472, 483, 484, 487, 490, 756, 41:259
July 15	758	1407	66	660	33a
July 19	949	1 ''Sec. 1–4(a), (d), (e), 5, 7–10'', 2	66	781, 787, 789	71, 71 note, 71a–71d, 71f–72, 73, 74
1953					
July 31	299	(4th proviso in 1st complete par. on p. 290, last proviso on p. 304).	67	290, 304	60a, 313–2
Aug. 1	304	(last par. under heading ''Office of the Architect of the Capitol'').	67	327	166a
	305	630	67	355	483a
Aug. 7	340	1307, 1316	67	436, 439	33a, 483b
Aug. 8	399		67	521	484
1954					
June 24	359	(last proviso on p. 282)	68	282	313–2
June 30	432	723	68	355	483a
July 1	449	(last proviso on p. 386)	68	386	60a
July 2	455	(last par. under heading ''Office of the Architect of the Capitol'').	68	405	166a
July 14	481		68	474	484
Aug. 2	649	702(a), (b), (d)–(g), 703	68	641	460, 462
Aug. 26	935	1307	68	829	33a
Aug. 30	1076	(20)	68	967	122
Aug. 31	1178		68	1051	485
Sept. 1	1211	1–4	68	1126	471, 472, 490, 491, 491 note
1955					
May 25	76		69	66	106
June 3	129		69	83	270e

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
	130		69	83	484, 484 notes
June 29	226	207	69	196	33a
June 30	244	(last proviso on p. 205)	69	205	313–2
July 5	272	(3d par. under heading ''Department of Vehicles and Traffic'').	69	254	60a
July 13	358	622	69	319	483a
Aug. 1	442		69	430	484
Aug. 5	568	(2d par. under heading ''Office of the Architect of the Capitol'').	69	515	166a
Aug. 11	783	112	69	641	462
Aug. 12	874	1, 2	69	721	472
1956					
June 13	385	207	70	281	33a
June 27	452	(2d par. on p. 344, 3d par. on p. 345)	70	344, 345	313–2, 756 note
	453	(2d par. under heading ''Office of the Architect of the Capitol'').	70	365	166a
June 29	479	(3d par. under heading ''Department of Vehicles and Traffic'').	70	447	60a
July 2	488	618	70	471	483a
July 3	513	1–3, 5	70	493, 495	484, 484 note
July 27	748	(par. under heading ''General Supply Fund'')	70	686	756 note
Aug. 3	942		70	1020	484
1957					
June 5	85–48	207	71	54	33a
June 29	85–69	(3d complete par. on p. 231, 5th complete par. on p. 232)	71	231, 232	313–2, 756 note
July 1	85–75	(2d par. under heading ''Office of the Architect of the Capitol'').	71	251	166a
Aug. 2	85–117	618	71	326	483a
1958					
Feb. 28	85–337	5	72	29	472
June 25	85–468	207	72	225	33a
July 2	85–486		72	288	484
	85–493		72	294	304c, 490
July 18	85–542		72	399	298d
July 31	85–570	(last par. under heading ''Salaries'')	72	448	166a
Aug. 19	85–680		72	631	488
Aug. 22	85–724	617	72	727	483a
Aug. 23	85–726	1406	72	808	474
Aug. 27	85–781		72	936	481
Aug. 28	85–800	12	72	967	276c
Aug. 28	85–844	(par. under heading ''General Supply Fund'', last par. on p. 1069).	72	1068, 1069	313–2, 756 note
Sept. 2	85–886	1, 3	72	1709	490
1959					
May 20	86–30	(par. under heading ''General Supply Fund'')	73	43	756 note
June 25	86–70	30(a)	73	148	472
July 8	86–79	207	73	166	33a
Aug. 4	86–135		73	279	270b, 270b note, 270c
Aug. 18	86–166	616	73	381	483a
Aug. 21	86–176	(2d par. under heading ''Salaries'')	73	407	166a
Sept. 1	86–215		73	446	485
Sept. 9	86–249	1–17(5), (7)–(23), 19–21	73	479, 484	23, 24, 32, 33, 59, 260, 262–265, 267, 268, 274–276, 277, 278, 282, 297–298, 298c, 341–342a, 344, 345, 346–350a, 352–354, 490, 601, 601 note, 602, 603–612, 613–615, 617–619
Sept. 14	86–255	(4th par. under heading ''General Provisions'')	73	507	313–2
Sept. 23	86–372	801	73	686	462
1960					
May 13	86–461		74	128	106
June 27	86–527		74	223	131, 131 note, 132–135
July 5	86–591		74	330	756
July 7	86–601	516	74	352	483a
	86–608		74	363	345c
July 12	86–624	26, 27(a)–(c)	74	418	276a, 472, 491, 514
	86–626	101 (3d and 6th complete pars. on p. 434)	74	434	313–2, 484a
	86–628	(last par. under heading ''Salaries'')	74	455	166a
	86–642	207	74	478	33a
Sept. 13	86–764		74	904	126
1961					
Mar. 31	87–14	(par. under heading ''General Supply Fund'')	75	25	756 note
June 30	87–70	502	75	175	462
July 6	87–82	2	75	199	174j–2
July 20	87–94		75	213	484
Aug. 3	87–125	507	75	283	33a
Aug. 10	87–130	(last par. under heading ''Salaries'')	75	329	166a
Aug. 17	87–141	(par. under heading ''General Supply Fund'', 2d par. on p. 353).	75	351, 353	313–2, 756 note
	87–144	616	75	378	483a
Sept. 22	87–275		75	574	318d
Oct. 4	87–372		75	802	756
1962					
May 24	87–456	303(b)	76	78	474
June 8	87–476		76	92	607
July 25	87–545	(par. under heading ''General Supply Fund'')	76	212	756 note

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
Aug. 6	87–571		76	307	193f, 193h
Aug. 9	87–577	516	76	331	483a
Aug. 13	87–581	1, 2, 101–108, 203, 204	76	357, 360	321, 321 note, 322, 324–327, 327 notes, 328–334
Aug. 24	87–600		76	401	756
Aug. 31	87–619		76	414	486
Sept. 14	87–658	6	76	544	462
Sept. 25	87–683		76	575	71a
Oct. 2	87–730	(last par. under heading ''Salaries'')	76	688	166a
Oct. 3	87–741	(par. under heading ''General Supply Fund'', last par. on p. 727).	76	725, 727	313–2, 756 note
Oct. 10	87–786		76	805	484
Oct. 23	87–847		76	1117	757
	87–852		76	1129	319c
1963					
May 17	88–25	(par. under heading ''General Supply Fund'')	77	26	756 note
Oct. 17	88–149	516	77	267	483a
Dec. 19	88–215	(par. under heading ''General Supply Fund'', 4th par. on p. 436).	77	434, 436	313–2, 756 note
Dec. 30	88–248	(last par. under heading ''Salaries'')	77	812	166a
1964					
July 2	88–349	1	78	238	276a
Aug. 1	88–391		78	365	193r, 193t, 193v, 193x
Aug. 14	88–426	203(d) (related to Assistant Architect of the Capitol), (e)	78	415	166b, 166b–1
Aug. 19	88–446	516	78	477	483a
Aug. 20	88–454	(last par. under heading ''Salaries'')	78	544	166a
Aug. 30	88–507	(2d complete par. on p. 655)	78	655	313–2
	88–515		78	696	701, 701 note, 702, 703
Sept. 2	88–560	602	78	799	462
1965					
Mar. 9	89–4	1, 2, 101–108, 201, 202, 207, 214, 221–226, 301–304, 401–405	79	5, 17	40 App.:1, 2, 101–108, 201, 202, 207, 214, 221–226, 301–304, 401–405
June 2	89–30	1–4	79	118	301, 306, 308–310
July 27	89–90	(1st par. on p. 276)	79	276	166a
Aug. 10	89–117	1104	79	503	462
Aug. 16	89–128	(2d complete par. on p. 531)	79	531	313–2
Sept. 8	89–173	1, 5(a), 6	79	663, 665, 666	684, 685
Sept. 29	89–213	616	79	876	483a
Oct. 20	89–276		79	1010	490
Nov. 8	89–343	6	79	1303	474
	89–344		79	1304	490
	89–348	2(4)	79	1312	484
1966					
Aug. 27	89–545	(last par. under heading ''Salaries'')	80	364	166a
Sept. 6	89–555	(4th par. on p. 674)	80	674	313–2
Oct. 15	89–670	8(b)	80	942	40 App.:201
	89–687	616	80	994	483a
Oct. 29	89–698	401	80	1072	214a
Nov. 2	89–719	105(b)	80	1139	270a
Nov. 7	89–790		80	1424	71 note
1967					
May 25	90–19	7, 10(a) (related to § 702), (d)	81	22	460, 462, 474
May 29	90–21	(par. under heading ''General Supply Fund'')	81	33	756 note
July 28	90–57	(last par. under heading ''Salaries'')	81	136	166a
Sept. 29	90–96	616	81	245	483a
Oct. 11	90–103	101–104, 106, 107, 112, 116–123	81	257, 258, 261, 263	40 App.:1 note, 102, 105, 106, 201, 202, 207, 214, 221, 223 , 224, 302, 303, 401, 403
Oct. 20	90–108		81	275	101, 193a, 193a note, 193f, 193h, 193m
Nov. 3	90–121	(2d complete par. on p. 349)	81	349	313–2
Nov. 14	90–135		81	441	771, 771 note, 781–786, 791, 792
Dec. 16	90–206	219(3), (4)	81	639	166b, 166b–1
1968					
Mar. 12	90–264	1, 101–107, 109–116(a)(1), (b), 117–120, 201–203	82	43, 45	801, 801 note, 802–804, 804 note, 805–808, 811–819a, 821–823
June 19	90–351	525	.....	.....	484
July 5	90–376	3	82	286	193v
July 23	90–417	(2d par. under heading ''Salaries'')	82	407	166a
July 23	90–417	(last par. under heading ''Salaries'')	82	407	167a note
Aug. 1	90–448	201(f), 607, 807(f)	82	502, 534, 544	462, 612, 40 App.:207
Oct. 4	90–550	(2d complete par. on p. 944)	82	944	313–2
Oct. 16	90–577	501	82	1104	531, 531 note, 532–535
Oct. 17	90–580	516	82	1132	483a
Oct. 22	90–626		82	1319	490
1969					
June 30	91–34	2(c)	83	41	193m
Aug. 9	91–54		83	96	327 notes, 333
Nov. 25	91–123	101–104, 106–111	83	214, 215	40 App.:1 note, 105, 201, 202, 207, 214, 302, 401, 403, 405

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
Nov. 26	91–126	(4th par. under heading ''General Provisions'')	83	228	313–2
Dec. 9	91–143	8	83	322	651, 652, 661, 663–665, 671, 682–684
Dec. 12	91–145	(last par. under heading ''Salaries'')	83	350	166a
Dec. 29	91–171	617	83	483	483a
1970					
May 21	91–258	52(b)(5)	84	235	40 App.:214
June 30	91–297	201(c)	84	357	210a note
July 29	91–358	173(a)(1)	84	591	129a note
Aug. 12	91–375	6(m)	84	782	356, 474, 615, 723, 724
Aug. 18	91–382	(words before proviso (related to salary of Executive Assistant Architect of the Capitol) in 1st par. under heading ''Salaries''), 1st complete par. on p. 818).	84	817, 818	166a, 166b–1
Sept. 1	91–393	1, 2, 4	84	835	255, 256, 258e
Sept. 26	91–426		84	883	481, 512
Oct. 17	91–466	2	84	990	521–524
Oct. 21	91–469	39	84	1036	270f
Oct. 22	91–485	2–4	84	1084	484
Oct. 26	91–510	451(a)	84	1193	193n–1
Oct. 27	91–513	1102(o)	84	1293	304m
Dec. 17	91–556	(4th par. under heading ''General Provisions'')	84	1448	313–2
1971					
Jan. 11	91–668	817	84	2033	483a
July 9	92–49	611	85	124	313–2
	92–51	(last par. under heading ''Salaries'')	85	137	166a
Aug. 5	92–65	201–204, 206, 208, 210–214	85	168, 169, 171	40 App.:1 note, 105, 106, 201, 201 note, 202, 207, 214, 223 note, 302, 401, 405
Dec. 18	92–204	717	85	730	483a
1972					
June 16	92–313	1–4, 7, 11	86	216, 221, 222	490, 601 note, 603, 603 notes, 606, 611
June 22	92–317	3(f)	86	235	14a
July 10	92–342	(last par. under heading ''Salaries'')	86	442	166a
Aug. 4	92–362	1	86	503	484
Oct. 21	92–520	1, 41	86	1019, 1026	601 note, 616 note
Oct. 26	92–570	717	86	1199	483a
Oct. 27	92–578	1–14, 16, 17	86	1266, 1274	871, 871 note, 872–885
	92–582		86	1278	541–544
1973					
July 6	93–62		87	146	802, 804
July 10	93–72		87	169	607
Aug. 6	93–83	2	87	216	484
Nov. 1	93–145	(last par. under heading ''Salaries'')	87	540	166a
Dec. 24	93–198	203, 739(a)–(c), (e)–(g)(2), (7), (8), (h)–(j)	87	779, 825, 826, 829	13n, 71a, 71c–71g, 136, 193a
Dec. 29	93–226		87	943	193a note
1974					
Jan. 2	93–238	717	87	1041	483a
Aug. 13	93–371	(last par. under heading ''Salaries'')	88	437	166a
Aug. 22	93–383	401(c)	88	691	460
Aug. 30	93–400	15	88	800	474, 487, 581
Oct. 1	93–427		88	1170	873, 876, 885
Oct. 8	93–437	817	88	1228	483a
Oct. 26	93–478		88	1449	802
Dec. 21	93–529	(par. under heading ''Appalachian Regional Development Programs'').	88	1711	40 App.:208 note
1975					
Jan. 2	93–594		88	1926	472
	93–599		88	1954	483
	93–604	701	88	1963	756
July 25	94–59	(3d par. under heading ''Salaries'')	89	287	166a
Aug. 9	94–82	204(b) ''Sec. 203(d) (related to Assistant Architect of the Capitol)''.	89	421	166b
	94–91	401	89	452	490a
Dec. 31	94–188	101–111, 113, 115–122, 124	89	1079, 1082, 1083, 1086	40 App.:1 note, 2, 2 note, 101, 102, 105–107, 201, 201 note, 202, 207, 214, 223–225, 302, 303, 401, 405
1976					
Feb. 9	94–212	717	90	171	483a
Apr. 21	94–273	2(19), 21	90	375, 379	74, 756
Aug. 3	94–375	16(b)	90	1076	461 note
Aug. 14	94–388		90	1188	885
Sept. 22	94–419	717	90	1294	483a
Oct. 1	94–440	(last par. under heading ''Salaries'')	90	1452	166a
Oct. 17	94–519	1–5, 7–9	90	2451, 2456	476, 483, 483c, 484, 484 note, 484c, 512
Oct. 18	94–541	101–105	90	2505	490, 601 note, 606, 611, 612a
1977					
Aug. 5	95–94	(2d par. under heading ''Salaries'')	91	672	166a
Sept. 21	95–111	817	91	902	483a
Nov. 18	95–193		91	1412	40 App.:202, 202 note
1978					
Sept. 30	95–391	(last par. under heading ''Salaries'')	92	781	166a

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
Oct. 10	95–431	(proviso in par. under heading ''Care of the Building and Grounds'').	92	1036	13a, 13b
Oct. 13	95–457	818	92	1247	483a
Oct. 20	95–491		92	1641	760, 760 note
Oct. 24	95–506		92	1756	491
Nov. 2	95–585		92	2484	270a
Nov. 6	95–598	325	92	2679	316
	95–599	138(a), (b)	92	2710	40 App.:201
Nov. 10	95–629	101	92	3635	872–875, 877, 885
1979					
July 25	96–38	(par. under heading ''General Supply Fund'')	93	124	756 note
July 30	96–41	3(d)	93	325	485
Aug. 15	96–60	203(c)	93	399	474
Oct. 10	96–83	10	93	652	474, 481, 487
Oct. 17	96–88	509(b)	93	695	40 App.:202
Dec. 14	96–146	1(2)	93	1086	166b
Dec. 20	96–152	1(b)	93	1099	
Dec. 21	96–154	718	93	1155	483a
1980					
Oct. 8	96–399	402	94	1667	461 note
Oct. 10	96–432	2, 4, 6(c)	94	1852, 1853	193a, 193a note, 193d note
Oct. 19	96–470	101(a), 202(a), 211	94	2237, 2242, 2246	50, 514, 610
Dec. 8	96–506	3	94	2746	40 App.:105, 106, 201, 214, 401, 405
Dec. 12	96–514	108	94	2972	131 note
	96–515	505	94	3005	874 note
Dec. 15	96–527	718	94	3084	483a
Dec. 16	96–536	101(c) [H.R. 7593 (related to expenses of travel by the Office of the Architect of the Capitol)].	94	3167	166a
Dec. 18	96–545	2	94	3215	40 App.:202
Dec. 22	96–571	1–5	94	3341	795, 795 note, 795a–795c
Dec. 28	96–610		94	3564	801 note, 802 note, 809
1981					
June 5	97–12	(par. under heading ''General Supply Fund'')	95	75	756 note, 756a
Aug. 6	97–31	12(12)–(15)	95	154	270f, 474, 483a, 484
Aug. 13	97–35	313(b), 1404, 1822(a)	95	398, 749, 767	461, 40 App.:105, 201, 401
Oct. 1	97–51	101(c) [H.R. 4120 (related to expenses of travel by the Office of the Architect of the Capitol)].	95	959	166a
Dec. 4	97–88	(par under heading ''Appalachian Regional Development Programs'').	95	1146	40 App.:401 note
Dec. 22	97–98	1443	95	1321	483
Dec. 29	97–114	717	95	1581	483a
	97–125	1–3(2), (3) ''Secs. 111–116(a)(1), (b), 117–119'', 4	95	1667, 1671	801 note, 802, 811, 811 note, 812–819
1982					
Apr. 2	97–164	160(a)(13)	96	48	330
Oct. 2	97–276	101(e) [S. 2939 (related to expenses of travel by the Office of the Architect of the Capitol)].	96	1189	166a
Dec. 21	97–377	101(c) [title VII, §717], (f) (related to programs authorized by the Appalachian Regional Development Act of 1965), 120.	96	1853, 1906, 1913	483a, 490c note, 40 App.:401 note
Dec. 29	97–390	1	96	1957	13f, 13l, 13n, 13p
1983					
July 14	98–50	(par under heading ''Appalachian Regional Development Programs'').	97	259	40 App.:401 note
	98–51	(par. under heading ''Travel'')	97	273	166a
July 30	98–63	101 (1st–9th sentences in par. under heading ''Consumer Information Center Fund'').	97	321	761
Oct. 31	98–141	8	97	910	872, 874, 875, 880, 885
Nov. 14	98–151	112	97	976	490c note
Nov. 30	98–181	126(a)(1)	97	1175	484b
Dec. 1	98–191	8(d), 9(a)(2,), (3)	97	1331	474, 481, 487
Dec. 8	98–212	716	97	1441	483a
1984					
Apr. 18	98–269		98	156	270c
July 16	98–360	(par under heading ''Appalachian Regional Development Programs'').	98	418	40 App.:401 note
July 17	98–367	(par. under heading ''Travel'')	98	482	166a
July 18	98–369	2713(b)	98	1184	759 note
Oct. 12	98–473	101(h) [title VIII, §8013], (j) [H.R. 5798, title IV, §6, title V, §507], 701, 702.	98	1925, 1963, 2129	483a, 484, 490c note, 490d note
Oct. 19	98–524	4(e)(2)	98	2489	40 App.:214
1985					
Nov. 1	99–141	(par under heading ''Appalachian Regional Development Programs'').	99	577	40 App.:401 note
Nov. 8	99–145	1241(a)	99	734	328
Nov. 13	99–151	(par. under heading ''Travel'')	99	800	166a
Dec. 19	99–190	101(h) [H.R. 3036, title IV, §6, title V, §507], 139	99	1291, 1323	490b, 490c note, 490d note
Dec. 26	99–218		99	1729	13n
1986					
Apr. 7	99–272	15301–15313	100	335	901–913
Aug. 22	99–386	201, 207	100	822, 823	484
Oct. 16	99–492	1	100	1240	13n

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
Oct. 18	99–500	101(e) [title IV, par. under heading ''Appalachian Regional Commission''], (j) [H.R. 5203 (related to use of appropriations for travel expenses)], (m) [title IV, § 6, title V, § 507, title VI, § 616, title VIII, §§ 821(a)(1), 832], 151.	100	1783–210, 1783–287, 1783–321, 1783–324, 1783–331, 1783–340, 1783–345, 1783–352.	166a, 490b, 490c note, 490d note, 751, 756b, 757, 40 App.:401 note
Oct. 30	99–591	101(e) [title IV, par. under heading ''Appalachian Regional Commission''], (j) [H.R. 5203 (related to use of appropriations for travel expenses)], (m) [title IV, § 6, title V, § 507, title VI, § 616, title VIII, §§ 821(a)(1), 832], 151.	100	3341–210, 3341–287, 3341–321, 3341–324, 3341–331, 3341–340, 3341–345, 3341–355.	166a, 490b, 490c note, 490d note, 751, 756b, 757, 40 App.:401 note
Nov. 7	99–627	3	100	3509	512, 512 notes
Nov. 10	99–640	13(a)–(c)	100	3551	484d
Nov. 14	99–652		100	3650	1001, 1001 note, 1002–1010
	99–656	1	100	3668	258a, 258e–1
Nov. 17	99–662	945	100	4200	483d
1987					
July 22	100–77	502(a)	101	510	484
Aug. 21	100–113	1–6, 10	101	735, 747	1101, 1101 note, 1102–1105, 1109
Dec. 22	100–202	101(b) [title VIII, § 8093], (d) [title IV, par. under heading ''Appalachian Regional Commission''], (f) [title II, § 3], (i) [title I, § 4 and par. under heading ''Travel''], (m) [title IV, § 5, title V, § 507, title VI, §§ 616, 619].	101	1329–79, 1329–127, 1329–196, 1329–294, 1329–301, 1329–410, 1329–415, 1329–423, 1329–427.	166a, 490 note, 490b, 490c note, 490d note, 756 notes, 756b, 1003, 40 App.:401 note
1988					
Jan. 5	100–230	3	101	1564	1003
Jan. 8	100–235	1, 2, 5–8	101	1724, 1729	1441 note
Feb. 5	100–242	524	101	1939	462
July 19	100–370	1(k)(3)	102	849	483a
	100–371	(par. under heading ''Appalachian Regional Commission'')	102	871	40 App.:401 note
Aug. 22	100–415		102	1104	885
Aug. 23	100–418	5115(c)	102	1433	490
Sept. 22	100–440	5, 11, 507	102	1741, 1742, 1747	490a–1 note, 490c note, 490d note
Oct. 1	100–458	(par. under heading ''Travel'')	102	2169	166a
Oct. 7	100–480		102	2328	816, 1201, 1201 note, 1202–1208
Oct. 28	100–542		102	2721	762, 762 note, 762a–762d
Nov. 5	100–612		102	3180	471 note, 481, 484, 485, 488, 493
Nov. 15	100–656	742	102	3897	541
Nov. 17	100–678	1–8	102	4049	278a, 318–318b, 601 note, 603, 606, 617–619, 619 note
	100–679	8	102	4068	541
Nov. 18	100–690	2081(b)	102	4216	484
1989					
Aug. 9	101–73	744(f), (g)	103	438	474, 612
Sept. 29	101–101	(par. under heading ''Appalachian Regional Commission'')	103	663	40 App.:401 note
Nov. 3	101–136	5, 7, 9, 22, 25, 506	103	802, 803, 807, 808, 812	490a–1, 490c note, 490d, 490e, 491 note, 757
Nov. 21	101–162	(proviso in par. under heading ''Care of the Building and Grounds'').	103	1010	13a note
	101–163	(par. under heading ''Travel''), 106(a), (b)	103	1055, 1056	166a, 166b–1
1990					
Oct. 15	101–427		104	927	40 App.:221
Oct. 17	101–434		104	985	40 App.:403
Oct. 25	101–462		104	1079	13n
Nov. 5	101–509	8, 15, 507	104	1414, 1415, 1423	490c note, 490f, 490g note
	101–510	2805	104	1786	485
	101–514	(par. under heading ''Appalachian Regional Commission'')	104	2095	40 App.:401 note
	101–520	(par. under heading ''Travel'')	104	2266	166a
1991					
June 13	102–54	13(o)	105	278	612
Aug. 14	102–90	(par. under heading ''Travel''), 312(f)	105	458, 469	166a, 184b–184f
Aug. 17	102–104	(par. under heading ''Appalachian Regional Commission'')	105	533	40 App.:401 note
Oct. 28	102–141	7, 11, 505	105	856, 862	490c note, 490f, 490g note
Dec. 11	102–216		105	1666	1010, 1010 note
	102–219	1	105	1673	885
Dec. 18	102–240	1087	105	2022	40 App.:403
1992					
Aug. 7	102–336		106	864	193v
Oct. 2	102–377	(par. under heading ''Appalachian Regional Commission'')	106	1339	40 App.:401 note
Oct. 6	102–392	(par. under heading ''Travel''), 311, 318, 324	106	1714, 1723, 1724, 1726	166a, 193a note, 1204, 1205, 1207
	102–393	5, 13, 505, 528	106	1750, 1751, 1757, 1760	490b, 490c note, 490f, 490g
Oct. 23	102–439	1	106	2223	885
Oct. 24	102–486	153	106	2851	490
1993					
Feb. 8	103–4	1	107	30	1201 note
Aug. 11	103–69	(par. under heading ''Travel'')	107	702	166a
Sept. 21	103–82	202(f)	107	888	484
Oct. 28	103–123	5, 7, 505	107	1246, 1247, 1252	485, 490c note, 755a
	103–126	(par. under heading ''Appalachian Regional Commission'')	107	1331	40 App.:401 note
Nov. 30	103–160	2927	107	1932	484

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
Dec. 14	103–193		107	2293	13n
1994					
July 21	103–279	9	108	1416	193r, 193u, 193v
July 22	103–283	(par. under heading ''Travel'')	108	1434	166a
Aug. 26	103–316	(par. under heading ''Appalachian Regional Commission'')	108	1720	40 App.:401 note
	103–321	2	108	1793	1001 note, 1002, 1003, 1006–1010
Sept. 30	103–329	(par. under heading ''Payment of Government Losses in Shipment''), 505, 611.	108	2387, 2409, 2418	486a, 490c note, 722a
Oct. 13	103–355	1555, 4104(b), (c), 7301–7306, 8301(b), 10005(a)(2), (b)(2), (f)(1), (2).	108	3300, 3341, 3382, 3396, 3406, 3408.	270a, 270a notes, 270d–1, 276d, 276d notes, 276d–1—276d–3, 329, 333, 334, 471 notes, 481, 541 note
Nov. 2	103–437	14(b), (d), (e)	108	4590, 4591	606, 610, 874, 40 App.:403
1995					
Nov. 13	104–46	(par. under heading ''Appalachian Regional Commission'')	109	416	40 App.:401 note
Nov. 15	104–50	401–405	109	463	1301, 1301 note, 1302–1304
Nov. 19	104–52	5, 503, 611	109	486, 491, 499	486a, 490c, 490h
	104–53	(par. under heading ''Travel'')	109	527	166a
Dec. 21	104–66	2091(a)	109	730	484
Dec. 22	104–68	1	109	766	1101 note
1996					
Feb. 10	104–106	1502(f)(7), 2818(b), 4321(i)(8), 5001, 5002, 5101, 5111–5113, 5121–5124, 5125(b)–(d), 5126–5128, 5131(a)–(d), 5132, 5141, 5142, 5201, 5301–5305, 5311, 5312, 5401–5403, 5607(b), 5608(a), 5701.	110	510, 555, 676, 679, 685, 686, 689, 691, 701, 702.	270a note, 485, 759, 1401, 1401 notes, 1411–1413, 1421–1428, 1441, 1441 note, 1442, 1451, 1452, 1461, 1471–1475, 1491, 1492, 1501–1503
Apr. 24	104–132	803	110	1305	137
Apr. 26	104–134	101(c) [title I, proviso in 1st par. under heading ''John F. Kennedy Center for the Performing Arts'', title III, § 313].	110	1321–193, 1321–198	193n, 872, 872 note
Aug. 6	104–182	306	110	1685	45 note
Aug. 20	104–186	221(15), (18)	110	1750	756b, 1003
Sept. 16	104–197	(par. under heading ''Travel'')	110	2404	166a
Sept. 23	104–201	823, 1067	110	2609, 2654	318c, 490
Sept. 26	104–204	(2d proviso under heading ''Consumer Information Center Fund'').	110	2916	761a
Sept. 30	104–206	(par. under heading ''Appalachian Regional Commission'')	110	3000	40 App.:401 note
Sept. 30	104–208	101(f) [title VI, § 640]	110	3009–365	1411 note
	104–208	101(e) [title VII, § 709(a)(4), (5)], (f) [title IV, 3d-6th provisos on p. 3009–335, § 407, title VI, § 611, title VIII, § 808(b)].	110	3009–312, 3009–335, 3009–337, 3009–355, 3009–394.	276d–3, 486a, 490, 612, 872 note, 1401 note, 40 App.:214
Oct. 9	104–280	1	110	3359	13n
Oct. 19	104–316	120	110	3836	485a, 490
Nov. 12	104–333	814(d)(1)(G)	110	4196	805
1997					
July 18	105–27	1	111	244	484
Oct. 6	105–50		111	1167	484
Oct. 10	105–61	(proviso related to buildings considered to be federally owned), 413.	111	1297, 1300	481, 490i note
Oct. 13	105–62	(par. under heading ''Appalachian Regional Commission'')	111	1336	40 App.:401 note
Oct. 27	105–65	(last proviso in par. under heading ''Consumer Information Center Fund'').	111	1377	761a
Nov. 14	105–83	(last proviso in par. under heading ''National Capital Planning Commission'').	111	1589	71a note
Nov. 18	105–85	850(f)(2), 852, 1073(h)(4)	111	1849, 1851, 1907	1441 note, 1492, 1501
Nov. 19	105–95	4 (related to section 9(3) of the Act of October 24, 1951)	111	2149	193v
	105–100	157(f)	111	2187	138
Nov. 26	105–119	118	111	2468	484
1998					
June 9	105–178	1117(c), 1211(b), 1212(a)(2)(B)(iii), 1222	112	160, 188, 193, 223	819a, 40 App.:201, 403, 405, 405 note
Aug. 7	105–220	199(a)(4)	112	1059	40 App.:211
Oct. 7	105–245	(par. under heading ''Appalachian Regional Commission'')	112	1854	40 App.:401 note
Oct. 21	105–277	101(h) [title IV, 6th and 9th provisos on p. 2681–502, title VI, §§ 603, 630], 1335(h).	112	2681–502, 2681–513, 2681–522, 2681–788.	490 note, 490b note, 490i, 1106
Oct. 31	105–332	3(g)	112	3126	40 App.:214
Nov. 10	105–362	401(g)	112	3282	795d
Nov. 13	105–393	201–220(c)(1), 221, 222	112	3618, 3625	40 App.:1 note, 2, 101, 105, 106, 202–208, 211–214, 224, 226, 302, 401, 405
1999					
Aug. 17	106–49		113	231	270a, 270a notes, 270b
Sept. 29	106–60	(par. under heading ''Appalachian Regional Commission'')	113	498	40 App.:401 note
Oct. 5	106–65	1067(18)	113	775	485
Oct. 22	106–78	752(b)(14)	113	1170	474
Nov. 29	106–113	1000(a)(5) [§ 233(a)]	113	1501A–301	484
Dec. 12	106–168	301	113	1821	484
2000					
Oct. 27	106–377	1(a)(2) (par. under heading ''Appalachian Regional Commission'').	114	1441A–82	40 App.:401 note

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
Oct. 30	106–398	1 [§§ 809, 2814]	114	1654A–208, 1654A–419	484, 1492
Nov. 13	106–518	313	114	2421	13n
Dec. 21	106–554	1(a)(3) [§ 643], (7) [§ 307(a)]	114	2763A–169, 2763A–635	258e–1, 490b
2001					
Nov. 12	107–67	630	115	552	490b–1
Dec. 28	107–107	2812	115	1307	485
2002					
Mar. 12	107–149	116	66	40 App.:1 note, 2, 2 note, 101, 102, 104, 106, 202–205, 207, 214, 224, 225, 302, 303, 401, 403, 405.	

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2068, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 2068, a bill to revise, codify, and enact without substantive change certain general and permanent laws relating to public buildings, property, and works, as title 40, ''Public Buildings, Property, and Works'' of the United States Code. The gentleman from Michigan (Mr. CONYERS), the ranking minority member of the Committee on the Judiciary, is a cosponsor of this legislation.

This bill was prepared by the Office of the Law Revision Counsel as part of the program required by title 2, United States Code, 285b, to prepare and submit to the Committee on the Judiciary, one title at a time, a complete compilation, restatement, and revision of the general and permanent laws of the United States. The Committee on the Judiciary has jurisdiction over the revision and codification of the statutes of the United States. This bill is a result of the exercise of that jurisdiction. It makes no substantive change in existing law. Rather, it removes ambiguities, contradictions and other imperfections from existing law and repeals obsolete, superfluous and superseded provisions.

Simply stated, enacting title 40 as positive law will make the title easier and more reliable to use.

I introduced the bill on June 6, 2001. Upon introduction, the bill was circulated for comment to interested parties including committees of Congress and agencies and Departments of the executive branch. Originally, all comments were to be submitted no later than September 10, 2001. However, at the request of the Office of Management and Budget, the due date for comments was extended to March 15, 2002, to provide ample time for study and review. The General Services Administration provided extensive comments on the bill, and several other agencies and Departments of the government also provided comments.

The Office of Law Revision Counsel reviewed and considered all comments, contacting parties to resolve outstanding questions. Some comments, suggesting substantive changes, could not be incorporated in the restatement because this bill makes no substantive change in existing law. Other comments proposing changes to improve organization and clarity were incorporated in the restatement. The Committee on the Judiciary adopted an amendment in the nature of a substitute prepared by the Office of Law Revision Counsel, which reflects the changes resulting from the review and comment process.

The Law Revision Counsel indicates that he is satisfied that this legislation makes no substantive change in existing law. Therefore, no additional cost to the government would be incurred as a result of its enactment.

I urge all members to support this legislation.

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

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

Mr. Speaker, I rise in support of this uncontroversial bill. The bill was prepared, as the distinguished chairman mentioned, by the Office of the Law Revision Counsel as part of the program required by statute to prepare and submit to the Committee on the Judiciary a complete compilation restatement and revision of the general and permanent laws of the United States, one title at a time. The bill makes no substantive changes in the law. Rather, the bill removes ambiguities, contradictions, and other imperfections from the existing law and repeals obsolete, superfluous, and superceded provisions.

The Law Revision Counsel indicates that he is satisfied that there are no substantive changes in the existing law contained in this bill. Therefore, no additional cost to the government would be incurred as a result of the enactment of H.R. 2068. In addition, I would note that the chairman and ranking member of the Committee on the Judiciary have co-sponsored this bill. I therefore encourage members to support this legislation.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2068, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MYCHAL JUDGE POLICE AND FIRE CHAPLAINS PUBLIC SAFETY OFFICERS' BENEFIT ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3297) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits, as amended.

The Clerk read as follows:

H.R. 3297

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002''.

SEC. 2. BENEFITS FOR CHAPLAINS.

(a) IN GENERAL.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) by redesignating paragraphs (2) through (7) as (3) through (8), respectively;

(2) by inserting after paragraph (1) the following:

''(2) 'chaplain' means any individual serving as an officially recognized or designated member

of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency;''; and

(3) in subparagraph (A) of paragraph (8), as redesignated by paragraph (1), by inserting after ''firefighter,'' the following: ''as a chaplain,''.

(b) ELIGIBLE BENEFICIARIES.—Section 1201(a) of such Act (42 U.S.C. 3796(a)) is amended—

(1) in paragraph (3), by striking ''or'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

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

''(4) if there is no surviving spouse or surviving child, to the individual designated by such officer as beneficiary under such officer's most recently executed life insurance policy, provided that such individual survived such officer; or''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 11, 2001, and shall apply to injuries or deaths that occur in the line of duty on or after such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3297, the bill under consideration.

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

There was no objection.

□ 1545

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

Mr. Speaker, the events of September 11 have brought to life the heroism displayed by our public safety officers and those who assist them in the line of duty. This tragedy has also created many unique and unfortunate situations that have not been fully contemplated prior to September 11. In these cases, we have a responsibility as a Congress to act so that our laws treat fairly those who die in the line of duty.

Father Mychal F. Judge, a priest who years earlier had consoled the families of TWA Flight 800 after it exploded off of Long Island and who had gone on a recent peace mission to Northern Ireland, had been a chaplain with the New York City Fire Department since 1992. He was ministering to the victims at the World Trade Center when a rain of debris showered upon him, resulting in his death.

This legislation is given a short name in recognition of Father Judge and his efforts while addressing two concerns which his situation has brought to light. Under current law, the Bureau of Justice Assistance is directed to make payment of monetary benefits to the survivors of public safety officers who are killed in the line of duty. This bill addresses any ambiguity in existing law by specifically naming chaplains who are in service as being eligible for the same benefits as other public service officers.

Under current law, benefits may only be paid to the spouse, child or parent of the deceased. H.R. 3297 allows benefits to be paid to whomever the chaplain has designated as the beneficiary of his or her life insurance policy in the event that the deceased has no living spouse, child or parent. In the case of Father Judge, the benefit would go to his two surviving sisters.

I urge all Members to support this legislation.

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

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

Mr. Speaker, I rise in support of H.R. 3297, the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002. I worked closely with the gentleman from Illinois (Mr. MANZULLO) on this bill to extend the Public Safety Officers Program, PSOP, to chaplains; and I want to thank him, as well as the gentleman from Wisconsin (Chairman SENSENBRENNER), the ranking member, the gentleman from Michigan (Mr. CONYERS), and the House leadership for bringing this bill to the floor.

Father Mychal Judge was the pastor of the Church of St. Francis of Assisi on West 31st Street in Manhattan and the official chaplain of the New York City Fire Department. On September 11 of last year when the first plane hit Tower 1 of the World Trade Center, Father Mike, as he was known, joined his fellow firefighters by rushing to the scene. New York City Mayor Rudy Giuliani later said he saw the chaplain at the World Trade Center and asked him to pray for us. Father Judge was selflessly doing his duty when he was killed by falling pieces of the Trade Center Tower. Today is the 9-month anniversary of the attack, and I think it quite fitting that today we honor Father Michael Judge and the many other public safety officers who made the ultimate sacrifice that fateful day in September. Clearly, Father Judge provided heroic service to our Nation and ought to be eligible for the PSOP program.

As you know, the PSOP program provides financial assistance, counseling and the recognition of a grateful Nation to the spouses, children or parents of public safety officers killed or permanently injured or those permanently or totally disabled as a result of traumatic injuries sustained in the line of duty.

Father Judge is one of several chaplains who have died in the line of duty since the PSOP program was created. This bill would acknowledge their service to our country by clarifying their eligibility in the PSOP program and by enabling the designated beneficiaries to access the benefits provided by the program.

These changes would help individuals, like Father Judge, who as a Franciscan Brother could not have a spouse and child, but who did leave two sisters. Under current law, siblings are not eligible. Similarly, this legislation would help other heroes who perished in the line of duty on September 11 and left behind loved ones, for example fiances, who are not covered by the existing law.

This legislation passed the House Committee on the Judiciary and the full Senate unanimously and without controversy. It is endorsed by the National Association of Police Organizations, the International Association of Fire Fighters, and the American Federation of State, County and Municipal Employees.

Again I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER); the ranking member, the gentleman from Michigan (Mr. CONYERS); the majority leader, the gentleman from Texas (Mr. ARMEY); the minority leader, the gentleman from Missouri (Mr. GEPHARDT); and, of course, my colleague, the gentleman from Illinois (Mr. MANZULLO), for working so tirelessly to bring this bill to the floor. I also want to thank my colleague, the gentleman from Queens, New York (Mr. CROWLEY), for bringing this problem to our attention way back in September and for his steadfast support of our firefighters in New York.

I also would like to thank Senator LEAHY for championing the companion bill in the Senate, as well as the NAPO, the IAFF and AFSCME for advocating this legislation on behalf of public safety officers all across this country.

I urge all my colleagues to support this necessary and important legislation. It is a fitting tribute to Father Mychal Judge and the more than 400 public safety officers who gave their lives protecting American citizens during the worst attack ever on American soil.

Mr. MANZULLO. Mr. Speaker, under the Omnibus Crime Control and Safe Streets Act of 1968, the families of any police officer, federal law enforcement officer, parole officer and firefighter, killed in the line of duty are entitled to compensation. These unsung heros will have the assurance of knowing that in the event of their death in the line of duty their lived ones will be taken care of with the one-time $250,000 federal death benefit. The families of police and fire chaplains should be entitled to this same benefit.

When I first came to Congress in 1993, I was approached by a constituent, Rockford Police Chaplain Father William Wentink, who asked that I consider working to include in this benefit police and fire chaplains killed in the line of duty.

Police and fire chaplains share the same on-the-job dangers as their colleagues. These men and women go to work every day and perform their duties diligently and quietly, responding to the same crime and fire scenes as their co-workers. Most chaplains are volunteers.

This year, H.R. 3297 is named for one of our fallen heros, Father Mychal Judge, who, in response to the vicious September 11th terrorist attacks, died while serving his city and his nation in his capacity of a fire chaplain in the New York Fire Department. However, Father Mychal is not the first police or fire chaplain killed in the line-of-duty. We should not forget the two others who fell before him: First, William Paris, with the Detroit Police Department back in the early 1970s, who was killed when a criminal in a barricade situation demanded to speak to a chaplain. He was gunned down by the perpetrator; second, the Reverend Bruce Bryan, a police chaplain from Carson, California who was killed while on duty. Reverend Bryan was shot four times execution-style by a person that he and a deputy sheriff were driving home.

Mr. Speaker, the tragic events of September 11th have changed the hearts and minds of the vast majority of people in this great country. No longer are we asking our brave emergency services personnel to react to random, but dangerous problems. We have asked them to step up and take on those actions caused by terrorist attackers. We should not—we cannot—let another Congress go by without addressing this very important issue.

Mr. Speaker, with that I also want to wholeheartedly thank Chairman SENSENBRENNER and Representative NADLER, who, along with the diligent work of their staffers, have helped make this near decade-long goal a reality.

I urge all Members to support this legislation.

Mr. HOYER. Mr. Speaker, I rise today in support of H.R. 3297.

The Public Safety Officers' Benefit program was created in 1976 to assist in the recruitment and retention of law enforcement officers, firefighters and emergency medical technicians. But it is much more than a tool for attracting and keeping qualified public safety officers. It is a way of doing what is right by the men and women who selflessly risk their lives every day to protect each and every one of us.

The death benefit provides a one-time, lump sum payment of $259,038 payable to the surviving spouse, children or parents of a public safety officer killed in the line of duty.

H.R. 3297 makes a common sense, and compassionate, change, allowing for an individual named on a life insurance policy to receive the benefit if a deceased officer leaves no surviving child or spouse.

Policy officers, firefighters and EMT's put themselves in harm's way every day without stopping to consider the race, religion or family life of the people they are attempting to save. We owe it to them to do the same as we provide much-needed financial assistance to the loved ones they leave behind.

I urge my colleagues to support this legislation.

Mr. LARSON of Connecticut. Mr. Speaker, on September 11, 2002, Reverend Mychal Judge responded to the attack on the World Trade Center as a New York City Fire Department chaplain. He braved the fire, falling debris, and chaos on the scene to administer last rites to victims in the lobby. Father Judge paid the ultimate price for his heroic actions; he too lost his life on that tragic day.

Under the existing Public Safety Officer Benefit program, chaplains of fire and police departments are not eligible for public safety officer benefits. While no amount of money can replace their fallen brother, Father Judge's two surviving sisters currently cannot receive benefits from this program. This bill, H.R. 3297, will extend Federal death benefits to officially designated chaplains of volunteer and professional police and fire departments that were killed in the line of duty. This will broaden the number of eligible beneficiaries.

The bill also addresses the issue of deceased public safety officers without immediate families. Nine public safety officers died on September 11 without spouses, children, or surviving parents. H.R. 3297 will expand the Public Safety Officer program to extend death benefits to the beneficiary named on the deceased officer's life insurance policy. All expanded benefits will be effective as of September 11, 2001. Benefits are intended to pay for burial of the fallen officer and grief counseling services for the family.

Mr. Speaker, I fully support H.R. 3297 to extend the current Federal death benefits to the families of chaplains killed while responding to police and fire emergencies. I cannot think of a finer way to honor the brave officers that lost their lives on September 11, and in other emergency situations. Therefore, I ask my colleagues to join me in support of H.R. 3297 to remember the public safety officers that have lost their lives in service to our great Nation by voting in favor of the bill.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3297, amending the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits.

On September 11th, our Nation witnessed the best and the worst of humanity. The despicable and cowardly terrorist acts were valiantly countered with the incredible heroism and courage of our firefighters, law enforcement officers, emergency personnel, and our fellow citizens. On that day, as in emergencies before and since, men of the cloth such as Father Mychal F. Judge were also present to give comfort to victims and rescuers alike.

Sadly, Father Judge was the first confirmed death on that day of infamy. Accordingly, it is incumbent upon our Nation to honor heroes of faith such as Father Judge by bestowing upon them public safety officer status. I believe that it is a fitting tribute to their memory. Accordingly, I urge my fellow colleagues to fully support this important measure.

Ms. JACKSON–LEE of Texas. Mr. Speaker, I rise today in support of this vital legislation. I personally want to extend my sympathy and the sympathy of the citizens of the eighteenth congressional district of Texas for the families that lost loved ones. In particular my condolences go to the family of Mychal Judge, the New York Fire Department priest who died in the Twin Towers catastrophe and who the bill is named after. My colleague, the gentleman from New York, Mr. NADLER sponsored this bill in the Judiciary Committee.

His reasons for introducing this legislation were noble. The legislation should clear up confusion about whether chaplains qualify for Federal benefits. This legislation will provide that if there is no surviving spouse or surviving child, any such benefits shall be paid to the person designated by such officer as a beneficiary under that officer's most recently executed life insurance policy, provided that such person survived such officer. Current law restricts such beneficiaries to the spouse, child, or parent. I implore the members of this august body to pass H.R. 3297.

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

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

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3297, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GIVING CONSENT OF CONGRESS TO AGREEMENT OR COMPACT BETWEEN UTAH AND NEVADA REGARDING CHANGE IN BOUNDARIES

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2054) to give the consent of Congress to an agreement or compact between Utah and Nevada regarding a change in the boundaries of those States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2054

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

SECTION 1. CONSENT TO AGREEMENT OR COMPACT.

(a) CONSENT GIVEN.—The consent of the Congress of the United States is given to Utah and Nevada to enter into an agreement or compact that meets the following requirements:

(1) The agreement or compact is consented to by the legislatures of Utah and Nevada and such consent is evidenced through Acts enacted by the legislatures of Utah and Nevada not later than December 31, 2006.

(2) The agreement or compact is not in conflict with any Federal law.

(3) The agreement or compact does not change the boundary of any other State.

(4) The agreement or compact does not result in the transfer to Nevada of more than a total of 10,000 acres of lands that are located within Utah on the date of the enactment of this Act.

(5) The agreement or compact is entered into for the primary purpose of changing the boundaries of Utah and Nevada so that the lands located within the municipal boundaries of the city of Wendover, Utah, on the date of the enactment of this Act, including the municipal airport, shall, after the implementation of the agreement or compact, be located within the boundaries of Nevada. This paragraph shall not prohibit the agreement or compact from including provisions that are reasonably related to the following:

(A) A change in the boundaries of Utah and Nevada for the purposes described in this paragraph.

(B) Including other Utah lands immediately surrounding the municipal boundaries of Wendover, Utah, as described in this paragraph, in a transfer to Nevada if such inclusion would—

(i) facilitate the management of lands transferred under the agreement or compact or the

placement of the boundaries of Utah or Nevada; or

(ii) minimize the likelihood of future residential development on remaining Utah lands.

(C) Any other provision in the agreement or compact regarding a change in ownership of, management of, or other responsibilities or obligations related to—

(i) providing State, county, or municipal services;

(ii) public utilities;

(iii) public schools; or

(iv) the municipal airport referred to in this paragraph.

(6) The agreement or compact is consented to by a majority of the registered qualified electors who cast a vote on the agreement or compact held in each of the cities of West Wendover, Nevada, and Wendover, Utah, on the date of the regularly scheduled general election for Federal office in 2002. The question in the vote held in each of the cities of West Wendover, Nevada, and Wendover, Utah, under this paragraph shall contain the same language to the extent allowed by local law. Such language shall explain, with specificity sufficient to inform voters, all components of the agreement or compact regarding changes in ownership of, management of, or other responsibilities, costs, or obligations related to—

(A) State, county, and municipal social and public services;

(B) public utilities;

(C) land use;

(D) community economics;

(E) public schools; and

(F) the local municipal airport.

(b) EFFECTIVE DATE OF AGREEMENT OR COMPACT.—An agreement or compact entered into in accordance with subsection (a) shall become effective upon the fulfillment of the requirement of subsection (a)(1) without further consent or ratification on the part of the Congress of the United States.

(c) UNITED STATES OWNERSHIP AND JURISDICTION RETAINED.—Nothing in this Act or in the agreement or compact consented to under this Act shall be construed to impair or in any manner affect the ownership or jurisdiction of the United States in and over any lands within the boundaries of Utah or Nevada.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from North Carolina (Mr. WATT) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2054, as amended.

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

There was no objection.

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

Mr. Speaker, H.R. 2054 gives congressional consent for the States of Utah and Nevada to enact a compact modifying the boundary between the two States.

Last November, along with the gentleman from Utah (Mr. HANSEN) and the gentleman from Nevada (Mr. GIBBONS), I had the opportunity to visit the towns of Wendover and West Wendover. Though a line drawn down the main street separates the two towns and States, they continue to share a common culture. Economically, however, they stand in stark contrast to one another.

Wendover, Utah, was established in 1907 and grew from a sleepy railroad supply station to a bustling community during the 1940s, when it acted as an Air Force training base for B–29 bomber crews, including the crew of the Enola Gay. Once having a population of nearly 20,000, today Wendover's population has declined to only 1,500 residents, most of them living in adverse economic conditions and dilapidated housing.

On the other side of the State line, literally a stone's throw away, conditions are vastly different. West Wendover, Nevada's beginning stems from a local Wendover resident realizing by opening a gas station on the town's western edge, he could legally operate gaming devices on his property. Many years later his recipe for success has been copied by many, resulting in a prosperous town which has a vibrant community life as well as a profitable gaming industry.

For the same reasons West Wendover has thrived, namely the ability to have legalized gaming and a more attractive Tax Code for its residents, Wendover has stalled. Further growth and development of the Utah portion will be forever hindered by those finding the economic climate of Nevada to be more advantageous for living and conducting business. Passing H.R. 2054 is the first step to fixing the Wendover problem.

Allowing these two communities to unite will pave the way for an economic jumpstart for Wendover and will result in additional mutual benefits to both towns. For example, administrative services that are currently performed on both sides of the border on a separate basis could be consolidated, resulting in more efficient government and distribution of services, ultimately resulting in savings to both Wendovers.

By simply allowing the border of a State to be slightly shifted, the people of these communities can work toward unification, politically and economically. During the field briefing we conducted, residents of both Wendover and West Wendover were unified behind one message which was heard time and time again. That message was: ''Let us be heard.''

Through an amendment adopted by the Committee on the Judiciary, we have done that and made any congressional approval of this measure contingent upon the passage of a local referendum on the issue of merging the two towns. H.R. 2054 will truly allow the residents of the communities to be heard by allowing them to determine the outcome of their potential union.

I urge my colleagues to support this bill.

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

Mr. WATT of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2054, to provide the consent of Congress to a proposed change in the Utah-Nevada State boundary.

H.R. 2054 was introduced by the gentleman from Utah (Mr. HANSEN) on behalf of himself and the gentleman from Nevada (Mr. GIBBONS). The bill provides for congressional consent for the States of Utah and Nevada to enter into a compact to change the existing boundaries of those States such that the city of West Wendover, Utah, be within the State of Nevada.

The Subcommittee on Commercial and Administrative Law and the full Committee on the Judiciary have resolved some issues related to this bill in a way that makes the bill noncontroversial. The bill allows communities within the States of Utah and Nevada to resolve a long-standing issue of local interest and importance collectively by referendum and through their elected representatives.

I suspect if this were a law school issue in a law school class, we could drag this out for a week or two talking about issues of Federalism and various and sundry matters. But in the final analysis, all politics is local, and all of the interested parties will have the opportunity to resolve whatever concerns they have by referendum, debate them. And while this is a pretty substantial change, when you talk about changing State boundaries, it is one that we think is justified and certainly economically in the interests of the local people, and we support the bill.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from an expanding district in Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I want to begin by thanking the Committee on the Judiciary and especially the gentleman from Wisconsin (Chairman SENSENBRENNER) for taking a good hard look at this legislation that was proposed by my good friend, the gentleman from Utah (Mr. HANSEN), and myself.

When we first brought this legislation to the attention of the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), I am sure, Mr. Speaker, he had his doubts about what the Representative from Utah and the Representative from Nevada had in mind, or what these two Westerners were even up to. But he took his time to study this issue, learn about the two communities, and the Committee on the Judiciary chairman even paid us a visit to the two communities of West Wendover, Nevada, and Wendover, Utah.

Let me say to the gentleman from Wisconsin (Chairman SENSENBRENNER), we want to thank him for taking a

thoughtful look at this bill and hearing directly from those who will be most affected by any potential annexation, our constituents in both Nevada and Utah.

Mr. Speaker, so that each of my colleagues can get a better understanding of this legislation, let me provide a brief explanation to expand on what I believe will be the comments of the gentleman from Utah (Chairman HANSEN) later on.

First arriving in Washington, D.C., during the 105th Congress, both the communities of Wendover, Nevada, and West Wendover, Utah, have approached me on the idea of forming a single Wendover. As the gentleman from Utah (Chairman HANSEN) will articulate, because of the unique circumstance, these two communities are already virtually a single community, separated by an invisible line through their community, which happens to divide the State of Utah and the State of Nevada. But where they appear to be virtually one, as anybody who has ever driven I–80 west from Salt Lake City could attest to, they are not a single community.

□ 1600

As a matter of fact, these two small communities live with an onerous duplication of services, including fire, police, court systems, as well as separate utility and school systems. There are two Wendovers. Each serve as one of the friendliest places out West, but they represent perhaps the least efficient two communities in the West. Indeed, these two communities have been exploring the idea of becoming one Wendover for several years and, together with the gentleman from Utah (Mr. HANSEN), we want to give them that opportunity.

To clear up the confusion that often accompanies this legislation, passage of H.R. 2054 will not move the State boundary. What it will do is give the consent of this body that the two communities, through the State governments in Nevada and Utah, can begin negotiation of an annexation agreement process. The two State legislatures would have to ratify one agreement, an agreement which would then, and only then, provide for such annexation and joining of these two communities, as should be agreed to in order to take place.

Mr. Speaker, this legislation is not a mandate on the communities. This November, both West Wendover, Nevada and Wendover, Utah will vote on the referendum to determine how they wish to proceed on this issue, and this is exactly how the gentleman from Utah (Mr. HANSEN) and I envision the process of carrying this out. Let the local communities decide their fate and give Congress the ability to provide our consent by supporting H.R. 2054.

Mr. Speaker, I thank the chairman and the Committee on the Judiciary, and I urge support for this bill.

Mr. WATT of North Carolina. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, let me say that I do support the legislation and I want to commend my colleagues for addressing this issue today. I was out in Nevada just a week ago, and I was actually on I80. I am not sure I know why a town in Utah would necessarily want to join Nevada; instead, maybe it should be Nevada joining Utah or vice versa. In any case, I understand the importance of the legislation, and both are beautiful States.

However, Mr. Speaker, the reason I am taking to the floor right now is to draw attention to the fact that we have a number of suspension bills today, including this one, which I support. However, many of us on the Democratic side of the aisle are very concerned over the fact that we are not bringing up what we consider the most important issue to face this Congress, and that is the need for a Medicare prescription drug benefit. I have taken to the floor many nights during Special Orders, and today during morning hour, and it disturbs me a great deal to know that the Republican leadership seems to have come to some sort of paralysis, if you will, on the issue of prescription drugs.

We all know that our seniors and our constituents are crying out for Congress to address this issue, and yet the Republican leadership, for over 2 months now, has been talking about how they are going to bring up a prescription drug bill. They said they were going to bring it up before the Memorial Day recess, and they did not. They said they were going to bring it up the week following the Memorial Day recess, and they have not. Today I read Congress Daily, and it says GOP Drug Plan to Remain Under Wraps Another Week. There was talk about unveiling a bill this week, and now it looks like it will not be until the following week. But they promise us that they still plan to pass a bill before the July 4 recess.

Mr. Speaker, I do not believe it anymore. I have heard it so many times that we are going to address the issue of prescription drugs, and the Republican leadership simply has not brought up the bill. They have not brought it up in committee and they have not brought it up on the floor.

Most disturbing of all, we hear that the proposal that they are thinking about is really nothing more than throwing some money, like a voucher, if you will, to private insurance companies, rather than providing a comprehensive Medicare drug benefit. We have a very good government program called Medicare where seniors get their hospitalization, seniors get their doctor bills paid for. All we have to do, and this is what the Democrats have been saying, all we have to do is expand Medicare to provide for a prescription drug benefit guaranteed under Medicare. That is what the Democrats have been asking for.

The Republicans try to give the impression that they are doing that, but when we look at what they are actually promoting, it is nothing more than giving some money to private insurance companies in the hope that somehow they will cover prescription drugs.

The problem is that not only the Republicans are not addressing this issue and not bringing it up, but they are talking about privatizing Medicare. They are talking about perhaps trying to cover a few people maybe that are very low income who do not have prescription drugs now and maybe covering, maybe, at the most, maybe 1 million of the 30 million or so seniors who do not have any kind of prescription drug benefit. It is not fair. It is not fair. The comment was made by President Bush, by the Republican leadership, that we were going to have a comprehensive prescription drug benefit that all seniors were going to be able to take advantage of, and it is simply not what we are getting.

The other thing is that the Republicans refuse to talk about the cost issue. The biggest concerns that we hear from our constituents is that we are not addressing the cost of prescription drugs. The prices keep going up. There is nothing that the Republicans have proposed that would actually bring prices down and ease the burden, if you will, on senior citizens or even anyone else in the country. Democrats have been saying that we need to address that. Democrats are saying we would like to have something very much like part B now that pays for doctor bills, a very low deductible, a low copayment, 80 percent of the cost paid for by the Federal Government and giving the power to the Secretary of Health and Human Services to mandate to him that he has to bring costs down by negotiating prices for all of the seniors, 30 million to 40 million seniors. This is what needs to be done and it needs to be done now.

I do not want to denigrate in any way this legislation.

POINT OF ORDER

Mr. SENSENBRENNER. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman will state his point of order.

Mr. SENSENBRENNER. Mr. Speaker, the gentleman's discussion is not germane to the subject of H.R. 2054.

The SPEAKER pro tempore. Does the gentleman make a point of order that the comments are not relevant under clause I of rule XVII?

Mr. SENSENBRENNER. That is correct. The debate is not relevant to the bill that is under discussion.

Mr. PALLONE. Mr. Speaker, if I could be heard on the point of order.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. PALLONE) is recognized on the point of order.

Mr. PALLONE. Mr. Speaker, as I said before, my intention is not to denigrate this bill. I believe that this is a

very important bill. I understand the comments that were made by my colleague from Nevada earlier about why it is important for these two towns to get together and have the opportunity to join together and perhaps both be part of the great State of Nevada.

My only point is that as much as that is an important bill, and I support it, we need to address the issue of prescription drugs as well. I am going to say that it is very upsetting to me and those of us on the Democratic side of the aisle that we continue to see these suspensions come up, which are really not controversial, but the Republican leadership refuses to bring up a prescription drug bill.

The SPEAKER pro tempore. The Chair is prepared to rule.

As stated on p. 706 of the House Rules and Manual, ''On a motion to suspend the rules, debate is confined to the object of the motion and may not range to the merits of a bill not scheduled for such consideration.''

The point of order is sustained.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from the shrinking district from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding me this time. I am the other side of Wendover. I am the Bangladesh side and Mr. GIBBONS is the Paris, France side. But I have represented that poor side for almost 21 years now or more, and it is Tooele County, and it has been a privilege for me to represent the good people out there who are very fine citizens and very fine Americans.

The greater Wendover community is divided socially, economically, and politically by the location of the Utah-Nevada State boundary. Although the two communities have grown side by side for decades, knowing where the boundaries lie, it seems that some of the practical challenges faced by every small town is amplified by this particular area because of the unique mix of circumstances. The area is very remote and, on the Utah side, is bordered by the Bonneville Salt Flats and other public lands which severely limit the ability of the Utah community to grow in the future. In just about every category of public services, there is an inefficient duplication: Two separate police departments, two separate fire departments, duplicate utility systems, separate public school systems, separate local court systems, and the list goes on and on.

Finally, there are several recurring problems involving support for the Wendover Airport on the Utah side. For as long as I can remember, it has been a running joke that one way to correct a lot of these problems is just to redraw the State boundary to put Wendover, Utah into Nevada. Last year, Wendover, Utah Mayor Steve Perry and some of the council members approached Congress about exploring this very unique idea.

The approach of this legislation is to empower the local communities with their future destiny. For State boundaries to change under the Constitution, Congress must grant its consent, which is what H.R. 2054 would do. It is a prospective ratification of an interstate agreement between the two affected States which would meet certain criterias specified in the text of this bill.

Under the bill, both States would have to ratify one agreement, an agreement that both sides would agree is acceptable. At any point, either State could walk away from the process and the boundary would not be moved. The wisdom of this approach is that whatever agreement is reached and would inherently be acceptable to both sides, this approach removes Congress and the Federal Government from getting involved in the financial details of what is essentially a State and local matter.

While some people, perhaps many map publishers, may wince at the idea of creating a little ''jog'' in this nice straight line that currently divides Utah and Nevada, I would point out that quite often, boundaries are artificial creations of man in trying to deal with political problems and realities. Sometimes in the interest of bettering people's lives, it may be necessary to revisit the initial dividing up of land between political subdivisions. This may indeed be one of those times, and this bill supports the rights of the local people affected to make these important decisions.

I would really like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for the hard work on this legislation and for him taking the time to go to Wendover and see firsthand the situation. I would also like to thank my chief cosponsor, the gentleman from Nevada (Mr. GIBBONS), who represents the Nevada side of the border, and the ranking member, the gentleman from Michigan (Mr. CONYERS) for his cooperation; the subcommittee chairman, the gentleman from Georgia (Mr. BARR), and the ranking member, the gentleman from North Carolina (Mr. WATT) for their efforts as well.

Mr. Speaker, I think this will take care of a problem for a little city. It seems that we always worry about the big cities and never about the little ones, and maybe this will give us a chance to show a very small community that we do care about them.

Mr. WATT of North Carolina. Mr. Speaker, I yield 5 minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, today we are here discussing H.R. 2054, a bill that relates to the compact between Utah and Nevada regarding a change in the boundaries. This is a good bill. It is important to the people that live in both States and in the cities of West Wendover and Wendover, but this Congress should also be focusing on the high cost of prescription drugs and the millions of seniors who need help paying for them.

POINT OF ORDER

Mr. SENSENBRENNER. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. SENSENBRENNER. Mr. Speaker, I will reiterate the same point of order I made with the previous speaker: The debate does not relate to H.R. 2054. The rules are quite plain that in motions to suspend the rules it must.

The SPEAKER pro tempore. The gentlewoman from Nevada is recognized on the point of order.

Ms. BERKLEY. Mr. Speaker, I think it is equally important to the people in Wendover and West Wendover as we are improving their economy to also be discussing the very serious situation of a prescription medication benefit in Medicare.

Mr. SENSENBRENNER. Mr. Speaker, I demand the regular order.

The SPEAKER pro tempore. The Chair is prepared to rule.

As stated earlier, in the House Rules and manual on page 706, ''On a motion to suspend the rules, debate is confined to the object of the motion and may not range to the merits of a bill not scheduled for such consideration.''

As such, the point of order is sustained.

The Chair recognizes the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, while it makes no sense that Wendover and West Wendover should be separated, it also makes no sense in this country not to provide a prescription medication benefit within Medicare.

Mr. WATT of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. LARSON).

Mr. LARSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am here to rise in strong support of this legislation. I understand the inherent interest of West Wendover and Wendover and how important it is for them to be connected. I applaud the gentleman from Utah (Mr. HANSEN), as he always does in his first rate and capable manner of bringing forward the interests of his constituents here to the floor of Congress.

This is a difficult situation, but not unlike many situations that we face in this Nation. In the case of prescription drug relief, for example, people in our country feel like they are refugees from their own health care system.

□ 1615

POINT OF ORDER

Mr. SENSENBRENNER. Mr. Speaker, I make the point of order that the gentleman's debate is not confined to or relating to H.R. 2054, once again.

Mr. WATT of North Carolina. May I be heard on the point of order, Mr. Speaker?

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman will

confine his remarks to the pending bill before this House.

Mr. LARSON of Connecticut. Mr. Speaker, my point was as much as, just as people in between the lines, the current lines that exist in Utah and Nevada and between East Wendover and Wendover, find a difficulty with what they are presented with, this is analogous to what people are up against in this country. Many seniors in my district have to travel from Connecticut to Canada to seek prescription drug relief.

POINT OF ORDER

Mr. SENSENBRENNER. Mr. Speaker, I must once again reiterate my point of order.

The SPEAKER pro tempore. The Chair will insist that the gentleman from Connecticut keep his comments on the bill before the House today. As the Chair has ruled previously, the gentleman will confine his comments to the bill that is presently before the House.

Mr. LARSON of Connecticut. Mr. Speaker, I again would just point out that East Wendover is a desolate mining town of only about 1,500 residents and is largely in debt. Several public hearings have been held by the city councils on the east and west to determine whether East Wendover should be annexed to West Wendover.

Opposition to the annexation has emerged primarily from residents and business interests in West Wendover concerned with the economic impact of acquiring East Wendover's debt.

Supporters argue that the acquisition of East Wendover's airport, which once housed the Enola Gay, would attract more tourists to the city's casinos. Although there has been no vocal opposition to the annexation based on disagreement with Nevada's more liberal laws, most published reports note the large presence of a Mormon population in Utah.

And again these are the problems that the citizens face here. Again, I would like to commend the gentleman from Utah (Mr. HANSEN) for the outstanding job that he has done representing his constituents. I only hope that other constituents across this country who struggle with similar kinds of issues, though they are not specific to these lines, but when we cross boundary lines for prescription drugs and turn people that otherwise would be able to receive them——

Mr. SENSENBRENNER. Mr. Speaker——

The SPEAKER pro tempore. The gentleman will suspend.

Mr. LARSON of Connecticut. It complicates the problem. I thank the Chair for his indulgence and I yield back the balance of my time.

Mr. WATT of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is not a controversial bill, and despite the fact that a number of my colleagues feel strongly that the residents of Wendover and West Wendover should be entitled to prescription drug benefits, a point, by the way, which I agree with, the bill itself is not controversial; and I therefore strongly encourage my colleagues to vote in favor of the bill and support the bill.

I commend the gentleman from Nevada (Mr. GIBBONS) and the gentleman from Utah (Mr. HANSEN) for bringing it forward. It is nice to know that the gentleman from Utah (Mr. HANSEN) believes in gerrymandering. I am just sorry that he did not bring this early enough to get these people out of Utah soon enough that we would not have to have fought with Utah about whether these residents were there for this census, and we would not be all the way up in the United States Supreme Court arguing with Utah about whether they deserve a new congressional district or North Carolina deserves a new congressional district.

But that is kind of far afield, too. They did not get that done in time to resolve that dispute, but it is still a good bill. I encourage my colleagues to support it.

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

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

Just to get back on track, Mr. Speaker, let me say that what H.R. 2054 does is that it says that at the general election in November of this year, the residents of Wendover, Utah, and West Wendover, Nevada, will vote on a plan of merger, a marriage contract, if you will. If the voters in both communities support this procedure, then the next step is to have the Utah and Nevada legislatures consider whether or not the State lines should be adjusted so that Wendover, Utah, would be put into the State of Nevada.

Nevada has got a provision in its State constitution that delineates the boundaries of the State. Should both States approve it, there would have to be an amendment proposed by the two sections of the State legislature and approved by the voters of the State of Nevada in the general election of 2006.

Should that all happen, then the State boundary would be adjusted, because the consent of Congress would be given in advance under these procedures through the enactment of H.R. 2054. And should that happen, this will be the first time since 1863 that a State boundary was changed for a reason other than the fact that the river constituting the boundary between two States has changed course.

In 1863, during the Civil War, as we all know, the Congress admitted West Virginia as a State, carving the loyalist counties of the Commonwealth of Virginia out of that Commonwealth and establishing them as a separate State. So what we are doing here is setting in motion something that might not have happened in our country for 140 years.

So even though this bill is noncontroversial, it is somewhat precedent-setting, and it is precedent-setting in that in fact the Congress is giving the say to the people of these two communities on whether or not they want the State line adjusted. If either of the communities says, no way, we do not want to have that, then this whole issue is moot and everybody who wants to talk about this issue will forever hold their peace.

With that, I urge the passage of this bill.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2054, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

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

MYCHAL JUDGE POLICE AND FIRE CHAPLAINS PUBLIC SAFETY OFFICERS' BENEFIT ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2431) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2431

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002''.

SEC. 2. BENEFITS FOR CHAPLAINS.

(a) IN GENERAL.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) by redesignating paragraphs (2) through (7) as (3) through (8), respectively;

(2) by inserting after paragraph (1) the following:

''(2) 'chaplain' includes any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency;''; and

(3) in subparagraph (A) of paragraph (8), as redesignated by paragraph (1), by inserting after ''firefighter,'' the following: ''as a chaplain,''.

(b) ELIGIBLE BENEFICIARIES.—Section 1201(a) of such Act (42 U.S.C. 3796(a)) is amended—

(1) in paragraph (3), by striking ''or'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

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

''(4) if there is no surviving spouse or surviving child, to the individual designated by such officer as beneficiary under such officer's most recently executed life insurance policy, provided that such individual survived such officer; or''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 11, 2001, and shall apply to injuries or deaths that occur in the line of duty on or after such date.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3297) was laid on the table.

CONSUMER PRODUCT PROTECTION ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2621) to amend title 18, United States Code, with respect to consumer product protection, as amended.

The Clerk read as follows:

H.R. 2621

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Consumer Product Protection Act of 2002''.

SEC. 2. UNAUTHORIZED PLACEMENT OF WRITING WITH A CONSUMER PRODUCT.

(a) IN GENERAL.—Section 1365 of title 18, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as (g) and (h) respectively;

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

''(f)(1) Whoever knowingly stamps, prints, places, or inserts any writing in or on any consumer product that affects interstate or foreign commerce, or the box, package, or other container of any such product, prior to its sale to any consumer, shall be fined under this title or imprisoned not more than one year, or both.

''(2) This subsection shall not apply in any case in which the manufacturer, retailer, or distributor of the product in the due course of business consents to the stamping, printing, placing, or inserting of a writing.''; and

(3) in subsection (h) (as redesignated by paragraph (1))—

(A) in paragraph (3)(D), by striking ''and'';

(B) in paragraph (4), by striking the period and inserting ''; and''; and

(C) by adding after paragraph (4) the following:

''(5) the term 'writing' means any form of representation or communication (including handbills, notices, or advertising) that contains letters, words, graphic, or pictorial representations.''.

(b) CONFORMING AMENDMENT.—Section 2332b(g)(3) of title 18, United States Code, is amended by striking ''1365(g)(3)'' and inserting ''1365''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Wisconsin (Ms. BALDWIN) each will be recognized for 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2621, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 2621, the Consumer Product Protection Act of 2002, would prohibit any person from knowingly stamping, printing, placing, or inserting any writing in or on any consumer product prior to its sale without the consent of the manufacturer, distributor, or retailer of such product.

Under current law, tampering with a product's packaging is not illegal, as long as it does not cause the labeling to be false or misleading or endanger the health or safety of consumers. Consumer protection laws, therefore, fail to address conduct which, although it does not adulterate the actual product or alter its labeling, is still harmful to business and consumers.

Product tampering transforms businesses' desirable products into vehicles for undesirable messages. Businesses should be able to control the messages associated with their products, and persons who interfere with those products and harm the image of their company should be prosecuted.

Recent product tampering cases have shown that adults and children across the country have been subjected to violent, racist, gory, or otherwise offensive materials placed between layers of packaging. Leaflets have been found that attack African Americans, praise the Holocaust, and encourage the killing of immigrants. This legislation will appropriately punish those who knowingly insert these materials into product containers by making it a criminal act.

Just one company, Kraft Foods, estimates that they have received nearly 100 complaints in the last 5 years, but also believe many more cases have gone unreported. The manufacturers have concluded, after investigation, that many of these materials are placed in the packaging once the products have left their control. Often, the products are tampered with while in retail stores or are bought, tampered with, and later returned.

Parents can monitor their children's television shows, the music they listen to, and the books they read; but they cannot be expected to anticipate that offensive materials may be found in a cereal box.

I urge my colleagues to support this legislation.

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

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

Mr. Speaker, I am pleased to be the lead Democrat on H.R. 2621, the Consumer Product Protection Act of 2002. I want to recognize and thank the gentlewoman from Pennsylvania (Ms. HART) for introducing the bill and for her excellent work on this issue. I want to thank the chairman and ranking member of the Subcommittee on Crime, Terrorism and Homeland Security for their help in bringing this bill to the floor; and of course, I thank the chairman and ranking member of the full committee for their support of this bill.

I also want to recognize the staff who have worked hard to bring this legislation to the floor. Their work behind the scenes makes this House function effectively. I urge my colleagues to support and pass this legislation today.

Mr. Speaker, over the last several years, consumers have been finding offensive materials attached to or inserted inside the packaging of a variety of products. Most of these inserts are material that is offensive in nature. They are racist, anti-Semitic, or anti-gay. Finding offensive material can be shocking, but it is especially objectionable when a child opens a box and finds offensive, even pornographic, material inside.

Responding to customer complaints, manufacturers have sought law enforcement help to address this problem. However, it has become clear that law enforcement officials lack the authority to prosecute these crimes under State or Federal law. Both the FBI's and the FDA's offices of criminal investigations do not believe they have the current authority to prosecute these crimes.

The Consumer Product Protection Act would address this gap in Federal law and give authorities the tools they need to investigate and prosecute these acts. Only two States, California and New Jersey, currently have laws prohibiting this practice. This bill would amend the Federal Anti-Tampering Act by making it a crime for a person to place any writing, either on the outside of a package or the inside, prior to its sale to a consumer.

There are exceptions in this bill for promotional and sales purposes if allowed by the manufacturer, distributor, or retailer. To address some concerns about the appropriateness of punishments, the committee and subcommittee modified the original legislation to make the crime a misdemeanor instead of a felony.

I am pleased to be an original cosponsor of this bill and strongly urge the House to pass this bill.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Pennsylvania (Ms. HART), the author of this bill.

Ms. HART. Mr. Speaker, I also rise in support, obviously, of the Consumer Product Protection Act of 2002. I am pleased that the committee has chosen to take action on it so quickly.

Protecting consumers has always been an important issue for the Congress. It is also an issue I worked on as a State senator. I am pleased today to continue that important work.

This act addresses an issue that is a result of a shortfall of the current Federal anti-tampering act. Under that act, it is a crime for an individual to alter the label of a product or harm the safety of a consumer. It is not, however, a crime to place an unwanted item in or on a product without causing harm to that product.

□ 1630

For example, a message on a piece of paper placed inside a cereal box but outside of that product's inner bag is not a violation of current law. Someone could walk into your local market, slip pornographic material into the packaging of a food product without actually opening that package, and not be charged with a crime. To any consumer, the package would look perfectly fine without any evidence of tampering. The fact that this is not a crime seems ludicrous. That is why we are here today, to close this loophole in the law.

Imagine opening a box of cake mix, finding a piece of literature with hate-filled messages and racial slurs; even worse, imagine if your child opened the package, finding such material. That is just the story we heard in our hearings from Tracey Weaver about her 10-year-old son. The flyer in the box that he opened read that he had won a free vacation, but on the back it contained racial hate material.

Incidents such as this happen all too often. Kraft Foods, for example, had stated that there had been more than 100 reported incidents in the past 5 years. This accounts for only one company and only the incidents that were reported. Perhaps the greatest injustice here is that when consumers such as Mrs. Weaver contact those manufacturers, the manufacturers as well as law enforcement were unable to respond in any way because it was not against the law. The authorities could not trace the source of the problem because they had no authority to do so under the Federal Anti-Tampering Act because it was not a crime, again, to place such material in a box.

This bill would criminalize those actions. It clearly states that placing unauthorized material in or on a product is a crime under the Anti-Tampering Act. The legislation accomplishes three things: First, it ensures that law enforcement has the ability to pursue and prosecute the perpetrator by designating this activity as criminal under the statute. Second, it empowers the offended manufacturer to address the complaints and concerns of their customers and regain the confidence of those consumers which they could lose through no fault of their own. And finally, it provides for punishment for those who commit these acts and puts others on notice that this type of behavior will not be tolerated.

I again thank my colleagues, the gentlewoman from Wisconsin (Ms. BALDWIN), for joining me in sponsoring this important legislation, and especially the gentleman from Wisconsin (Mr. SENSENBRENNER) for helping us bring it to the floor. I urge my colleagues to support it as well.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to support H.R. 2621, Consumer Product Protection Act. Current consumer protection legislation was enacted in response to the imbalances in the marketplace, which concerned consumers. Consumers now have greater access to a variety of goods and services. A consumer who learns how to protect himself is less likely to be harmed.

Taking into account the needs of consumers and recognizing that consumers often face imbalances, consumers have the right of access to non-hazardous products. We should develop, strengthen and maintain a strong consumer protection policy. We should provide or maintain adequate infrastructure to develop, implement and monitor consumer protection policies and laws.

Consumers participate in competitive retail markets. Consumers' ability to choose among uniform disclosures of terms of service, prices, and relevant attributes of consumer products. Vigilant enforcement against unfair or deceptive business practices is critical to ensure that consumers obtain the benefits of competition. H.R. 2621 Consumer Product Protection Act of 2002, amends the Federal criminal code to prohibit the placement of a writing in or on a consumer product prior to its sale to any consumer without the consent of the product manufacturer, distributor, or retailer. Subjects violators to a fine, imprisonment of up to one year, or both. Therefore, I urge my colleagues to support this bill.

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

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

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2621, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FIVE NATIONS INDIAN LAND REFORM ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2880) to amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2880

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Five Nations Indian Land Reform Act''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Since 1970, Federal Indian policy has encouraged Indian self-determination and economic self-sufficiency. The exercise of Federal instrumentality jurisdiction by the

Oklahoma State courts over the Indian property that is subject to Federal restrictions against alienation belonging to enrollees and descendants of enrollees whose names appear on the final Indian rolls of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, but now referred to as the Five Nations, is inconsistent with that policy.

(2) It is a goal of Congress to recognize the Indian land base as an integral part of the culture and heritage of Indian people.

(3) The exercise of Federal instrumentality jurisdiction by the courts of the State of Oklahoma over conveyances and inheritance of restricted property belonging to Individual Indians—

(A) is costly, confusing, and cumbersome, and effectively prevents any meaningful Indian estate planning, and unduly complicates the probating of Indian estates and other legal proceedings relating to Individual Indians and their lands; and

(B) has impeded the self-determination and economic self-sufficiency of Individual Indians within the exterior boundaries of the Five Nations.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To correct the disparate Federal treatment of individual allotted lands of Individual Indians that resulted from prior Federal legislation by equalizing the Federal legislative treatment of restricted and trust lands.

(2) To eliminate unnecessary legal and bureaucratic obstacles that impede the highest and best use of restricted property belonging to Individual Indians.

(3) To provide for an efficient process for the administrative review and approval of conveyances, voluntary partitions, and leases, and to provide for Federal administrative proceedings in testate and intestate probate and other cases that involve the restricted property of Individual Indians, which concern the rights of Individual Indians to hold and acquire such property in restricted and trust status.

(4) To transfer to the Secretary the Federal instrumentality jurisdiction of the Oklahoma State courts together with other authority currently exercised by such courts over the conveyance, devise, inheritance, lease, encumbrance, and certain voluntary partition actions involving restricted property belonging to such Individual Indians.

SEC. 4. DEFINITIONS.

In this Act:

(1) FIVE NATIONS.—The term ''Five Nations'' means the Cherokee Nation, the Chickasaw Nation, the Choctaw Nation of Oklahoma, the Seminole Nation of Oklahoma, and the Muscogee (Creek) Nation, collectively, which were historically referred to as the ''Five Civilized Tribes''.

(2) INDIAN COUNTRY.—The term ''Indian country'' has the meaning given that term in section 1151 of title 18, United States Code, which includes restricted property and trust property as such terms are defined in this Act.

(3) INDIAN NATION.—The term ''Indian Nation'' means one of the individual Five Nations referred to in paragraph (1).

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(5) INDIVIDUAL INDIAN.—The term ''Individual Indian'' means a member or citizen of one of the individual Five Nations referred to in paragraph (1), an enrollee on the final Indian rolls of the Five Civilized Tribes, or an individual who is a lineal descendant by blood of an Indian ancestor enrolled on the final Indian rolls of the Five Civilized Tribes, regardless of whether such person is an enrolled member of one of the Five Nations.

(6) RESTRICTED PROPERTY.—(A) The term ''restricted property'' means any right, title, or interest in real property owned by an Individual Indian that is subject to a restriction against alienation, conveyance, lease, mortgage, creation of liens, or other encumbrances imposed by this Act and other laws of the United States expressly applicable to the property of enrollees and lineal descendants of enrollees on the final Indian rolls of the Five Civilized Tribes.

(B) The term ''restricted property'' includes, without limitation, those interests in the estate of a decedent Individual Indian who died prior to the effective date of this Act that were, immediately prior to the decedent's death, subject to restrictions against alienation imposed by the laws of the United States but that had not, as of the effective date of this Act—

(i) been the subject of a final order determining the decedent's heirs and distributing the restricted property issued by a State district court or a United States district court;

(ii) been conveyed by heirs by deed approved in State district court;

(iii) been conveyed by heirs of less than one-half degree of Indian blood with or without State district court approval; or

(iv) been the subject of Secretarial approval of removal of restrictions.

(C) The term ''restricted property'' does not include Indian trust allotments made pursuant to the General Allotment Act (25 U.S.C. 331 et seq.) or any other trust property.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior or the designee of the Secretary of the Interior.

(8) TRUST PROPERTY.—The term ''trust property'' means Indian property, title to which is held in trust by the United States for the benefit of an Individual Indian or an Indian Nation, provided that such property was acquired in trust by the United States under the authority of the Act of June 18, 1934 (25 U.S.C. 461 et seq.) (commonly known as the ''Indian Reorganization Act'') or the Act of June 26, 1936 (25 U.S.C. 501 et seq.) (commonly known as the ''Oklahoma Indian Welfare Act''), within the boundaries of the State of Oklahoma.

TITLE I—RESTRICTIONS; REMOVAL OF RESTRICTIONS

SEC. 101. RESTRICTIONS ON REAL PROPERTY.

(a) APPLICATION.—Beginning on the effective date of this Act, all restricted property shall be subject to restrictions against alienation, conveyance, lease, mortgage, creation of liens, or other encumbrances, regardless of the degree of Indian blood of the Individual Indian who owns such property.

(b) CONTINUATION.—

(1) IN GENERAL.—Any restricted property, including any restricted property referred to in subsection (a), shall remain restricted property notwithstanding the acquisition of such property by an Individual Indian by inheritance, devise, gift, or exchange.

(2) WITH WAIVER.—Any restricted property, including any restricted property referred to in subsection (a), shall remain restricted property upon the acquisition of such property by an Individual Indian by election to take at partition or by purchase, but only if—

(A) prior to the execution of the deed transferring such restricted property, the Individual Indian who owned such property prior to such election to take or purchase executes a written waiver of his or her right to acquire other property in restricted status pursuant to section 102; and

(B) such restrictions appear in the deed transferring such property to the Individual Indian electing to take at partition or purchasing such property, together with certification on said deed by the Secretary that the requirements of this paragraph have been met.

SEC. 102. REINVESTMENT OF PROCEEDS FROM CONDEMNATION OR CONVEYANCE OF RESTRICTED PROPERTY.

(a) REQUIREMENT.—Upon the conveyance of the restricted property of an Individual Indian pursuant to this Act, or upon the conveyance or condemnation of such property pursuant to section 3 of the Act of March 3, 1901 (25 U.S.C. 357) or other Federal laws generally applicable to the condemnation of Indian trust or restricted property, the Secretary shall use any proceeds from such conveyance or condemnation to purchase from a willing seller other property designated by such Individual Indian, and such designated property shall be restricted property if—

(1) such proceeds were deposited into a segregated trust fund account under the supervision of the Secretary at the request of the Individual Indian;

(2) such Individual Indian provides a written statement to the Secretary for payment of all or a portion of such proceeds for purchase of property to be held in restricted status;

(3) such Individual Indian has not executed a written waiver of his or her right to acquire other property in restricted status pursuant to section 101;

(4) such restrictions appear in the conveyance to the Individual Indian with certification by the Secretary that the requirements of this section have been met;

(5) such property is located within the State of Oklahoma; and

(6) the Secretary determines that there are no existing liens or other encumbrances which would substantially interfere with the use of the property.

(b) FAIR MARKET VALUE IN EXCESS OF PROCEEDS.—If the fair market value of any property designated under subsection (a) exceeds the amount of proceeds that are derived from the conveyance or condemnation of such property, a specific tract of land within the property shall be designated by the Individual Indian for placement in restricted status. Such restrictions shall appear on the face of the deed with certification by the Secretary describing that portion of the property which is subject to restrictions.

(c) RULE OF CONSTRUCTION.—The provisions of subsections (a) and (b) of this section shall apply to the reinvestment of proceeds derived from the conveyance or condemnation of restricted property of an Individual Indian pursuant to the Act of March 2, 1931, as amended by the Act of June 30, 1932 (25 U.S.C. 409a), where such reinvestment occurs after the effective date of this Act.

SEC. 103. TRUST FUNDS.

(a) IN GENERAL.—All funds and securities held or supervised by the Secretary derived from restricted property or Individual Indian trust property on or after the effective date of this Act, including proceeds from any conveyance or condemnation as provided for in section 102, are deemed to be held in trust and shall remain subject to the jurisdiction of the Secretary.

(b) USE OF FUNDS.—Funds, securities, and proceeds described in subsection (a) may be released upon approval or expended by the Secretary for the use and benefit of the Individual Indians to whom such funds, securities, and proceeds belong, under such rules and regulations as the Secretary shall prescribe.

SEC. 104. PERIOD OF RESTRICTIONS.

Subject to the provisions of this Act that permit restrictions to be removed, the period of restriction against alienation, conveyance, lease, mortgage, creation of liens, or

other encumbrances of restricted property and funds belonging to Individual Indians, is hereby extended until an Act of Congress determines otherwise.

SEC. 105. REMOVAL OF RESTRICTIONS.

(a) PROCEDURE.—

(1) APPLICATION.—An Individual Indian who owns restricted property, or the legal guardian of a minor Individual Indian or of an Individual Indian who has been determined to be legally incompetent by a court of competent jurisdiction (including a tribal court), may apply to the Secretary for an order removing restrictions on any interest in restricted property owned by such Individual Indian. The application shall be considered by the Secretary only as to the tract, tracts, or severed mineral or surface interest described in the application.

(2) CONSIDERATION OF APPLICATION.—Not later than 90 days after the date on which an application referred to in paragraph (1) is submitted to the Secretary, the Secretary shall either issue the removal order or disapprove the application.

(3) DISAPPROVAL BY VIRTUE OF MISSED DEADLINE.—If the application referred to in paragraph (1) is not approved within 90 days of submission to the Secretary, the application shall be deemed to have been disapproved pursuant to paragraph (4)(B). Such disapproval of the application shall be subject to review in accordance with the Administrative Procedures Act (5 U.S.C. 701 et seq.), and the Secretary's regulations governing administrative appeals.

(4) DISAPPROVAL.—The Secretary shall disapprove an application pursuant to paragraph (2) if—

(A) in the Secretary's judgment, the applicant has been subjected to fraud, undue influence, or duress by a third party; or

(B) the Secretary determines it is otherwise not in the Individual Indian owner's best interest.

(b) REMOVAL OF RESTRICTIONS.—When an order to remove restrictions becomes effective under subsection (a), the Secretary shall issue a certificate describing the property and stating that the Federal restrictions have been removed.

(c) SUBMISSION OF LIST.—Not later than April 1 of each year, the Secretary shall cause to be filed with the county treasurer of each county in the State of Oklahoma where restricted property is situated, a list of restricted property that has lost its restricted status during the preceding calendar year in accordance with the provisions of this Act. The Secretary shall also cause such list to be filed in the appropriate land titles and records offices designated by the Secretary pursuant to section 406(a).

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) abrogate valid existing rights to property that is subject to an order to remove restrictions under this section; and

(2) remove restrictions on any other restricted property owned by the applicant.

SEC. 106. EXEMPTIONS FROM PRIOR CLAIMS.

Sections 4 and 5 of the Act of May 27, 1908 (35 Stat. 312, chapter 199), shall apply to all restricted property.

SEC. 107. FRACTIONAL INTERESTS.

Upon application by an Individual Indian owner of an undivided unrestricted interest in property of which a portion of the interests in such property is restricted as of the effective date of this Act, the Secretary shall forthwith convert that unrestricted interest into restricted status if all of the undivided interests in the property are owned by Individual Indians as of the date of the application under this section. The conversion into restricted status shall be effective upon the date of filing of a restricted form deed with the county clerk of the county where the property is situated; provided that such deed must be executed by the applicant and approved by the Secretary.

TITLE II—ADMINISTRATIVE APPROVAL OF CONVEYANCES, PARTITIONS, LEASES, AND MORTGAGES; MANAGEMENT OF MINERAL INTERESTS

SEC. 201. APPROVAL AUTHORITY FOR CONVEYANCES AND LEASES.

The Secretary shall have exclusive jurisdiction to approve conveyances and leases of restricted property by an Individual Indian or by any guardian or conservator of any Individual Indian who is a ward in any guardianship or conservatorship proceeding pending in any court of competent jurisdiction, except that petitions for such approvals that are filed in Oklahoma district courts prior to the effective date of this Act shall be heard and adjudicated by such courts pursuant to the procedures described in section 1 of the Act of August 4, 1947 (61 Stat. 731, chapter 458), as in effect on the day before the effective date of this Act, unless the Individual Indian, guardian, or conservator dismisses the petition or otherwise objects to the conveyance or lease prior to final court approval.

SEC. 202. APPROVAL OF CONVEYANCES.

(a) PROCEDURE.—

(1) IN GENERAL.—The Secretary may approve the conveyance of interests in restricted property by an Individual Indian—

(A) after the property is appraised by the Secretary;

(B) for an amount that is not less than 90 percent of the appraised value of the property;

(C) to the highest bidder through the submission to the Secretary of closed, silent bids or negotiated bids; and

(D) upon the approval of the Secretary.

(2) APPROVAL OF DEED.—No deed conveying an interest in restricted property shall be valid unless the Secretary's approval is endorsed on the face of such deed.

(b) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding subsection (a)(2)(B), the Secretary may approve the conveyance of restricted property, or any portion thereof, by an Individual Indian to any of the individuals described in paragraph (2) without soliciting bids, providing notice, or for consideration which is less than the appraised value of the property, if the Secretary determines that the conveyance is not contrary to the best interests of the Individual Indian and that the Individual Indian has been duly informed of and understands the fair market appraisal, and is not being coerced into the conveyance.

(2) INDIVIDUALS.—An individual described in this paragraph is limited to the Individual Indian spouse, father, mother, brother or sister, son, daughter or other lineal descendant, aunt or uncle, cousin, niece or nephew, or Individual Indian co-owner.

SEC. 203. REIMPOSITION OF RESTRICTIONS ON RESTRICTED PROPERTY CONVEYED TO INDIAN HOUSING AUTHORITIES.

(a) IN GENERAL.—

(1) CERTIFICATE OF RESTRICTED STATUS.—In any case where the restrictions have been removed from restricted property for the purpose of allowing conveyances of the property to Indian housing authorities to enable such authorities to build homes for individual owners or relatives of owners of restricted property, the Secretary shall issue a Certificate of Restricted Status describing the property and imposing restrictions thereon upon written request by the Individual Indian homebuyer or an Individual Indian successor in interest to such homebuyer.

(2) REQUEST FOR CERTIFICATE.—The request referred to in paragraph (1) shall—

(A) include evidence satisfactory to the Secretary that the homebuyer's contract has been paid in full; and

(B) be delivered to the Secretary not later than 5 years after the housing authority conveys such property back to the original Individual Indian homebuyer or an Individual Indian assignee or successor of the original Individual Indian homebuyer.

(b) EXISTING LIENS.—Prior to issuing a certificate under subsection (a) with respect to property, the Secretary may require the elimination of any existing liens or other encumbrances which would substantially interfere with the use of the property.

(c) APPLICATION TO CERTAIN HOMEBUYERS.—Individual Indian homebuyers described in subsection (a) who acquired ownership of property prior to the effective date of this Act shall have 5 years from such effective date to request that the Secretary issue a certificate under such subsection.

(d) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit or affect the rights of Individual Indians described in this section under other Federal laws and regulations relating to the acquisition and status of trust property.

SEC. 204. ADMINISTRATIVE APPROVAL OF PARTITION IN KIND.

(a) PARTITION IN KIND OF TRUST PROPERTY.—

(1) JURISDICTION.—The Secretary shall have exclusive jurisdiction to approve the partition in kind of trust property pursuant to paragraph (2), where all of the undivided –interests in such property are held in trust.

(2) APPROVAL ORDER.—The Secretary may issue an order approving the partition in kind of trust property described in paragraph (1) after receiving an application pursuant to –subsection (d)(1) and satisfying the requirements of subsection (d), paragraphs (2) and (3), if—

(A) the Individual Indian owners of more than 50 percent of the total undivided interest in the property approve a plan to partition such property; and

(B) the Secretary finds the plan to be reasonable, fair, and equitable.

(3) RULE OF CONSTRUCTION.—This subsection shall not apply to trust property if 1 or more of the undivided interests referred to in paragraph (1) are held in trust for an Indian Nation.

(b) PARTITION IN KIND OF PROPERTY COMPRISED OF UNDIVIDED TRUST AND NONTRUST INTERESTS.—

(1) JURISDICTION.—The Secretary shall have jurisdiction to approve deeds for the partition in kind of property comprised of undivided trust and nontrust interests, held in common ownership by at least 1 Individual Indian and 1 or more co-owners.

(2) APPROVAL OF PARTITION DEEDS.—The Secretary may issue an order approving the partition in kind of all or a portion of the property described in paragraph (1) after receiving an application pursuant to subsection (d)(1) and satisfying the requirements of subsection (d), paragraphs (2) and (3), if—

(A) a plan described in subsection (d)(2) or (d)(3) is approved in writing by all of the owners; and

(B) the Secretary finds the plan to be reasonable, fair, and equitable.

(c) PARTITION OF RESTRICTED PROPERTY.—

(1) JURISDICTION.—The Secretary shall have jurisdiction to approve deeds for the partition in kind of property some or all of which consists of undivided interests in restricted property.

(2) APPROVAL OF PARTITION DEEDS.—The Secretary may—

(A) approve the partition in kind of all or a portion of the property described in paragraph (1) after receiving an application pursuant to subsection (d)(1) and satisfying the

requirements of subsection (d), paragraphs (2) and (3); and

(B) secure and approve appropriate deeds from all Individual Indian owners if—

(i) a plan described in subsection (d)(2) or (d)(3) is approved in writing by all of the Individual Indians who own an undivided restricted interest in the property; and

(ii) the Secretary finds the plan to be reasonable, fair, and equitable.

(3) CONTINUATION OF RESTRICTED STATUS.—The restricted status of any property acquired by an Individual Indian by deed exchange for the purpose of effecting a partition plan shall remain restricted pursuant to section 101(b)(1). Any property acquired by an Individual Indian by purchase for the purpose of effecting a partition plan shall remain restricted if the requirements of section 101(b)(2) are met.

(d) PROCEDURES.—

(1) APPLICATION.—An owner or owners of an undivided interest in any trust property described in subsections (a)(1) or (b)(1) or any restricted property described in subsection (c)(1) may make written application, on a form approved by the Secretary, for the partition in kind of the restricted property or trust property described in the application.

(2) DETERMINATION.—If, based on an application submitted under paragraph (1), the Secretary determines that the property involved is susceptible to partition in kind, the Secretary shall initiate partition of the property by—

(A) notifying the owners of such determination;

(B) providing the owners with a partition plan; and

(C) affording the owners a reasonable time to respond, object, or consent in accordance with subsections (a)(2)(A), (b)(2)(A), or (c)(2)(B).

(3) PROPOSED LAND DIVISION PLAN.—The Secretary shall give applicants and all other owners of property subject to a partition application under this section a reasonable opportunity to negotiate a proposed land division plan for the purpose of securing ownership of a tract on the property equivalent to their respective interests in the undivided estate, prior to taking any action related to partition in kind of the property under this section. The Secretary may facilitate the negotiations for a land division plan.

(4) CONVEYANCES.—After the Secretary has approved a partition pursuant to subsection (a), (b), or (c), the Secretary shall issue or approve any orders, deeds, or instruments of conveyance necessary to complete the partition.

(e) AUTHORITY OF SECRETARY TO CONSENT TO PLAN OF PARTITION ON BEHALF OF CERTAIN OWNERS.—The Secretary may give written consent to a plan of partition—

(1) pursuant to subsections (a)(2)(A), (b)(2)(A), or (c)(2)(B)(1) on behalf of any owner of an undivided interest if—

(A) the owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined;

(B) the heir or devisee referred to in paragraph (1) has been determined but cannot be located; or

(C) the owner is a minor, non compos mentis, or otherwise under legal disability (unless a guardian or conservator possesses the authority to approve a plan of partition on behalf of the owner); and

(2) pursuant to subsections (b)(2)(A) and (c)(2)(B) on behalf of any Individual Indian owner who cannot be located if the owners of 50 percent or more of the individual interest consent to such a plan.

SEC. 205. SURFACE LEASES.

The Secretary may approve leases of restricted property by an Individual Indian pursuant to the Act of August 9, 1955 (25 U.S.C. 415 et seq.), section 105 of the American Indian Agricultural Resource Management Act (25 U.S.C. 3715), and section 219 of the Indian Land Consolidation Act (25 U.S.C. 2218).

SEC. 206. SECRETARIAL APPROVAL OF MINERAL LEASES OR AGREEMENTS.

(a) APPROVAL.—

(1) GENERAL RULE.—No lease or agreement purporting to convey or create any mineral interest in restricted or trust property that is entered into or renewed after the effective date of this Act shall be valid unless approved by the Secretary.

(2) REQUIREMENTS.—The Secretary may approve a lease or agreement described in paragraph (1) only if—

(A) the Individual Indian owners of a majority of the undivided interest in the restricted or trust mineral estate that is the subject of the lease or agreement (including any interest covered by a lease or agreement executed by the Secretary under subsection (c)) consent to the lease or agreement;

(B) the Secretary determines that approving the lease or agreement is in the best interest of the Individual Indian owners of the restricted or trust mineral interests; and

(C)(i) the Secretary has accepted the highest bid for such lease or agreement after a competitive bidding process has been conducted by the Secretary, or

(ii) the Secretary has determined that it is in the best interest of the Individual Indian owners to award a lease made by negotiation, and the Individual Indian owners so consent in writing.

(b) EFFECT OF APPROVAL.—Upon the approval of a lease or agreement by the Secretary under subsection (a), the lease or agreement shall be binding upon all owners of the restricted or trust undivided interests subject to the lease or agreement and all other parties to the lease or agreement, to the same extent as if all of the owners of the restricted or trust mineral interests involved had consented to the lease or agreement.

(c) EXECUTION OF LEASE OR AGREEMENT BY SECRETARY.—The Secretary may execute a mineral lease or agreement that affects restricted or trust property interests on behalf of an Individual Indian owner if that owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined, or if the heirs or devisees have been determined but one or more of the heirs or devisees cannot be located.

(d) DISTRIBUTION OF PROCEEDS.—The proceeds derived from a mineral lease or agreement approved by the Secretary under subsection (a) shall be distributed in accordance with the interest held by each owner pursuant to such rules and regulations as may be promulgated by the Secretary.

(e) COMMUNITIZATION AGREEMENTS.—Restricted or trust mineral interests underlying property located within a spacing and drilling unit approved by the Oklahoma Corporation Commission shall not be drained of any oil or gas by a well within such unit without a communitization agreement prepared and approved by the Secretary. In the event of any such drainage without a communitization agreement approved by the Secretary, 100 percent of all revenues derived from the production from any such restricted or trust property shall be paid to the Individual Indian owner free of all drilling, lifting, and other production costs.

SEC. 207. MANAGEMENT OF MINERAL INTERESTS.

(a) OIL AND GAS CONSERVATION LAWS.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the oil and gas conservation laws of the State of Oklahoma shall apply to restricted property.

(2) APPROVAL.—No order of the Corporation Commission affecting restricted property shall be valid as to such property until such order is submitted to and approved by the Secretary.

(3) NOTICE.—Notice of any hearing or any order pending before the Oklahoma Corporation Commission affecting restricted or trust property shall be furnished to the Secretary of the Interior not less than 30 days prior to the date of the hearing or the approval of the order by the Commission.

(4) RULE OF CONSTRUCTION.—To the extent that an interest in any such well is not restricted property, the authority of the Secretary over the restricted mineral interest shall be exercised in conjunction with the Oklahoma Corporation Commission's authority over such nonrestricted interest. Nothing in this subsection shall be construed to grant to the State of Oklahoma regulatory jurisdiction over the protection of the environment and natural resources of restricted property, except to the limited extent granted by this subsection.

(b) IMPLEMENTATION OF FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT.—Beginning on the effective date of this Act, the Secretary shall exercise all the duties and responsibilities of the Secretary under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702 et seq.) with respect to an oil and gas lease where—

(1) the Secretary has approved the oil and gas lease pursuant to section 206(a);

(2) the Secretary has, prior to the effective date of this Act, approved the oil and gas lease pursuant to the Act of May 27, 1908 (35 Stat. 312, chapter 199); or

(3) the Secretary has, before the effective date of this Act, approved an oil and gas lease of lands of any of the Five Nations pursuant to the Act of May 11, 1938 (25 U.S.C. 396a et seq.).

SEC. 208. MORTGAGES.

An Individual Indian may mortgage restricted property only in accordance with and under the authority of the Act of March 29, 1956 (25 U.S.C. 483a).

TITLE III—PROBATE, HEIRSHIP DETERMINATION, AND OTHER PROCEEDINGS AFFECTING TITLE TO RESTRICTED PROPERTY

SEC. 301. ACTIONS AFFECTING RESTRICTED PROPERTY.

The Secretary shall have jurisdiction over actions affecting title to, or use or disposition of, trust property or restricted property. The United States district courts in the State of Oklahoma and the courts of the State of Oklahoma shall have jurisdiction over actions affecting title to, or use or disposition of, trust property or restricted property only to the extent expressly authorized by this Act or by other Federal laws applicable to trust property or restricted property.

SEC. 302. HEIRSHIP DETERMINATIONS AND PROBATES.

(a) JURISDICTION.—The Secretary shall have exclusive jurisdiction to probate wills or otherwise determine heirs of deceased Individual Indians and to adjudicate all such estate actions to the extent that they involve individual trust property, restricted property, or trust funds or securities held or supervised by the Secretary derived from such property, subject to the following exceptions:

(1) The Secretary shall not have jurisdiction over such estate actions that are pending in the courts of the State of Oklahoma as provided in section 306 on the effective date of this Act.

(2) The Secretary shall not have jurisdiction over any estate for which a final order of probate or determination of heirs was issued by a court of the State of Oklahoma or a United States district court prior to the effective date of this Act.

(b) GOVERNING LAWS.—Notwithstanding any other provision of law, the Secretary shall have jurisdiction and authority under this section and sections 1 and 2 of the Act of June 25, 1910 (25 U.S.C. 372 and 373, respectively) to determine heirs, approve and probate wills, and distribute restricted property, trust property, and trust funds in estates of Individual Indian decedents, subject to the following requirements:

(1) LAW APPLICABLE TO ESTATES OF INDIVIDUAL INDIAN DECEDENTS WHO DIED INTESTATE PRIOR TO EFFECTIVE DATE.—The administrative law judge or other official designated by the Secretary shall apply the laws of the State of Oklahoma governing descent and distribution in force on the date of the decedent's death to all restricted property, trust property, and trust funds or securities derived from such property in the estates of deceased Individual Indians who died intestate prior to the effective date of this Act.

(2) LAW APPLICABLE TO ESTATES OF INDIVIDUAL INDIAN –DECEDENTS WHO DIE INTESTATE ON OR AFTER EFFECTIVE DATE.—The administrative law judge or other official designated by the Secretary shall apply the following laws to all restricted property, trust property, and trust funds or securities derived from such property in the estates of deceased Individual Indians who die intestate on or after the effective date of this Act:

(A) A probate code approved by the Secretary applicable to such property, funds, and securities but only if approved by the Secretary in accordance with section 206(b)(2) of Public Law 97–459 (25 U.S.C. 2205(b)(2)).

(B) In the absence of a probate code approved by the Secretary in accordance with section 206(b)(2) of Public Law 97–459 (25 U.S.C. 2205(b)(2)), any Federal statute establishing rules of descent and distribution for trust or restricted property.

(C) In the absence of either a probate code approved by the Secretary in accordance with section 206(b)(2) of Public Law 97–459 (25 U.S.C. 2205(b)(2)) or a Federal statute establishing rules of descent and distribution for trust or restricted property, the laws of descent and distribution in force in the State of Oklahoma.

(3) LAW APPLICABLE TO WILLS EXECUTED PRIOR TO EFFECTIVE DATE.—

(A) IN GENERAL.—The Secretary shall approve a will of an estate containing trust property, restricted property, or trust funds or securities derived from such property if the will was executed by an Individual Indian (i) prior to the effective date of this Act, and (ii) in accordance with the laws of the State of Oklahoma governing the validity and effect of wills.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the will of a full-blood Individual Indian which disinherits the parent, spouse, or one or more children of such full-blood Individual Indian shall not be valid with respect to the disposition of restricted property unless the requirements of section 23 of the Act of April 26, 1906 (34 Stat. 137, chapter 1876), as in effect on the day before the effective date of this Act, are met.

(4) LAW APPLICABLE TO WILLS EXECUTED ON OR AFTER EFFECTIVE DATE.—

(A) IN GENERAL.—Any Individual Indian who has attained age 18 and owns restricted property, trust property, or trust funds or securities may dispose of such assets by will, executed on or after the effective date of this Act. The Secretary shall review and approve such wills in accordance with section 2 of the Act of June 25, 1910 (25 U.S.C. 373).

(B) FRAUD.—In any case where a will has been approved by the Secretary under subparagraph (A) and it is subsequently discovered that there was fraud in connection with the execution or procurement of the will, the Secretary is authorized, within 1 year after the death of the testator, to cancel approval of the will. If an approval is canceled in accordance with the preceding sentence, the property purported to be disposed of in the will shall descend or be distributed as property of an intestate decedent under paragraph (2).

(5) FEDERAL LAW CONTROLS.—Notwithstanding any other provision of this section, Federal law governing personal claims against the estate of a deceased Individual Indian or against trust property or restricted property, including the restrictions imposed by this Act or other applicable Federal law against the alienation, conveyance, lease, mortgage, creation of liens, or other encumbrances of trust property, restricted property, and trust funds and securities shall apply to all such assets contained in the estate of the deceased Individual Indian.

SEC. 303. ACTIONS TO CURE TITLE DEFECTS.

(a) JURISDICTION.—Except as provided in subsections (b) and (c), the United States district courts in the State of Oklahoma and the State courts of Oklahoma shall retain jurisdiction over actions seeking to cure defects affecting the marketability of title to restricted property.

(b) ADVERSE POSSESSION.—No cause of action may be brought to claim title to or an interest in restricted property by adverse possession or the doctrine of laches on or after the effective date of this Act, except that—

(1) all such causes that are pending on the effective date of this Act in accordance with the provisions of section 3 of the Act of April 12, 1926 (44 Stat. 239, chapter 115), shall be subject to section 306; and

(2) an action to quiet title to an interest in restricted property on the basis of adverse possession may be filed in the courts of the State of Oklahoma if all requirements of Oklahoma law for acquiring title by adverse possession, including the running of the full 15-year limitations period, have been met prior to the effective date of this Act.

(c) LAW APPLICABLE IN CERTAIN ACTIONS.—In any action referred to in subsection (b)(2) that is—

(1) filed not later than 2 years after the effective date of this Act, the law applicable to such an action on the day before the date of the enactment of this Act shall apply; and

(2) filed more than 2 years after the effective date of this Act, the claimant must show by clear and convincing evidence that all requirements of Oklahoma law for acquiring title by adverse possession in effect on the day before the date of the enactment of this Act, including the running of the full 15-year limitations period, were met prior to the effective date of this Act.

(d) APPLICABILITY OF CERTAIN PROVISION OF THIS ACT.—Any action filed pursuant to subsection (a) or (b)(z) shall be subject to the procedures set forth in section 305.

(e) HEIRSHIP DETERMINATIONS AND DISPOSITIONS.—

(1) NO DEROGATION OF JURISDICTION.—Nothing in this section shall be construed to authorize a determination of heirs in a quiet title action in Federal or State court in derogation of the Secretary's exclusive jurisdiction to probate wills or otherwise determine heirs of the deceased Individual Indians owning restricted property and to adjudicate all such estate actions involving restricted property pursuant to section 302, or in derogation of the Secretary's exclusive jurisdiction over the disposition of restricted property under this Act.

(2) REQUEST FOR DETERMINATION OF HEIRS TO ESTABLISH MARKETABLE TITLE.—Any grantee of an undetermined heir who, prior to the effective date of this Act and in accordance with applicable Federal laws, conveyed, leased, or otherwise encumbered his or her interest in the restricted property of an unprobated estate of an Individual Indian decedent may request that the Secretary determine the heirs of the decedent in order to establish marketable title in said grantee.

(3) DETERMINATION REQUIRED.—Upon receipt of an application made under paragraph (2), the Secretary shall determine the heirs in accordance with the provisions of section 302.

(4) GRANTEE.—For purposes of this subsection the term grantee shall include any grantee, lessee, or mortgagee of such heir and any successors or assigns of such grantee.

SEC. 304. INVOLUNTARY PARTITIONS OF RESTRICTED PROPERTY.

(a) PETITION; JURISDICTION AND APPLICABLE LAW; REQUIREMENTS.—

(1) PETITIONS.—Subject to the provisions of subsection (d), any person who owns any undivided interest in a tract of property consisting entirely or partially of undivided restricted interests, regardless of the size of that person's interest in the whole tract, may file an action in the United States district court in the district wherein the tract is located or the Oklahoma State district court for the county wherein the tract is located for the involuntary partition of such tract.

(2) JURISDICTION; APPLICABLE LAW.—The United States district courts in the State of Oklahoma and the State courts of Oklahoma shall have jurisdiction over actions for the involuntary partition of property filed pursuant to this section, subject to all requirements and limitations of this section and the requirements in sections 305 and 306. The laws of the State of Oklahoma governing the partition of property shall be applicable to all actions for involuntary partition under this section, except to the extent that any such laws are in conflict with any provisions of this section and sections 305 and 306.

(3) AGREEMENT AFTER INITIATION OF ACTION.—If after the initiation of any action authorized by this section, the parties to the suit reach an agreement for the partition of the property in kind or by sale, such agreement shall not be valid or binding as to the restricted interests until it is approved by the Secretary. The Secretary shall approve the partition plan if he finds it to be fair, reasonable and equitable to the Individual Indian owners of the restricted interests.

(4) APPROVAL OF ELECTION OR SALE.—If the tract consists of wholly or partially undivided restricted interests, the court may approve an election by any undivided interest owner to take the property at the full appraised value pursuant to the laws of the State of Oklahoma governing partitions in effect on the effective date of this Act or, if there is no such election, to approve the sale of the property at public auction for no less than two-thirds of the appraised value pursuant to such laws of the State of Oklahoma.

(5) DETERMINATION OF VALUE.—The Secretary shall determine the value of the property and submit an appraisal to the court. If the value of the property determined by the Secretary is greater than the valuation or appraisement of the property made pursuant to law of the State of Oklahoma, the court shall set a hearing at which time the Secretary and any other party shall be afforded an opportunity to present evidence regarding the value of the property, following which the court may accept the Secretary's valuation, or accept the valuation and appraisement made pursuant to law of the State of Oklahoma, or order a new valuation and appraisement pursuant to law of the State of Oklahoma.

(b) PAYMENT TO NONCONSENTING OWNERS OF RESTRICTED INTERESTS.—Nonconsenting owners of undivided restricted interests shall receive for the sale of such interests their proportionate share of the greater of—

(1) the proceeds paid at the partition sale; or

(2) an amount equal to 90 percent of the appraised value of the tract.

(c) COSTS.—A nonconsenting Individual Indian owner of restricted interests shall not be liable for any filing fees or costs of an action under this section, including the cost of an appraisal, advertisement, and sale, and no such costs shall be charged against such nonconsenting owner's share of the proceeds of sale.

(d) DEADLINE.—No action for the involuntary partition of property shall be maintained under this section unless it is filed within 10 years after the effective date of this Act.

SEC. 305. REQUIREMENTS FOR ACTIONS TO CURE TITLE DEFECTS AND INVOLUNTARY PARTITIONS.

(a) IN GENERAL.—All actions authorized by sections 303 and 304 shall be conducted in accordance with the requirements and procedures described in this section.

(b) PARTIES.—

(1) UNITED STATES.—The United States shall not be a necessary and indispensable party to an action authorized under section 303 or 304. The Secretary may participate as a party in any such action.

(2) PARTICIPATION OF THE SECRETARY.—If the Secretary elects to participate in an action as provided for under paragraph (1), the responsive pleading of the Secretary shall be made not later than 20 days after the Secretary receives the notice required under subsection (c), or within such extended time as the trial court in its discretion may permit.

(3) JUDGMENT BINDING.—After the appearance of the Secretary in any action described in paragraph (1), or after the expiration of the time in which the Secretary is authorized to respond under paragraph (2), the proceedings and judgment in such action shall be binding on the United States and the parties upon whom service has been made and shall affect the title to the restricted property which is the subject of the action, in the same manner and extent as though nonrestricted property were involved.

(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to waive the requirement of service of summons in accordance with applicable Federal or State law upon the Individual Indian landowners, who shall be necessary and indispensable parties to all actions authorized by sections 303 and 304.

(c) NOTICE.—

(1) IN GENERAL.—The plaintiff in any action authorized by sections 303 and 304 shall serve written notice of the filing of such action and of a petition or complaint, or any amended petition or complaint which substantially changes the nature of the action or includes a new cause of action, upon the Secretary not later than 10 days after the filing of any such petition or complaint or any such amended petition or complaint.

(2) FILING WITH CLERK.—At least one duplicate original of any notice served under paragraph (1) shall be filed with the clerk of the court in which the action is pending.

(3) REQUIREMENTS.—The notice required under paragraph (1) shall be—

(A) accompanied by a certified copy of all pleadings on file in the action at the time of the filing of the duplicate original notice with the clerk under paragraph (2);

(B) signed by the plaintiff to the action or his or her counsel of record; and

(C) served by certified mail, return receipt requested, and due return of service made thereon, showing date of receipt and service of notice.

(4) FAILURE TO SERVE.—If the notice required under paragraph (1) is not served within the time required under such paragraph, or if return of service thereof is not made within the time permitted by law for the return of service of summons, alias notices may be issued and filed until service and return of notice is made, except that in the event that service of the notice required under such paragraph is not made within 60 days following the filing of the petition or complaint or amendments thereof, the action shall be dismissed without prejudice.

(5) LIMITATION.—In no event shall the United States or the parties named in a notice filed under paragraph (1) be bound, or title to the restricted property be affected, unless written notice is served upon the Secretary as required under this subsection.

(d) REMOVAL.—

(1) IN GENERAL.—The United States shall have the right to remove any action to which this section applies that is pending in a State court to a United States district court by filing with the State court, not later than 20 days after the service of any notice with respect to such action under subsection (c), or within such extended period of time as the trial court in its discretion may permit, a notice of the removal of such action to a United States district court, together with the certified copy of the pleadings in such action as served on the Secretary under subsection (c).

(2) DUTY OF STATE COURT.—It shall be the duty of a State court to accept a notice filed under paragraph (1) and proceed no further in said suit.

(3) PLEADINGS.—Not later than 20 days after the filing of a notice under paragraph (1), the copy of the pleadings involved (as provided under such paragraph) shall be entered in the United States district court and the defendants and intervenors in such action shall, not later than 20 days after the pleadings are so entered, file a responsive pleading to the complaint in such action.

(4) PROCEEDINGS.—Upon the submission of the filings required under paragraph (3), the action shall proceed in the same manner as if it had been originally commenced in the United States district court, and its judgment may be reviewed by certiorari, appeal, or writ of error in like manner as if the action had been originally brought in such district court.

SEC. 306. PENDING STATE PROCEEDINGS.

The courts of the State of Oklahoma shall continue to exercise authority as a Federal instrumentality over all heirship, probate, partition, and other actions involving restricted property that are pending on the effective date of this Act until the issuance of a final judgment and exhaustion of all appeal rights in any such action, or until the petitioner, personal representative, or the State court dismisses the action in accordance with State law.

TITLE IV—MISCELLANEOUS

SEC. 401. REGULATIONS.

The Secretary may promulgate such regulations as may be necessary to carry out this Act, except that failure to promulgate such regulations shall not limit or delay the effect of this Act.

SEC. 402. VALIDATION OF CERTAIN TRANSACTIONS; SAVINGS CLAUSE.

(a) VALIDATION OF CERTAIN TITLE TRANSACTIONS.—Any person having the legal capacity to own real property in the State of Oklahoma who claims ownership of an interest in such property through an unbroken chain of title of record, the title to which interest is or may be defective as a result of any transaction described in paragraphs (1) through (5) of this subsection that occurred in such chain of title, may cure the defect in title and validate the transaction by following the procedures of this section. When all conditions and requirements of this section have been met, and if no notice of objection has been timely filed by the Secretary under subsection (c) or by any other person under subsection (f), the transaction shall be validated and shall not be considered a defect in the muniments of title but only insofar as the defect is based on or arises from Federal statutes applicable to the conveyance or inheritance of restricted property in effect at the time of the transaction. The transactions referred to in this subsection are the following:

(1) Any probate order issued by a county court of the State of Oklahoma prior to the effective date of the Act of June 14, 1918 (40 Stat. 606) purporting to probate the estate of an Individual Indian who died owning property which was subject to restrictions against alienation pursuant to Federal statutes in effect at the time of issuance of such probate order.

(2) Any probate order issued by a county or district court of the State of Oklahoma more than 30 years prior to the effective date of this Act purporting to probate the estate of a deceased Individual Indian who died owning property which was subject to restrictions against alienation pursuant to Federal law in effect at the time of issuance of such probate order, where notice was not given as required by Federal statutes in effect at the time.

(3) Any conveyance of record, including an oil and gas or mineral lease, of an interest in property which was subject to restrictions against alienation pursuant to Federal statutes in effect at the time of the conveyance executed by a person who was an heir or purported heir of the Individual Indian decedent who owned such property at the time of his death, if such conveyance was approved by a county or district court in Oklahoma more than 30 years before the effective date of this Act but where no judicial or administrative order of record was issued before or after such approval finding that such person was in fact the heir to the interest conveyed.

(4) Any conveyance of record, including an oil and gas or mineral lease, of individual trust property or property which was subject to restrictions against alienation pursuant to Federal statutes in effect at the time of the conveyance that was approved by a county or district court in Oklahoma or by the Secretary more than 30 years before the effective date of this Act, where—

(A) approval was not in compliance with the notice requirements of Federal statutes governing the conveyance of said individual trust property or said restricted property; or

(B) approval was given by a county or district court in Oklahoma of a conveyance of the property by a personal representative in a probate action over which said county or district court possessed jurisdiction, without compliance with Federal statutes governing the conveyance of the property in effect at the time of the conveyance.

(5) Any conveyance of record, including an oil and gas or mineral lease, of individual trust property or property which was subject to restrictions against alienation pursuant to Federal statutes in effect at the time of the conveyance that was approved by a county or district court in Oklahoma or by the Secretary at any time before the effective date of this Act, where—

(A) approval was given by the Secretary where the Federal statutes governing the conveyance of the property required approval by a county or district court in Oklahoma; or

(B) approval was given by a county or district court in Oklahoma where the Federal statutes governing the conveyance of the property in effect at the time of the conveyance required approval of the Secretary.

(b) NOTICE OF CLAIM; SERVICE AND RECORDING.—

(1) NOTICE TO THE SECRETARY.—Any claimant described in subsection (a) must serve written notice of his or her claim by certified mail, return receipt requested, on the Secretary, and file the notice of claim, together with a copy of the return receipt showing delivery to the Secretary and filing in the office of county clerk in the county or counties wherein the property is located. The notice shall not be complete for the purposes of this section until it has been served on the Secretary and filed of record as herein provided. The notice of claim shall set forth the following:

(A) The claimant's name and mailing address.

(B) An accurate and full description of all property affected by such notice, which description shall be set forth in particular terms and not be general inclusions; but if said claim is founded upon a recorded instrument, then the description in such notice may be the same as that contained in such recorded instrument.

(C) A specific reference to or description of each title transaction in the chain of title, including the date of same, that the claimant is attempting to validate pursuant to this section.

(D) A list of all documents of record that are part of the claimant's unbroken chain of title, copies of which documents shall be served with the notice.

(2) PUBLICATION NOTICE.—In addition to the notice to the Secretary required under paragraph (1), the claimant shall give notice by publication of his or her claim to other persons who may claim some interest in the property in accordance with this paragraph. The claimant shall cause notice of his or her claim to be published one time in a newspaper of general circulation in the county or counties wherein the property is located and shall thereafter cause proof of such publication to be filed in the office of the county clerk for such county or counties. The published notice shall set forth the following:

(A) The claimant's name and mailing address.

(B) The same description of the property required under subsection (b)(1)(B) to be included in the notice to the Secretary.

(C) A description of each title transaction in the chain of title, including the date of same, that the claimant is attempting to validate pursuant to this section.

(D) A statement that any person claiming an interest in the described property may file a written notice of objection, in the form of a declaration under oath, in the office of the county clerk of the county or counties wherein the property is located not more than 60 days after the date of publication of the notice in such newspaper, and that the written notice of objection must set forth—

(i) the declarant's name and mailing address;

(ii) the description of the property set forth in the publication notice; and

(iii) a statement that the declarant claims in good faith to be the owner of some interest in the property and objects to the validation of the transactions described in the publication notice.

(c) RESPONSE DEADLINE; EXTENSION.—The Secretary shall have 60 days after the date of receipt of the notice of claim in which to notify the claimant in writing that the Secretary exercises discretionary authority to object to the claim for any reason. The Secretary shall be entitled to an automatic extension of time of 60 days in which to object to the claim upon the Secretary's service of written notice of extension on the claimant within the initial 60-day response period.

(d) NOTICE OF OBJECTION; REMEDIES.—The Secretary shall send the notice of objection and any notice of extension of time to the claimant by certified mail to the address set forth in the claimant's notice to the Secretary. The Secretary's notice of objection or notice of extension of time shall include a description of the property and shall be effective on the date of mailing. The Secretary shall file the notice of objection or notice of extension of time in the office of the county clerk for the county or counties wherein the property is located within 30 days after the date of mailing of the notice to the claimant. If the Secretary notifies the claimant that the Secretary objects to the claim, such decision shall be final for the Department and the claimant's sole remedies shall be to file an action to cure title defects pursuant to section 303 of this Act or to request a determination of heirs in accordance with section 302 of this Act.

(e) UNDISPUTED CLAIM.—If, in the exercise of discretionary authority pursuant to subsection (c), the Secretary does not object to the claim, then the Secretary may notify the claimant that the matter is not in dispute. Failure of the Secretary to notify the claimant of the Secretary's objection within the initial 60-day period, or within the 60-day extension period if notice of an extension was given, shall constitute acceptance of the claim. If the Secretary notifies the claimant that the matter is not in dispute or fails to file an objection to the claim of record within the time required by subsection (d), the title transaction described in the claimant's notice shall be deemed validated and shall not be considered a defect in the muniments of the claimant's title based on or arising from Federal statutes governing the conveyance of restricted property in effect at the time of the transaction, provided that no written notice of objection is timely filed by other parties in response to a notice published pursuant to subsection (b)(2) or in accordance with subsection (f).

(f) NOTICE OF OBJECTION BY OTHER PARTIES TO APPLICABILITY OF THIS SECTION.—Any person claiming ownership of an interest in property the record title to which includes a title transaction described in subsection (a) of this section may prevent the application of subsections (a) through (e) to said interest by filing for record in the office of the county clerk for the county or counties wherein the property in question is located, no later than 3 years after the effective date of this Act, a written notice of objection in the form of a declaration made under oath setting forth the following:

(1) The declarant's name and mailing address.

(2) An accurate and full description of all of the declarant's property interests to be affected by such notice, which description shall be set forth in particular terms and not be general inclusions; but if said declarant's claim to ownership is founded upon a recorded instrument, then the description in such notice may be the same as that contained in such recorded instrument.

(3) A statement that the declarant claims in good faith to be the owner of an interest in the property described in the notice and that the declarant objects to the operation of this section with respect to any title transaction that would otherwise be subject to validation under this section.

(g) INTERESTS OF HEIRS OF LESS THAN HALF DEGREE BLOOD OF THE FIVE NATIONS.—Nothing in this Act shall be construed to invalidate—

(1) any conveyance of record, including a surface, oil and gas, or mineral lease, of an interest in property made prior to the effective date of this Act by an heir of a deceased Individual Indian without district court approval where such heir was of less than one-half degree of Indian blood, even though the property was held in restricted status immediately prior to the decedent Individual Indian's death; or

(2) any other encumbrance that attached prior to the effective date of this Act to an interest in property of an heir of a deceased Individual Indian where such heir was of less than one-half degree of Indian blood, even though the property was held in restricted status immediately prior to the decedent Individual Indian's death.

(h) TERMS.—For purposes of this section:

(1) A person shall be deemed to have an unbroken chain of title when the official public records, including probate and other official public records, as well as records in the county clerk's office, disclose a conveyance or other title transaction of record not less than 30 years prior to the effective date of this Act, which said conveyance or other title transaction purports to create such interest, either in—

(A) the person claiming such interest; or

(B) some other person from whom, by 1 or more conveyances or other title transactions of record, such purported interest has become vested in the person claiming such interest; with nothing appearing of record, in either case, purporting to divest such claimant of such purported interest.

(2) The term recording, when applied to the official public records of any officer or court, includes filing with the officer or court.

SEC. 403. REPEALS.

(a) IN GENERAL.—The following provisions are repealed:

(1) The Act of August 11, 1955 (69 Stat. 666, chapter 786, 25 U.S.C. 355 note).

(2) Sections 1 through 5, 7 through 9, and 11 through 13 of the Act of August 4, 1947 (61 Stat. 731, chapter 458, 25 U.S.C. 355 note).

(3) The Act of December 24, 1942 (56 Stat. 1080, Chapter 813).

(4) The Act of February 11, 1936 (25 U.S.C. 393a, Chapter 50).

(5) The Act of January 27, 1933 (47 Stat. 777, chapter 23, 25 U.S.C. 355 note).

(6) Sections 1, 2, 4, and 5 of the Act of May 10, 1928 (45 Stat. 495, chapter 517).

(7) The Act of April 12, 1926 (44 Stat. 239, chapter 115).

(8) Sections 1 and 2 of the Act of June 14, 1918 (Chapter 101, 25 U.S.C. 375 and 355, respectively).

(9) Sections 1 through 3 and 6 through 12 of the Act of May 27, 1908 (35 Stat. 312, chapter 199).

(10) Sections 6, 11, 15, 18, 20, and 23 of the Act of April 26, 1906 (34 Stat. 137, chapter 1876).

(b) TECHNICAL AMENDMENTS.—

(1) Section 28 of the Act of April 26, 1906 (34 Stat. 137, chapter 1876) is amended—

(A) by striking the first proviso; and

(B) by striking ''*Provided further*'' and inserting ''*Provided*''.

(2) The Act of March 3, 1909, (35 Stat. 781, 783, chapter 263) is amended by striking ''of the Five Civilized Tribes and''.

(3) Section 6 of the Act of August 4, 1947 (61 Stat. 733, chapter 458) is amended—

(A) in subsection (c), by inserting before the final period the following: '': *Provided further*, That any interest in restricted and tax-exempt lands acquired by descent, devise, gift, exchange, partition, conveyance, or purchase with restricted funds after the date of the enactment of the Five Nations Indian Land Reform Act by an Indian of the Five Civilized Tribes shall continue to be tax-exempt during the restricted period''; and

(B) in subsection (e), by striking the first sentence.

(4) The Act of June 25, 1910 (25 U.S.C. section 373) is amended by inserting at the beginning of the last proviso the following: ''Except as provided in section 302(b) of the Five Nation Indian Land Reform Act,''.

(5) The Act of May 7, 1970 (84 Stat. 203, Public Law 91–240, 25 U.S.C. 375d), is amended—

(A) by inserting ''Creek,'' after ''Cherokee,''; and

(B) by striking ''derived and shall'' and inserting the following: ''derived. Such lands, interests, and profits, and any restricted Indian lands or interests therein allotted by any such Indian nation that are reacquired by that Indian nation by conveyance authorized under section 202(a) of the Five Nations Indian Land Reform Act shall''.

(6) Section 1 of the Act of October 22, 1970 (84 Stat. 1091, Public Law 91–495), is amended by striking the last sentence.

SEC. 404. SECRETARIAL TRUST RESPONSIBILITY.

Nothing in this Act shall be construed to waive, modify, or diminish in any way the trust responsibility of the United States over restricted property.

SEC. 405. REPRESENTATION BY ATTORNEYS FOR THE DEPARTMENT OF THE INTERIOR.

Attorneys of the Department of the Interior may—

(1) represent the Secretary in any actions filed in the State courts of Oklahoma involving restricted property;

(2) when acting as counsel for the Secretary, advising Individual Indians owning restricted property (and to private counsel for such Individual Indians if any) of their legal rights with respect to the restricted property owned by such Individual Indians;

(3) at the request of any Individual Indian owning restricted property, take such action as may be necessary to cancel or annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other encumbrance of any kind or character, made or attempted to be made or executed in violation of this Act or any other Federal law, and take such action as may be necessary to assist such Individual Indian in obtaining clear title, acquiring possession, and retaining possession of restricted property and any other appropriate remedy;

(4) in carrying out paragraph (3), refer proposed actions to be filed in the name of the United States in a district court of the United States to the United States Attorney for that district, and provide assistance in an of-counsel capacity in those actions that the United States Attorney elects to prosecute; and

(5) appear specially before the Oklahoma Corporation Commission on behalf of the Secretary to protect Individual Indians' restricted property interests.

SEC. 406. FILING REQUIREMENTS; CONSTRUCTIVE NOTICE.

(a) REQUIREMENT FOR FILING.—The Secretary shall file the following orders or other decision documents which concern restricted property and are issued after the effective date of this Act by the Secretary in the appropriate land titles and records offices, as designated by the Secretary, and in the office of the county clerk in the county where such restricted property is located:

(1) Any order or other decision document removing restrictions, imposing restrictions, approving conveyances, approving leases, approving voluntary partitions, approving mortgages, probating wills, or determining heirs, and approving orders of the Oklahoma Corporation Commission.

(2) Any notice issued by the Secretary pursuant to section 402.

(b) CONSTRUCTIVE NOTICE.—The filing of said documents pursuant to this section shall constitute constructive notice to the public of the effect of said documents filed.

(c) CERTIFICATION OF AUTHENTICITY.—The Secretary shall have authority to certify the authenticity of copies of such documents and title examiners shall be entitled to rely on said authenticated copies for the purpose of determining marketability of title to the property described therein.

SEC. 407. PUBLICATION OF DESIGNATED OFFICIALS.

The Secretary shall identify each designee for purposes of the receipt of notices or the performance of any Secretarial duty or function under this Act by publication of notice in the Federal Register.

SEC. 408. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to limit or affect the rights of Individual Indians under other Federal laws relating to the acquisition and status of trust property, including without limitation, the following:

(1) The Act of June 18, 1934 (25 U.S.C. 461 et seq.) (commonly known as the ''Indian Reorganization Act'').

(2) The Act of June 26, 1936 (25 U.S.C. 501 et seq.) (commonly known as the ''Oklahoma Indian Welfare Act'').

(3) The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.).

(4) Regulations relating to the Secretary's authority to acquire lands in trust for Indians and Indian tribes.

SEC. 409. TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA.

To the extent the Southwestern Power Administration makes transmission capacity available without replacing the present capacity of existing users of the Administration's transmission system, the Administrator of the Southwestern Power Administration shall take such actions as may be necessary, in accordance with all applicable Federal law, to make the transmission services of the Administration available for the transmission of electric power generated at facilities located on land within the jurisdictional area of any Oklahoma Indian tribe (as determined by the Secretary of the Interior) recognized by the Secretary as eligible for trust land status under 25 CFR Part 151. The owner or operator of the generation facilities concerned shall reimburse the Administrator for all costs of such actions in accordance with standards applicable to payment of such costs by other users of the Southwestern Power Administration transmission system.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 411. EFFECTIVE DATE.

Except for section 409, the provisions of this Act shall take effect on January 1, 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from Oklahoma (Mr. CARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, the version of this bill is slightly different than reported out of the Committee on Resources. The revision to not change the original intent of or policy behind the legislation could simply make it cleaner. I commend the tribes and the administration for their joint effort in completing an effective and viable piece of legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. WATKINS), the principal sponsor of H.R. 2880, to explain the bill.

Mr. WATKINS of Oklahoma. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, before us today is H.R. 2880, a bill that would correct several wrongs and have a significant impact on the members of the Cherokee, Choctaw, Creek, Chickasaw, and Seminole Nations, these tribes historically referred to as the Five Civilized Tribes who still own individual and restricted lands in Eastern Oklahoma.

In the first three quarters of the 20th century, the U.S. Congress enacted numerous laws dealing with the allotted lands of the five nations previously mentioned. Collectively these special laws have created an exceedingly complex system of Indian land tenure in Eastern Oklahoma.

These laws, like no others applicable elsewhere in the United States, have resulted in far less protection of individual Indian lands by members of the five nations. Indian allotments elsewhere in the United States are generally held in trust under the jurisdiction of the Secretary of the Interior. The Secretary has the authority to probate, determine there is individual trust land, and to petition trust allotments. Perhaps most importantly, the legislation would prevent the acquisition of individual Indian trust lands through adverse possession for members of the Five Nations, a benefit currently provided to individual trust lands in Western Oklahoma and elsewhere in the United States.

H.R. 2880, Mr. Speaker, would only apply to the individual Indian restricted allotments of the Five Nations. It would unify and organize an extremely complex body of laws, many of which have never been codified, and put them into a single accessible code. This bill would transfer jurisdiction over the conveyance and probates and their heirship determination to the Secretary of the Interior, create a simplified process for administrative approval, maintain the rights of individual Indians and, most importantly, protect the owners of restricted interest.

This legislation would provide protection to the remaining restricted Indian allotments in Eastern Oklahoma to the greatest extent feasible and with the same level of protection afforded trust allotments in Western Oklahoma and on all other reservations in the United States. In fact, this legislation has been written so as to make the rules and procedures applicable to the

administration of restricted lands as similar as possible to the current system that is offered to tribes other than the Five Nations. This was done to bring more uniformity to the entire system.

Nothing in H.R. 2880, the Five Nations Indian Land Reform Act, would diminish the trust responsibility of the United States over restricted lands. The Five Nations and other members of the Oklahoma delegations have spent years working on this much-needed legislation, including my colleague from the Second District of Oklahoma (Mr. CARSON), who is here today and who has also been a cosponsor of this legislation.

Mr. Speaker, I appreciate the support of all of my colleagues on this legislation to correct these wrongs, and I really appreciate very much the chairman for taking this bill up and allowing us to take it up under suspension, the gentleman from Oklahoma (Mr. CARSON), the gentleman from Michigan (Mr. KILDEE) and others for their tremendous support, and I urge all of my colleagues to support this legislation.

Mr. CARSON of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

(Mr. CARSON of Oklahoma asked and was given permission to revise and extend his remarks.)

Mr. CARSON of Oklahoma. Mr. Speaker, I would first like to thank the gentleman from Utah (Mr. HANSON) and the gentleman from West Virginia (Mr. RAHALL) for working on the details of this bill and supporting it and bringing it the floor, and also commend the gentleman from Oklahoma (Mr. WATKINS) for his heroic work over many years to finally see this bill come to fruition.

The gentleman from Oklahoma (Mr. WATKINS) and I currently represent the majority of the citizens of what has historically been known as the Five Civilized Tribes, which includes the Cherokee, Choctaw, Chickasaw, Muscogee, Creek and Seminole Nations. Next session, after redistricting is finalized, my new district will likely encompass all of Eastern Oklahoma, which includes most of my current district and a large part of the gentleman from Oklahoma's (Mr. WATKINS) as well.

I rise in strong support of H.R. 2880, the Five Nations Citizens Land Reform Act of 2001. This bill corrects an inequity that has long existed in Federal law related to land tenure and land probate for the Five Tribes. Simply put, this bill will bring clarity and equity to restricted lands of the Five Tribes.

H.R. 2880 brings clarity by unifying into a single law what is currently contained in numerous Federal laws, applicable to individual Indian allotted lands of the Five Tribes and has created inequities, obstacles and financial burdens for citizens of those tribes. Those obstacles have resulted in the unnecessary loss of land owned by individual Indians residing in Eastern Oklahoma.

H.R. 2880 will bring equity by giving restricted property the same level and type of protection afforded the allotted lands of other Federally recognized tribes nationwide. Currently the individual allotments to citizens of the Five Tribes are afforded much less protection to the land than to laws applicable to trust allotments of other tribes.

In addition, the Five Tribes are the only tribes where jurisdiction over probates and conveyances of their land is held by the State district courts and not the Secretary of the Interior.

H.R. 2880 will correct this by allowing families to have estates probated administratively by the Department of the Interior. This legislation also protects the vested rights of individuals who have acquired an interest in tracts of lands that include restricted interests.

As a member of the Cherokee Nation, as an active member of the Native American Caucus, and as an elected representative of a significant percentage of citizens of the Five Civilized Tribes, I urge my colleagues to support this legislation and help bring clarity and equity to a land issue that has plagued Eastern Oklahoma and citizens of the Five Tribes for far too long.

Mr. WATKINS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. CARSON of Oklahoma. I yield to the gentleman from Oklahoma.

Mr. WATKINS of Oklahoma. Mr. Speaker, I would like to commend the gentleman from Oklahoma (Mr. CARSON) again for his tremendous work and cooperation on this. And as a member of the Cherokee Tribe, I would like to point out the two grandchildren I have sitting right behind me, who are part of the Creek Nation and just as you are part of the Five Civilized Tribes. I might say some people might wonder about that red hair, but they are part Creek.

Mr. CARSON of Oklahoma. Mr. Speaker, let me thank the gentleman from Oklahoma (Mr. WATKINS) who has preceded me in Congress by some two decades of his tremendous work in helping all of the Five Tribes, including this piece of legislation today.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded not to refer to children on the floor who are here as guests of Members of Congress.

Mr. CARSON of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. KILDEE).

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

Mr. Speaker, I would like to express my strong support for H.R. 2880, the Five Nations Citizens Reform Act and the Hansen substitute.

This legislation affects the restricted land allotments of citizens of the Cherokee, Creek, Seminole, Choctaw and Chickasaw Nations in Eastern Oklahoma. I want to thank the gentleman from Oklahoma (Mr. WATKINS) who arrived here in Congress with me a few years ago, the gentleman from Oklahoma (Mr. CARSON), the gentleman from Utah (Mr. HANSEN), the chairman of the Committee on Resources, and the ranking member, the gentleman from West Virginia (Mr. RAHALL) for their support and their efforts to bring this bill to the floor today. I am proud to be an original cosponsor of this bill.

Mr. Speaker, for more than 90 years the land allotment owners of the Five Tribes have been the object of special laws applicable to only their lands. These laws have afforded these lands much less protection than is afforded the trust allotments elsewhere in the United States.

Under the current Federal law, the State courts of Oklahoma have jurisdiction over probating, petitioning and transferring restricted lands. This situation often places a great financial burden on Indian families who must hire private attorneys to probate estates or transfer interest in restricted land. For this reason, many estates in Eastern Oklahoma that include restricted lands are not being probated and land ownership has become increasingly fractionated.

Elsewhere in the United States, the Department of Interior is responsible for probating estates, partitioning land and effecting other transactions involving allotted lands. This bill would do the same for the restricted allotments of the Five Tribes, and in general would give these allotments the same protection and treatments given allotted Indian lands in the rest of the United States.

Mr. Speaker, I urge my colleagues to support this legislation and the Hansen substitute.

Mr. CARSON of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

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

Mr. FALEOMAVAEGA. Mr. Speaker, the purpose of this legislation is to treat restricted Indian lands in Eastern Oklahoma similar to Indian trust lands in other States. These lands are known as restricted as they are subject to Federal restrictions against alienation.

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In addition, this legislation will move responsibility and jurisdiction over probating, partitioning, leasing and transferring these restricted lands from the State courts of Oklahoma to the Secretary of the Interior. Again, this would treat restricted Indian State courts of Oklahoma, lands in Oklahoma, similar to Indian trust lands in other States.

This bill affects lands owned by members of the Cherokee, the Creek, Muscogee, Seminole and Choctaw and the Chickasaw nations of eastern Oklahoma, which are historically referred to as the Five Civilized Tribes or Five Nations. Mr. Speaker, with all due respect, I want to know who the idiot

was that coined this word ''civilized,'' because it implies these are the only five civilized tribes in the United States. It seems to suggest that the Nation of the Cheyenne or the Lakotas and others are not civilized, maybe a little Westernized, but not to suggest that they are not civilized.

Mr. Speaker, treaty agreements between the Five Tribes or the Five Nations and the United States provided that land belonging to the tribes be held in fee but restricted from alienation status. This allowed the tribes to avoid the forced allotment of their lands under the General Allotment Act of 1887. This act was intended to destroy Indian reservations by breaking many into individual allotments, thereby making it easier to remove land held by the Indians. Indeed, the General Allotment Act, the wisdom of the Congress, resulted in the removal of millions of acres of Indian land and the horrendous fractionated ownership problems which exist even to this day.

Federal law enacted on June 14, 1918, subjects restricted Indian land in Oklahoma to State statutes of limitation. What happened is this permitted restricted lands to be taken by adverse possession, and Indian trust lands elsewhere are protected from such action.

The STIGRA Act of 1947 provided district courts in eastern Oklahoma jurisdiction, acting as Federal instrumentalities over transactions involving individual restricted Indian lands. The jurisdiction conveyed under the 1947 act included authority to approve conveyances; mineral leases; partition property, voluntarily or involuntarily; probate estates; and even determine heirs.

Mr. Speaker, these laws have resulted in the loss of individual title to most of the original restricted lands. Most Indians die intestate. For the Five Nations this leaves disposal of their property to the discretion of the Oklahoma district courts. Indian heirs must hire private attorneys to pursue probate, heirship determinations, and deed approval for land conveyance.

As a consequence, thousands of acres of restricted lands have not been probated. Additional lands are lost when non-Indian neighbors encroach on restricted Indian lands for the duration of the State statute of limitation and go to district court and claim title, and the Indian owner often is unaware of the implication of State adverse possession laws and is financially unable to fight it even in court.

Mr. Speaker, I want to commend the gentleman from Oklahoma (Mr. WATKINS) for his sponsorship of this legislation; and I also want to commend the gentleman from Oklahoma (Mr. CARSON), and a member of the Cherokee Nation, for his strong support of this bill.

Mr. Speaker, this bill would not be here on the House floor if it did not have the support and endorsement of our chairman of our Committee on Resources, the gentleman from Utah (Mr. HANSEN), and our senior ranking member, the gentleman from West Virginia (Mr. RAHALL).

Mr. Speaker, this is a good bill, and I urge my colleagues to support this legislation. I want to thank our Democratic staff, Ms. Marie Howard, for the outstanding work she has done in the preparation of notes and memoranda for the Members to better understand the provision of this bill.

I urge my colleagues to support this bill.

Mr. CARSON of Oklahoma. Mr. Speaker, I have no further speakers at this time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, let me commend the gentleman from Oklahoma for the excellent work he has done on this, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 2880, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: ''A bill to amend laws relating to the lands of the enrollees and lineal descendants of enrollees whose names appear on the final Indian rolls of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations (historically referred to as the Five Civilized Tribes), and for other purposes.''.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS CONCERNING 2002 WORLD CUP AND CO-HOSTS REPUBLIC OF KOREA AND JAPAN

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 394) expressing the sense of the Congress concerning the 2002 World Cup and co-hosts Republic of Korea and Japan.

The Clerk read as follows:

H. CON. RES. 394

Whereas the United States has developed close relationships with the Republic of Korea and Japan;

Whereas the Republic of Korea and Japan have been close allies with the United States in the war against terrorism;

Whereas the Republic of Korea and Japan will co-host the 2002 Federation International Football Association (FIFA) World Cup Korea/Japan;

Whereas the 2002 FIFA World Cup Korea/Japan will be the first FIFA World Cup to be held in Asia;

Whereas 32 nations have been qualified to compete from May 31 through June 30 of 2002, and will send some 1,500 coaches and athletes to the Republic of Korea and Japan, making this year's World Cup the largest ever;

Whereas the Korean and Japanese organizing committees for the 2002 FIFA World Cup Korea/Japan have effectively directed the preparations for unprecedented security precautions in both host nations;

Whereas during the 2002 FIFA World Cup Korea/Japan, billions of people are expected to view the competition;

Whereas the co-hosting of the FIFA World Cup by the Republic of Korea and Japan symbolizes the friendly relations between the two host nations, both key allies of the United States; and

Whereas the co-hosting of this international sporting event contributes to enhancing peace and stability in Northeast Asia: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) appreciates the mutually beneficial relationship between the United States and the Republic of Korea and the United States and Japan;

(2) commends the Republic of Korea/Japan 2002 FIFA World Cup organizers for the attention they have given to security precautions during the event; and

(3) recognizes and applauds the cooperation of the President of the Republic of Korea, Kim Dae-jung, and the Prime Minister of Japan, Junichiro Koizumi, in the hosting of the largest and most widely viewed World Cup competition in the history of the sport.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROYCE) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROYCE).

GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this concurrent resolution under consideration.

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

There was no objection.

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

I rise in support of this measure which expresses the sense of Congress concerning the 2002 World Cup cohosted by the Republic of Korea and by Japan. Soccer's World Cup, the biggest sporting event in the world, is underway in Korea and Japan. The sport that Pele, the greatest soccer player of all time, dubbed ''the beautiful game'' will have a TV audience that will be in the billions of people.

We are less than 2 weeks into the month-long tournament, and already it promises to be one of the most exciting in the history of the game. From the opening match, where the small African nation of Senegal knocked off defending world champion France, to the United States' unthinkable victory over the European powerhouse Portugal, we have seen some of the biggest upsets in history. Both co-hosts, Korea and Japan, have earned their first World Cup wins ever.

There is more going on here than simply sport. Throughout history, sport has played a role in bringing nations together and helping them to reconcile their differences. Japan and Korea historically have had a troubled relationship. For the first World Cup held in Asia, soccer's governing body

chose both Japan and South Korea as co-hosts. Many were skeptical of this arrangement; after all, Korea and Japan have never before cooperated on anything of such significance.

For those unfamiliar with the history of Korea-Japan relations, the challenge of co-organizing a soccer tournament may seem insignificant. In fact, while the logistical and infrastructure challenges are immense, they are arguably dwarfed by the cultural and political challenges. Building stadiums is a lot less complicated than building trust and, potentially, building a new era in the Korea-Japan relationship.

Over the years, Korea and Japan have worked together planning for the world's biggest sporting event. As co-chairman of the U.S.-Republic of Korea Interparliamentary Exchange, I traveled to Korea 2 years ago and will be meeting Korean parliamentarians again this summer. Through this exchange, I have talked with my colleagues in the Korean National Assembly about the difficulties and importance of staging this year's World Cup. They have indicated to me how it has brought the two countries closer together. Seoul's ambassador to Tokyo has even declared that ''the two co-hosts are archrivals turned friends.''

Soccer is without a doubt a modern common language among young Asians. What is clear is that the young people of Korea and Japan who are the most vocal soccer fans are taking a second look at one another. Perhaps this younger generation may find it easier to reconcile the past. Indeed, Japan-Korea relations have warmed to such an extent that 10,000 people now travel between the two countries every day. In a world that is suffering from what seems to be intensifying animosities, we should notice when tempers are cooling, when old wounds are healing.

I want to just take a moment to congratulate the United States team on its result so far and wish them luck throughout the rest of the tournament. The United States entered the tournament as long shots. For its first match, the Portuguese boasted the best player in the world, and the United States was without its captain and its most prolific scorer due to injury. Yet the U.S. went on to shock Portugal, building up a 3–0 lead and hanging on to win it 3 to 2.

In many ways, the United States team represents the best of this country. Some players are the sons of immigrants. Others, like 20-year-old Landon Donovan and DeMarcus Beasley, also represent the exuberant youth of this Nation; and I would be remiss if I did not mention the reserve midfielder Eddie Lewis because he is from Cerritos, California, which is in my district.

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

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

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

Mr. FALEOMAVAEGA. Mr. Speaker, I want to first thank the gentleman from California (Mr. ROYCE) for his leadership in managing this piece of legislation, and I rise in strong support of this resolution.

Mr. Speaker, during this month the entire globe is entranced and spellbound with the developments of the World Cup.

The World Cup, Mr. Speaker, is soccer's international championship, which is only held once every 4 years, and is bigger even than the Super Bowl, more intensely followed than even the World Series, and a quantum leap in global importance compared even to the NBA finals. While we in America may not be fully informed, in short, the World Cup is the largest and most important spectacle of sport on this planet and is watched by literally billions of people around the world.

Mr. Speaker, as we deliberate, the first World Cup of the 21st century is being hosted by our friends and allies in the Asia Pacific region, the Republic of Korea and Japan; and I am honored to be a co-sponsor of House Concurrent Resolution 394, which commemorates this historic, groundbreaking occasion.

I extend my deepest appreciation to the gentleman from California (Mr. ROYCE) and also my colleague on this side of the aisle, the gentleman from California (Mr. BECERRA), for their foresight and diligence in introducing this important legislation; and I certainly further commend the gentleman from Illinois (Mr. HYDE), the Chairman, and the gentleman from California (Mr. LANTOS), the ranking Democratic member, of our Committee on International Relations for their support in ensuring timely consideration of this measure.

Mr. Speaker, the hosting of the World Cup by South Korea and Japan is historically significant for many reasons. To begin with, this will be the first time that the World Cup will take place in the Asia region. Furthermore, this will be the first time that two nations have jointly hosted the quadrennial soccer championship. Of even greater importance in symbolic significance, Mr. Speaker, is the opportunity that this World Cup presents for healing and repairing historic rifts or rivalries between South Korea and Japan.

As many Members may be aware, relations between our two allies still remain highly sensitive, even given the legacy of what had happened during World War II. It is good to see that progress has already occurred. It is a sign of respect to its neighbors and co-hosts that even members of Japan's Imperial family attended the World Cup opening ceremonies in Seoul, the first-ever visit to South Korea by the Imperial family.

Additionally, at the opening ceremonies, Japanese Prime Minister Koizumi shook hands and warmly embraced South Korea President Kim Dae Jung while welcoming the participants to Seoul and expressing his hope that the competition would serve as an occasion to unite the world and especially even the Asia Pacific region.

President Kim, a recipient of the 2000 Nobel Prize, best summed it up by noting, ''Through these matches, humanity will become one, transcending racial, cultural, ideological and religious differences. Indeed, I hope that everyone in the world will be able to reconfirm the cherished values of world peace, security and prosperity for all.''

Mr. Speaker, in 1988, I was privileged to lead our delegation from American Samoa to the summer Olympics that were held in Seoul Korea, and I cannot help but offer my tribute and special commendation to the leaders of Korea on their industry and ability to build an $8 billion sports complex which they now enjoy very much as part of the World Cup matches. I commend the Korean people for their industry, their efforts in bringing democracy to this part of the region.

Mr. Speaker, behind all the pageantry and exciting matches of the World Cup, this is also what is going on behind the scenes in South Korea and Japan. Let us all hope that the vision that President Kim and Prime Minister Koizumi have so eloquently spoken of will become reality with the spirit of competition and camaraderie that the World Cup has always epitomized. Enhanced relations between South Korea and Japan is critical to furthering our mutual interests in promoting peace, providing security and ultimately stability in the Asia Pacific region, and hopefully even throughout the world.

□ 1700

To this effect, Mr. Speaker, I urge my colleagues to support House Concurrent Resolution 394 which properly honors our two closest allies in the Asian Pacific Region and conveys our best wishes for the success of the Republic of Korea and Japan as they co-host the world's greatest sports competition.

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

Mr. ROYCE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Iowa (Mr. LEACH), chairman of the Subcommittee on East Asia and the Pacific of the Committee on International Relations.

Mr. LEACH. Mr. Speaker, I thank the gentleman from California (Mr. ROYCE) for yielding the time, and I want to express my appreciation for bringing this resolution to the floor. Sometimes we underestimate the role of sport in all of our culture. The fact of the matter is sport is a very important part of all cultures. Soccer/football is somewhat new to these shores in its seriousness, but we are all impressed with this particular set of games. I would like to suggest, having watched the game between Korea and the United States last

night, to note how impressed I am at the sportsmanship, at the fanmanship, the notion that thousands and thousands of Koreans supported their team with such enormous enthusiasm. So on behalf of the Congress, I think just as they wave to their team, we ought to wave to South Korea and express our great respect for their hosting of this game and for their great sports ethic.

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

Mr. Speaker, I think with this resolution we are going to be doing that. We are trying to recognize and commend Korea and Japan in cohosting this event, and I think this international sporting event contributes to enhancing peace and contributes to stability in Asia, and I think that over the next 10 to 20 years we are going to see a transformation in the way Koreans and Japanese relate to each other, and perhaps we will look back at the World Cup and say that this game helped. It may be just a game, but the results can be inspirational, and that is why I urge passage of this resolution.

Mr. Speaker, I have no further speakers requesting time, and I reserve the balance of my time.

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

I again want to compliment the statements made earlier by my colleague and friend from Iowa (Mr. LEACH) and certainly the gentleman from California (Mr. ROYCE) for bringing this legislation to the floor. I suppose we have a dream some day that soccer will become truly a sport in America as well and I hope to add rugby as well in the coming years for our country. I know we love football. I know we love baseball, but I think soccer and rugby ought to be added as well. Again, let us pass this resolution.

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

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

I think we have soccer as a sport. The question is will we have to call it football?

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

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 394.

The question was taken.

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

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

The yeas and nays were ordered.

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

FURTHER MESSAGE FROM THE SENATE

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

S. 2578. An act to amend title 31 of the United States Code to increase the public debt limit.

SENSE OF CONGRESS REGARDING NORTH KOREAN REFUGEES DETAINED IN CHINA

Mr. LEACH. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 213) expressing the sense of Congress regarding North Korean refugees who are detained in China and returned to North Korea where they face torture, imprisonment, and execution, as amended.

The Clerk read as follows:

H. CON. RES. 213

Whereas the Government of North Korea is controlled by the Korean Workers Party, which does not recognize the right of North Koreans to exercise the freedoms of speech, religion, press, assembly, or association;

Whereas the Government of North Korea imposes punishments, including execution, for crimes such as attempted defection, slander of the Korean Workers Party, listening to foreign broadcasts, possessing printed matter that is considered reactionary by the Korean Workers Party, and holding prohibited religious beliefs;

Whereas genuine religious freedom does not exist in North Korea and reports of executions, torture, and imprisonment of religious persons in the country continue to emerge;

Whereas the Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, in which many prisoners also die from disease, starvation, and exposure;

Whereas at least 1,000,000 North Koreans are estimated to have died of starvation since 1995 because of the failure of the centralized agricultural system operated by the Government of North Korea;

Whereas the combination of political, social, and religious persecution and the risk of starvation in North Korea is causing many North Koreans to flee to China;

Whereas between 100,000 and 300,000 North Koreans are estimated to be residing in China without the permission of the Government of China;

Whereas in past years some Chinese authorities appear to have tolerated quiet efforts by nongovernmental organizations to assist North Korean refugees in China, and have allowed the departure of limited numbers of North Korean refugees after the advocacy of third countries, whose diplomatic facilities granted these refugees sanctuary;

Whereas the Governments of China and North Korea have begun aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea;

Whereas North Koreans who seek asylum while in China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea;

Whereas the United Nations Convention relating to the Status of Refugees of 1951, as modified by the Protocol relating to the Status of Refugees of 1967, defines a refugee as a person who, ''owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country'';

Whereas despite China's obligations as a party to the United Nations Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967, China routinely classifies North Koreans seeking asylum in China as mere ''economic migrants'' and returns the refugees to North Korea without regard to the serious threat of persecution faced by the refugees after their return;

Whereas the Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite the recommendations of the United Nations Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967 that such a right be granted;

Whereas people attempting to assist North Korean refugees inside China face danger because of their efforts, including Chun Ki Won, a South Korean citizen detained inside China since December 2001, and the Reverend Kim Dong Shik, a United States permanent resident allegedly abducted by North Korean agents inside China in January 2000; and

Whereas the Government of China recently has permitted some North Koreans who have managed to enter foreign diplomatic compounds to travel to South Korea via third countries, but has forcibly repatriated to North Korea many others captured inside China: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) encourages the Government of China to honor its obligations under the United Nations Convention relating to the Status of Refugees of 1951, as modified by the Protocol relating to the Status of Refugees of 1967, by—

(A) halting the forced repatriation of North Koreans who face a well-founded fear of persecution if they are returned to North Korea;

(B) making genuine efforts to identify and protect the refugees among the North Korean migrants encountered by Chinese authorities, including providing refugees with a reasonable opportunity to request asylum;

(C) providing North Korean refugees residing in China with safe asylum;

(D) allowing the United Nations High Commissioner for Refugees to have access to all North Korean refugees residing in China; and

(E) cooperating with the United Nations High Commissioner for Refugees in efforts to resettle North Korean refugees residing in China to other countries;

(2) encourages the Secretary of State—

(A) to work with the Government of China toward the fulfillment of its obligations described in paragraph (1); and

(B) to work with concerned governments in the region toward the protection of North Korean refugees residing in China;

(3) encourages the United Nations High Commissioner for Refugees to facilitate the resettlement of the North Korean refugees residing in China in other countries;

(4) encourages the Secretary of State to begin efforts toward the drafting, introduction, and passage of a resolution concerning human rights in North Korea at the 59th Session of the United Nations Commission on Human Rights in March 2003;

(5) urges the Government of China to release Mr. Chun Ki Won; and

(6) urges the Governments of the United States, South Korea, and China to seek a full accounting from the Government of North Korea regarding the whereabouts and condition of the Reverend Kim Dong Shik.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on the concurrent resolution under consideration.

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

There was no objection.

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

Mr. Speaker, I rise today in support of H. Con. Res. 213, a resolution expressing the sense of Congress regarding the plight of North Korean refugees. In this regard, I would like to acknowledge the leadership of three Members of the House who have been instrumental to bring this resolution to the floor: The principal sponsor of the resolution, the gentleman from California (Mr. ROYCE), the chairman of the U.S.-South Korean Interparliamentary Exchange, the gentleman from Illinois (Mr. KIRK), who traveled to North Korea as a staffer for the Committee on International Relations and who recently chaired a Congressional Human Rights Caucus briefing on the subject and, of course, the gentleman from American Samoa (Mr. FALEOMAVAEGA), the ranking member of the Subcommittee on East Asia and the Pacific.

The subcommittee has become increasingly concerned about a trio of increasingly significant humanitarian and foreign policy issues that have arisen as a direct consequence of North Korea's inhumane and failed system of governance, all of which have important implications for the United States and the international community: Refugees, acute food shortages and human rights. This May the subcommittee held an extensive hearing on the subject, including testimony from experts in the field as well as from several North Korean defectors, survivors of some of the most challenging rigors of the human condition.

Consideration of this resolution is particularly timely, given the recent dramatic increase of North Korean asylum bids through Western embassies in Beijing. It also takes place against the sensitive diplomatic backdrop of renewed North-South dialogue, tentative steps toward reengagement between Tokyo and Pyongyang, and the planned resumption of high-level dialogue between the United States and North Korea. Congress hopes and expects that North Korea will seize the opportunity to demonstrate its sincerity through negotiations and begin to alleviate the concerns of the world community.

As we have all come to understand, the world has increasingly become aware that North Korea has been at the center of one of the greatest human rights tragedies in recent decades. Beginning in the mid-1990s, economic collapse and natural disasters combined to produce famine conditions that have claimed as many as 2 million lives, perhaps as many as 10 percent of the population. The food crisis, compounded by repression and mismanagement, led many thousands of North Koreans to cross into China, primarily into Jilin and Liaoning Provinces. Estimates of the number of North Koreans illegally inside China range from official estimates of 10,000 to 30,000, to unofficial estimates of 100,000 to 300,000. Similarly, the flow of North Korean defectors making their way to Seoul also has increased dramatically in recent years.

Even for those North Koreans able to escape into China, the struggle to survive is far from over. On the shores of the Tumen River, which is all that separates China and North Korea at one point along the border, more hardship and sorrow await, including potential victimization of human traffickers, unsympathetic neighbors, as well as the police.

The PRC's reaction to the influx of North Koreans appears to fluctuate between placid tolerance and bouts of repression. As a matter of principle, Beijing maintains that the North Koreans are economic migrants. In practice, however, local authorities in the past have allowed nongovernment organizations to assist refugees in China, and even turned a blind eye to facilitate their asylum to South Korea through third countries, provided such activities remain low profile. But Beijing also orders periodic crackdowns against refugees and those who assist them.

Repatriated North Korean migrants can expect to face a broad range of maltreatment, which may involve beatings, incarceration, and torture. Others, such as asylum-seekers, known religious believers, and high-profile defectors, risk execution or internment in a labor camp for political prisoners.

The United States can hardly ignore this situation. Our dilemma is how we can make a modest contribution to this circumstance without exacerbating the lamentable plight of North Koreans in northeastern China. In this regard, and at the risk of presumption, I would like to suggest a five-pronged strategy.

First, with regard to North-South relations, we must understand that while attempts to negotiate with North Korea involve an experiment with the bizarre, our unequivocal support for North-South rapprochement and eventual reunification must be maintained as a primary strategic objective in Northeast Asia.

In terms of diplomatic efforts and an effort to forge a more lasting and humane resolution for North Korean refugees, the United States should vigorously pursue bilateral and multilateral discussions on that topic with relevant nations and international organizations, including China, South Korea, Japan, Russia, Mongolia, and the U.N. High Commissioner for Refugees.

The United States should increase humanitarian assistance to North Koreans both outside and inside their country of origin.

In China, we should fully and visibly support the UNHCR in its efforts to gain access to refugees in the northeast of China. Humanitarian assistance to these refugees must be supported.

Outside of China, we should explore the possibility of establishing short to medium-term facilities for North Korean refugees in other countries in the region, such as Mongolia.

Inside North Korea, the United States should maintain and expand its commitment to the World Food Program appeal. In this regard, the WFP has announced that its North Korean program will run out of food in July or August this year unless new pledges are made urgently. World Food Program estimates that some 1.5 million people will not get food because of the shortfall. At the same time, we and other donors should continue strong support for the WFP's efforts to improve its access and food aid monitoring within North Korea.

In addition, Congress and the Executive should be open to supporting innovative, small-scale programs to provide food and other humanitarian assistance through United States nongovernment organizations operating in North Korea.

From a human rights perspective, we must continue to improve our limited knowledge of human rights and humanitarian conditions inside China, and we should consider funding efforts to systematically interview and debrief the increasing number of North Korean refugees and defectors inside South Korea and elsewhere.

From a resettlement perspective, North Korean refugees are currently caught in a legal Catch-22, based on their claim to automatic South Korean citizenship under the Constitution of the Republic of Korea. Yet, except in high-profile cases, North Korean asylum-seekers are not treated as South Korean citizens at South Korea's embassy and consulates inside China, and thus are routinely turned away. In addition to Chinese blockage, other embassies discourage refugees from seeking asylum in their countries because they regard the refugees as citizens of South Korea where they would not face a reasonable fear of persecution. In this circumstance, where asylum claims are regularly thwarted, we have an obligation to discuss with the South Koreans and Chinese ways all interested parties can work to regularize the treatment of North Korean refugees in China.

While the case for pursuing diplomatic approaches in a low-key way may be compelling, the issue itself must be understood as one of the seminal human rights issues of our time.

In this regard we have brought this resolution, and in bringing it I would like to quote the words of President Bush. The President has said, and he has been very succinct in this, that even though he considers North Korea as a country which has starved its people while developing weapons of mass destruction, he has been careful to observe that America has ''great sympathy and empathy for the North Korean people. We want them to have food. We want them to have freedom.''

This timely resolution appropriately expresses this sympathy and concern from the people's House to the North Korean people. We urge its adoption.

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

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

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

Mr. FALEOMAVAEGA. Mr. Speaker, as a cosponsor of H. Con. Res. 213, I am honored to speak on behalf of this legislation which focuses on the tragic plight of tens, if not hundreds, of thousands of North Korean citizens who have sought safety and refuge in the People's Republic of China.

I deeply commend the primary authors of the legislation, the gentleman from California (Mr. ROYCE) and the gentleman from California (Mr. BECERRA,) and also the gentleman from Illinois (Mr. KIRK) for his tremendous help on this legislation.

Their hard work is just another example of the tremendous leadership they have demonstrated in chairing the U.S.-Republic of Korea Interparliamentary Exchange. I would be remiss if I did not also commend the gentleman from Iowa (Mr. LEACH), the chairman of the Subcommittee on East Asia and the Pacific of the Committee on International Relations, with whom I have the distinct pleasure to serve as the subcommittee's ranking Democrat, for the attention he has focused on the North Korean humanitarian refugees' crisis.

Our subcommittee recently held hearings on this troubling issue, and has contributed significantly to the final text of H. Con. Res. 213. I thank the chairman and ranking member of our Committee on International Relations, the gentleman from Illinois (Mr. HYDE), and the gentleman from California (Mr. LANTOS), for their vital leadership and support in moving this measure for consideration on the floor.

Mr. Speaker, many have advocated the citizens of North Korea are perhaps the least free of all the people living on this planet. Suffering from the past 5 decades under one of the world's most ruthless totalitarian regimes, the people of North Korea have been denied the most basic of human rights, have been isolated from one another, and have been cut off from the rest of the world by their government.

□ 1715

As assistant Secretary of State for Democracy, Human Rights and Labor, Mr. Lorne Craner has recently testified regarding North Korea: ''The reports that make it out of North Korea paint a shocking, often horrifying, picture of brutality, oppression, injustice and deprivation. Individual rights are considered subversive to the rights of the State and the Party, with no freedom of expression, assembly or belief. The regime uses extreme suppression and a pervasive surveillance network to intimidate and instill fear in the population. It maintains control through terror, threat of severe punishment and the manipulation of privileges.''

Mr. Speaker, due to the DPRKs disastrous agricultural and economic policies, which have been compounded by natural disasters, the North Korean people have been made to suffer through a brutal famine that has killed well over a million, perhaps up to 3 million, of their fellow citizens and left a generation of their children physically and mentally stunted.

I recall recently a statement made by the Senator from Hawaii, Senator INOUYE, on his recent visit to North Korea, and the most unusual thing that he observed when he visited the capital of Pyongyang, there were no birds. He did not hear one bird noise ever in the whole area. It is just really, really terrible to consider this observation.

Given these terrible conditions in North Korea, Mr. Speaker, it is not surprising that over 100,000 refugees, the vast majority of them women and children, have fled their homeland for northeast China. As many of us know, the plight of these North Korean refugees has received intense international attention recently, with several high-profile incidents where North Koreans have sought refuge in foreign embassies and consulates in the People's Republic of China. Right now in Beijing, 17 North Koreans languish in the South Korean embassy and two in the Canadian embassy after entering the diplomatic compounds and requesting asylum.

In the past, China has attempted to turn a blind eye to the refugee crisis created by its Communist neighbor and quietly tolerated NGO efforts to assist the North Korean refugee community within its borders. Unfortunately, in response to the recent media attention and heightened international scrutiny, the People's Republic of China has chosen to enforce a crackdown on the refugee community, and they are being sent back en masse to North Korea to face certain imprisonment, torture or even death.

Mr. Speaker, China's actions are highly regrettable and certainly in violation of international rules. The heart of the resolution before us rightfully urges that the Government of the People's Republic of China should stop the forced repatriation of North Koreans and that China meet its obligations as a signatory to the United Nations Refugee Convention of 1951 and the subsequent 1967 Protocol. To meet these treaty obligations, China should permit the UNHCR access so that an objective determination can be made whether these North Korean refugees have a well-founded fear of persecution before being shipped back en masse as economic migrants.

Mr. Speaker, the Chinese Government is at a historic point in its relations with the rest of the world. China has just joined the World Trade Organization, will soon host the Olympic games, and has increasingly played an active role in key international foreign policy matters, including Afghanistan, the global war on terrorism and the India-Pakistan controversy.

China's leaders need to understand that abiding by international agreements, including the United Nations Refugee Convention, is a crucial responsibility that major global powers cannot run away from. To the world, it is abundantly clear that the North Korean refugees in China are not simply fleeing for economic reasons, and it is important for their safety as well as China's reputation that a process be set up to interview the refugees to determine whether they have a well-founded fear of persecution before they are returned to North Korea.

Mr. Speaker, the legislation before us addresses one of the most disturbing humanitarian tragedies now unfolding in the world and rightfully calls upon the People's Republic of China to work with our government, other nations in the region, and the United Nations to find a just and proper resolution of this refugee crisis.

I urge my colleagues to support this legislation.

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

Mr. LEACH. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from California (Mr. ROYCE), the author of this resolution and the leader in Congress on so many Korean issues.

Mr. ROYCE. Mr. Speaker, I thank Chairman LEACH, and I thank Ranking Member FALEOMAVAEGA for his leadership as well. I also want to thank the gentleman from Illinois (Mr. KIRK). I want to thank him for his rather extraordinary work along the North Korean-Chinese border. To my knowledge, he is one of the few non-North Koreans who has managed to travel into North Korea and because of his extensive interviews of starving men and destitute women and orphaned children across North Korea and in northern China, we know a great deal more about the crisis there.

I chair the U.S.-Republic of Korea Interparliamentary Exchange. Last summer I introduced this resolution on North Korean refugees after learning

about the unimaginable suffering North Korean refugees face in China. I learned this from my Korean counterparts. Sometime after that, we had an opportunity to hear from the gentleman from Illinois. In his testimony, the gentleman from Illinois recorded for our committee the horror that is going on in North Korea. This situation, frankly, is critical right now to the hundreds of thousands of North Koreans that have escaped over the border into China.

North Korea systematically starves its population. It attacks freedom of speech, it suppresses religion, it constrains movement of its citizens, and frankly it gives preferential access to social services based on allegiance to the cult of personality surrounding Kim Jung-Il. There are 43 counties in North Korea. There are a number of counties in North Korea where people are not considered sufficiently loyal, and it is the people in these regions who are being starved. At the same time, any perceived disobedience in North Korea can land the offender and the offender's family in what is called a labor camp.

Last month, three North Korean defectors testified before the Asia Subcommittee. I would like to call my colleagues' attention to the testimony of Ms. Lee Soon-ok, a former North Korean party official who was held for several years inside one of these North Korean labor camps. She described in gruesome detail the condition inside the camp, telling of public executions in which the prisoners would have to stand at attention to watch the execution, and telling of 150 female prisoners being used to test a chemical gas and as a consequence of that test, all 150 lost their lives.

In her testimony, she describes life in a North Korean prison, and I will just use her words. She said, ''A prisoner has no right to talk, laugh, sing or look in a mirror. Prisoners must kneel down on the ground and keep their heads down deeply whenever called by a guard. They can say nothing except to answer questions asked. Prisoners have to work as slaves for up to 18 hours a day. Repeated failure to meet the work quotas means a week's time in a punishment cell. A prisoner must give up their human worth.'' She said that prisoners are even used by their guards for martial arts practice. The guards punch and kick prisoners during martial arts practice. The prisoners fall bleeding at the first blows and remain motionless for a while on the cement floor until they are kicked back into their cells.

It is estimated that North Korea's prison camp system currently holds about 200,000 people in conditions so brutal that over 400,000 have died in those prisons since 1972. I have heard from North Koreans who say it is rare for a prisoner to survive more than 8 years. Given the repression, given the desperate conditions for those who run afoul of the rules, it is no surprise that many North Koreans have been willing to risk their lives to cross into the closest country, which is China. Yet as explained, despite the obligations that China has taken as a signatory to the convention relating to the status of refugees of 1951 and the Protocol relating to the status of refugees of 1967, China refuses to recognize North Koreans as refugees. They classify them instead as economic migrants. Chinese and North Korean police have worked in tandem to hunt down North Koreans hiding in China. The Chinese Government forcibly repatriates all captured North Koreans, guaranteeing their imprisonment and torture and sometimes death. China's enthusiasm for enforcing North Korea's policies is unconscionable.

Because China will not allow the U.N. High Commission for Refugees access to North Koreans, defectors have created innovative methods for getting asylum in other countries. Since March, we have had 38 desperate North Koreans who have risked deportation to North Korea by dashing into or climbing the walls of foreign diplomatic missions in order to travel to South Korea via third countries. As a result, the Chinese have stepped up police forces around embassies and cracked down on nongovernmental organizations and church groups.

Some have suggested the treatment of North Koreans in China should be handled quietly behind diplomatic closed doors. Yet it is exactly the media attention that has finally brought this situation to light and generated an international outcry that may force China to relent.

Mr. FALEOMAVAEGA. Mr. Speaker, it is my privilege to yield such time as he may consume to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding the time. I would like to thank him and, of course, the chairman of the committee, the gentleman from Iowa (Mr. LEACH), and certainly, of course, the chairman of the subcommittee in question here, the gentleman from California (Mr. ROYCE), for their leadership. I know that I have had several opportunities working with the gentleman from California (Mr. ROYCE) to try to address some of the issues that affect the Korean peninsula, both South Korea and North Korea, and certainly we can turn to the gentleman from California (Mr. ROYCE) always as a voice and a leader on issues affecting the Korean people.

As two individuals who hail from southern California and with large populations of Americans of Korean descent, I think we both understand the plight of those individuals who are seeking freedom in the Korean peninsula, and we do everything we can to try to address that concern, because whether you are of Korean ancestry or if you happen to hail from this country from generations back, I think we all understand that freedom and democracy are what we would all love to leave as a legacy to our kids.

I, too, rise in support of House Concurrent Resolution 213, regarding North Korean refugees in China. It appears that we continue to see the numbers grow of North Koreans who are fleeing their country, many of whom have ended up in China. Some 312 or so have ended up in South Korea in the last several years, they have defected to South Korea, and we have seen more and more of these incidents occurring where individuals who are fleeing North Korea, in the case of their departure to China, are being returned by China to North Korea without knowing fully well what the consequences might be upon their return.

□ 1730

An estimated 150,000 to 300,000 North Koreans currently are living without status in China. We are aware of the treaty that China has with North Korea which allows China to view these individuals as undocumented immigrants or economic migrants, and, as a result, to send them back to North Korea, and, again, without any consideration for the consequences of that repatriation.

We have to acknowledge that in the case of North Korea, there are massive food shortages in that country. Right now we are told that North Korea cannot feed about one-third of its people, so clearly there are cases for economic migrants who do depart from North Korea.

But the cases that we have seen go far beyond those who are leaving only for economic reasons. We know that there are, in many cases, straight and very clear political reasons for many of these individuals leaving, and in some cases religious persecution as well. Yet, with all of that, the Chinese Government refuses to permit the United Nations High Commissioner for Refugees, UNHCR, to evaluate North Korean refugees in China to determine whether or not they deserve political asylum. Under Chinese law, in fact, anyone aiding a fleeing North Korean is subject to a fine, and there is word that bounties are paid to Chinese citizens who turn in North Koreans to the Chinese authorities.

The purpose of this resolution is twofold, I believe. First, under both international and humanitarian grounds, we should be calling on China to provide North Koreans whose asylum requests have been rejected with the right to have the rejection reviewed by international authorities prior to deportation of these North Koreans back to their homeland. That is something that they would be obliged to provide to any individual who claims refugee status under the United Nations 1951 convention relating to the status of refugees and as it has been modified in 1967 through the Protocol relating to the status of refugees.

The second purpose is to urge China to allow the UNHCR to have access to all North Korean refugees who reside in China.

I urge my colleagues to support H. Con. Res. 213 to recognize the plight of refugees who are in China from North Korea who are trying to flee political and religious suppression and persecution, and know fully well that we can have a voice in trying to aid these individuals towards democracy and liberty.

I applaud the chairman for this effort to bring this to the floor; I certainly applaud our ranking member for his cooperation and support of this resolution; and mostly I support and want to applaud the gentleman from California (Mr. ROYCE), the chairman of the Subcommittee on East Asian and Pacific Affairs, for his valiant efforts, not just today, but in the past, to aid the Korean peninsula in moving forward toward democracy.

Mr. LEACH. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. SMITH), the distinguished vice chairman of the committee.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in very strong support of H. Con. Res. 213 regarding the plight of North Korean refugees inside of China. I want to thank the chief sponsor, the gentleman from California (Mr. ROYCE), for introducing this important resolution nearly a year ago, long before this issue had hit the U.S. press. I also want to thank him for accepting language that I suggested that goes into more detail about the human rights situation inside of North Korea, and, most importantly, language that urges the State Department to begin work now and draft and pass a North Korea human rights resolution at next year's session of the U.N. Human Rights Commission in Geneva.

It is amazing to me that such a deplorable situation has received so little attention from the international community. That shameful silence must end.

Mr. Speaker, as has been described by my colleagues, hundreds of thousands of North Koreans are inside China today having fled from starvation and brutal repression inside of North Korea. Although many of them have left in search of food, many of them are genuine refugees. Many more of them, however, have become refugees because of the persecution that they would face if forcibly returned.

North Koreans who attempt to escape to third countries or who have contact with South Korean or missionary groups while in China face execution or imprisonment in labor camps in North Korea. As the front page of yesterday's New York Times pointed out, pregnant women returned to North Korea are forced to undergo abortions or their babies are killed once they are born. I will include that article for the RECORD.

At the ground breaking hearing, Mr. Speaker, convened by the gentleman from Iowa (Chairman LEACH) of the Subcommittee on East Asia and the Pacific last month, we heard from three credible North Korean defectors who described the unbelievable brutality of the Pyongyang regime and the hardships those witnesses endured as refugees inside of China.

Two of the witnesses were rare survivors of North Korea's concentration camps, where nearly 200,000 of their countrymen and women are being held today. These camps are places where prisoners are worked or starved to death, where Christians are killed by torture, where people attempting to escape are publicly shot or dragged to death behind trucks, where newborn babies are killed in front of their mothers, and where prisoners are used as guinea pigs for chemical weapons experiments. The Korean people in the north are suffering unspeakable evil at the hands of Kim Jong Il.

Mr. Speaker, as a party to the U.N. refugee convention, China has bound itself not to return North Koreans who face a well-founded fear of persecution. However, for much of the past year, Chinese authorities have conducted a crackdown against North Korean refugees. They have routinely rounded up many North Koreans and forcibly sent them back to uncertain and sometimes deadly fates. North Korean undercover agents are active inside China helping to capture and return escapees.

Mr. Speaker, I urge strong supports for this resolution.

Mr. Speaker, I include the New York Times article, ''Defectors From North Korea Tell of Prison Baby Killings'' for the RECORD.

[From the New York Times, June 10, 2002]

DEFECTORS FROM NORTH KOREA TELL OF PRISON BABY KILLINGS

(By James Brooke)

SEOUL, SOUTH KOREA.—On a cold March day, the bleak monotony of a North Korean prison work detail was broken when a squad of male guards arrived and herded new women prisoners together. One by one, they were asked if they were pregnant.

''They took them away in a car, and then forcibly gave them abortion shots,'' Song Myung Hak, 33, a former prisoner, recalled in a interview here about the day two years ago when six pregnant prisoners were taken from his work unit in the Shinuiju Provincial Detention Camp. ''After the miscarriage shots, the women were forced back to work.''

More and more escapees from North Korea are asserting that forced abortions and infanticide are the norm in North Korean prisons, charges the country's official Korean Central News Agency has denounced as ''a whopping lie.''

In 2000 and 2001, China deported thousands of North Korean refugees, with many ending up in North Korean prison camps. People who later managed to escape again, to China and South Korea, say that prisoners discovered to be pregnant were routinely forced to have abortions. If babies were born alive, they say, guards forced prisoners to kill them.

Earlier defectors from North Korea say that the prohibition on pregnancy in prisons dates back at least to the 1980's, and that forced abortions or infanticide were the rule. Until recently, though, instances of pregnancy in the prisons were rare.

China's deportations of thousands of illegal migrants from North Korea in recent years has resulted in a sharp increase in the number of pregnant women ending up in North Korean prisons. Defectors, male and female, are reviled as traitors and counterrevolutionaries when they are returned to North Korea. But women who have become pregnant, especially by Chinese men, face special abuse.

''Several hundred babies were killed last year in North Korean prisons,'' said Willy Fautre, director of Human Rights Without Frontiers, a private group based in Brussels. Mr. Fautre said that over the last 18 months, he and his volunteers had interviewed 35 recent escapees from North Korean camps.

Of the 35, he said, 31 said they had witnessed babies killed by abandonment or being smothered with plastic sheets. Two defectors later described burying dead babies, and two said they were mothers who saw their newborns put to death.

''This is a systematic procedure carried out by guards, and the people in charge of the prisons—these are not isolated cases,'' Mr. Fautre said in a telephone interview. ''The pattern is to identify women who are pregnant, so the camp authorities can get rid of the babies through forced abortion, torture or very hard labor. If they give birth to a baby alive, the general policy is to let the baby die or to help the baby die with a plastic sheet.''

Lee Soon Ok, who worked as an accountant for six years at Kaechon political prison, recalled in an interview that she twice saw prison doctors kill newborn babies, sometimes by stepping on their necks.

With virtually no medical care available for prisoners, surgical abortions were not an option. Ms. Lee, 54 and an economic researcher in Seoul, said: ''Giving birth in prison is 100 percent prohibited. That is why they kill those babies.''

Ms. Lee, who has written a book about her prison experiences, seeks to focus attention on North Korea's prison system. On May 2, she was one of three North Korean defectors who testified on human rights abuses at a hearing of the House International Relations Committee.

On Jan. 19, North Korea's official news agency said the charges by Human Rights Without Borders that ''unborn and newly born babies are being killed in concentration camps'' were ''nothing but a plot deliberately hatched by it to hurl mud'' at North Korea. Since then, accusations of baby killing in North Korean prisons have increased.

They were featured in February at a human rights conference on North Korea, in Tokyo, and in March the claims were included for the first time in the State Department's annual human rights report on North Korea. They were raised in April by European Union delegates to the United Nations Commission on Human Rights, and in May by a former North Korean prisoner who testified before a House committee.

North Korea's mission to the United Nations did not return telephone messages about the charges. But on May 9, at the United Nations conference on children in New York, the North Korean delegate said his nation regarded each child as a ''king of the country.''

But recent interviews with seven defectors now living in the Seoul area provided a detailed and different picture of North Korean prison camps.

All of the recent defectors except one, Mr. Song, allowed publication of only their family names, which are common Korean surnames. These four said they feared reprisals against relatives in the North. Two defectors, who had escaped almost a decade ago after working in the prison camp system, allowed their full names to be used.

The defectors' names and phone numbers were supplied by Human Rights Without Borders. They were interviewed individually, in their homes, without human rights or

government officials present. South Korea's government, seeking to avoid conflict with the North, discourages defectors from speaking out.

In her Seoul apartment, Mrs. Lee, 64 and no relation to Lee Song Ok, said she was still haunted by memories of prison after being deported from China in 2000.

Mrs. Lee who is the widow of a North Korean general, recalled thinking that she had won an easy job in the clinic after arriving on June 14, 2000, at the Pyongbuk Provincial Police Detention Camp. Then, she said, she saw a prison doctor give injections to eight pregnant women to induce labor.

''The first time, a baby was born, I didn't know there was a wooden box for throwing babies away,'' Mrs. Lee recalled. ''I got the baby and tried to wrap it in clothes. But the security people told me to get rid of it in the wooden box.''

That day, she said, she delivered six dead babies and two live ones. She said she watched a doctor open the box and kill the two live babies by piercing their skulls with surgical scissors. The next day, she said, she helped to deliver 11 dead babies from 20 pregnant women who had been injected to induce delivery.

In 2000, from March to May, 8,000 North Korean defectors, overwhelmingly women, were deported from China to North Korea during a crackdown on prostitution and forced marriages, according to D. K. Park, a retired United Nations worker who works with Human Rights Without Frontiers along the border between North Korea and China.

''They blame North Korean women for having Chinese babies and just kill the babies,'' Mr. Song, now a college student in Seoul, said of his time in Shinuiju prison in 2000.

Mrs. Park, 41, no relation to the rights worker, said she was among those caught in a Chinese sweep two years ago, ending up in a work camp in Onsong, North Korea. She was nine months pregnant at the time.

''One day, they gave me a big injection,'' she said. ''In about 30 minutes I went into labor. The baby I delivered at the detention camp was already dead.''

For babies born alive in prison cells, defectors say, male guards threaten to beat women prisoners if they do not smother newborns with pieces of wet plastic that are thrown between the bars.

''Guards told the prisoners to kill the babies,'' recalled Miss Lee, a 33-year-old vocational student who is unrelated to the accountant and the general's widow. She said that in 2000, as she was moved among four camps, she saw four babies smothered at the Onsong District Labor Camp in April, and three smothered at the Chongjin Provincial Police Detention Camp in late May.

''The oldest woman in the cell did it reluctantly,'' she said. ''The young women were scared. The mothers would just cry in silence.''

Miss Lee, a former factory worker who survived in China through marriage to an ethnic Korean Chinese, estimated that 70 percent of the people she saw deported from China in the spring of 2000 were women, and about one-third were pregnant.

In the summer of 2001, a 28-year-old former North Korean border guard surnamed Kim was imprisoned at the same Chongjin detention camp. There, he buried three newborn babies wrapped in ''blue-tinted plastic bags.'' He recalled, ''The prisoners were ordered to get the babies coming from the mothers and to kill them.''

His wife, a 25-year-old day-care worker in Seoul, said in the same interview at their apartment here that during her 10 weeks at the same camp last summer, she counted seven babies born and smothered in nearby cells.

The current wave of reported baby killings has nationalistic overtones.

''The guards would scream at us: 'You are carrying Chinese sperm, from foreign countries. We Koreans are one people, how dare you bring this foreign sperm here,' '' Miss Lee, the vocational student, recalled. ''Most of the fathers were Chinese.''

But two decades before pregnant refugees were forced home from China, infanticide was standard practice in the North Korean prison system, a former guard said in an interview near here.

''Ever since Kim Il Sung's time, it has been a North Korean regulation to prevent women from delivering babies in prisons,'' said Ahn Myung Chul, a 33-year-old bank employee, who worked as a guard from 1987 to 1994 in four North Korean camps. Mr. Ahn, who also trained guards, added in an interview: ''If babies have to be delivered, babies have to be killed. The trainers told military personnel that this is the procedure.''

Foreign journalists traveling inside North Korea are restricted to tightly guided tours, and requests by the International Committee of the Red Cross to visit prisons are routinely rejected.

''Those of us inside the country have no knowledge of the existence of prison camps or practices inside them,'' Richard Bridle, the Unicef representative in North Korea's capital, Pyongyang, said by telephone. Asked about infanticide policies, he said: ''The only stories we get are from outside. There is no information circulating inside'' North Korea.

North Korea's prison camp system currently holds about 200,000 people in conditions so brutal that an estimated 400,000 people have died in prison since 1972, according to the U.S. Committee for Human Rights in North Korea, a private group based in Washington.

''Nothing would surprise in accounts of this kind,'' Selig S. Harrison, the director of the national security program at the Center for International Policy, in Washington, and an expert on North Korea, Mr. Harrison, a seven-time visitors to Pyongyang, added: ''North Korea is a repressive, repugnant, totalitarian state, and it certainly uses repugnant methods in its prison system and in its concentration camps.''

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

Mr. Speaker, not wanting to be repetitive, I want to again share with my colleagues the outstanding contributions of the chairman of our Subcommittee on East Asia and the Pacific, the gentleman from Iowa (Mr. LEACH), for his insight and efforts that we have made in working on this resolution with our good friend, the gentleman from California (Mr. ROYCE), and the gentleman from California (Mr. BECERRA).

The fact that our country is contributing hundreds of millions of dollars, is the largest donor in food aid, in fact, to North Korea, I think gives emphasis to the fact that this issue is very serious. Certainly on our part, we are hopeful that the administration will continue to pursue this in all earnestness and see that some resolution is made concerning this issue of refugees coming from North Korea, going up to China. Unfortunately, the Chinese Government has been very uncooperative with the United Nations agencies to see that these refugees should be handled properly.

Again, I want to commend my good friend, the gentleman from Iowa (Mr. LEACH), for his leadership in working this legislation, especially with the leadership of the House as well, and also the gentleman from California (Mr. ROYCE), the gentleman from Illinois (Mr. KIRK), and other Members.

Mr. Speaker, I again urge my colleagues to support this resolution.

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

Mr. LEACH. Mr. Speaker, I thank the gentleman for his kindness.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. KIRK). The House of Representatives is fortunate to have in its midst one of the true experts on a very acute issue in international affairs.

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

Mr. KIRK. Mr. Speaker, I want to commend the gentleman from Iowa (Chairman LEACH), the gentleman from New Jersey (Chairman SMITH), the gentleman from California (Chairman ROYCE), and our ranking Democratic members, the gentleman from California (Mr. LANTOS) and the gentleman from American Samoa (Mr. FALEOMAVAEGA), as well as the gentleman from California (Mr. BECERRA), a strong voice for Koreans, for this resolution.

North Korea is the humanitarian issue of this decade. As South Korea celebrates the World Cup, people in North Korea are starving. In 1997 and 1998, I went to North Korea, from Changin to Sariwon, Huichon to Wonson. I saw the faces of hundreds of children starving, like Kim Uan Bok, age 12, weight 35 pounds, in Huichon Hospital Number 1. I also traveled to China, along North Korea's border, and I met the Kot Je Be, Black Swallows children, orphans who had escaped the 9.27 prisons for hungry children located in every ''Ri,'' or county, in North Korea.

Beyond our nuclear nonproliferation missions, we have three main goals in our policy in North Korea. First, President Reagan said that a hungry child knows no politics, and we are here still in a state of war with North Korea, and yet the U.S. feeds every North Korean child under the age of 15, 21 million meals a day. We need to bring back the U.S. non-governmental organizations that work there, CARE, Mercy Corps and AMIGOS, back into this effort. I also want to commend Kraft, a constituent company in my district, for agreeing to help the new effort to feed North Korean children.

We have a second mission, human rights. There are 200,000 refugees in China. They arrive hungry and lost and need our help. They tell stories of grandmothers and fathers in the Korean tradition during times of crisis of starving so that their kids may live.

We should work with China and the U.N. Human Rights Commission to establish refugee processing centers and

offer safe passage to South Korea, the U.S. and Canada, to offer a new life for North Korean refugees. Our law commits us to reach out to a person with a ''well-founded fear of persecution.'' I would put it to this House that anyone forced to return to the DPRK has such a fear.

Finally, our third mission is to reunite Korean Americans with their relations in North Korea. 500,000 Americans have relations in North Korea, and hundreds of South Koreans have seen their kin, but no Americans. Three months ago, the Korean-American Coalition of the Midwest assembled 30,000 signatures from Korean Americans calling on the Nation to take up the issue of reunifying Americans with their North Korean relations. I am pleased to report Secretary Powell accepted their petition and agreed to put the case of reunification on the U.S.-DPRK agenda.

I commend the gentleman for the resolution and urge its rapid adoption.

Mr. GILMAN. Mr. Speaker. I rise to voice my strong support for H. Con. Res. 213, regarding North Korean refugees who are detained in China and forcibly returned to North Korea where they face torture, imprisonment, and execution. I thank the gentleman from California (Mr. ROYCE) for bringing this important resolution before us today.

In recent years, endemic persecution and famine in North Korea has resulted in tens of thousands of starving North Koreans fleeing their country, and crossing over into China's northeastern provinces. Some hide in the hills along the border and only survive by scavenging, begging or stealing. Others are employed at near-slave wages.

Despite their desperate situation, North Korean refugees in China are constantly pursued by the North Korean Public Security Service with the assistance of Chinese authorities. Many are apprehended and forcibly returned to North Korea, where they may face imprisonment and even the death penalty under the North Korean Criminal Law.

The Chinese government has repeatedly failed to take into account the plight of those in need of protection, and continue to define all North Koreans as ''illegal immigrants.'' It is imperative that the Government of China act to protect refugees from North Korea residing in China and honor its obligations under the United Nations Convention relating to the Status of Refugees of 1951.

Accordingly, I urge my colleagues to support H. Con. Res. 213 and join in urging the Chinese government to review its policy towards North Korean refugees and asylum seekers, and to cease the detention and forcible repatriation of those who are merely fleeing starvation and persecution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of House Concurrent Resolution 213. I have followed the hearings on North Korea in the Subcommittee on East Asia and the Pacific and have heard the plight of the refugees who are fleeing the country in the tens of thousands to escape political and personal persecution. I have concluded, as this resolution expresses, that the Congress must show support for the fleeing refugees of North Korea. As Chairman HYDE stated, North Korea is a place so feared by the thousands of refugees on the run that they have chosen a homeless existence where they are subject to exploitation, trafficking, and sexual abuse. He learned that some are so desperate that they threaten suicide rather than return to what they call a ''hell on earth.''

An estimated 50,000 North Korean refugees were in China at the end of 2001. As many as 100,000 North Koreans were displaced inside North Korea. Other North Korean refugees, a number that varies, are in Russia and elsewhere, while many others find refuge in South Korea. The government of Korea has been brutal in punishing those who seek to leave in the midst of a famine that has been going on since the mid-1990's. Nearly 2 million North Koreans, or about 10 percent of the population, have died from hunger or famine-related disease since 1994. Still, the government grants only limited access to the country's most vulnerable people to NGOs and other aid groups and imposes capital crime punishment on citizens who leave or attempt to leave the country. Leaving for better conditions or for food is classified by the Government as ''defection'' punishable by torture, placement in work camps or even execution.

There is no doubt that these people are refugees by any definition. The U.S. Committee for Refugees (USCR) believes that North Koreans who flee their country without government permission have prima facie claims to refugee status, based on the likelihood of being prosecuted for having exercised the right to leave the country.

As a recipient of these desperate people, we must encourage China not to arrest and forcibly repatriate North Korean asylum seekers. We must encourage the Government of China to honor its obligations under the United Nations Convention relating to the Status of Refugees of 1951, as modified by the Protocol relating to the Status of Refugees of 1967 as expressed in this measure.

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

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 213), as amended.

The question was taken.

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

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

The yeas and nays were ordered.

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

UNITED STATES PARTICIPATION IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

I am pleased to transmit herewith the final version of a report, prepared by my Administration, on the participation of the United States in the United Nations and its affiliated agencies during the calendar year 2000. The report is submitted pursuant to the United Nations Participation Act (Public Law 264, 79th Congress) (22 U.S.C. 287b).

GEORGE W. BUSH.

THE WHITE HOUSE, *June 11, 2002.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 5 o'clock and 43 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WHITFIELD) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

H. Res. 438, de novo;

H. Con. Res. 394, by the yeas and nays; and

H. Con. Res. 213, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

SENSE OF CONGRESS ON IMPROVING MEN'S HEALTH

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 438.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. FOSSELLA) that the House suspend the rules and agree to the resolution, H. Res. 438.

The question was taken.

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

Mr. WALDEN of Oregon. Mr. Speaker, I object to the vote on the ground

that a quorum is not present and make the point of order that a quorum is not present.

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 2, not voting 32, as follows:

[Roll No. 220]

YEAS—400

Abercrombie	Delahunt	Israel
Ackerman	DeLauro	Issa
Aderholt	DeLay	Istook
Akin	Deutsch	Jackson (IL)
Allen	Diaz-Balart	Jackson-Lee (TX)
Andrews	Dicks	Jefferson
Armey	Dingell	Jenkins
Baca	Doggett	John
Bachus	Dooley	Johnson (CT)
Baird	Doolittle	Johnson (IL)
Baker	Doyle	Johnson, E. B.
Baldwin	Duncan	Johnson, Sam
Ballenger	Dunn	Jones (NC)
Barcia	Edwards	Jones (OH)
Barr	Ehlers	Kanjorski
Barrett	Ehrlich	Kaptur
Bartlett	Emerson	Keller
Barton	Engel	Kelly
Bass	English	Kennedy (MN)
Becerra	Eshoo	Kennedy (RI)
Bentsen	Etheridge	Kerns
Bereuter	Evans	Kildee
Berkley	Everett	Kilpatrick
Berman	Farr	Kind (WI)
Berry	Fattah	King (NY)
Biggert	Filner	Kingston
Bilirakis	Fletcher	Kirk
Bishop	Foley	Kleczka
Blumenauer	Forbes	Knollenberg
Blunt	Ford	Kolbe
Boehlert	Fossella	Kucinich
Boehner	Frank	LaFalce
Bonilla	Frelinghuysen	LaHood
Boozman	Frost	Lampson
Borski	Gallegly	Langevin
Boswell	Ganske	Lantos
Boucher	Gekas	Larsen (WA)
Boyd	Gephardt	Larson (CT)
Brady (PA)	Gibbons	Latham
Brady (TX)	Gilchrest	LaTourette
Brown (FL)	Gillmor	Leach
Brown (OH)	Gilman	Lee
Brown (SC)	Gonzalez	Levin
Bryant	Goode	Lewis (CA)
Burr	Goodlatte	Lewis (GA)
Burton	Gordon	Lewis (KY)
Buyer	Goss	Linder
Callahan	Graham	LoBiondo
Calvert	Granger	Lofgren
Camp	Green (TX)	Lowey
Cannon	Green (WI)	Lucas (KY)
Cantor	Greenwood	Lucas (OK)
Capito	Grucci	Luther
Capps	Gutknecht	Maloney (CT)
Capuano	Hall (TX)	Maloney (NY)
Cardin	Hansen	Manzullo
Carson (IN)	Harman	Markey
Carson (OK)	Hart	Mascara
Castle	Hastings (FL)	Matheson
Chabot	Hastings (WA)	Matsui
Clay	Hayes	McCarthy (MO)
Clement	Hayworth	McCarthy (NY)
Coble	Hefley	McCollum
Collins	Herger	McCrery
Condit	Hill	McDermott
Cooksey	Hilleary	McGovern
Cox	Hilliard	McHugh
Coyne	Hinchey	McInnis
Cramer	Hinojosa	McIntyre
Crane	Hobson	McKeon
Crenshaw	Hoeffel	McKinney
Crowley	Hoekstra	McNulty
Culberson	Holden	Meehan
Cummings	Holt	Meek (FL)
Cunningham	Honda	Meeks (NY)
Davis (CA)	Hooley	Menendez
Davis (FL)	Horn	Mica
Davis (IL)	Hostettler	Millender-McDonald
Davis, Jo Ann	Houghton	Miller, Dan
Davis, Tom	Hunter	Miller, Gary
Deal	Hyde	Miller, George
DeFazio	Inslee	Mink
DeGette	Isakson	Mollohan
Miller, Jeff	Rogers (KY)	Stupak
Moore	Rogers (MI)	Sullivan
Moran (VA)	Rohrabacher	Sununu
Morella	Ros-Lehtinen	Tancredo
Murtha	Ross	Tanner
Myrick	Rothman	Tauscher
Nadler	Roukema	Tauzin
Neal	Roybal-Allard	Taylor (MS)
Nethercutt	Royce	Taylor (NC)
Ney	Rush	Terry
Northup	Ryan (WI)	Thomas
Norwood	Ryun (KS)	Thompson (CA)
Nussle	Sabo	Thompson (MS)
Oberstar	Sanchez	Thornberry
Obey	Sanders	Thune
Ortiz	Sandlin	Thurman
Osborne	Sawyer	Tiahrt
Ose	Saxton	Tiberi
Otter	Schaffer	Tierney
Owens	Schakowsky	Toomey
Oxley	Schiff	Towns
Pallone	Schrock	Turner
Pascrell	Scott	Udall (CO)
Pastor	Sensenbrenner	Udall (NM)
Payne	Serrano	Upton
Pelosi	Sessions	Velazquez
Pence	Shadegg	Visclosky
Peterson (MN)	Shaw	Vitter
Peterson (PA)	Shays	Walden
Petri	Sherman	Walsh
Phelps	Sherwood	Wamp
Pickering	Shimkus	Waters
Pitts	Shows	Watkins (OK)
Platts	Shuster	Watson (CA)
Pombo	Simmons	Watt (NC)
Pomeroy	Simpson	Waxman
Portman	Skeen	Weiner
Price (NC)	Skelton	Weldon (FL)
Pryce (OH)	Slaughter	Weldon (PA)
Putnam	Smith (MI)	Weller
Quinn	Smith (NJ)	Wexler
Rahall	Smith (WA)	Whitfield
Ramstad	Snyder	Wicker
Regula	Solis	Wilson (NM)
Rehberg	Souder	Wilson (SC)
Reyes	Spratt	Wolf
Reynolds	Stark	Woolsey
Rodriguez	Stearns	Wu
Roemer	Stenholm	Wynn
	Strickland	Young (AK)
	Stump	Young (FL)

NAYS—2

Flake	Paul

NOT VOTING—32

Baldacci	DeMint	Napolitano
Blagojevich	Dreier	Olver
Bonior	Ferguson	Radanovich
Bono	Graves	Rangel
Chambliss	Gutierrez	Riley
Clayton	Hall (OH)	Rivers
Clyburn	Hoyer	Smith (TX)
Combest	Hulshof	Sweeney
Conyers	Lipinski	Traficant
Costello	Lynch	Watts (OK)
Cubin	Moran (KS)	

□ 1853

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

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. WATTS of Oklahoma. Mr. Speaker, I was unavoidably detained and missed Recorded Votes on Tuesday, June 11, 2002. I would like the RECORD to reflect that, had I been present, I would have cast the following vote:

On agreeing to H. Res. 438, rollcall vote No. 220, I would have voted ''yea.''

Mrs. NAPOLITANO. Mr. Speaker, on rollcall No. 220, had I been present, I would have voted ''yea.''

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WHITFIELD). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

EXPRESSING SENSE OF CONGRESS CONCERNING 2002 WORLD CUP AND CO-HOSTS REPUBLIC OF KOREA AND JAPAN

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 394.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 394, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 402, nays 1, not voting 31, as follows:

[Roll No. 221]

YEAS—402

Abercrombie	Capuano	Flake
Ackerman	Cardin	Fletcher
Aderholt	Carson (IN)	Foley
Akin	Carson (OK)	Forbes
Allen	Castle	Ford
Andrews	Chabot	Fossella
Armey	Clay	Frank
Baca	Clement	Frelinghuysen
Bachus	Coble	Frost
Baird	Collins	Gallegly
Baker	Condit	Ganske
Baldwin	Cooksey	Gekas
Ballenger	Coyne	Gephardt
Barcia	Cramer	Gibbons
Barr	Crane	Gilchrest
Barrett	Crenshaw	Gillmor
Bartlett	Crowley	Gilman
Barton	Culberson	Gonzalez
Bass	Cummings	Goode
Becerra	Cunningham	Goodlatte
Bentsen	Davis (CA)	Gordon
Bereuter	Davis (FL)	Goss
Berkley	Davis (IL)	Graham
Berman	Davis, Jo Ann	Granger
Berry	Davis, Tom	Green (TX)
Biggert	Deal	Green (WI)
Bilirakis	DeFazio	Greenwood
Bishop	DeGette	Grucci
Blumenauer	Delahunt	Gutknecht
Blunt	DeLauro	Hall (TX)
Boehlert	DeLay	Hansen
Boehner	Deutsch	Harman
Bonilla	Diaz-Balart	Hart
Boozman	Dicks	Hastings (FL)
Borski	Dingell	Hastings (WA)
Boswell	Doggett	Hayes
Boucher	Dooley	Hayworth
Boyd	Doolittle	Hefley
Brady (PA)	Doyle	Herger
Brady (TX)	Duncan	Hill
Brown (FL)	Dunn	Hilleary
Brown (OH)	Edwards	Hilliard
Brown (SC)	Ehlers	Hinchey
Bryant	Ehrlich	Hinojosa
Burr	Emerson	Hobson
Burton	Engel	Hoeffel
Buyer	English	Hoekstra
Callahan	Eshoo	Holden
Calvert	Etheridge	Holt
Camp	Evans	Honda
Cannon	Everett	Hooley
Cantor	Farr	Horn
Capito	Fattah	Hostettler
Capps	Filner	Houghton

Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Shadegg

NOT VOTING—31

Baldacci
Blagojevich
Bonior
Bono
Chambliss
Clayton
Clyburn
Combest
Conyers
Costello
Cox
Cubin
DeMint
Dreier
Ferguson
Graves
Gutierrez
Hall (OH)
Hulshof
Kennedy (RI)
Lipinski
Lynch
Moran (KS)
Radanovich
Rangel
Riley
Rivers
Sandlin
Smith (TX)
Sweeney
Traficant

□ 1903

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS REGARDING NORTH KOREAN REFUGEES DETAINED IN CHINA

The SPEAKER pro tempore (Mr. WHITFIELD). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 213, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 213, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 0, not voting 28, as follows:

[Roll No. 222]

YEAS—406

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Clay
Clement
Coble
Collins
Condit
Conyers
Cooksey
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—28

Baldacci
Blagojevich
Bonior
Bono
Chambliss
Clayton
Clyburn
Combest
Costello
Cubin
DeMint
Dreier
Ferguson
Graves
Gutierrez
Hall (OH)
Hulshof
Lipinski
Lynch
Moran (KS)
Ortiz
Radanovich
Rangel
Riley
Rivers
Smith (TX)
Sweeney
Traficant

□ 1914

So (two-thirds having voted in favor thereof) the rules were suspended and

the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1915

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1950

Mr. BISHOP. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1950.

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

There was no objection.

ENRON EMPLOYEES PROVIDED SEVERANCE BENEFITS

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, just a few months ago in Houston, Texas, Enron filed bankruptcy. Hours after the bankruptcy filing occurred, 5,000 fellow Houstonians, many of whom were my constituents, were fired, terminated, with no relief and no benefits.

Today, Mr. Speaker, I am very pleased to announce that a tentative settlement has been agreed to, yet to be approved by the court, to provide the ex-Enron employees with their needed and with their deserved and with their old severance pay.

Let me acknowledge the work of the AFL–CIO and Rainbow/PUSH Coalition and Reverend Jesse Jackson, working in a collaborative effort to encourage the employees not to be silent.

We made history today, Mr. Speaker. For the first time in a bankruptcy court proceeding, unsecured creditors were able to receive funding before any proceedings were to go forth. These employees, who basically have no standing in a bankruptcy proceeding, now with the creditors' committee, now with the lawyers, now with Enron as it presently stands, have agreed to provide this severance pay.

I think this is a historic day. But it gives the Congress the opportunity to change the Bankruptcy Code, and the bankruptcy laws as well, to ensure that employees who are victimized and not at fault will have the opportunity to receive their benefits.

I look forward to this Congress acting immediately. I would like to thank the minority leader, the gentleman from Missouri (Mr. GEPHARDT), and, of course, the leader of the other body for their help.

PRIVATIZATION OF AIR TRAFFIC CONTROLLERS

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

Mr. BACA. Mr. Speaker, the administration decided last week to privatize our air traffic controllers by executive order. So why are we spending millions on transportation security, federalizing baggage screeners, if we are going to commit ourselves to unsafe air travel?

Our Nation's air travel problems were on the ground with the security screeners, not in the air with the traffic controllers. Why are we penalizing them? These men and women take pride every day in keeping their fellow citizens safe as they travel America's skies.

On September 11, the controllers landed 5,000 planes in less than 2 hours without an operational error. My question is, Where is the problem? Why are we privatizing it?

The President's recent steps toward privatizing air controllers is a step towards disaster, and I state, towards disaster, literally. On September 11, we quickly realized that using private companies to handle airport security was a mistake. We federalized airport security because private contractors could not do the job. Why would we lock the windows, only to open the doors to potential disaster?

Privatizing has proven to be a mistake in most prominent nations. I say this is wrong. Let us not privatize our system. Let us allow the controllers to do the job, to keep our airlines safe.

PROTECT THE CONSTITUTION

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

Mr. KUCINICH. Mr. Speaker, this morning I, along with 30 other Members of the House, filed a lawsuit in Federal District Court to block the President from withdrawing from the Anti-Ballistic Missile Treaty of 1972.

The President, by withdrawing from this particular treaty, insists that he has the authority to terminate any treaty and can do so without the consent of Congress. But according to article VI, clause 2 of the Constitution, treaties constitute the supreme law of the land and the President does not have the authority to repeal laws.

Article I, section 1 empowers the Congress to create laws and charges the President only with carrying out these laws. Thus, the President's termination of the ABM Treaty represents an unconstitutional repeal of a law duly enacted by Congress.

The world's geopolitical trash bin is already littered with treaties and agreements unilaterally discarded by the United States under this administration. It is critical that we reassert congressional authority and end this pattern.

AIR TRAFFIC CONTROL PRIVATIZATION

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

Mr. BROWN of Ohio. Mr. Speaker, the U.S. air traffic control system is the largest and most complex in the world, and it is the safest. President Bush issued an executive order last week stripping aircraft traffic control of its inherently governmental designation. This is the first step in his plan to privatize our air traffic control system.

Privatization has failed in other countries. Canada's air traffic controllers face 6-day work weeks, mandatory overtime and a contract that expired in March. Air traffic controllers on September 11 landed 5,000 planes in the span of 2 hours without an operational error. Yet President Bush wants to privatize the air traffic control system. He wants to privatize Social Security; that will not work. He wants to privatize Medicare; that will not work. Now he wants to privatize our air traffic control system, and that will not work.

Air traffic controllers should remain under the direct supervision of the FAA, which is doing a good job to maintain the necessary levels of training, of personnel, and of common experience.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 96, PROPOSING A TAX LIMITATION AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 107–503) on the resolution (H. Res. 439) providing for consideration of the joint resolution (H.J. Res. 96) proposing a tax limitation amendment to the Constitution of the United States, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4019, PERMANENT MARRIAGE PENALTY RELIEF ACT OF 2002

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 107–504) on the resolution (H. Res. 440) providing for consideration of the bill (H.R. 4019) to provide that the marriage penalty relief provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IMPORTANCE OF PASSENGER RAIL AND FUTURE OF AMTRAK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON of Indiana. Mr. Speaker, I rise today to talk about the important issue of passenger rail in America and the future of Amtrak.

The passenger rail system suffers from gross neglect of our investment. We have actively engaged in financing and developing and preserving the infrastructure of all other modes of transportation, whether it be bailing out the airlines, federally funding and fixing the State highway system, or subsidizing airport construction. However, we continue to be faced with the possibility that Amtrak may suddenly have to cease operations. Recently, Amtrak president David Young said that if Amtrak did not receive a $200 million loan in the next 3 weeks, it would have to begin shutting down operations.

Mr. Speaker, it is imperative that we build a world-class passenger railroad system in the United States. We cannot wait for highways and airports to become so overwhelmed that they can no longer operate, and we cannot continue to hold the millions of Americans who rely on rail service in limbo while we refuse to provide Amtrak with adequate funding. We must engage in long-term planning.

The terrorist attacks of September 11 and the aftermath that followed exposed the vulnerability of our society, our economy when transportation choices are limited and our mobility is diminished.

After the FAA grounded all flights following the terrorist attacks, travelers turned to Amtrak. Whether people had to travel for business, to help with rescue efforts, or just to get home, Amtrak kept our American citizens moving during the time of national emergency. Amtrak's ridership and revenues skyrocketed, led by the northeast corridor, which had a 13.5 percent revenue growth and a 4.6 percent ridership growth in 2001.

The system as a whole, including the corridor, revenue rose 8.2 percent, ridership 4.3 percent. The situation not only proved that Amtrak works but that passenger rail is critical to our transportation infrastructure during national emergencies or a security crisis.

Amtrak provided a critical transportation link, carrying 35,000 passengers along the northeast corridor every day and hundreds of extra carloads of mail for the U.S. Postal Office in the days following 9–11.

Mr. Speaker, it was not until 1956 that the government began heavily promoting highway transportation with the passage of the Federal Aid Highway Act of 1956. The act established a highway trust fund based upon Federal user taxes in order to finance up to 90 percent of State construction costs of the $25 billion plan to pay for new roads and the construction of the Eisenhower National Interstate and Defense Highway System. Similar policies and Federal attention for aviation resulted in the strengthening of the aviation industry.

Amtrak was created as a Federal corporation in order to relieve the railroad industry of unprofitable passenger operations and in the interests of maintaining a national passenger rail service. Per capita spending in America on passenger rail is dismal compared to the other 23 industrialized nations with rail service.

I would like to present, Mr. Speaker, that part as a part of the RECORD for the edification of all those concerns.

The material referred to follows:

NARP—WORLD MAINLINE RAIL SPENDING PER CAPITA

The United States ranks low among industrial nations in terms of its spending on rail spending—both in whole terms and per capita.

Population density is not entirely a determining factor—on the chart below, Norway, Finland, Sweden and Canada all spend more than the U.S. per capita, yet have lower population densities. Estonia is slightly more densely populated than the U.S., yet invests over twice as much in rail per capita. Some states in the U.S. have population densities closer to that of some of the other countries.

Even as a society, you get what you pay for. Is it any wonder that the passenger rail system in the U.S. is so skeletal compared to other countries?

Selected countries, U.S. dollars, 1999—capital and operating support from governments to major national railways

Belgium	834.39
Austria	117.30
Switzerland	162.65
Luxembourg	160.69
France	67.66
Slovenia	46.98
Italy	46.09
Netherlands	44.36
Ireland	43.75
Sweden	39.09
Croatia	37.40
Britain	36.98
Slovakia	26.27
Norway	24.92
Spain	22.76
Hungary	21.06
Czech Republic	20.08
Germany	18.60
Romania	15.75
Yugoslavia	13.83
Estonia	7.67
Finland	5.95
China	5.21
Canada	5.09
United States	3.28
Poland	3.13
South Korea	3.11
Turkey	1.55
Portugal	1.48
Saudi Arabia	0.82
Cameroon	0.23
Algeria	0.20
Senegal	0.17
Chile	0.17
Malaysia	0.16
Taiwan	0.15
Mali	0.02

NOTES

U.S. spending includes 2000 federal appropriations for the Federal Railroad Administration (including for Amtrak and high-speed programs) and state payments to Amtrak.

Canada includes VIA Rail Canada only, for 2000.

Information from 1998 for Sweden and Taiwan.

Information from 1997 for Luxembourg, Cameroon, Mali, Senegal, and Malaysia.

International Union of Railways (UIC), Paris, for spending figures except: United States, from appropriations information; Canada, from Transport Canada; Britain, from Department of Transport, Local Government, and Regions; and China (includes infrastructure spending only), from International Railway Journal.

Time Almanac (2000) for population figures.

Yahoo.com for exchange rates (March 19, 2002; historical information from same source used where available).

While we subsidize the building of roads and highways, Mr. Speaker, with tax dollars, we must ensure the survival of Amtrak. It is a wise use of taxpayer money. It is for the benefit of the American public. It is for the benefit of the transmission of cargo in this country. I would urge Members to sign onto legislation that I have authored which would authorize $1.5 billion annually for corridor developments. They are needed for the infrastructure, highway-rail grade crossing improvement, acquisition of rolling stock and track and signal equipment.

Mr. Speaker, the rest of my remarks for the benefit of time and the limitation that has been afforded in this 5 minutes will go into a part of the CONGRESSIONAL RECORD for further explanation, but I would encourage the Members of this body who believe that America should engage in economic stimulus for the benefit of jobs, for the benefit of the American people, to sign onto my bill that would ensure the continued survival and viability of Amtrak, a very vital, needed service for the American people.

Mr. Speaker, I rise today to talk about the important issue of passenger rail in America, and the future of Amtrak.

The passenger rail system suffers from gross neglect of our investment. We have actively engaged in financing, developing, and preserving the infrastructure of all other modes of transportation. Whether bailing out the airline industry, federally funding and fixing the interstate highway system, or subsidizing airport construction. Finally, it will require an annual independent audit of Amtrak, to be reviewed by the Department of Transportation's Inspector General.

By developing passenger rail as part of a balanced transportation system, this legislation will lead to the creation of jobs in the short run to stimulate our economy. In the long run, high-speed rail corridors will become a key foundation for our national rail passenger transportation system, which is critical to the strong backbone of a prosperous economy.

I understand that this legislation is an ambitious blueprint, but I believe that with the appropriate funding, America's passenger rail can take its appropriate place as the best rail system in the world.

We continue to be faced with the possibility that Amtrak may suddenly have to cease operations. Recently, Amtrak CEO David Gunn said that if Amtrak did not receive a $200 million loan in the next 3 weeks, it would have to begin shutting down operations.

Mr. Speaker, it is imperative that we build a world class passenger railroad system in the United States. We cannot wait for highways and airports to become so overwhelmed that they can no longer operate, and we cannot continue to hold the millions of Americans who rely on rail service in limbo while we refuse to provide Amtrak with adequate funding. We must engage in long-term planning to address future passenger transportation growth and show forethought in crafting transportation solutions—not wait for the impending crisis.

The terrorist attacks of September 11, 2001, and the aftermath which followed, exposed the vulnerability of our society and our economy when transportation choices are limited and our mobility is diminished. After the Federal Aviation Administration grounded all flights following the terrorist attacks on September 11, 2001, travelers turned to Amtrak.

Whether people had to travel for business, to help with rescue efforts, or just to get home, Amtrak kept our American citizens moving during a time of national emergency. Amtrak ridership and revenues skyrocketed, led by the Northeast Corridor, which had a 13.5 percent revenue growth and a 4.6 percent ridership growth in 2001. The system as a whole, including the corridor, revenue rose 8.2 percent and ridership 4.3 percent.

The situation not only proved that Amtrak works, but that passenger rail is a critical part of our transportation infrastructure during a national emergency or security crisis. Amtrak provided a critical transportation link, carrying 35,000 passengers along the Northeast corridor every day, and hundreds of extra carloads of mail for the U.S. Postal Office in the days following the terrorist attacks.

Transportation security, an essential part of our national security, requires a balanced and competitive system of transportation alternatives. In September, we found that our dependence on the aviation system was basically stagnant. We cannot afford to rely on any single mode of transportation; we need to ensure that we have a balanced system that includes a sound passenger rail system. Passenger railroads use less fuel per passenger mile than highway vehicles and commercial airlines.

During these times of oil-consciousness, a larger presence of passenger rail in our transportation system would reduce our Nation's dependence on foreign oil. Passenger railroads, the interstate highway system, and our national aviation network have all taken different paths in their current roles in our national transportation system. The interstate highway system has received significant attention and federal funding since the construction of the Lincoln Highway in 1913 and the Rural Post Roads Act of 1916, and later during World War II with the Federal Highway Act of 1944. It was not until 1956, however, that the Government began heavily promoting highway transportation with the passage of the Federal Aid Highway Act of 1956.

The act established a Highway Trust Fund based upon Federal user taxes, in order to finance up to 90 percent of State construction costs of the $25 billion plan to pay for new roads, and the construction of the Eisenhower National Interstate and Defense Highway System. Similar policies and Federal attention for aviation resulted in a strengthened infrastructure, and follows much the same story of the highways system.

Passenger rail service was once a vital instrument in the transportation needs of our Nation. For instance, during World War II, not only did the railroads transport 90 percent of all defense freight, but also 97 percent of all defense personnel on their way to theaters of action. By the end of the war, railroads accounted for three-quarters of the common carrier share of intercity traffic, with airplanes and buses sharing the remaining quarter of traffic. However, with national focus turned to aviation and highways, by the late 1960s most rail companies were petitioning the Government to discontinue passenger services because of losses.

Amtrak was created as a Federal corporation in order to relieve the railroad industry of these unprofitable passenger operations, and in the interest of maintaining a national passenger rail network. But in retrospect, Amtrak was set up not to thrive and expand passenger rail service, but really to just maintain the status quo of 30 years ago. That attitude persists even today. Since 1971, Amtrak has received only $25 billion in public subsidies. During the same period, the United States invested $750 billion on highways and aviation.

Per capita spending on a passenger rail is much lower than many other countries with the U.S. ranking behind the top 23 industrialized nations with rail service, and with your permission Mr. Speaker, I would like to submit for the record these funding levels, so that Members can be aware how drastically wrong our current policies are. No passenger rail service in the world has built and operated a passenger rail system at a profit. All have required Government support for construction and maintenance, or operating support, or both. That same principle holds true for highways and aviation, which have required substantial Federal spending since their beginning and continue to receive generous Federal subsidies today.

Those who want passenger rail to operate with Federal assistance argue that we should not ''subsidize'' passenger rails. Yet we subsidize the building of roads and highways with tax dollars. We subsidize the building of airports and pay for all of the equipment and people needed to run our air traffic control system.

We consider those subsidies to be worthwhile investments in our economy and our quality of life. We must make the same investment to create a world-class passenger rail system in order to see the same kinds of benefits. From this, is evident that we need to reevaluate our Nation's rail passenger policy, and clearly define a role for Amtrak.

A strong Federal role was required to establish the interstate highway system and the Federal aviation network, and now Federal investment in passenger rail infrastructure is critical. Once again, Federal leadership is required to address the needs of a reliable, safe, secure passenger rail network.

In the coming weeks, I shall introduce the National Defense Rail Act, which will mirror S. 1991, introduced by Senator ERNEST HOLLINGS. This legislation provides a blueprint for the future of passenger rail in the United States. The bill will help develop high-speed rail corridors, which are the building blocks for a national passenger rail system. This will allow regional transportation solutions to play a part in the national system.

It will also aid in the development of short distance corridors between larger urban centers, as well as provide funding to preserve longer distance routes for those communities that do not have the population densities to merit air service—sometimes the train is their only alternative to driving. Finally, it will provide Amtrak with the tools and funding it needs to operate efficiently.

This legislation authorizes $1.255 billion in emergency spending for Amtrak's security and life safety needs. This bill will give the Federal Government the script for the role it needs to play in establishing a national rail passenger system. It would not require any State contribution, and would give preference to projects having right-of-way dedicated to passenger rail, involving high-speed passenger service of 125 mph, although operations of 90 mph speeds or more would be eligible for funding, and those connecting to other modes of passenger transportation, including airports.

The bill authorizes $1.5 billion annually for corridor development. These funds are needed for infrastructure acquisition, highway-rail grade crossing improvement, acquisition of rolling stock and track and signal equipment. This bill will also fund $35 billion in loan guarantees. This money will dramatically expand the current Railroad Rehabilitation & Infrastructure Financing loan and loan guarantee program. This bill eliminates the artificial limits on loan amounts, impossible collateral requirements, and unworkable loan cohort structures. This bill identifies existing high-speed corridors in 29 States and the District of Columbia for priority consideration. Many of these corridors are in areas where people are now driving cars or taking airplanes on trips of 300 miles or less.

In these areas travelers could take a high-speed train instead and arrive at about the same time. But right now they don't have that rail option, and they won't until we build it. The Northeast Corridor has become an invaluable asset to our national transportation system, and it should not be left in disrepair. This bill authorizes funds to enable Amtrak to eliminate its capital backlog of projects, maintain ongoing projects to capital infrastructure, and improve capacity to accommodate projected growth in traffic. It also allows Amtrak to reinvest revenues from operations in the Northeast corridor back into the backlog of capital infrastructure projects, and will require Amtrak to reinvest revenues from non-passenger operation into growth projects outside the Northeast Corridor.

This bill ensures fair labor standards for all projects receiving funs under it, including payment of prevailing wages and allowance of collective bargaining over wage rates. Another immediate benefit will be the closing or improvement of highway-rail grade crossings in high-speed rail corridors. Under this bill, funds are set aside specifically for these important safety improvements. This legislation will provide the necessary funds of $1.31 billion for Amtrak to repair and upgrade the track it owns and operates in the Northeast Corridor.

This corridor is a prime example of the benefits we can attain when there are transportation choices for travelers. The passenger railroad system that has worked well in the Northeast can work in other highly-congested areas of the country: the South, the Midwest, California and the Northwest.

Thirty years ago, those areas did not have the population to support high-speed intercity rail. But today those areas are growing by

leaps and bounds. As the highways in those areas clog up and the planes run 3 hours late, many are asking us for help to build high speed rail. A short-term benefit of this legislation will be stimulation of the economy by providing jobs in developing new corridors. Millions of Americans have asked Congress to save Amtrak, and to ensure the future of passenger rail in the United States. I ask my colleagues to add a powerful voice to these millions, and join with me by cosponsoring this important legislation.

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FEDERAL GOVERNMENT CANNOT ACCOUNT FOR BILLIONS OF TAXPAYER DOLLARS

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, during the Memorial Day break, I happened to be listening to a talk show out of Raleigh, North Carolina called WPTF and the host is Jerry Agar. When Mr. Agar said that the New York Post had reported that the national government, the Federal Government had lost $17.3 billion, it kind of got my attention. So by phone, because I was in my car, I called my staff and I said, please get me a copy of the New York Post. I cannot believe what Jerry Agar was saying, even though I have been on his show and I think he is a very, very credible talk show host.

Sure enough, we got a copy of the New York Post and the article says, ''Washington complains about deceptive corporate accounting, but the government last year misplaced an incredible $17.3 billion because of shoddy bookkeeping, or worse.''

Then, to add to that embarrassment that we cannot keep our books straight here in Washington, D.C., the London Times, May 29, has an article that says, ''As accounting errors go, it is a whopper. The U.S. Treasury has admitted that it has 'lost' $17.3 billion,'' and they equate that in pounds to $11.7 billion, ''because of shoddy bookkeeping, enough to buy a fleet of 8 B–2 stealth bombers and still have change for jet fuel.''

Mr. Speaker, I would like to submit these two articles and also a letter that I have sent to Secretary Paul O'Neill.

Let me go a little bit further. In March, 2002, the Department of the Treasury released the 2001 financial report of the United States Government. This report included some shocking revelations about Federal Government expenditures. Specifically, on page 110 of this report, it is revealed that the Federal Government has unreconciled transactions totaling $17.3 billion from the year 2001. Put simply, the Federal Government cannot account for billions of taxpayers' dollars that Americans paid in one fiscal year.

Mr. Speaker, as a Member of Congress, and my colleagues, I am sure, feel the same and, more importantly, as taxpayers, I am frankly offended by these facts. With the war on terrorism costing about $1.8 billion per month, this is not the time to be misplacing taxpayers' dollars. As I stated earlier, and I want to state again, the London Times said $17.3 billion is enough to buy a fleet of B–2 bombers with spare change for fuel. Mr. Speaker, $17.3 billion is the equivalent of two aircraft carriers and two air wings. If a company in the private sector managed its books in a similar fashion, someone would definitely be going to jail.

Last week, as I said earlier, I requested Secretary of the Treasury Paul O'Neill to account for these unreconciled transactions. Mr. Speaker, the American taxpayers look to us to be the leaders who protect and spend their money wisely, and I think we have a responsibility and an obligation to the taxpayers of this country to explain to them how we lost $17.3 billion. It is unacceptable, and I am sure my colleagues on both sides of the political aisle will feel the way I do. We would expect an explanation to the fact that we have misplaced and lost $17.3 billion of the taxpayers' money.

So, Mr. Speaker, I am going to close with that. But again, I do want to submit the two articles from the London Times, the New York Post, and my letter to Secretary O'Neill, and I do expect Secretary O'Neill to respond with some type of explanation. If I do not get a letter in the proper length of time, I intend to notify the committee of jurisdiction and ask that they hold a hearing on how we as a national government have lost $17.3 billion of the taxpayers' money. The American people work hard for their money and they have a right for an accountability by this government.

[From the New York Post, May 28, 2002]

BILLIONS LOST BY FEDS

(By John Crudele)

MAY 28, 2002.—Washington complains about deceptive corporate accounting. But the government last year misplaced an incredible $17.3 billion because of shoddy bookkeeping, or worse.

Let me put that into numbers so you can fully appreciate the amount. It's $17,300,000,000—the price of a few dozen urban renewal projects, a nice size fleet of warships or about have the tax cut that everyone made such a fuss about last summer. Disappeared. Gone. Nowhere to be found. In fact, the government's accounting was so atrocious that the General Accounting Office—another Washington agency—refused to give an opinion about the honesty of the government's books.

Did someone steal all that money? The government doesn't know. Was it simply misplaced? Dunno. Misspent? Your guess is as good as anyone's.

There's a certain bit of irony, of course, that Congress is raking companies like Enron, Arthur Andersen and others over the hot coals for falsified books when D.C.'s own records are pathetically inadequate.

As I mentioned in this column a couple of weeks ago, the government made an incredible admission a little while back in something called the 2001 Financial Report of the United States Government.

In that report, Treasury Secretary Paul O'Neill revealed that when the government uses the same accounting method that corporations are required to use, the federal deficit in 2001 was $515 billion. Last fall the government said the budget had a surplus of $127 billion.

Ah, yes, the good old days!

The huge deficit is mainly, the government says, the result of health benefits to military retirees. That's a cost the government conveniently forgot to include in its old accounting method, which had more to do with winning votes than providing a true financial picture of the country.

Anf that $515 billion doesn't include all costs, especially Social Security. But we'll leave that alone because I don't want to depress anyone—especially myself.

I also said in that earlier column that the information on the deficit wasn't easy to find. O'Neill's letter was buried on the Treasury Department's Web site and the press release put out by the agency didn't mention the $515 billion until paragraph 5.

(Treasury says all the press in Washington got a copy of the report and that it was adequately disclosed. It also said an undersecretary of Treasury had reported the numbers to a congressional subcommittee.)

Well, I sent my scavengers back into that Financial Report of the U.S. for another look and that's when we discovered the unaccounted for $17.4 billion.

Follow me on this and I'll lead you to the still missing treasure.

Go to www.USTreas.gov, click on Treasury Bureau on the left, then click on ''financial management services.''

If you've made it this far click on ''Financial Report of the U.S. Government'' for 2001 and download it.

Now find page 49. Look at the line that says ''Unreconciled transactions affecting the change in net position.'' The figure in the 2001 column next to that is $17.3 billion.

What that means is that when the accountants tried to balanced the government's books they came up $17.4 billion short. Note 16 on Page 110 sort of explains.

That footnote says that the accountants had to pencil in $17.4 billion that didn't exist (or was missing) in order to achieve a balanced government ledger.

The footnote adds that the mistake could simply be bad government record keeping or ''improper recording of intragovernmental transactions by agencies.''

Poor record keeping! Isn't that a gem.

I spoke with some of the folks at the General Accounting Office who audited the government's report. They were puzzled by the discrepancy and wouldn't sign off on the government's accounting because of that and other things.

''The left and the right side didn't equate,'' said one GAO auditor. When such a thing happens in the private sector, People go to jail. And a company's stock would fall by about 99 percent if its auditor didn't trust the books—just ask the felons-to-be down at Enron.

It is good that Washington must now adopt a corporate-like method of accounting for where it spends taxpayers' money.

But it would be even better if there were some recourse to the sort of sloppiness, arrogance or criminality that allows the government to come up $17.4 billion short of balancing its books.

At the very least, maybe some corporate exec—as he's being hauled off to jail for accounting fraud—will hold aloft page 49 of the government's financial statement and foot note 16 and demand equal treatment.

[From the London Times, May 29, 2002]

US GOVERNMENT LOSES $17BN IN ACCOUNTING ERROR

(By Chris Ayres in New York)

As accounting errors go, it is a whopper. The US Treasury has admitted that it has ''lost'' $17.3 billion (Pounds 11.7 billion) because of shoddy book-keeping—enough to buy a fleet of eight B–2 stealth bombers and still have change for jet fuel.

The admission, contained in the 2001 Financial Report of the United States Government, is likely to infuriate firms that have been targeted by the Bush Administration for sloppy accounting.

The misplaced cash is nearly 30 times greater than the $600 million error in Enron's reported profits that led to the Texas energy company's spectacular bankruptcy last December.

It is thought that the accounting error led to a dispute between the US Treasury and the General Accounting Office, which was reluctant to sign off on the report.

Paul O'Neill, the US Treasury Secretary, writes in the introduction to the Financial Report: ''I believe that the American people deserve the highest standards of accountability and professionalism from their Government and I will not rest until we achieve them.'' However, on page 110 of the Financial Report is a note that explains that the Treasury's books did not balance because of a missing $17.3 billion.

The note says that ''three primary factors'' were responsible: the failure of government agencies to keep accurate books; errors in reporting various contracts between government agencies; and problems with the timing of certain costs and revenues.

It is not the first time that the US Treasury has been embarrassed by the kind of accounting problems that have spooked stock market investors. Because of new corporate-style accounting rules for the Government, the US Treasury's $127 billion federal surplus, reported last autumn, turned into a deficit of $515 billion, mainly as a result of the Government incorporating the cost of health benefits for those retiring from the US military.

America's finances have also been strained by last year's tax cut, the recession and increased spending after the September 11 attacks.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 6, 2002.

Hon. PAUL H. O'NEILL,
Secretary of the Treasury,
Washington, DC.

DEAR MR. SECRETARY: I write to you to bring to your attention a serious situation regarding 2001 Financial Report of the United States Government.

In March 2002, the Department of the Treasury released this report to the public and included are some shocking revelations about Federal government expenditures. As a member of Congress and, more importantly, as a taxpayer, I am frankly offended by these facts. Specifically, on page 110 of the report, it is revealed the Federal government has ''unreconciled transactions'' totalling $17.3 billion from FY2001. Put simply, the Federal government has ''unreconciled transactions'' totalling $17.3 billion from FY2001. Put simply, the Federal government cannot account for billions of taxpayer dollars that Americans paid in one fiscal year.

The report provides minimal data and information regarding these ''unreconciled transactions''. Not only is the Federal government missing $17.3 billion, but there is no reason given for this loss. While I appreciate the Department of the Treasury's statement ''. . . the identification and accurate reporting of these unreconciled transactions a priority . . .'', the fact remains the public nor the Congress has the requisite information on how this loss occurred.

What agencies were responsible for these ''unreconciled transactions''? Will these transactions eventually be reconciled? If so, what is the timeline for the reconciliation? What agency or agencies will be responsible for the reconciliation? Will this reconciliation be available to the public when complete?

The Clinton Administration provided for an enormous erosion of Americans' confidence in their government. My hope is that these ''unreconciled transactions'' are nothing more than a bygone relic of the previous Administration. However, members of Congress and employees of the Executive Branch must be accountable to the American taxpayer and my constituents are demanding answers to these important questions.

Mr. Secretary, I believe someone must answer to the American people for this loss of tax dollars. I look forward to your answers regarding these ''unreconciled transactions''. Thank you for your prompt attention to this matter. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

WALTER B. JONES,
Member of Congress.

CALIFORNIANS, LIKE FLORIDIANS, WANT TO PROTECT THE ENVIRONMENT FROM OFFSHORE DRILLING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. CAPPS) is recognized for 5 minutes.

Mrs. CAPPS. Mr. Speaker, a couple of weeks ago, President Bush proposed to buy back undeveloped oil drilling leases off the coast of Florida and in parts of the Everglades. The President cited considerable local opposition to new drilling in Florida as a prime reason for this decision. I fully support this bold step to protect the environment and the economy of Florida. And while the vast majority of Californians were very pleased with this action, we were left asking, what about California? Why can the Federal Government not take similar action on the 36 undeveloped leases off Ventura, Santa Barbara, and San Luis Obispo Counties that we have been trying to terminate for years?

Last week, Interior Secretary Gale Norton supplied the answer. According to the Secretary, a major difference between Florida and California is that Florida opposes coastal drilling and California does not. As the U.S. representative for Santa Barbara and San Luis Obispo Counties, and a nearly 40-year resident of the area, I was dumbfounded by this assertion.

My local paper, the Santa Barbara Newspress, editorialized today about what it calls Secretary Norton's ''jaw-dropping'' remarks asking, ''What alternative universe is Ms. Norton living in?''

Mr. Speaker, I lived in Santa Barbara in 1969 when a huge blow-out on Union Oil'S Platform A put 4 million gallons of oil into the sea. The oil spill killed thousands of seabirds, seals, dolphin, fish and other sea life. It damaged for years a huge swath of the beautiful coast of Central California. The devastation was so great it galvanized Central Coast residents; indeed, it galvanized virtually the whole State against offshore drilling.

Clearly we were outraged by the damage to the environment and the wildlife. But we also realized that another blow-out could wreak havoc on our economy as well, especially tourism, fishing, and the many industries that rely on them. And Californians have become committed to ensuring it will not happen again.

As the Newspress noted, this ''catastrophe helped spark an environmental movement that spread beyond Santa Barbara.''

Since that time, some 24 city and county governments, including both Santa Barbara and San Luis Obispo Counties, have passed anti-oil measures. These laws usually either require voter approval before any new onshore facilities that support offshore drilling could be built or they ban them outright.

In 1994, the California legislature passed, and Republican Governor Pete Wilson signed into law, a permanent ban on new offshore oil leasing in State waters. In 1999, the State Assembly adopted a resolution requesting that the Federal Government enact a permanent ban on offshore oil drilling off the coast of California. I had introduced legislation to enact such a ban in 1998, and I have been joined by a majority of my California colleagues in supporting this legislation.

Most recently, Governor Davis and the California Coastal Commission have been in litigation with the Federal Government about new offshore oil drilling. The State is trying to ensure that Californians have a say in any new development of these 36 leases off the coast, a position with which a Federal court has agreed. Thirty-one Members of the California delegation signed my amicus brief on behalf of the State's position, and even the Federal Government has demonstrated its sensitivity to California's opposition to new drilling. After all, it was President George H.W. Bush who signed an executive memorandum placing a 10-year moratorium on new leasing in Federal waters off the California coast. President Clinton renewed and extended the moratorium until the year 2012. And Secretary Norton even restated this administration's commitment to abiding by this moratorium, an odd stance to take if she believes there is no real opposition to new offshore drilling in California.

Mr. Speaker, I have been leading a bipartisan delegation of California representatives in asking the President to work with us to terminate the leases off our coast. We wrote to him last week about this issue. Given the misimpression under which Secretary

Norton is clearly operating, a number of us are asking to meet personally with the President to explain the situation in California. If he is following the counsel of Secretary Norton, he is getting bad advice that needs to be countered.

The President was right to take his action in Florida. It is our hope to convince him to help all of us out on the West Coast who want to protect our environment as well, and to control our economic destiny, just like they want to do in Florida.

FAREWELL TO ULYSSES S. GRANT SHARP, A GREAT AMERICAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, for the first time in 20 years, I find myself going back to San Diego with my friend and seatmate, the gentleman from California (Mr. CUNNINGHAM), who is very much interested in national security, as I am, and missing one of our most trusted advisors at the table. That has occurred because we have lost Ulysses S. Grant Sharp, one of our great admirals and one of our great military leaders.

Mr. Speaker, his story is largely the military's story of this last century. He graduated from the United States Naval Academy in 1927. He served before World War II on the battleship USS *New Mexico*, the transport the USS *Sumner*, the destroyers the USS *Buchanan* and the USS *Winslow*, the carrier the USS *Saratoga* and the cruiser the USS *Richmond*. After that, and during World War II, he was awarded two Silver Stars while commanding the USS *Boyd* for action at Wake Island in the Marianas, the Philippine Islands, Okinawa, Formosa and the Gilbert Islands. Admiral Sharp finished the war on the staff of Commander, Destroyer Force Pacific.

He was a great warrior, Mr. Speaker. After he left his battlefield command after World War II, he could see Korea on the horizon and in that war he commanded the Destroyer Squadron FIVE. He served with the staff of Commander, Seventh Fleet as Fleet Planning Officer for the Inchon invasion. In 1951 he was assigned as Chief of Staff of Commander, Second Fleet.

In 1953 he assumed command of the cruiser USS *Macon*, and following the command, he served as deputy for Commander in Chief Pacific Fleet.

But it was during Vietnam, Mr. Speaker, in 1964, in which he was appointed by the President to become Commander in Chief Pacific; that is CINCPAC, a unified command of nearly 1 million Army, Navy, Marine and Air Force personnel in an 85-million-square-mile area and, at that point, the entire Vietnam theater that he really became a very major leader of American military forces in a very critical conflict.

Uly Sharp was responsible at that point to the Secretary of Defense and the Joint Chiefs of Staff for the overall supervision of the United States combat operations in Vietnam and throughout the Pacific during the 4 years that followed. After that, Mr. Speaker, he came home and retired in San Diego and was a great member of our community.

He wrote a book called ''Strategy for Defeat'', which I would commend to those who follow military affairs and who need to be reminded that the way we achieve peace in this world and the way we have achieved peace in this world is through military strength. Uly Sharp was really a model citizen, a model soldier citizen in the sense that he thought that when a military person retires, their next duty is to become involved in civic and political affairs, and Uly did that. He was one of my first advisors.

Twenty years ago, when I was running for office and had no chance to win, and when my friend, the gentleman from California (Mr. CUNNINGHAM) came along in 1990 and similarly had a very difficult race, Uly Sharp showed up and worked hard and tried to drag us across the finish line, and did so successfully. He was a wonderful guy who always had time for the community, was a leader of our military community in San Diego, as a 4-star admiral, a guy who brought everybody together and imparted advice to all of those who were willing to listen about military affairs.

One of my best memories of Uly is going over on a Sunday afternoon with my dad to his house at Point Loma and listening to him as he laid out the wisdom of almost a full century of service in the United States military.

Uly Sharp was a model, I think, for all Americans, not just people that wear the uniform, but especially for people that wear the uniform, because he believed that every citizen had a double obligation, and that was an obligation to serve the country in uniform, and he carried that out very proudly and very well, but also the obligation to be involved in civic and political affairs. He also carried that burden and that mantle very well.

So, Mr. Speaker, it is a sad thing for me personally that I will never see Uly again, going back to San Diego and sitting down with folks who give me great advice on national security. I know the gentleman from California (Mr. CUNNINGHAM) would say the same thing. Uly Sharp was a great American and really served our country well. God bless him.

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OPPRESSION OF FREEDOM OF THE PRESS IN CUBA

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise this evening to draw attention to the struggle of journalists and their work toward freedom of information and freedom of the press in Cuba. Cuba was recently ranked by the Committee to Protect Journalists as one of the 10 worst places for journalists to work. For the past 7 years, the committee has also listed Fidel Castro as one of the top 10 enemies of the press.

Cuba is the only Latin American nation where the press is completely gagged. The Cuban constitution includes a ban on all non-governmental media outlets, giving Castro complete control over all media outlets. After 43 years of power, Castro shows no sign of lessening his stranglehold on the press.

Mr. Speaker, last week the New York Times published an article on the work and struggles of Omar Rodriguez Saludes, one of only 100 independent journalists working in Cuba. Independent journalists like Omar who would choose to work outside the government-controlled media outlets are denounced by Castro as counterrevolutionaries and are barred from covering official events. Independent reporters face repeated interrogation and detainment by Cuban authorities, monitoring and interruption of their telephone calls, restrictions on their travel; and they are often placed under house arrest to prevent coverage of certain events.

A new tactic of intimidation involves arresting journalists and releasing them hundreds of miles from their homes.

To report the news, Omar travels around Havana on a battered child-size bicycle, knowing that he can make his deadline as long as he does not have a flat tire, or if a corner policeman does not confiscate his notes, tape recorder, and camera. Omar writes his articles in longhand, or basically on a 20-year-old typewriter that he and a group of reporters share. He gathers every 2 weeks or so with other journalists in a cramped apartment in Havana's Chinatown, which is the makeshift headquarters of one news agency. He and others await their turn to place a phone call and dictate their stories to several Web sites on Cuban affairs in the United States. And even then, the state-owned telephone monopoly frequently refuses to connect their international calls.

Mr. Speaker, Cuba is the only country in the Western Hemisphere where a journalist is currently jailed for his work. In 1997, journalist Bernardo Arevalo Padron was jailed for ''disrespecting'' Castro and another Cuban state council member, Carlos Lage. The charges stem from a series of interviews that Arevalo gave to a Miami-based radio station in which he alleged that while farmers starved, helicopters were taking fresh meat from the countryside to the dinner tables of Castro and Lage.

Despite being eligible for parole and in declining health, Arevalo continues to be held in a labor camp.

Mr. Speaker, in the United States, we take I think all too often for granted the rights and freedoms of our journalists. We just assume that it is true throughout the world. But it is not true. There are many countries that simply do not allow journalists to practice.

I urge my colleagues to join with me to draw attention to and take a stand against oppression of freedom of speech and freedom of the press, in this case Cuba; but there are other countries that have similar problems.

THE HIGH COST OF PRESCRIPTION DRUGS IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise tonight to speak about an issue that unfortunately more and more Americans are becoming acutely aware of, that is, the high cost of prescription drugs here in the United States, especially relative to the prices that people are paying in other parts of the world, other industrialized countries, where we see enormous differentials for the same drugs made in the same plants under the same FDA approval.

I have a chart here, and it has a list. These are not my numbers; this is an independent group called the Life Extension Foundation. They have been doing research of this type for a number of years and have been very helpful in at least clarifying what is going on in terms of the way the drug companies set their prices.

The more we learn about this issue, the angrier we will become when we see what they are doing to American consumers. For example, here are roughly 15 of the most commonly prescribed drugs in the United States. Here is what we are paying on an average for a 30-day supply here in the United States, and on the other list we have what the average price in Europe is.

Now, some people say, well, some countries have price controls, and it is hard to compare apples to oranges, and all that. Well, let us talk about some countries that do not have price controls, not as we know they are: Germany, Switzerland. Those are two good examples. Let us look at what we are paying here in the United States and what they are paying in places like Germany and Switzerland.

Let us take a drug like Cipro. We all learned a lot about Cipro last November when we had the threats, and ultimately several postal workers lost their lives because of what happened last fall. We bought an awful lot of Cipro. To his credit, Secretary Tommy Thompson got a very good price on that Cipro that he bought.

But let us look at what the average consumer would have to pay for Cipro. Cipro is a drug made by a pharmaceutical company called Bayer, or we say it Bayer, here in the United States, the same people that make the aspirin. In the United States, the average price for a 30-day supply of Cipro is $87.99. That same drug in Berlin sells for $40.75.

As we look down this list, we see some even bigger disparities: Claritin, a drug that is going off-patent still sells in the United States on average, or at least when this chart was put together a few months ago, sold for an average of $89 for a 30-day supply. That exact same drug in Europe sells for $18.75. Again, the same drug, the same FDA approval, made in the same plants, selling for a fraction of what they sell for in Europe.

Coumadin, a drug that I am very familiar with, my 85-year-old father takes Coumadin. It is a blood thinner very commonly prescribed for seniors. In fact, most of them, once they start on Coumadin, they stay on it for the rest of their lives. The price here in the United States on an average for a 30-day supply is $64.88; the same drug in Europe sells for $15.80.

If we go down the list, it makes us angry when we see the differences. A relatively simple drug like Premarin, in the United States it sells for an average of $55.42; in Europe, the same drug, $8.95. The list goes on. If anybody would like the entire list, they can contact my office. We will send it to them. Again, I did not create this chart. I cannot defend this chart, and neither can anybody else.

Here is another chart that cannot be explained or defended. Last year, the last year we have numbers for, what happened to prescription drug prices? In the United States, the average price for prescription drugs went up 19 percent. I mentioned that Coumadin that is now $64 for a 30-day supply in the United States. Two years ago, that same drug sold for $38 in the United States. That is how much it has gone up in just 2 years.

At the same time, the Social Security cost-of-living adjustments that we gave to those seniors who have to buy those drugs only went up 3.5 percent. This is unsustainable. This is wrong, and Congress ought to do something about it:

Let us get to the big numbers. Let us get to the big numbers. This is where it starts to really cost. This number on top is one, then an eight, then a zero and a zero and a zero and a zero and a zero and a zero and a zero and a zero and a zero and a zero and a zero, $1.8 trillion. That is what the Congressional Budget Office tells us that seniors, these are people 65 years and older, will spend for prescription drugs in just the next 10 years, $1.8 trillion.

Now, Members, conservatively, if we just open up the market, if we just allow seniors to buy drugs from other countries, and I want them to go to their local pharmacist, I want them to be able to go down to the local pharmacist and the pharmacist can say to them, listen, I can fill that out of my supply that is American, and the price will be $64, or I can order it from Europe for you on the Web, and we can have it here in 3 days, and the price will be $18, or whatever the number is.

Markets work. Markets are more powerful than armies. If we simply do this, I believe we can save at least 35 percent; 35 percent of $1.8 trillion is $630 billion. That would go a long way to helping to pay for a benefit for those seniors who currently fall through the cracks.

Mr. Speaker, the time has come to open up the markets and allow Americans to have access to drugs at world market prices.

AMTRAK AND THE FUTURE OF OUR PASSENGER RAIL SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise to address the important issue of Amtrak, and especially do I rise to address the future of our passenger rail system in the United States.

I am pleased to join with all of those who support an increase in transportation funding for our Nation's rail line. I encourage my fellow colleagues to support the National Defense Rail Act proposed by the gentlewoman from Indiana (Ms. CARSON).

Mr. Speaker, our national passenger rail system is in a state of financial crisis. Last week, David Gunn, the president of Amtrak, requested $200 million in immediate funding. Without this necessary funding, Amtrak will be forced to shut down; perhaps not definitely, but even if indefinitely, any disruption of our Nation's rail system would be detrimental to the economy as a whole. Therefore, I am pleased to have this opportunity to support legislation that will create a high-speed national rail service that is on par with the best rail systems in the world.

Over the last 30 years, we have spent $750 billion on our national highways and airports, but we have only spent $25 billion on our national passenger rail system. Thus, it is not surprising to me that out of the 23 most industrialized nations in the world, the United States spends the least per capita on its national rail system.

We now stand at a time where we must decide whether we should keep massaging and bailing out Amtrak, lending it just enough money to survive, or whether we should create a high-speed train network that will encourage more ridership, more expedient service, and a viable alternative to aviation or automobile travel.

In the wake of September 11, we need a world-class high-speed national rail system. And in the weeks following the terrorist attack, people turned to Amtrak to get home from work or travel. Since travel by plane was not an option, the only way to get anywhere was by train. Across the country, Amtrak revenue and ridership increased significantly. In the northeast corridor alone,

revenue shot up 13.5 percent, and ridership increased 4.6 percent. If we were to improve our national system, revenue and ridership would surely increase, easing congestion on our highways and runways.

Transportation by rail is vital to the economy. Businesses depend on it, workers depend on it, and industry depends on it. It is vital to the environment. Trains use less fuel, emit less pollution, and cause less commuter congestion.

For much too long, we have ignored the great potential that a world-class rail system could bring to our country's economy and security. I encourage all Members of Congress to join me and my colleagues in passing the National Defense Rail Act and support the future of expedient travel in the United States. The time has come to invest in the future of high-speed rail transportation by overhauling our Nation's passenger rail infrastructure.

I share the vision of the gentlewoman from Indiana (Ms. CARSON) and urge all of my colleagues to join with us as we propose and develop a national rail system second to none in the world.

THE IMPORTANCE OF MAINTAINING A FEDERAL COMMITMENT TO SUPPORT AMTRAK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. SANDLIN) is recognized for 5 minutes.

Mr. SANDLIN. Mr. Speaker, I rise tonight. And the Democrats rise tonight, to stress the importance of maintaining a Federal commitment to support Amtrak. I, along with 150 of our colleagues, support providing Amtrak with the $1.2 billion it needs to maintain its current success on into 2003.

A working national passenger rail network is essential for east Texas and America, but the Federal Government must provide resources for capital improvements if Amtrak is to continue to service the Nation at affordable, competitive rates.

According to Amtrak, without this funding Amtrak will be forced to eliminate nearly all long-distance passenger trains by October 2002, which would be disastrous for rural America. Rural America and east Texas support a national rail service. We do not approve of shutting down rural routes while funding only a northeast corridor commuter route.

Under Amtrak's proposal, service between Boston and Washington will remain, while lines like the Texas Eagle route will be shut down if Congress fails to provide sufficient resources for fiscal year 2003. Amtrak's long-distance passenger line provides critical transportation options for rural areas like east Texas, allowing rural residents as great an access to transportation as residents of fully urbanized areas.

In many cases, Amtrak's Texas Eagle is the only means east Texans have to travel long distances. If Amtrak is forced to close its long distance lines, the main links between Texas and cities would be severed, crippling the local economy and retarding rural development in my district and across the Nation.

Mr. Speaker, the people of east Texas use and support Amtrak. Ridership of the Texas Eagle line and revenue from the Texas Eagle line has increased by 9 percent since January, 2001, exceeding budget projections.

□ 2000

These positive developments have been achieved through bold steps taken by the people of East Texas to do everything in their power to keep the Texas Eagle line running and bold steps from Amtrak to reduce its management to maximize efficiency.

In March, Amtrak announced that its CEO and president George Warrington was resigning to move on to another project after raising Amtrak's revenues to a record $2.1 billion for the 2001 fiscal year. Capitalizing on this vacancy as a new opportunity, Amtrak's board hired David Gunn to continue improving Amtrak's record. This new administration lead by Mr. Gunn is making radical changes to increase its ridership and revenues to achieve fiscal responsibility in a common sense way.

Mr. Gunn has wide experience with the commuter rail industry both in America and in Canada serving as the president of the New York City Transit Agency from 1984 to 1990 and the chief general manager of the Toronto Transit Commission from 1995 to 1999. He carries with him an exceptional international reputation based on his ability to unite labor, business, local communities and governments to successfully improve financial stability and plan for the future. With this strong track record, Mr. Gunn brings to Amtrak the ability to overcome its financial difficulties through progressive policies and realistic plans for the future.

Just yesterday, Amtrak's governing board approved changes to consolidate authority and remove unnecessary oversight. These measures include cutting the number of vice president titles from 84 to approximately 20, clearly assigning the authority over cars and locomotives to five people when 16 currently share the responsibility, and consolidating Amtrak's three operating divisions and its mail and express business into the company headquarters in Washington. The new streamlined chain of command will vastly improve Amtrak's decision making and efficiency. But any attempts to solve Amtrak's crisis will be for naught without strong Congressional support to match Amtrak's bold new policies.

Now, Amtrak's opponents argue that the Federal Government has bailed out Amtrak before to no effect, and that private passenger lines are the only solution. Not so. In 1997, Congress reauthorized Amtrak for 5 years at $5.2 billion. However, only $2.7 billion was actually appropriated, barely 52 percent of the money. This does not constitute a bail out. In fact, this latest figure is only the continuation of a decades old pattern of underfunding Amtrak while at the same time demanding that it become profitable. In essence, under the guise of supporting Amtrak, Congress has instead set it up for failure, providing Amtrak with just enough money to survive another year but not giving it the capital to develop necessary infrastructure projects that could make it self sufficient by 2001.

No other publicly funded transportation system in America, much less a comparable national passenger rail system in the world has succeeded without significant public capital investment to modernize systems, enhance security and fund long distance service. In fact, no private passenger line could succeed under those same circumstances. Privatization of long distance passenger service would be tantamount to termination of long distance passenger rail service. It would result in the loss of rail service in many rural communities and would result in the lay off of many, many dedicated Amtrak employees. Only short distance commuter routes would remain. The people of East Texas need and deserve access to a national rail network as much if not more so than communities in the Northeastern United States. They do not need a multitude of new rail bureaucracies without adequate resources.

Importantly, if Amtrak is to be reduced to servicing the Northeast corridor alone, as a regional transportation network, it should operate without Federal support.

With proper funding Amtrak can succeed. H.R. 4545 will provide that funding. With $1.9 billion Amtrak can make necessary changes. America and East Texas deserve a strong passenger rail system and I will continue to fight for Amtrak.

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under a previous order of the House, the gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

(Mr. HOLT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

SOCIAL SECURITY AND THE DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, this evening I would like to dedicate my remarks to Social Security, its trust funds and our growing national debt.

In January of last year, our Nation finally moved to an annual balanced budget after decades of being awash in growing debt as far as the eye could see. Many of us fought very hard to

bring that budget back into balance and, in fact, the Congressional Budget Office at that time projected that we were on course to have the publicly held debt, the over MMMM$6 trillion of accumulated debt, paid off in about 10 years, by 2011.

Now, not even one and a half years later the Congressional Budget Office projects that under the Republican budget passed here in March, there will be a $1.8 trillion in budget deficit over the next 10 years. So instead of paying off our Nation's debt by 2011, under the Republican budget the publicly held debt will stand at nearly $3 trillion.

I can remember when they took the debt clock down in Time Square and everybody across America cheered. Well, I would encourage those folks up on Wall Street to put it back up because it is growing again.

Now, what is the biggest reason for this radical reversal in our Nation's financial health? Primarily, the Bush tax gives away mainly to the super rich.

Now, what does this burgeoning public debt represent? First and foremost it means Social Security trust funds are being drawn down to pay for those tax breaks. And what is really amazing is that the Republican majority here in this Congress voted seven times to protect the Social Security trust fund in a lockbox. They said they wanted to ensure that not a penny of the Social Security surplus would be used for other programs. They have vowed that every penny of the surplus would be used solely to buy back outstanding Treasury bonds in a manner that would shore up Social Security for the future. So the Republican budget they passed in March does not simply break the lockbox and dip into the Social Security surplus, it calls for a grand and extended raid, tapping the surplus every year of the next decade. The timing could not be worse. We must balance the Federal budget and protect Social Security surpluses for the 44 million baby boomers set to retire over the next ten to 15 years. Working families have earned a secure retirement and we must put Social Security solvency first. Congress is the main protector of Social Security. It is the people's program intended by Franklin Roosevelt and every Democratic president since, to allow generations of retirees to live with independence and dignity. And it is time for the Republican majority to stop raiding Social Security. But so long as they continue to do so I will be down here every week telling the American people exactly how much they have taken from the one remaining portion of the Federal budget that is in surplus and that is the trust funds.

Last week we reported that they had taken as of June 5, $207,232,876,712, which last week amounted to about $717 per American. This week, they have now taken over $5 billion more.

As of June 11, 2002 they have now dipped into the trust fund $212,246,575,342 averaging about $754 per American. I do not think that this is responsible budgeting. I do not think this is what the Republican majority promised. I am generally not quite this partisan on the floor of this Congress. However, when it comes to Social Security and Medicare, and what it has meant to lift half a Nation out of poverty, there is absolutely no reason that Kenneth Lay and his likes should get a $350 million tax refund while average Americans are having their future retirement funds raided every single week. So I would just ask those who may be listening in New York City, if you could find that old debt clock and put it back, I think we need to tell the truth to the American people. It is time that we begin putting money in the trust fund, not drawing it down for purposes that are unrelated to the purpose for which it was originally organized.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to address their remarks through the Chair.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

(Ms. MILLENDER-MCDONALD addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

WOMEN AND SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Mrs. THURMAN) is recognized for 5 minutes.

Mrs. THURMAN. Mr. Speaker, before the gentlewoman from Ohio (Ms. KAPTUR) leaves, I want to congratulate her on her presentation. Social Security is a very important issue, and certainly I think she laid out to the public what is happening here in Congress. And I agree with her that we should not be spending the Social Security money on anything other than Social Security. And quite frankly, this is something that almost every Member of Congress, both Democrats and Republicans, agreed to last year by overwhelmingly passing the lockbox for Social Security and Medicare. Unfortunately, as has been pointed out, the Social Security trust funds would lose two-thirds of its surplus under the President's budget. And the Congressional Budget Office projects that $740 billion of this money would be used to fund things other than Social Security benefits such as the tax cuts.

In the Nonpartisan Center on Budget and Policy Priorities, they estimate that the size of the tax cut is more than twice as large as the Social Security financing gap. So we could have used these resources that we were talking about and we continue to talk about to actually fix the Social Security instead of being used for this tax cut.

I think we all need to remember that our seniors continue to remain secure in their retirement, and I particularly want to talk about women as we have potentially come on a debate about the privatization proposals that many of us believe needs to be talked about a little bit, and certainly the concerns. But let us look at women in this country and how they rely on Social Security.

Women rely actually more on Social Security income than men. Almost two-thirds of all women 65 years and older get at least half of their income from Social Security. For one-third of these women, Social Security makes up 90 percent or more of their income. Guess what? Women, we live longer than men. We all know this. And, in fact, we live about 7 years longer. Fully 72 percent of Social Security recipients over 85 are women. And on average, women over age 85 rely on Social Security for 90 percent of their income. I will repeat that, 90 percent of their income. Traditional Social Security continues to pay benefits as long as the beneficiary is alive.

Now, when we start talking about private accounts, we honestly believe that women risk exhausting their savings in their most vulnerable years. Women take time out of the workforce to care for children and elderly parents. We have all been there; we have heard those stories. As a result, they rely much more heavily on their husband's Social Security benefits. Over 60 percent of women on Social Security receive spousal benefits while only 1 percent of men receive such payments.

So why is it important that we preserve traditional Social Security for women? Unlike private accounts, Social Security is automatically adjusted for inflation. For women, who live longer lives, private accounts run the risk of being worth less due to inflation or devalued accounts.

Well, then why are we having this debate? Well, the President in his guidelines for the Social Security Commission stated that we, in any proposal we create, must not invest Social Security dollars in the stock market. He also stated that the Social Security payroll taxes must not be increased. However, the President wants people to be able to use a portion of their payroll taxes for investing in stocks. The commission, which was commissioned by the President, recommended three options for reforming Social Security. But let me warn you that all three options divert at least some percentage of payroll tax to private accounts.

□ 2015

Diverting as little as 2 percent to private accounts the commission, and the commission recommended as much as 4 percent will result in a loss of trust funds of $1.1 trillion dollar over 10

years or at 1 percent $558 billion over 10 years. That money has already been designated to pay for benefits for future retirees, not to mention the fact that we do not have $1 trillion left because it has been spent on the tax issues.

One option affected seniors' benefits to such a degree that the Wall Street Journal wrote, ''Benefit options would be changed in so many ways that grandma's head would spin.'' The President's guidelines also leave only one option for supporters of privatizing Social Security, and that would be to cut seniors' Social Security benefits.

Why in the face of a recession and the impending retirement of baby boomers would we take the money to be paid to future retirees and gamble on it? I ask the American people that question. I hope we stay tuned for this debate on privatization and we say ''no'' to privatization.

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LOFGREN) is recognized for 5 minutes.

(Ms. LOFGREN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

IMPACT OF SOCIAL SECURITY PRIVATIZATION ON AFRICAN AMERICAN WOMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to address the devastating impact that privatizing Social Security would have on women, most especially African American women.

Social Security is particularly important to women, especially in my home State of Texas. Without these vital retirement benefits, 564,000 women in the Lone Star State would be classified as poor according to a report released by the Senate for budget policy and priorities.

Currently, Social Security benefits are progressive, that is, those with low wages receive a larger percentage of benefits relative to their earnings than higher-income individuals do. This system of progressivity, combined with a cost-of-living adjustment that increases benefits every year, strengthens the safety net for those who are the most economically disadvantaged.

Privatization flows from concerns that many people have about the future of Social Security. Some of those concerns are founded and some may not be. We are all well aware that as the post-war baby boom generation ages, the numbers of retirees relative to the number of workers will increase. These are facts that cannot be changed. However, modest changes implemented immediately can give people time to plan for the future and would take us a long way toward resolving the issue.

Privatizing Social Security is the most radical change, and it assumes that there is magic in diverting some portion of the current Social Security payroll taxes into the private markets. I hope that people who have money in the private markets understand what happened in the last year or so. Most privatization plans propose to strip a few percentage points off the Social Security payroll taxes and divert them to the private individual investment accounts. Most people happily focus on the vision of a few dollars a month growing into millions of dollars over time. Just ask me and a few others who have put small amounts of money on the market, that is lost. Unfortunately, this is a dream and not a reality as we have witnessed in the common stock market.

There are three very important things that should be considered when privatizing Social Security benefits: first, the huge cuts in benefits which would be required under the privatization plans, most as large as a 60 percent cut in Social Security benefits. For people with large savings from other sources, that may not seem like much; but for most Americans, it would be a drastic reduction in the protections they have come to rely on. That means many of the women of which I speak depend solely on Social Security as their retirement pension income.

Next, privatization would be a major change in who bears the risk of saving for retirement. Privatization would shift nearly all of the risk to the individual. People who are unwise or unlucky in their investments would suffer. We saw many examples of this in the recent stock market failures.

Finally, privatization would increase the Federal deficit by more than $1 trillion over the next 10 years. Taking a mere 2 percent of payroll taxes away from the trust fund would double or triple the size of the deficit. This effect is what some people trivialize as transition costs. I do not believe it is trivial, and given the other concerns which privatization raises, I think we should look long and hard before we lapse and leap into the wrong direction.

How do African American women fair in privatization proposals floating around in the country? Not good at all. Although black women typically live longer lives, their lifetime earnings are usually much lower than their white counterparts. Under privatization, this lower level would mean black women would be forced to live longer on a smaller amount of money, and they cannot get by with what it is now. They have to make a choice between food or medicine.

Hugh Price, president of the National Urban League, and Julian Bond, chair of the National Association for the Advancement of Colored People, wrote an editorial in the New York Times on July 26, 2001, addressing African American women and Social Security. They found that guaranteed government assistance is essential to the African American community. While African Americans make up only 12 percent of the general population, they make up 17 percent of all Americans receiving Social Security benefits and 22 percent of all children's survivor benefits.

At this point I will insert my entire statement into the RECORD.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to address the devastating impact that privatizing Social Security will have on women, especially African American Women.

Social Security is particularly important to women, especially in my home state of Texas. Without these vital retirement benefits, 564,000 women in the Lone Star State would be classified as poor, according to a report released by the Center for Budget and Policy Priorities.

Currently, Social Security benefits are progressive; that is, those with low wages receive a larger percentage of benefits relative to their earnings than higher income individuals do. This system of progressivity, combined with a cost-of-living adjustment that increases benefits every year, strengthens the safety net for those who are the most economically disadvantaged.

Privatization flows from concerns that many people have about the future of Social Security. Some of those concerns are founded and some are not. We are all well aware that as the post-war baby boom generation ages, the number of retirees relative to the number of workers will increase. These are facts that cannot be changed. However, modest changes, implemented immediately, can give people time to plan for the future and would take us a long way toward resolving the issue.

Privatizing social security is the most radial change, and it assumes that there is magic in diverting some portion of the current social security payroll tax into the private markets. Most privatization plans propose to strip a few percentage points off the Social Security payroll tax and divert them to private individual investment accounts. Most people happily focus on the vision of a few dollars a month growing into millions of dollar over time. Unfortunately, this is a dream and not reality, as we have witnessed in the current stock market.

There are three very important things that should be considered when privatizing Social Security benefits. First, the huges cuts in benefits which would be required under the privatization plans, most as large a 60 percent cut in Social Security benefits. For people with large savings from other sources, that may not seem like much, but for most Americans, it would be a drastic reduction in the protections they have to come to rely on.

Next, privatization would be a major change in who bears the risk of saving for retirement. Privatization would shift nearly all the risk to

the individual. People who are unwise or unlucky in their investments would suffer. We saw many examples of this in recent stock market falls.

Finally, privatization would increase the Federal deficit by more than a trillion dollars over the next ten years. Taking a mere two percent of payroll away from the Trust Fund could double or triple the size of the deficit. This effect is what some people trivialize as ''transition costs.'' I do not believe it is trivial, and given the other concerns which privatization raises, I think we should look long and hard before we leap in this direction.

How do African-American women fare in privatization proposals currently floating around in Congress? Not good at all.

Although Black women typically live longer lives, their lifetime earnings are usually much lower than their white counter-parts. Under privatization, this lower level would mean black women would be forced to live longer on a smaller amount of money.

Hugh Price, President of the National Urban League and Julian Bond, Chair of the National Association for the Advancement of Colored People, wrote an editorial in the New York Times, on July 26, 2001 addressing African American women and social security. They found that guaranteed government assistance is essential to the African American community. While African Americans make up only 12 percent of the general population, they make up 17 percent of all Americans receiving Social Security benefits and 22 percent of all children's survivors benefits. However, the Administration has been unclear on how disability and survivor benefits would continue to be funded.

A study by the National Urban League counters assertions made by the Administration that African Americans will benefit from private accounts bequeathed to their relatives. According to the study, the typical African American man dying in his thirties would only have enough in his private account to cover less than two percent of the survivor's benefits under current law. This also has a devastating impact on African American women as survivors.

Members of Congress must be fiscally responsible when it comes to making decisions regarding Social Security. Fiscal responsibility entails looking at the whole picture and seeing the effect it may have on all individuals in society. I urge my colleagues to make this the inclusive America we continue to represent to the world and ensure that Social Security proposals give everyone some comfort in life!

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LANTOS) is recognized for 5 minutes.

(Mr. LANTOS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ENSURING THE SAFETY OF AIR TRAVEL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY of New York. Mr. Speaker, tonight I have been listening to my colleagues, and they are talking about privatization of Social Security. I am actually here to speak about the attempts to privatize our air traffic controllers.

I do not know why everyone keeps thinking that privatizing is the best thing in the world. When I started working down here in Washington, I have to fly a lot, and with that, I certainly see what goes on in our airports; but I also had the opportunity to spend time in the tower.

I spent time at JFK Airport in New York; and it just so happened when I was there, a terrible storm came in, and what happens an awful lot of times in our towers, with the equipment that they are using, it fails and yet our traffic controllers were right there and were using the equipment or the hand stuff that they have used for 20 years; and to watch these men and women work, they are absolutely wonderful.

When we start talking about privatization, this is not the answer. We have dedicated people keeping our skies safe, and if anybody needs any reminder about that, think about September 11. Our air traffic controllers around this Nation landed over 5,000 planes within a certain amount of hours without any kind of incident. Think about that.

My concern also is if we are going to think about privatizing our air traffic controllers, is it going to be a bottom line. These are dedicated people. I spend time with them because they are always saying the equipment is not working. This past weekend we read about the FAA putting new equipment into some of our airports, and then they are the first ones to say it has got bugs in it. We are going to put it in anyway, and we are going to work the bugs out. I personally would rather have the men and women of air traffic controllers working the bugs out before they have to lean on using it.

With that, my colleagues on this side of the aisle and hopefully the other side of the aisle will work to make sure we do not privatize our air traffic controllers. It is not the answer, and it is not cost efficient. The men and women that serve this country, keeping our planes safe and keeping us all safe, certainly deserve, and by the way, if we start looking at trying to get people to work in New York and certain other areas of the country, they do not want to go there. They just do not want to go there because the work is so hard, and yet our people are there every single day, minute by minute, watching every single plane in this country; and the only thing that they are concerned about is the safety of their citizens that are in the planes.

We should do everything, everything in the world to make sure that we do not privatize. As I said earlier, privatizing everything is not the answer to the problems that we are facing. What we should be doing is having better working conditions for these men and women and giving them the equipment that they need.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Mrs. MEEK) is recognized for 5 minutes.

(Mrs. MEEK of Florida addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

(Ms. JACKSON-LEE of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

AIR TRAFFIC CONTROLLERS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Minnesota (Ms. MCCOLLUM) is recognized for 5 minutes.

Ms. MCCOLLUM. Mr. Speaker, today, like so many other Americans, I boarded a plane and I arrived safely at my destination. This is what the American people expect when they board a plane: safety, security, and the guarantee of a safe landing at the end of the flight.

The American people hold the Federal Government accountable and responsible for the safety of our skies. Homeland security has become our Nation's top priority.

On the same day that the administration proposed a Department of Homeland Security, President Bush also issued an executive order weakening the security of our skies by removing the air traffic controllers from the Federal Government. President Bush's action opens the door to privatizing this vital air safety role and risks placing corporate profits ahead of public safety.

For this administration to declare air traffic controllers no longer an essential component of our Federal homeland security system undermines America's faith in air safety.

In the few short hours after the attacks of September 11, air traffic controllers guided hundreds of thousands of Americans out of the skies to safety. Their heroic actions saved countless lives. Their dedication and professionalism should be honored just as we honor firefighters, police officers and emergency first responders who also performed heroically on September 11.

The role of air traffic controllers in homeland security is vital every day and should never be discounted or weakened. The American people have an expectation that our skies are safe. The Federal Government and air traffic controllers, as employees, are responsible for providing that safety. Unfortunately, this executive order undermines air safety and weakens our homeland security, and it should be rescinded.

OPPOSITION TO PRIVATIZING AIR TRAFFIC CONTROLLERS

The SPEAKER pro tempore (Mr. KELLER). Under a previous order of the House, the gentleman from Mississippi (Mr. SHOWS) is recognized for 5 minutes.

Mr. SHOWS. Mr. Speaker, tonight I rise to express my concern in opposition to privatizing air traffic controllers in airports across our country.

I do not know about my colleagues, Mr. Speaker, but the safety of the flying public should not be done by the lowest bidder. Congress has already determined that privatization does not guarantee better service, safety, or efficiency.

Frankly, we were all shocked to learn of the President's executive order, released last Friday, deleting the words ''an inherently governmental function'' from an executive order of December 2000 regarding air traffic controllers, which set the wheels of privatization into motion.

It is amazing to me that this Congress has invested billions of dollars on a new agency to federalize baggage screeners while at the same time entertaining the idea of contracting out our important air traffic control positions for the cheapest offer. This is an illogical step and inconsistent with our previous attempts to ensure a safe means of transportation.

We should heed warnings from other countries that are currently struggling under privatization. The privatized systems of Canada and Great Britain have not worked. Canada has delayed buying new equipment, postponed hiring new controllers, and even increased fees to cover costs.

□ 2030

Great Britain resorted to the banks for a bailout. Is this the system we want to follow? In talking about privatization and Social Security, I think we have a comparison. Look what happened to the stock market. What would happen if we privatized Social Security today.

We talk about competition. I wish the President and the administration would look at competition towards pharmaceutical companies and bidding on the Medicare prescription drug program, having pharmaceutical companies bid to get the business of Medicare for pharmaceutical drugs for our seniors. It makes it competitive, but they will not talk about that. During the confusion of September 11, our hardworking air traffic controllers landed 5,000 planes in less than 2 hours without one operational error. Should we privatize a system that performed so efficiently and accurately during the most critical day of all days?

I hope this Congress is not fooled by the promise, or gimmick, of privatization.

AGRICULTURAL CROSSROADS

The SPEAKER pro tempore (Mr. KELLER). Under the Speaker's announced policy of January 3, 2001, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 60 minutes as the designee of the minority leader.

Mr. BLUMENAUER. Mr. Speaker, last month's enactment of the agriculture authorization bill signaled that we are at a crossroads here in America, not just as it relates to agriculture, but very interesting developments for the environment, community development, and even the huge increase in agricultural funding could not conceal the cracks that are emerging as these issues are coming forward.

Hidden behind all of the fireworks that surrounded the agricultural bill, we have ended up with it being further removed from the needs of most farmers. It is not only removed from the public we are supposed to serve, not only removed from the agricultural interests, but it is even removed from the will of the Members of this body.

I recall on this floor working hard on a motion to instruct the conferees of the House to vote in favor of provisions of the Senate that would have placed a $275,000 payment limit. Despite the fact that it was passed by 265 of our colleagues, it was ignored by the conferees in favor of a $360,000 payment limit that itself was riddled with exemptions which will make it largely meaningless.

Mr. Speaker, I am afraid we are having two very different visions of the agricultural future of this country emerge as a part of those deliberations. One is for the status quo which is a mutation of over 70 years of depression-era subsidization which no longer meets the needs of average farmers, consumers, and certainly not the environment.

This vision is opposed to one that is economically sound, a sustainable future, that is in fact healthy for the farmers, the environment, consumers and the taxpayer. What matters? Why would a city representative like me become so interested in farm policy? Well, we cannot deal with the governments of this country without focusing on the role that agriculture plays. It is firmly grounded in American lore, our history and our tradition. Think back to Thomas Jefferson's agrarian ideals. Ignore for a moment that this was sort of an effete intellectual who never turned a profit on his many acres of land and several hundred slaves, never mind that he was hopelessly in debt, and eventually lost his estate at his death to his creditors. Nevertheless, that vision, that agrarian ideal of Thomas Jefferson persists; and agriculture still is essential today to America, even though only 2 percent of our population is actively involved with farming, versus 25 percent or more in the 1930s. There are still 2 million family farms and ranches that cover nearly 50 percent of the land area in the lower 48 States.

Americans spend 10 percent of their income on food, and that is one of the lowest ratios in the world. However, this 10 percent that we spend is disguised by a variety of subsidies and tax payments. Indeed, 40 percent of net farm income comes from the Federal Government. So there are a great number of tax dollars that are claimed. There are huge environmental costs that are associated with our current system of production which I will talk about in a few minutes, and consumers are paying exorbitant prices for commodities like sugar, more than twice the world market, pay dearly for avocados, peanuts, and the list goes on.

The environmental impacts of agribusiness is something that I think is important for us to focus on. It is, for instance, in many areas extraordinarily water-intensive. It is not just a problem occasionally when we have some parts of the country as they are today facing drought and water quality problems. Although even the administration seems to acknowledge that we are going to be facing serious problems associated with global climate change, they are not prepared to offer up any solutions for that, but that is going to have potentially very profound effects on how water is supplied in the future.

Mr. Speaker, it takes a tremendous amount of water for us to be involved in some grotesquely inappropriate activities. We are providing heavily subsidized water for subsidized crops, like growing cotton and rice in the desert. In the Pacific Northwest, we have been having problems in the Klamath River basin where we have water-intensive agriculture in an arid plane.

It takes an enormous amount of water to produce meat for human consumption. 1,000 tons of water for one ton of grain; and increasingly, our cattle are grain fed and it requires almost 5 pounds of grain to produce one pound of beef for human consumption. If we do the math, you see the huge amount of water that is involved in the production of cattle.

Agriculture also poses many of the most important challenges to water quality. It contributes to poor water quality in 60 percent of the Nation's impaired river miles, which is more than the dams, sewage discharges, and urban storm drainage combined. Think of it. Agriculture produces 60 percent of the water quality problems in the Nation's impaired river miles, more than dams, sewage discharges, and urban storm drainage combined.

We have a situation where the petrochemical fertilizers are also extensively required. It takes on average approximately 1.2 gallons for every bushel of corn. And then there is the oil production for energy. A typical cow will consume the equivalent of 284 gallons of oil in their lifetime, the energy necessary to sustain that animal. We have essentially transformed cattle from solar-powered animals to fossil fuel machines.

It is also a diet that is unhealthy and unnatural for these animals. It has turned once bucolic agricultural enterprises into an extension of the modern

factory. And it has not just made these animals' lives miserable, based entirely on eating, adding weight until they can be slaughtered, but there is persuasive evidence that it is actually changing their metabolisms and their digestive systems, producing meat that is demonstrably less healthy to consume in the short-term, and maybe having long-term consequences that are extraordinarily negative for overall human health. There have been studies which have contrasted some of the natural, grass-fed beef in Italy where there is approximately 15 percent of the fat, as opposed to grain-fed beef and 38 percent of the calories of standard cattle.

It goes beyond just the fat content. There are concerns about developing resistance to medicines due to the indiscriminate use of antibiotics. It is estimated that 80 percent of the total quantity of antibiotics used in the United States are administered to food animals, putting that in the food chain. It may well be that the kind of meat that we are eating today as a society is much less healthy because of the increased presence of these antibiotics which in turn build up resistance from the germs and create a cycle which makes us more susceptible to stronger germs, and having less ability to use antibiotics to protect us.

And of course, dealing with the fat, our House physician has been working with Members in this chamber to encourage more awareness of our lifestyle, the problems of saturated fat. Now that the cows are eating more corn instead of grass, the meat contains more saturated fat. There is another health and environmental problem dealing with prodigious quantities of animal waste.

We are finding that county after county in States like Nebraska are now moving into areas of land-use planning because they are being overwhelmed by the consequences of these concentrated feed lot operations.

In Iowa, it is an issue of hog waste. A hog can produce up to 10 times the waste of a human. U.S. factory farms generated 1.4 billion tons of animal waste in 1996 according to the EPA. Imagine a farm of 100,000 hogs. It could produce the waste of a city of almost a million people, yet we will look at a State like North Carolina, where there are no requirements for the sewage treatment plant of these vast hog operations. Think of that. Living next to a city of 100,000, 500,000, up to a million people, and not having adequate sewage treatment. We would not stand for it. Sadly, in this country, in many rural areas, the States do not have adequate protection to ensure that these vast quantities of waste are going to be adequately processed to protect against damage to water quality.

Again, in some States they have bent over backwards in fact to protect these interests at the expense of people. In Iowa, their State legislature in its wisdom has prevented local governments from providing land use protections against the damage that is brought about by these vast hog factory farms. In fact, it was interesting recently in Iowa there was a special election for a State Senate position where the incumbent, a Republican in a very safe Republican district, had been appointed by the President to some administrative position. There was a special election. The outrage in this Republican district was such that with a 62 percent vote, they elected a Democrat to take that position.

There is slowly at the grassroots level a realization that States and the Federal Government that are not dealing with the protection of the citizens, are doing them a disservice. People in Iowa again cannot sue for damages as long as some minimum spacing requirement is maintained. There have been people who have basically lost the entire value of their property with no recourse as a result of it.

In North Carolina, I am sad to say, the Members of this House in the aftermath of Hurricane Floyd a couple of years ago, and Members may recall in the aftermath of that terrible hurricane, the damage that was done. Our hearts went out to the people of North Carolina. We stepped up, provided money and disaster assistance, but who can forget the disgusting photos of the bloated bodies of hogs, or hogs perched on floating debris.

□ 2045

As a result of those floods, there were massive problems associated with hog lagoons in flood plains that resulted in a leaching of these animal wastes, these toxins, out into the environment for months after the hurricane. Unfortunately, Federal money was spent to rebuild those hog lagoons in the flood plains, back in harm's way, where again in the future, as sure as anything, we are going to be faced with that tragedy again, the damage to the environment.

We are finding that in State after State there are problems with large farm operations that change the hydrology of farm country. There is creation of vast amounts of soil erosion that takes the toxins and the fertilizers and washes it into waterways, actually waterways that did not used to be there. Throughout the upper Midwest, we have these vast fields today that are a result of miles and miles, hundreds of thousands of miles, of drainage tiles that have been installed. Yet we have not taken the steps that are necessary in the main to protect the further erosion of the soil, the toxins, into those waterways.

And it is not just a case of erosion, pesticides, toxins. We are losing vast acreages of farmland still to sprawl. More than 90 million acres of farmland across this Nation are threatened by sprawl today, and we lose more than 2 million acres every year to urban development. That is more than all the topsoil that is eroded. We cover it with blacktop. The number of acres of farmland lost to sprawl has doubled over the last 6 years, most of which was amongst our most productive farmland.

Think back in history. What was the most productive farm county in the United States in 1950? Los Angeles County. From what we have seen, this pattern continues. Because the settlement patterns were in areas that were rich agricultural arenas, people moved there. That is where the settlements started. There were trade activities. People radiated out from them in areas that were the most productive farmland. Thus it is today that most of our major metropolitan areas are in and around extraordinarily productive farmland. But we are watching this farmland being lost at a dramatic rate.

It took us approximately 350 years to create America's footprint of urban development and settlement. Three hundred fifty years. But 15 percent of that footprint occurred in the years 1992 to 1997. We developed an area approximately 17 million acres. This is approximately the size of West Virginia. It is important, Mr. Speaker, for us to focus on the need of this country to be able to protect that delicate area where the urban and the farm areas intersect, and we must do a better job.

There are some that suggest that this is an area or that it is something that the Federal Government does not belong in, that if we are talking about land use and agricultural policy, that is something that is local and State. I would beg to differ. American agriculture has developed as a direct result of Federal Government policy. It started when the Federal Government enforced taking land away from Native Americans and giving it to European settlers to farm during the beginning of the Republic. We had major pieces of legislation that exploded, the Homestead Act of 1862, legislation that created the land grant colleges where we had the agricultural colleges and universities. There were the vast reclamation projects that changed the hydrology of whole ecosystems.

I mentioned earlier in the Pacific Northwest, the Klamath Basin. This has been an area of great agitation and concern because we had these interests clash this last year when we had extreme drought conditions, and it sort of put a spotlight on the fallacy of the Federal programs over the last 100 years. We committed as a Federal Government far more in terms of water than we could deliver to those farmers that we lured to that area. We lured them a century ago, we did it again after World War II when we encouraged returning veterans to settle in the Klamath Basin, but a terrible price has been paid.

We have overallocated water rights to farmers and ignored critical habitat requirements. This vast Klamath River Basin is an area where the flightway for 90 percent of the north-south migratory waterfowl stop. It is an area

where there are significant commitments to other wildlife and, Mr. Speaker, one of the areas that we have made, I think, a serious misstep deals with our commitments to Native Americans. Native Americans in this region and elsewhere, particularly in the arid West, had claims for fishing and hunting. Their water rights are not being properly acknowledged and respected. So in total in the Klamath River Basin as we have seen elsewhere in the West in particular, there is more than the U.S. Government and Mother Nature can now deliver.

But there was a front page story in the New York Times 10 days ago that talked about the problem that is being faced by the city of Atlanta, where there is a three-state struggle over scarce water in an area where people think of it as being rich and certainly water not being a problem. But it is. We have other areas here where we are dealing with the vast range of Federal programs that the Federal Government built, railroads at government expense that helped promote agriculture. I will, I guess, not go into that because the time is late and I want to deal with some of the other issues that relate to the way that the industry is structured today.

Today's agricultural industry looks far different than it did even a generation ago. We have huge agribusiness processing plants that are dominating the commodities, processing, meat packing. Eighty percent of the beef cattle born in this country are slaughtered and marketed by four giant meat packing companies. There is a similar concentration in poultry, in hog farming.

We are seeing increasingly with our agricultural programs, and the most recent farm bill sadly brings it to a new level, that we are concentrating those farm subsidies to large farms, large corporate interests, shutting out smaller operations and changing the nature of how people choose to farm based on government programs, not on what the marketplace requires.

One example that struck me was a story earlier this year in the New York Times celebrating how cotton was now king again in certain areas of Mississippi and Texas, that farmers did not have to grow soybeans, that somehow cotton was more in keeping with their traditions, and they liked it. But as you read the text of the article, it was not because somehow there was an upsurge of demand for cotton or that there has been a lack of interest in soybeans. It is just that for the time being, the rate of subsidization for cotton exceeded the rate of subsidization for soybeans, so we were growing cotton now. Cotton was king, not because that is what the marketplace wanted or demanded; it is because that is what the Federal Government's subsidies made more lucrative.

We have talked on the floor of this Chamber, and I have worked since I have been in Congress with my colleague, the gentleman from Florida (Mr. DAN MILLER), joined with the gentleman from California (Mr. GEORGE MILLER), dealing with the outrageous situation we have in this country dealing with the sugar quota system. It is hard to imagine a cycle that is more frustrating for the taxpayers, more damaging for the environment and frankly makes us look more foolish.

Over the last 40 years, we have dramatically increased the acreage of sugar cane production in Florida's Everglades. It was approximately 60,000 acres. Today it is in the neighborhood of 450, 460,000 acres, an increase of more than seven times in 40 years. This has been fueled because the United States has a restrictive quota system that mandates that we in this country will pay two or three times the world price of sugar, and people that can grow it more cheaply or more efficiently are not able to bring it into this country. In fact, we are growing so much sugar that we are paying millions of dollars this year to store the surplus sugar.

But it is not just that the American consumers are paying more for the sugar and that they are paying to store the surplus sugar. We are also driving confectioners out of this country because people who are making candy rely heavily on sugar as a principal ingredient and sugar is so much more inexpensive just across the border in Canada or in Mexico that it does not make sense to manufacture these products in the United States. So Lifesavers, that quintessential American icon, is now moving its production out of the United States, in part because we are shooting ourselves in the foot with the environment, with the economy.

And of course, there is no small irony that this Congress in recent years has been patting itself on the back, the last two administrations have celebrated that we are investing $8.5 billion as a down payment to clean up the Everglades which are appropriately targeted for investment because they are a precious natural resource, a national treasure. But we are paying to clean up what we are subsidizing people to pollute at the same time we are paying the world market times two or three; and because of the sugar prices, we are driving candy manufacturers out of the United States. It is hard to imagine a textbook case that more vividly underscores how our environmental, trade and agricultural policies are bumping into each other, running amuck.

Indeed, I think you do not have to look very far to find examples where the farm bill is a pretty good barometer about how far out of whack things are. It is hard to get a good handle on the actual costs, because the official estimates that we used for the arcane sort of budget scoring were based on some numbers from April 2001 that by the time March of 2002 came around, earlier this spring, it was quite clear that the assumptions were wrong. Because of the overproduction that would be stimulated, prices would be lower. Because there is more support, it would encourage more production. So there will be more participation at lower prices which means the gap is not going to be assumed by the marketplace, and is not going to be assumed by the farmers who will bear the price of producing too much that the world markets do not want.

□ 2100

The gap is going to be paid by the American taxpayer.

We already know that our estimates from a year ago are probably at least $12 billion understated, and it is very likely as time goes on, as we find out all the little provisions that are in this bill, as the media is exploring new protections for lentils and chick-peas, as it is clear that we are going to have a new transitional payment on top of what we are doing for peanuts to try to pay them to move into the future, that there is going to be additional costs that are buried. This Congress had a chance to draw a line and establish some reasonable limits and caps.

I mentioned earlier that there was an effort on the part of the Senate, and I tip my hat to Senator HARKIN. I appreciate the strong voice that has been offered by Senator LUGAR to try to focus on ways to reign this in. The gentlemen had different approaches, but they were moving in the right direction. The House had limits of $450,000. We stepped forward, my colleague, the gentleman from the State of Michigan (Mr. SMITH) in particular, it was a great pleasure to work with him, carried this measure to the floor, and we were able to find support for the Senate cap of $275,000, but unfortunately the House in its wisdom was not able to persuade its own conferees to listen to it, and they fell back on a system that is going to raise the limits to $360,000 and have exemptions that are going to render that largely meaningless for very large producers, defeating the intent of the House.

We have, to be sure, some areas of this bill that deal with conservation that look on the surface positive. This is something that was pushed on the floor of the House. There was a very strong vote that came very close to passing that would have, when it was here in its original form, have cut 15 percent of the commodity payments and shifted them into conservation. There was a successful measure that I was pleased to cosponsor with the gentlewoman from North Carolina (Mrs. CLAYTON) that took a couple percent of the commodities to deal with rural development, with conservation, with planning. The message got through a little bit that conservation was at least in some small way going to have to be addressed. There is what appears on paper to be a 79 percent increase, although it is only $20 billion. But unlike the commodity payments, where you open the spigot and the payments go out and the only condition is how many people participate and how low

the prices go and how much of a gap the taxpayer pays, that is automatic. Conservation is authorized, but it requires each year an appropriation, and as we continue to hemorrhage red ink, as we have gone from, in a little over a year, thanks to the blueprint that the President advanced and some of our Republican colleagues here embraced with massive tax cuts, the slowdown in the economy, the massive increase in the farm bill, increase in defense, you name it, we are spending a great deal of money on seemingly everything except what we promised in the last election, like prescription drug coverage for senior citizens. We have gone in a little over a year from the greatest projected surplus in our history to now looking at borrowing about a trillion and a half dollars from Social Security, driving up over a trillion dollars of additional interest payment.

In the face of these escalating costs, increased red ink, and what are going to be increased agricultural payments through the commodities, do we think we are going to get fully funded the environmental requirements? I think not. I think as a practical matter, these being backloaded, as they will, means that we are not going to see all of the money that is in fact authorized.

There are other rather perverse twists in this story that end up looking bad for the environment. We have got the great Environmental Quality Incentives Program which helped livestock producers clean up their waste. This is an important program. For this program and others like this that would have helped people with small scale operations, there were some 200,000 unmet claims that averaged about $9,000. There was a current limit of $10,000 under these claims.

Well, as we started going through this process in Congress this year, we did not speak to putting more money into that program, keeping the funding level even. The House argued in the bill that came through here that we would raise those limits to $50,000. The Senate argued, well, just $30,000. Either way, it was going to be a great increase in payments to larger operations.

When it came time for the conference, the Washington Post had a great line, I wish I could quote it exactly, but we had the $50,000 that the House wanted, the Senate would cap it at $30,000, and instead of splitting the difference, they added it together and raised the limit to $75,000, and then allowed large operators to get 6 years payments in 1 year, raising it effectively to $450,000, subsidizing the extreme largest operations, depleting scarce resources, making it less likely that the people that are out there now, the smaller operations, remember, I mentioned they average just $9,000 in payments, we had a couple hundred thousand of them that were not met because there was not adequate funding. But by raising the levels for the largest operations, we are going to make it even less likely that they get what they want, and there is going to be more that is going to be bled off to the largest operations.

Well, sadly, that is very much the case with how these subsidies work. As a result of this farm bill, we are going to see half the benefits flow to only six States. The majority of them, the vast majority, are going to go to producers of 13 commodities. Two-thirds of the subsidies will go to 3 percent of the farmers, most with annual incomes over $250,000 a year. It is estimated that the top 10 percent of these 2 million family farms are going to get close to three-quarters of the total benefit. It means in a State like mine, in Oregon, the pattern is exceedingly frustrating.

I have heard from agricultural interests who would like some help. But in our State, like most of the agriculture in this country, it is not unique in my State, we deal a lot with nuts and berries, the specialty crops, the orchards. These people are off on their own. They do not get the support. Oregon gets a small fraction of the agricultural subsidy in terms of the national average, far less than the big producers of the commodities. Illustrating the perverse nature of it, one-quarter of the entire Federal subsidy for the last 6 years in Oregon went to one small county that just happened to grow wheat.

We are, I am sad to say, Mr. Speaker, dealing with a situation today where our agricultural policy is going to continue to be concentrating benefits to a few. We are going to continue to lose family farms. Small family-scale operations are going to be forced out of business, on one side by increased urbanization. Their neighbors are encroaching on them as sprawl moves into their backyard. We do not have adequate protections.

As the costs of compliance with the environment continue to go up, small operations are not going to get their fair share. We are going to be concentrating benefits to the largest producers, which means that they can produce even more, which is going to drive down the prices for everybody. They are going to get a larger subsidy, they are going to have the money to buy out the smaller producers, and we are going to continue this cycle, losing family farms, concentrating the benefits of the Federal taxpayer on fewer and fewer farmers who are more and more disconnected from the market.

It is bad for the environment, it is bad for people who care about the humane treatment of animals, it is bad for people who want to protect against the incursion of suburban sprawl, it is bad for people who care about having the rich diversity of farm product in terms of vegetables, in terms of nuts, berries, specialty crops, that could make such a difference in so many parts of the country.

I would suggest, Mr. Speaker, that it is appropriate for us to start envisioning a new future for agriculture in this country. First and foremost, we have to stop the lunacy of subsidizing people to grow things that the market does not want, disconnecting them from a responsibility to the environment, rewarding larger and larger scale operations, while we say we are supporting small operations.

We need to make sure that our payments go to farmers across the country, not to grow particular things that we do not need, but to behave in ways that we as a society value; pay them to protect water quality; pay them to be stewards of the land; pay them to respect this buffer between urban and rural areas; pay them to preserve, not develop their land, or protecting scenic easements. There are a wide range of areas that the public desires that would not interfere with our trade policies, that would actually save money for things like water quality and flooding, and that would make sense in terms of what we say our stated values are.

Second, I think it is important that we work to reconnect people with their food supply. There is an explosion around the country of farmers' markets. We have a half a dozen in my community. I am going to go to a neighborhood in Portland where they are celebrating the opening of yet another farmers' market. They are in Milwaukee, in Gresham, in Beaverton. We are seeing farmers' markets in Washington, D.C. There are half a dozen of them here in our Nation's Capital, and all around the country.

This is an opportunity for people to connect with local production. It tends to be a higher quality product. People are connecting with the folks that actually produce it. They cut out the middleman or woman so that they deal direct. It is more profitable to them. It just makes good sense. There are extraordinarily thoughtful people that are thinking about ways to apply these principles more broadly.

□ 2115

Alice Waters in Berkeley, California with the famous restaurant, Chez Panisse, has a vision of being able to have the children in that school district be able to be a part of knowing where the food comes from and, in some cases, actually growing it and preparing it. They can be part of the educational process, and make for healthier, as well as smarter, kids. There is burgeoning activities of community gardens in urban agriculture; the slow food movement, organic. There are people who are taking a hard look at meat production in this country. I have talked earlier about the health benefits of having, whether it is the free-range chicken, or the grass-fed cattle, or the hogs that are not in confined factory farm operations. It is more humane, it is healthy, it has properties that those who are qualified to comment suggest that it is better in terms of flavor, texture; it is a better value for consumers, and it is produced in a more humane fashion.

Mr. Speaker, I think that we have reached a point where I hope this agriculture bill was sort of the high water mark for low water politics; where we felt that if we throw enough money at enough little interest groups, a little bit for dairy here, a little bit for apples over there, lentils, peanuts, if we give a tiny increase in the food support for school lunch and for nutrition programs, for food stamps, which actually were a very small increase, but an increase nonetheless, that somehow we could sort of balance things out and get that legislation passed.

Well, I hope this is the last gasp of a system that is bad for the environment, bad for the economy, bad for the health of the American public; that is clearly a bad signal for those who care about international trade. We are only 4.7 percent of the world's population. There is 95.3 percent out there that are potential markets, and we are sure sending a very negative signal to them. I am hopeful, Mr. Speaker, that we will no longer stand for shortchanging the environment, sidestepping animal welfare issues, and turning fundamental fairness on its head.

It was interesting to watch. As this bill worked its way through Congress, we were able to see a chorus that was formed by newspapers. Virtually all of the editorial writers around the country, the Times, the Post, the Wall Street Journal, conservatives and liberals alike; we saw environmentalists join with fiscal conservatives. The vast majority of farmers in this country who were shortchanged, there is a consensus emerging, there is a coalition that is possible. And if, and if, this unfortunate bill serves to unite these forces for better agricultural and environmental policy, perhaps in some way, it will be worth it.

Mr. Speaker, I will conclude my remarks this evening. But first, I wanted to just add a brief comment about what we have seen with the administration dealing with the declaration that air traffic control is no longer going to be an inherently governmental act. A number of my colleagues earlier in the evening took to the floor to express deep reservations about that, and I must join them. I find great irony at a time when finally Congress and the administration have given the American public what they wanted in terms of federalization and professionalization of baggage inspection, but the administration would somehow conclude that the sensitive, critical function of air traffic control is no longer essential, and we can just sort of farm that out to the lowest bidder and throw that into chaos.

We saw what those dedicated men and women did on September 11, landing 5,000 planes in 100 minutes, maybe a little more, without incident, smoothly, under great stress. We have seen this in my community where people have undertaken problems with malfunctioning equipment, be able to rise to the occasion. Frankly, Mr. Speaker, with hundreds of thousands of situations across this country every day, I do not want us to be rolling the dice with some sort of evolutionary effort and the conclusion that this is not an inherent governmental function. I think we have only to look at the very rocky performance in Great Britain, in Canada, problems in Australia. This is not an area that we need to go at this point in time.

Mr. Speaker, I am hopeful that we are not going to engage in another battle here that is I think going to doom us to hopefully just get back to ground zero; I guess that is an ill-advised term; I did not mean it in that context, but just get us back to where we are today at best. We cannot afford to waste that time, that energy, and the expertise of these dedicated men and women.

I see my colleague from Texas is here. I serve with him on the Committee on Transportation. I know he has deep concerns about the integrity of our air transport system, and I would yield to him if he would wish to comment.

Mr. SANDLIN. Mr. Speaker, I thank the gentleman from Oregon.

Mr. Speaker, safety is the issue and it is the only issue, and as has been indicated by the gentleman from Oregon, identifying the low bid is not. The administration's executive order stating that air traffic control is not an inherently governmental function is totally misguided and it is another slap in the face at our hard-working, dedicated Federal employees, and it places in jeopardy the safety of the American traveling public. The President's senior staff has stated the administration has been considering privatizing the operation of the Nation's air traffic control system. That would be a huge, costly, and dangerous mistake. If ensuring the safety of our Nation's skies is not inherently governmental, then I would like to know what is.

Currently, public employees make sure our streets are safe, they make sure our coastline is secure, our borders are protected, so why does the administration believe that public employees should not ensure the safety of our skies?

As has been indicated by the gentleman from Oregon, the events of September 11 proved how important it was to have experienced staff in our control towers. They brought down 5,000 planes in less than 2 hours without any problem. Our Nation's controllers were able to do this because they are highly trained professionals whose only mission is safety.

We do not need to turn this job over and the safety of our friends over to the lowest bidder. It seems that the administration is intent on contracting out critical government responsibilities to the lowest bidder. That is not a savings. In our current environment, we face countless unknown threats. We need people in our government whose first mission, whose only mission, is security and safety, not corporate profits. The administration states that private systems would be more cost-effective; they would be more efficient. Recent examples in Great Britain, Canada, and New Zealand have proven just the opposite. The administration offers no reason for this order and can provide no justification for privatizing air traffic control. Managing air traffic control services is not a for-profit business and should not be run like one. The bottom line is safety; the bottom line is not profits.

As a member of the Subcommittee on Aviation of the Committee on Transportation and Infrastructure, I listened to countless hours of testimony, along with the gentleman from Oregon, detailing the complete disregard for safety and security with which private airport screening firms operate. After much deliberation and over the House Republican leadership's objections, the vast majority of this Congress determined that the screeners, given their importance to aviation and national security, should be Federal employees.

Now, the administration wants to strip air traffic control functions from public employees and contract it out to the lowest bidder. We should not promote someone whose only criteria is the lowest bid.

Our professional controllers require years of complex and comprehensive training. Does the administration really expect private companies to make this substantial investment in human capital? Our air traffic control system is the envy of the entire world. It handles more traffic and manages the most congested airspace in the entire world. The men and women who operate this system are among the finest employees the government has. The country is facing a crisis in air traffic control. Thousands of controllers will be retiring soon, and Congress needs to adopt policies that will keep these talented, hard-working people as controllers for as long as possible. We should not be adopting policies driving these dedicated people from service.

On its very face, this action by the administration flies in the face of reason. The President's action has no justification, except to serve business at the expense of the traveling public. We need to focus on the safety of American travelers, not on profits to the lowest bidder.

Ask yourselves this: Just how important are the lives of your family? Do you really want to trust them to the lowest bidder?

Mr. Speaker, I thank the gentleman for yielding.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's insightful comments. If I may just direct a question to the gentleman. The gentleman serves on the subcommittee which has been dealing with some of the most critical areas of air safety in our country. I know it has been accelerated here in the last 9 months. I am curious if the gentleman has had any evidence that has been presented to the subcommittee, or if the administration

heretofore had brought forth any indication that there were problems with our air traffic system that merited this drastic action and the conclusion that air traffic control was not an inherently governmental function.

Mr. SANDLIN. Mr. Speaker, the administration, as the gentleman from Oregon who also serves on the committee knows, has brought forth absolutely no testimony, no evidence of any sort showing that there is a need to move this from a governmental function into a private function. In fact, if the gentleman wants to follow the reasoning presented to the committee, it is exactly the opposite. If we want to say that the private companies were not doing a good job of screening the baggage and we agreed to move that into a governmental function with government employees because of the danger presented to the traveling public, why then should we move the opposite way and say our extremely efficient, well-trained and hard-working government employees that keep our skies safe, that are the envy of the entire world? Why should we move that from a position of government trust where we are protecting the public into the lowest bidder, the person that comes in that says, I can do it the cheapest would be the person that would get the job. I think the American public deserves more than that, and I think the administration needs to bring testimony or evidence to show why the cheapest instead of the best should get the bid.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's analysis. I was struck; I was here earlier in the evening when the gentleman gave eloquent testimony to the need to support our rail investment. The gentleman talked about what a difference it made in east Texas, how people had moved forward, how Texas has had ridership increase on the order of 9 percent where the State had been investing, where the private sector had been there. The gentleman was talking about the legislation that we have worked on in our Subcommittee on Railroads of the Committee on Transportation and Infrastructure, under bipartisan leadership of the gentleman from Tennessee (Mr. CLEMENT), the ranking minority member; the chairman, the gentleman from Buffalo, New York (Mr. QUINN), the Republican chair, that has been virtually unanimous on the part of our committee to move forward to keep on track. I was struck with what the gentleman was talking about in terms of supporting that and the need to move forward with our bipartisan consensus to protect Amtrak, with the absolute failure to work with the committee structure, to look at the evidence and come forward with a program that made sense for the American public. I thought that the contrast between the gentleman's two comments, one, the importance of preserving what the committee could do on behalf of rail, contrasted with what had not happened with air traffic control and safety, was stunning.

Mr. SANDLIN. Mr. Speaker, if the gentleman will yield, there is no one in the United States Congress who has done more for rail or to focus the attention of Congress and the administration on rail than my good friend from Oregon, and I know it fits in well with his livable communities agenda and trying to save energy and having a complete travel and infrastructure system of rail and air and water and otherwise.

□ 2130

I think it is important, as the gentleman mentioned, that as we are trying to protect one sort of transportation, as we are trying to say, let us invest in rail, let us do something to make it safer, let us use rail as a viable alternative, that at the same time we are backing away from aviation; and we are saying, we have a system that works, we have a system with professional folks, we have a system that brought down 5,000 planes in 2 hours with no problems, we have the envy of the world; but we want to change that.

We want to strip these professionals, these Federal employees that have only safety, that is their only criteria, we want to strip them of that responsibility, and we want to put it out on the market to a private company who says, How can I cut costs? How can I pay as little as possible to these employees? How can I make sure they do not have benefits? What can I do to get this so low and so stripped down and so poorly administered that I will get that contract? Because they look at it as profit, and our government employees that have worked so hard and trained so hard look at it as an obligation to safety for the traveling public, to safety as part of our national security. Certainly, since September 11, we need to look at rail and air and help them, not do something to back away from our obligation.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's leadership and eloquence in summarizing that. I do not say it any better.

THE REPUBLICAN PRESCRIPTION DRUG PLAN

The SPEAKER pro tempore (Mr. KELLER). Under the Speaker's announced policy of January 3, 2001, the gentleman from Kentucky (Mr. FLETCHER) is recognized for 60 minutes as the designee of the majority leader.

Mr. FLETCHER. Mr. Speaker, it is truly a privilege to be here this evening representing the leadership, the Republican leadership, on a very, very critical issue.

Let me go back in time just briefly and look at when Medicare was first developed. We know that has been one of the most successful programs for our seniors, for their retirement security, for their health. Certainly it has been extremely successful.

But since that time, medicine has changed tremendously. It has moved from a system that primarily was focused on acute care. In other words, if you had a problem, if you had a disease diagnosed, if you needed surgery, you went to the hospital, to the physician, and that was cared for. It was acute care.

Medicine has transitioned tremendously since we first established Medicare. Medicare needs to be enhanced and improved and strengthened to meet those changes.

Now, the Republican Party has already, over the last few years, certainly begun that change as we have increased some of the efforts toward diagnosis of early disease and screening of disease, and also on prevention, particularly in areas like diabetes, which certainly represents a tremendous problem in this Nation. Hopefully, through our increased funding of not only Medicare but NIH, we will find cures for these diseases.

But we have already begun to move Medicare into an enhanced, improved program and strengthened it. Now, tonight, we would like to talk about prescription drugs. I think it is probably the most critical issue facing the United States and the health care, certainly, of our seniors, so it is certainly an honor for me to be able to be part of the Speaker's task force addressing this issue. Let me just review it briefly.

First off, this program focuses and will provide coverage for all seniors. Every senior who is eligible for Medicare will be eligible for this program, and this program will cover them. It has been estimated about 95 percent of those seniors will take advantage of this.

The other thing, it would provide immediate help, help right now: a 30 percent estimated reduction of drug costs, prescription drug costs, immediately. This is an up-front discount that will take effect immediately on the bill passing not only the House but the Senate and being sent to the President's desk, where he certainly is very much in favor of this.

It is voluntary, and it provides at least two choices guaranteed to every senior. It cannot be taken away. It is not like a program that some others are offering on the Democratic side that would be sundowned or sunsetted. This program will not be able to be taken away. It has the same provisions and the same assurance guaranteed by the U.S. Government as Medicare and as Social Security.

One thing, it also has provisions to ensure our seniors do not have to choose between food and prescription drugs. Certainly, I have seen that occur, and I will talk about that a little later. For those on fixed incomes, it certainly is critical that we provide this help to those.

It also protects people from the bankruptcy of runaway drug costs. We have a lot of wonderful new medications that help tremendously, but the

costs of those are accelerating. We need to protect our seniors from the possibility of runaway drug costs that will end up causing them to have substantial financial problems, and even bankruptcy.

It also improves access and availability to hospitals, to physicians, nursing homes. With some of the provisions, it works to improve the reimbursement particularly for rural hospitals. It helps in general, again, with our health care of our seniors. I think it is one of the most pressing issues.

I am pleased also to be accompanied here this evening by the gentlewoman from West Virginia (Mrs. CAPITO), who has taken a leadership role in helping chair this task force.

I yield to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I thank my colleague for inviting me to join him on this evening to talk about a very critical issue. I think he has addressed a lot of the basic things concerning a prescription drug plan for seniors.

I represent the State of West Virginia, which happens to have, or to be the oldest State in the Union. We have a higher percentage of older senior citizens. I see this every day when I travel throughout the district, when I talk to my constituents, and when I talk to other seniors that do not happen to live in my district but might see me at an airport or see me somewhere else, and they are always telling me that the cost of prescription drugs is something that needs to be addressed, and most importantly, needs to be addressed now.

I think we have done a lot of talking about this issue. I have certainly talked about it a lot in my town meetings, in my meetings with folks that represent the chain drug stores, the pharmacists, the hospitals, all sorts of variety of folks throughout the district who are expressing concerns about how we are going to address this problem. But talk is, as they say, talk is cheap, and action is what we really need. It is what our seniors deserve.

I think the ability to afford medications in one's golden years is really a form of retirement security. We talk a lot about Social Security and the sanctity of that promise made in Social Security and how very important it is. But I think also it is important for our seniors to have as part of their retirement security the satisfaction and necessity of being able to afford prescription medications.

I share everyone's concern, and the gentleman's as well, over the rising cost of prescription drugs. It must be and should be an essential part of any health care plan; but unfortunately, as the gentleman mentioned, Medicare is not one such plan that covers prescription drugs.

Americans over 65, those covered by Medicare, are the least likely to have help with the cost of their medications, and are the ones in most need of help. So time is ticking, the cost is ticking for Congress, for us to get something done now.

The gentleman mentioned the House Prescription Drug Action Team. I am very privileged to be serving on that. I think it is important for us to raise the level of our voices to talk about a most important issue to our constituencies and to Americans. This Prescription Drug Action Team, I think, has worked hard with the committees and the committee Chairs in a bipartisan coalition to try to work together with the other side of the aisle to develop something that we can get to the President's desk.

The men and women of West Virginia sent me here to lower the drug costs for seniors. I am particularly interested in seeing this done now and in an affirmative way.

For instance, when we kicked off the Prescription Drug Action Team, a constituent of mine was here speaking with us, Betty White from Martinsburg, West Virginia. Betty has a monthly prescription drug cost of $340, which, in my math that I worked out in my office, gets her to $4,080 a year, astounding costs for Betty. She cannot afford to keep paying this and also make the other arrangements in her life to pay for her food and shelter and her necessities in her life, and still pay $4,000 a year for her prescription medications.

I think we are on the right track looking at the principles that the gentleman is going to be talking about here in a few minutes, I think, the principles behind the drug plan. But I think it is important for those in West Virginia that are listening to me tonight to realize that all 288,000 seniors in West Virginia will benefit from this plan. That is significant.

I think the plan, the plan we are working on, and it is evolving, has more help for the lower-income folks. In my State of West Virginia, again, 79,000 West Virginians, or 28 percent of our State's seniors, live at or below 100 percent of the poverty level. These extremely limited incomes make it impossible to afford astronomical costs of pharmaceutical medication, so a plan that really helps those folks that are having to make the day-to-day struggle for their health, for their well-being, is a plan that I think we need to get in front of Congress immediately.

Another aspect of a good, solid plan I think is catastrophic coverage. A lot of the drug therapies, and my colleague, the gentleman from Kentucky, alluded to this, the drug therapies are very, very expensive, and get beyond Betty White's $4,000 and go on into the $8,000 or $9,000 a year range, astronomical costs. I think we need a plan that is going to help our seniors cap off that cost at a certain point where Medicare will pick up the remaining costs of those runaway prescriptions, of exorbitant rates. It is a plan that I know we are going to be able to put together here in the next several weeks.

I think we have to make sure that we look at special parts of our population. I am a woman serving in Congress. Women live longer than men, and they are accounting for 72 percent of the population 85 and older; but unfortunately, women are more likely to have lower incomes in their retirement age. There are twice as many women as men aged 65 or older with annual incomes of less than $10,000. This will help the seniors. This will help women who are seniors. I think that is significant.

Many women, unfortunately, when they retire, they look at the retirement benefits, or if they have not been in the workforce, they have a problem. They have been home raising their families, contributing to society in a lot of ways, but have not picked up that paycheck. What are we doing for these women? This plan will come and help save these women from having to make the tough choices.

I am here to stand by to let my fellow West Virginians, my colleagues, know that I will fight for relief. Lowering the cost of prescription drugs cannot be a political issue. It is not a Republican issue; it is not a Democratic issue. It is a human issue that cuts across all lines across America.

As I have said before, the time is ripe. The time is now. We need to capitalize on this momentum and make sure that we join together in a bipartisan way and formulate a prescription drug plan for our seniors now. The time is now.

Mr. FLETCHER. Mr. Speaker, I certainly want to thank the gentlewoman. Again, let me just thank her for her hard work, her dedication, and certainly her loyalty and care about those senior citizens in West Virginia. As the gentlewoman has mentioned, that is a large part of her population. I know she has worked very hard up here, and certainly I just want to thank the gentlewoman for coming this evening and sharing this time with us. I thank the gentlewoman for her work for those seniors back home. I know they will appreciate it.

I just hope as we go through these next few weeks, and I believe we will be able to get this bill passed out of the House, I hope that it will continue to have work done so that eventually it gets on the President's desk and so those seniors back in West Virginia will see the kind of benefits that the gentlewoman has talked about. I thank the gentlewoman very much for joining us.

I next yield to the gentleman from New York (Mr. GRUCCI), who has worked very hard also on this prescription drug plan. We appreciate him being here and sharing this time with us tonight.

Mr. GRUCCI. I thank the gentleman for yielding to me, Mr. Speaker. I just want to comment and commend him on his great work and vision in the field of health care for all of America, but specifically for our senior citizens.

Mr. Speaker, I rise tonight on behalf of the men and women in my district on Long Island who have told me in town hall meetings, public events, and in the calls and letters to my office how much they need a voluntary Medicare-administered national prescription drug plan.

Over the past few weeks, I have spoken to hundreds and hundreds of senior citizens in town hall meetings all across Suffolk County outlining how this proposed Medicare-administered national prescription drug plan will actually help them.

□ 2145

And they told me in no uncertain terms that they need this drug plan. They need it now. They need it right away. They do not need it tomorrow. They do not need it the day after or the year after that. They need it now because their pain and suffering is real and their economic conditions are real. But they also told me they do not want to sacrifice their hospitals or their doctors. They do not want to cut reimbursement rates. They do not want to jeopardize the quality of their health care beyond that of prescription drugs. And on Long Island, seniors needs relief. They need relief from the high cost of prescription drugs and they do need it now. No senior should ever have to choose between purchasing food or purchasing the much-needed medicines to make the quality of their life a better place, to be able to give them the kind of life that they have earned all through their working years.

The plan will save Americans hundreds and hundreds of dollars on their prescription drugs, and especially help those living on a fixed income, while also preventing cuts to our hospitals, to our doctors and to our home care providers, all of which are very important in the quality of life for our seniors as they move forward into their golden years.

This legislation will lower the cost of prescription drugs now and guarantee all senior citizens prescription drug coverage. I would like to thank the Speaker, the gentleman from Illinois (Mr. HASTERT), for inviting me to serve on this prescription drug action team, to create this Medicare-administered drug benefit program covering all senior citizens. I now have the opportunity to focus my efforts on ensuring that the program strengthens Medicare, while guaranteeing prescription drugs and preserving the integrity of the health care system and all at the time of making it affordable for our senior citizens and making sure they have the ability to buy the drugs they need to protect themselves and to ensure their quality of life.

Far too many seniors are faced with the skyrocketing costs of medicines they need for a healthy quality of life, and that is just wrong in a country as mighty, as powerful and as affluent as this country is. We can do better for our seniors. We will do better for our seniors, and this program ensures that they will have that kind of a quality of life. It is time for the rhetoric and the petty partisan difference to end. It is time to act on behalf of our senior citizens.

We need to put the qualities of our senior citizens' health care first and the way that we do that is by establishing an affordable drug benefit program as part of Medicare. That is very simple. It is what should have been done a long time ago. And I am glad to see that my colleagues in the House of Representatives and certainly those that have joined with me on the Speaker's task force have seen the need to do that, rose to the occasion, and have worked from inside the budget and are going to create benefit for our senior citizens, the likes of which they have never had before.

I am proud to have been chosen as a member of that prescription drug action team and I am proud to have been a voice for our hospitals in the formation of this plan, saying that any final plan could not have imposed cuts to our hospitals and to reimbursements to our doctors, home care providers.

I am proud to have been a voice for Suffolk County, for Suffolk County seniors, fighting to make this plan address our HMO reimbursement problems, a problem that has seen so many of our health care providers flee our county and move, not across the country, but across county lines, and in some instances into the city where the reimbursement levels are greater. And as a result, our senior citizens lack the kind of attention they need to take care of their health and their quality of life and that is just wrong.

This plan is vitally important to the health and quality of life for our parents, our Nation and our senior citizens. That is why I lobby to target a prescription drug benefit for seniors as the GOP freshman class priority of 2002. The time is now. It is time for our senior citizens from Long Island and across this great Nation to have access to an affordable prescription drug benefit program through Medicare. I ask my colleagues to join me in working to secure a fair and equitable plan to strengthen Medicare by providing a prescription drug benefit without hurting our doctors, without hurting our hospitals, and without hurting our health care providers.

I yield back to the gentleman from Kentucky (Mr. FLETCHER), and I comment once again on his vision and his help, not only in this instance but in his leadership when it came to creating a Patients' Bill of Rights, a program that I helped to work on with him, and I was impressed with his credentials at that time as I am tonight. He has done a great job for this Nation and a great job for the people of America. I yield back to the gentleman.

Mr. FLETCHER. Mr. Speaker, I thank the gentleman from New York (Mr. GRUCCI). The gentleman could probably tell us a few situations. The gentleman mentioned he had been in a town hall meeting or meetings and this is probably the number one issue I hear about when we talk about health care, particularly with our seniors. I know that the gentleman, having owned and operated a small business, providing health care, and as we worked on the Patients' Bill of Rights, I remember a lot of times we spent together and the gentleman talking about making sure we could continue to provide the kind of health care we need. And it is good to see the gentleman now taking a leadership role on this prescription drug plan.

Mr. GRUCCI. Mr. Speaker, I thank the gentleman for those kind words. I can tell the gentleman that the people in my district consider this to be amongst the top tier issues in the country. Certainly the war on terrorism and making our homeland safe is something that is on everyone's mind, but short of that, health care and our senior citizens and prescription drugs is something that our senior citizens have been clamoring for, been asking for, been begging for, for a number of years. And I am glad to see that we have now risen to the occasion and are going to be able to provide them the much-needed help.

An average senior in my district is no different than across the Nation. They spend about $2,150 a year on their prescription drug benefits. When I asked them that question, the majority of the room raised their hand in that area. Some had more than $4,000 of prescription drug benefits. This program will go to help pay for those above that cost. They told me this is the plan that they were hoping for to arrive in their lifetime and we are now able to deliver to them. And the gentleman has been doing an outstanding job on that. I am sure your district is no different than mine.

Mr. FLETCHER. Mr. Speaker, the gentleman is absolutely right. In central Kentucky, probably throughout the State, when I talk to seniors at town hall meetings, and I was recently at a senior citizens center where there was probably 200-plus senior citizens there, and it was just the major issue on their mind. Virtually all of them seemed to be on some sort of prescription drug. I remember one lady that got up and she gave me her income and she said, How much will I have to pay? I was glad to tell her, and I will be looking just briefly at these charts, that lady who is on a fixed income, and I think the gentlewoman from West Virginia (Mrs. CAPITO) talked about this, this affects particularly women that have worked all of their life very hard, many in the home, and they are on a fixed Social Security income and now they have these high drug costs. I was glad to tell her that actually this plan will pay for all of her medication costs, that it would help her tremendously, or virtually all of the costs would be covered. And that is something that I think as I get out around

the district and tell people, they really understand how good this plan is and how comprehensive it is, covering all seniors. And certainly we get a tremendous amount of support out there.

Mr. GRUCCI. Mr. Speaker, if the gentleman would yield, I would say the same is true in my district. The thing that we use together between the prescription drug benefit is the uncertainty our seniors have over the rhetoric that is coming out about their Social Security and are they going to lose it, are their benefits going to be taken away from them, are we going to pay for a prescription drug benefit and the health care of our Nation on the backs of our seniors through their Social Security? When I tell them there is no plan, neither a Democrat nor Republican plan to do away with Social Security or to privatize Social Security, a word that seems to have been cropping up in the vernacular these days in an attempt to scare our senior citizens into believing that there is some evil plan afoot here in Congress to do away with their Social Security or to privatize it and put it in jeopardy, when they understand that is not the case and that is not going to happen and they realize that this prescription drug benefit is actually new monies and not coming on the backs of their Social Security, they really understand the benefit that this program is going to have for them.

When I told my senior citizens, and I probably did three to four of these town hall meetings, each with as many as 200 senior citizens in them as well, they understood that they were going to see savings. When I said to them, they will see six, eight, 900 and $1,000 back, you can hear the sigh of relief because to some Americans that may not be a lot of money, but to these folks, it makes the difference.

People hear us talk about the choice between buying food and putting heat in their house and buying the medicine. Well, the seniors that I talked to are the people that are making those choices. I want to eliminate that choice. They should not have to make that choice. They should be able to have their Social Security benefits as well as their retirement. They should be able to have a prescription drug as part of a program that the Federal Government has said is right for them and is going to help them with. I could not be happier that this is coming about. I hope we can get this to the floor very quickly so that the Senate will be able to act on it and we can get it to the President for his signature.

Mr. FLETCHER. Mr. Speaker, certainly I appreciate the gentleman's words and help again. As we begin to look at this problem, I am thinking of a lady who said that she was living on, it was around 7 to $800 a month, if you look at what it takes to provide, put food on the table, clothing, heating, a home, she was getting some assistance from family members, and we see that all across. It is not only the seniors that are very interested in this, but we all have parents, and there is a lot of younger folks out there that are struggling to make it and they are helping their parents right now because their parents are on a fixed income. They are having to contribute to that cost. So this is something that I agree immediate relief is certainly needed. And as the gentleman just said, there are a number of people out there struggling to make ends meet. They are having to decide whether there is food on the table and whether they will take the prescription drug.

Mr. Speaker, again, I thank the gentleman for his work and for coming and sharing the time tonight.

Mr. GRUCCI. Mr. Speaker, I appreciate that. I will close by saying that the person I run this by is Mama Grucci, and when she tells me this is a good plan, I believe it is a good plan. I thank the gentleman and I appreciate his time.

Mr. FLETCHER. I thank the gentleman for that high note of credibility he just added to this plan.

Mr. Speaker, as I looked, the gentleman from New York (Mr. GRUCCI) also mentioned that some people are trying to scare seniors and talk about Social Security and spending Social Security money, taking Social Security away or privatizing, all of those terms that they use to try and scare our senior citizens. Let me say that is unconscionable because they do know that there is no plan afoot, no intent to that, and that we are actually trying to do and are working, and I think successfully, and certainly have come up with a plan that we will unveil shortly to help shore up retirement security, improve it, enhance it.

As a matter of fact, this year as I served on the Committee on the Budget, we specifically set aside $350 billion over the next 10 years for the very purpose that we are here talking about tonight and that is to provide a prescription drug plan and to strengthen Medicare.

Now we set aside for that very purpose. And let me say at that time the Democrats had no plan. They set aside no money for Medicare. They set aside nothing to plan for the future of prescription drugs. And I know that many of them desire just like we do that we have a prescription drug plan. And we just need to set the record straight that when we rolled out a budget here on the House floor, there was no alternative budget that provided the kind of money that we did or provided any provision for prescription drugs. We provided $350 billion over the next 10 years to address this critical health care issue in America.

Let me share, I have practiced medicine before I came to join this honorable body. I was a family practitioner. I can remember situations like the one I will relay. A lady that came in who had high blood pressure, hypertension. I prescribe the medication for her. She goes home. She comes back, I check and the blood pressure is not controlled and I scratch my head. I increase the medication. She goes home, comes back, and the blood pressure still is not controlled. Finally when you sit down and she begins to pour out her heart, she says, Look, I cannot afford this medication and when the samples you gave me ran out, I could not afford to get them.

I have seen folks that say, I take it every other day, or I could only take half of the dose you gave me. These are problems where people are not only have having to decide between food and medicine but it has a critical impact on their health and long-term security. If we are not controlling things like hypertension or diabetes or high lipids or cholesterol, then we are not doing all we can for the health of our seniors. And that will lead to diseases and problems that they would not have otherwise had if we do not provide the care that we are talking about here this evening.

□ 2200

Let me review again some of the principles of this plan because I think they are critically important.

First of all, it strengthens Medicare with a prescription drug plan coverage. It lowers the cost of prescription drugs now, and I want my colleagues to see that word ''now,'' Mr. Speaker, because I think it is critically important. People, I hear, need immediate relief and that means they need it now.

This immediate relief is allowing us to reduce those costs. It is estimated at 30 percent. In the last year or so there have been Democrat plans that have been rolled out, and they are estimated only to reduce it about 10 percent. If my colleagues can remember, during the last Presidential election a plan was rolled out. The Democratic candidate, the estimate reduction was only 10 percent. We are providing three times the price reduction, and we are doing it immediately under this plan, as soon as this plan will be signed into law; and we get out the competition that would bring down the cost of those medications, the up-front cost as seniors walk into their pharmacy by up to 30 percent.

It guarantees all seniors prescription drug coverage under Medicare. This is a plan that cannot be taken away from. Our Congressional Budget Office has estimated that 95 percent of the seniors will take advantage of this; and let me say, if, and this is a question I got at some of my town hall meetings, Mr. Speaker, and that is, if a senior citizen now has a prescription drug plan, this will not take away their ability to keep and maintain that prescription drug plan. It will allow them to maintain a plan that they like.

So it does not restrict their freedom. It provides choices. It improves Medicare with more choices and more savings. We have already talked about a 30 percent saving immediately. With a small premium, there will be substantial savings.

It also protects from any catastrophic drug costs that would result in bankruptcy because of runaway drug costs.

It provides choices. We guarantee that a senior has at least two choices. This is unlike the Democrat plan that said we are going to give people one choice, one formulary that is going to be listed. That means that people have got a bureaucrat or bureaucrats controlling what is in the medicine cabinet of the seniors across America.

Let me tell my colleagues, I worked with companies, insurance companies, that only had a single formulary, and sometimes it is nightmare to get the particular medicine that the patient needs, and so we wanted to make sure, as one of our basic principles, that we provided multiple choice. We guaranteed at least two choices, and hopefully there will be more than that, but more choices, more savings.

We strengthen Medicare in the future. One of the problems we are seeing across this country and certainly in Kentucky is that a new Medicare patient has a difficult time of getting an appointment with a physician. We also see struggling rural hospitals and nursing homes and home health agencies because of reimbursals that are about to be cut or have been cut and the tightening or disparity in payments for rural hospitals. That makes it very difficult for these essential rural hospitals to continue to operate, and believe me, I think all health care is local.

When we look at how important it is to have immediate care, when someone has something like a heart attack or a stroke, it is critically important to have that care right in the community, maintain those rural hospitals. Part of this plan will certainly help do that and improve the reimbursal for those rural hospitals. So I think that is critically important.

Not only that, but it prevents this rather ridiculous plan of the way we were going to pay physicians and the reduction that would cause many of them to quit taking Medicare, and that is why I think it is critically important that we pass this, to improve the accessibility and availability of health care to our seniors.

I see now I am joined by the gentleman from Connecticut (Mr. SIMMONS). I am very glad to have him here and his work on prescription drugs. So let me yield to him.

Mr. SIMMONS. Mr. Speaker, I thank the gentleman for yielding to me, and in particular, I thank the gentleman for sharing his expertise on this subject, not only with Members of this body, but with all Americans who are concerned about this particular issue.

I represent a small State, Connecticut, which has been fortunate in many ways because over the last 17 or 18 years, the State of Connecticut has benefited from a state-based prescription drug plan, what we call ConnPACE, which is the Connecticut pharmaceutical contract for the elderly, and what this ConnPACE program does is provides prescription drug coverage to those senior citizens and those disabled citizens who are low income, and so it is income based. It is not asset based. It is income based.

During the 8 or 10 years that I served as a State representative in the State of Connecticut and I traveled around during election time, knocking on doors, with increasing urgency senior citizens expressed their concern for additional help for prescription drugs. As I said, Connecticut had a program, but because it was income based, an individual who was slightly over the income limit became ineligible and, therefore, could not take advantage of this program.

What I felt over those 8 or 10 years was that the Federal Government should play a larger role, and when I was I elected last year and came to Washington, my colleagues may recall that the President offered what he called his Immediate Helping Hand Program, and as I understood it, it was a program where the Federal Government would make a grant to the States to a certain amount to assist them in the programs that they had. I took that idea to heart.

I introduced some legislation here on the Hill that reflected that concept, where the Federal Government would help those States, but when I went back to my district and when I talked to the senior citizens at the senior citizens centers and at gathering places across the district, what I discovered was they really wanted to go beyond that. They did not want to have an income-based program. They did not want to have a program that limited the benefit only to those seniors in greatest need. They wanted a broader-based program, and this is where the gentleman's proposal and the proposal that I understand will be coming out of the Committee on Ways and Means hopefully in the near future really fills the bill.

It includes all seniors. It provides coverage for all seniors, and it allows them to have some choice, and I think, most importantly, for those States that do not have a state-based program, it gives seniors immediate access.

What I hear time and time again is that senior citizens want this coverage now. They have heard the talk. The talk has been going on for a long time, and they feel that it is no longer a time to talk the talk. It is time to walk the walk. So they want to do it now, and they want to do it this year.

It is interesting when we think about it. I know the gentleman has a substantial background and experience in medicine, and I respect and appreciate that; and I understand how his expertise is really bringing this legislation to the fore.

My background is more in the area of military issues; and so when September 11 came along, it was a traumatic event for me and my citizens, my constituents who died on that terrible fateful day. We can look at national security issues and they are extremely important. There is no question about it. We can look at intelligence and national security issues, and they are extremely important.

In the polling in the months after September 11, there was great public interest in that issue, although that polling has now gone down, but think for a moment about a senior citizen on prescription drugs with limited resources. They may not be frightened on a daily basis about a terrorist attack, they may not feel that they are in jeopardy because of international terrorists, but they are in jeopardy because of their prescription drugs.

Every day they have to face concern and anxiety and insecurity because they have to make a choice between drugs and food. They are not sure that they have the resources available to buy that prescription drug in the coming months. So we have to put ourselves in their shoes, and we have to be considerate of their concerns.

We have to move forward with this program. We have to get it done and we have to get it done now, and I am so happy to be part of the Speaker's task force that addresses this issue. This is a critical issue for senior citizens, for disabled and for those on Medicare, and it is time for us to provide this coverage for them.

So I thank the gentleman very much for his leadership, I thank him for his expertise, and I think the time is going to come sooner rather than later when many citizens across this great country of ours, so I am going to thank the gentleman and all those working with him, to bring this critical program to fruition, to bring it to our senior citizens.

Mr. FLETCHER. Mr. Speaker, I thank the gentleman from Connecticut (Mr. SIMMONS) for joining me tonight. I thank him for his work on the task force, and I know as he mentioned certainly his sincere desire to help the folks in Connecticut, particularly in his district, I am sure they feel as I do, certainly appreciate the tremendous amount of work he has done on this, and I think he is focused.

His background, as he has already mentioned, is one of serving the country and yet going well beyond that of focusing, not only as he mentioned on the national security, but now on the retirement security and security of our seniors' health. So I thank him for his work, and I know if he is like myself and some of the other folks that have joined us this evening, it is just an issue that they hear regularly around the district.

Mr. SIMMONS. Mr. Speaker, if the gentleman would yield for just a moment, he captured the concept so beautifully. We are concerned about retirement security. We are concerned about health security. We are concerned about national security, and these are

all interlocked in a way, and we have a responsibility to address them all.

When I look back on what I was trying to do, which was to frame a legislative program that would provide block grants to those States that had programs and encourage other States to develop programs, what I realized was and what seniors told me was we are leaving a lot of people out. We are leaving people out in those States that do not have a program, and it is going to take them awhile to implement. We are leaving those people out whose income levels are sufficiently high that they do not get to participate.

The point is, when it comes to health security, when it comes to retirement security, when it comes to national security, we do not want to leave anybody out. We want to make sure that everybody is covered. We are all a part of this great country of ours. We need to work together to make sure that everybody participates.

Mr. FLETCHER. Mr. Speaker, again I thank the gentleman for joining us tonight, and as he said, two critical things, immediate help, help now.

If we, as we did a couple of years ago, pass a bill out of the House here, we sent that over to the Senate. The Senate did not act on it. Let us hope it is different this year as we look over the next few weeks of passing a bill out here and sending it over to the other body, but I do thank him for joining us tonight and thank him for all the work, for all the citizens, not only in the State of Connecticut, but all over the country.

Let me just say a few things and close out this evening and remark on this. We said no senior should have to choose between food and medicine, and yet that is happening in this country, and yet we are undoubtedly the wealthiest Nation in the world's history. We have developed a tremendous amount of health care technology, including wonderful new medications, prescription drugs that help prevent disease.

We now have medications that prevent hardening of the arteries, that reduce the rates of heart attacks and strokes. We have medications that certainly allow senior citizens to live more comfortably. We have medications that treat and sometimes even cure cancer. That would have been just unimaginable a few years and decades ago, but oftentimes our seniors are having to choose between the food that gives them that comfort, that quality of life and even assures them of prolonged life, and the medicine, having to choose between food and medicine.

So we want to stop that. We have a good plan, and let me just review a little thing on that.

First off, it fully subsidizes premium and cost-sharing up to 150 percent of the poverty level. That means those ladies that are on low income and those senior gentlemen that are on low income do not have to worry about that problem, as we have shown, choosing between food and medicine.

It also provides a subsidy that is phased out between 150 and 175 percent. This is a coverage in Medicare, and it is important to understand that. It is also important to understand that people have a choice.

There are several plans to choose from, so that they can get the medication that they need. It is not just a single formulary that may restrict someone or make it very, very difficult for them to get the particular medicine that they can tolerate and that treats their particular condition the best.

It brings immediate relief of up to 30 percent cost reduction. It helps not only that, but there are a few other things I want to review as we close out.

It protects improvements in Medicare to help reduce adverse drug interactions, provides for electronic prescribing to minimize medical errors which the complexity of medicine now certainly is needed to incorporate all the technology that we have to ensure that we reduce the medical errors to as little as few as possible. It allows pharmacy therapy management for chronic conditions, and I think disease management is part of this prescription drug plan that is very critical as we look to not only just treat the acute problems of our seniors but make sure we manage their condition to give them the best quality of life, again to help them with their retirement security, to secure their health for as long as possible.

So as I close we have a plan that we will be rolling out soon to provide immediate relief that is available for all seniors that will ensure no one has to choose between food and medicine, that will also provide choice and freedom. It will also make sure that those people that have drug costs that become quite expensive, that they are not going to go bankrupt because of runaway drug costs.

□ 2215

Mr. Speaker, it is an excellent plan. I certainly hope that we can get bipartisan support for this plan as we bring it to the House floor.

As I mentioned a year and a half ago, we passed a good prescription drug bill out of this House. I think we have made marked improvements on the plan. I want to share, Mr. Speaker, this plan is not only a plan that we have worked on this year, it is the culmination of several years of work.

What we found is that I think we can get a greater participation in the way this is structured; and again, the Congressional Budget Office predicts that 95 percent of the seniors will sign up for this, this voluntary program, because the benefits are so structured and so good and so attractive that they felt like seniors would sign up for this, and because it is available for all seniors. Again, it provides them with the ability to keep the plan that they have. If they have a retirement plan, and it provides prescription drug coverage, this does not impede their ability to keep that plan.

It also, again through better negotiating power, gives them an immediate 30 percent estimated in their cost. We have a great disparity in this country in the fact that most people who are working can walk into a pharmacy and they can get prescription drugs at a markedly reduced cost because they have an insurance plan that negotiates the cost of those drugs and gets a reduced cost, but our seniors do not have that. They pay a substantially higher price when they walk in to buy their prescription drugs. Why, unless they have some sort of plan other than Medicare, they do not get the benefit, the negotiating power, to reduce the cost. This plan brings that power to every senior that takes advantage of this plan.

I just wanted to share those few things, and let seniors know that not only providing this plan for the reasons we have mentioned because of the necessity of improving certainly retirement security and the security of our seniors' health, but it is a matter of equity. Medicare provides for acute care, and will provide, for example, bypass surgery for someone who needs surgery, but it will not provide the prescription drugs for hypertension or lowering cholesterol that are necessary.

EDUCATION TAX CREDITS

The SPEAKER pro tempore (Mr. KELLER). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. SCHAFFER) is recognized for half the time remaining before midnight, or approximately 50 minutes.

Mr. SCHAFFER. Mr. Speaker, tonight I rise to discuss the issue of education in America and the topic more specifically is around education tax credits, a proposal which has been circulating through some of the back rooms in Congress so far. We have been talking about this publicly for a long time and many States know quite a lot about this. We have been working to construct a bill which is almost ready for introduction. We are dealing with some of the final discussions with the committee of jurisdiction in that legislation.

If we have Members interested in the topic of education tax credits and would like to participate, I would like to invite my colleagues to join me. I know there are several Members who I anticipate will be joining me shortly.

Education tax credits are probably the most exciting innovation with respect to education that we will have a chance to consider this year in Congress. First, perhaps, I would explain a little bit of the history of how we got to the point of putting a pretty serious education school choice initiative to the point where we will be bringing it to the floor and considering it in Congress. That history goes back to the Presidency of George W. Bush, when he campaigned for the Presidency.

He did so on a strong education component of his platform, predicated on the great accomplishments that he had achieved for the State of Texas when he served as governor of that State. That was amplified on a national level in his proposals that called for increasing accountability through testing and other diagnostic measures with respect to school performance and closing the achievement gap between underserved children and those of greater means financially.

The second proposal that President Bush spoke about was school choice, and the third most important element of his platform involved school flexibility. In other words, having the government propose that the Federal Government would eliminate all of the rules and red tape, strings, and the heavy oversight that the Federal Government has become known for with respect to administering Federal education programs through the States and ultimately to local jurisdictions, to school boards and local schools.

When the President became the President and got himself elected and came up to the Hill proposing a pretty bold plan to follow through on those campaign proposals, he put together a proposal called Leave No Child Behind which had those three key elements, accountability, flexibility and school choice, which were a part of that initial plan.

It was met with tremendous fanfare, as Members recall. There were big press conferences which rolled this bill out. Particularly those who are active members of the Committee on Education participated in the drafting of that legislation.

Unfortunately, something happened on the way back to the President's desk, and that is just a sliver of the President's initial vision remained in that bill which was titled H.R. 1, and that is the fault of the Congress, certainly not of the President, because as that proposal was introduced, before it had its first hearing, the school choice components were ripped out of the bill, which were the core elements of the President's proposal, the most important part. And the same with the flexibility provisions, those provisions were watered down considerably to the point where after the Senate finished with that proposal, they were barely recognizable. To the credit of the Congress, the one portion that the Congress maintained in the President's initial vision was the accountability provisions, and that we see carried out through a massive new Federal effort toward national testing.

Having said all that, the most important provisions of the President's vision have still been unresolved, and we still have to achieve them and that is what this tax credit initiative is about trying to accomplish. We are looking for a way to provide more flexibility to parents and to school boards and to local schools to try to find a way to create a new wave of private, voluntary investment in America's schools, a way to eliminate the discrimination between government-owned institutions and those owned by nongovernment entities, whether they are nonprofits or churches, or perhaps owned by private organizations of other sorts.

And finally, we are trying to find a way that really gives parents the power that they need in order to make greater choices as to the kind of education and academic settings that are available to their children, and this academic education tax credit plan helps to accomplish that. It does so by bypassing the Federal Government all together. The tax credit proposal does not envision changing Federal education law or even tampering with the U.S. Department of Education. Instead, this proposal is one that addresses the Federal Tax Code and provides a direct tax benefit to American taxpayers if they will send their cash that they otherwise would send to the Federal Government to a local school.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. HOEKSTRA) to explain the history and where we are trying to go with this tax credit proposal.

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman for taking the leadership position on this education tax credit proposal. A few years ago, the gentleman and I embarked on a process with members of the Subcommittee on Select Education of the Committee on Education and the Workforce, to talk about education at a crossroads. What we wanted to do was identify what the Federal role in education was, and we also wanted to go around to America and find out what is really working in education.

What we discovered in terms of what happens to the Federal dollars and what happens in terms of decisionmaking is that we found that the person who is doing the work and paying the taxes by April 15, they send their money to the Treasury Department. We in Washington, whether it is H.R. 1, or any series of education bills here in Washington, will allocate that money and say we are going to spend this much money here and this much there. Politicians get into the debate where exactly the money is going to go.

As we found out in the welfare reform debate recently, that debate, pretty much the way that the debate on education went, we forget about how we are trying to serve. In the welfare reform debate, the debate was not whether the policies and programs would help the people on welfare, the debate was where the decision would be made as to how those dollars would be spent. Some of the politicians here in Washington were scared because we were actually going to make some of the decisions not here in Washington, but move some of the decisionmaking down to lower levels.

So it was not worrying about what worked and what did not, but who gets to make the decision. We had some of those same debates on education as to what policies are we going to mandate in Washington to make sure that people at the State level, people at the local school district level, and people at the local schools make the right decisions.

So it goes through this process of politicians in Washington deciding what we are going to do. The money flows down to the States and the States decide how it is going to be allocated, and it goes down to the local school. What we find is we have this whole bureaucracy in place deciding how we are going to spend the Federal education dollar, forgetting about who paid the taxes in the first place and forgetting too often about the child that we are trying to educate.

What we found out was a couple of things. Number one, when you put a dollar into the top of the funnel, at the end you only get about 65 cents into the classroom actually educating the child. The other thing that we found is the most effective programs at the State and local level.

□ 2230

When we talked to parents, when we talked to principals, when we talked to superintendents, when we talked to teachers, and said, what is really working in your schools, we were hoping that they would come back and say, well, you know, we only get 7 percent of our money from Washington, but, boy, that English as a second language, man, that is the right program, that is the program that is really making a difference, or any one of the alphabet type of programs that we have here.

That was not what we got. They said all we get from Washington is bureaucracy, mandates, paperwork, and those types of things. What really works is local innovative programs because those can be tailored to an individual school.

So as the gentleman from Colorado (Mr. SCHAFFER) said, we are not talking about changing the system. We tried that. We tried to move more decision-making to the State and local level, tried to move more decision-making to parents. We did not win on that. The bureaucracy and the folks who wanted control here in Washington, they won that battle. So we are just saying, okay, this system stays in place. For those who want those controls and those types of things, it is going to stay here. It is well funded. This is a healthy budget. It continues to get healthy increases, and we are not going to try to slay that dragon.

What we want to do is we want to create another mechanism to get more dollars to the student, and maybe my colleague would like to take us through exactly the difference between this model and how a tax credit complements this in terms of growing our investment, moving decision-making down to a local level, and it really forms a very nice complement to what this system is not able to do.

Mr. SCHAFFER. Mr. Speaker, before we move on, it is important just to underscore that this really is a picture of

the way Federal education dollars go from taxpayer down to student, and it is a system that is not designed by accident. It is one that is very deliberately conceived here in Washington and put into place over years and years of Federal tampering and meddling in the whole education system; and it is important, before we go on to why a tax credit is important and why it is important to try to connect in a more direct way the taxpayer with the child, to go through each of these agencies just so we have a sense, once again, of why the politics are so difficult here in Washington to put children first.

The Treasury Department is a huge agency in and of itself, and we have had to go meet with the Treasury Department, and we just did that last week, with respect to this tax credit proposal. They are interested in the way we are proposing to change the tax law because they are the ones who administer it. So it is important to them and they care about it. The politicians here represent those of us here in Congress.

Mr. HOEKSTRA. If the gentleman will continue to yield, Mr. Speaker, when we met with the Treasury, great folks, but it was not about what is best education policy. It was what is best tax policy.

Mr. SCHAFFER. Mr. Speaker, that really is the whole point and why it is so important here because the Treasury Department people, their focus is the Tax Code. That is their job. That is their mission in life. That is what they do for a living, and when we go meet with them to talk about tax credits, that is the level of discussion we have to raise is how do we utilize the Tax Code to accomplish what we think, as representatives of our constituents, is in the best interest of the people. So we have to talk in Treasury language when we go to the Treasury Department. And they were genuinely helpful. I appreciated that meeting, and I think things are going great over there, but the child down here at the bottom was not the focus of that discussion is the point.

The legislators, and the politicians here in the Congress, of course, we respond to a great variety of priorities throughout the country. There are 435 of us just in the House. Across the Capitol here, there are another 100 of us. So we have got all kinds of priorities we are trying to balance. So politics becomes the important element in how we establish priorities here in the House and in the other body.

The Department of Education, of course, their function is to answer to the Treasury Department and to the politicians; so when we give the money to them, we have got another bureaucracy, a whole other culture that exists in the Department that deals with answering questions up here in committee hearings and also sending these dollars further down this education bureaucracy.

Mr. HOEKSTRA. If the gentleman will yield, again on the oversight committee, we finally I think are getting a handle on this, but for much of the nineties, this Department of Education that gets about $40 to $45 billion per year could not even give us a clean audit. They could not tell us where the money was going or how it was being spent. That is interesting. If you get to a local school board, those things are audited. If there is a problem with the books, immediately there is a State takeover. Here you have got a $40 billion agency, like I said, that now I think finally under the Bush administration, there is accountability here, they know where the money is going; but for the longest period of time, they did not even think enough about $40 billion to actually account for where the money was going.

Mr. SCHAFFER. They have to account for how those dollars are spent by States which is where those dollars go next. Once the money goes to the States, the States have those dollars distributed by more politicians, State legislators, those dollars go to their State departments of education, from there to the school districts, from the school districts through the political process there, ultimately to the school, and then finally down there to the child. My point being is that each one of these agencies within this bureaucratic model, they have their own function, their own focus, their own set of goals and objectives; and often they do not match up. They are not consistent.

Here in Washington as conservatives who are just kind of antibureaucracy types like those of us represented here tonight, when we try to change this system and make it more efficient, we step on a lot of toes, as you can see. These agencies, these State bureaucracies, and the school districts, they have tremendous political influence here in Washington. In fact, the teachers union is probably the most, I do not think you would get much argument, is the most powerful political influence here in Washington, D.C., in terms of a single special interest group. So this is a huge, massive bureaucracy, that has a tremendous political force here in Washington.

Talking about changing, this is something we need to do and will continue to do. We are not going to give up on that, but we have not been too successful, unfortunately. So the tax credit proposal is a way to try to just cut all that bureaucracy out of the middle. We have not invented this idea in Washington. This idea actually originated in several States, one of which is the State of Arizona. I yield to the gentleman from Arizona (Mr. SHADEGG) to tell us a little bit about the experience of education tax credits in his State.

Mr. SHADEGG. I thank the gentleman for yielding. What I would like to do, I will talk a little bit about our experience in Arizona, but I also would like to kind of get down to the nitty-gritty questions that I think a lot of people ask, and people who might be watching tonight might be curious about. People are interested in improving education in America and want to know how to do that. But I think that is critical.

I guess I ought to begin by saying that I come at this from the perspective of someone who my entire education was in the public school system, but more recent experience than that is my wife is a public school teacher in Phoenix, Arizona. She teaches kindergarten. I have two sisters, both of whom are teachers, both in the public school system in Arizona, and then I have a niece who is a teacher in the public school system in Tucson, Arizona. And so I come from a family that is pretty deeply steeped in public education. Of course to achieve any kind of reform, and you were just talking about how difficult it is to achieve reform, you have to kind of convince people to take a leap of faith, to try a new idea.

As you pointed out, we in Arizona tried a new idea. We have tried education tax credits, and I think they have worked extremely well. That does not mean that everybody in Arizona is yet convinced or already on board and it does not mean that the teachers and the teachers unions in Arizona are not still skeptical, but I think it would be important for either of you as the lead proponents on this legislation to kind of lay out what you believe tax credits will do and why public school teachers like my wife, my two sisters, and my niece ought to embrace this idea. Because we have to win them over. We cannot achieve this without them.

I know our experience in Arizona has been that by creating a tax credit for education, in Arizona it is capped at $500, we have been able to allow young children trapped in schools that were not meeting their needs to get a scholarship that enables them to go to a school of their choice and to get a high-quality education, because money is made available to them that they could not otherwise access. That money lets them go to a different school. I also believe it has not only not damaged the public education system in Arizona, it has helped the public education system in Arizona because these are essentially additional resources for education. It is not less money to educate America's schoolchildren; it is, rather, more money to educate our schoolchildren. But I think that is a critical question, and I would invite your response to it.

Mr. SCHAFFER. You are precisely correct. If you once again take a look at the bureaucratic model of getting taxpayers' cash to children, this system really serves no one well. It really creates a nightmare for public school teachers, for public school administrators. What we want to do is start to treat these teachers and administrators like the real professionals that they are. That is why not only should they be enthusiastic about education tax credits, but they really are.

Look at this. This is how tax credits work. We replace this bureaucratic

model of getting taxpayer dollars to children with one that is much more direct, one that is better represented by this chart here, where we have the same taxpayer, the same child, no bureaucracy in the middle.

Here is how it works. Here is how our proposal would work. An individual who makes a $500 contribution to a school, either a public school or to a scholarship fund to allow children who are poor or are just challenged with respect to the financial means to attend the school of their choice, the taxpayer who contributes to those kind of organizations would get half of their cash back in the form of a tax credit. This is money that today the same taxpayer is funneling here to Washington, D.C., if they would give those dollars to the child, give it to the scholarship organization, the Federal Government is going to give them a portion of that cash back. We are essentially by changing the Tax Code making it easier to just give your dollars directly to the educational pursuit in your community, the priority that makes sense to you, rather than send it here to Washington and have it go through all that nonsense that is represented by the education bureaucracy.

Mr. HOEKSTRA. Remember, this is the model that says the taxpayer puts in a dollar and 60 to 65 cents makes it to the classroom. On the other hand, this model says we have gotten rid of all this stuff in the middle and the taxpayer puts in $2, and it only costs the government a dollar. So here we grow our investment in education and we grow it for all students, public schools, private, parochial schools, we grow the dollar. In this one we shrink it. What a sharp contrast.

Mr. SCHAFFER. The reason teachers and administrators in public schools and private schools are excited about tax credits is because they play more of a leadership role in getting these dollars to the children who need it the most.

Mr. SHADEGG. I just want to go over a couple of points you made because I think it is important to understand. One, I emphasize the fact that my wife, both of my sisters, and my niece are all public school teachers. You made the point in your remarks that these dollars can go by a donor to a public school. That is, I think, one of the points that people have concern about. The other point, and people get confused, when we talk about cost to the government, I just want to make it clear that we understand this. As this system works, if you give a dollar directly to an educational institution, be that a public school in your neighborhood or a private school, or to an organization that creates scholarships, I take it, for a public or a private school, that dollar goes directly to that school and is used by that school.

When you say it only costs the government 50 cents, or it only imposes a cost upon the government of half of that, what you are saying is that it, as an inducement or a way to encourage taxpayers to engage in this activity, the taxpayer's tax liability to the government goes down by half of what they give. So you are actually doubling the amount of money that goes to education, because they give $500, would be the max, and they get a tax credit, that is, they can reduce their check at the end of the year that they owe to the government by half of that. In this case it is $250. So not only are these resources that can go to public or private education without all the bureaucracy that you talked about, but on top of that, it is double the money. To get a $250 tax credit, reduction in your tax bill, you have to give $500. We are essentially doubling the money going to education.

Mr. SCHAFFER. It is more than a win-win situation. Every dollar that the government spends today or that every taxpayer spends today through their Federal Government gets filtered through this bureaucratic process. In doing so, every dollar does not make it to the child by the time it gets down to the bottom of this filter. Only about 60 percent of the money spent on education alone gets to the child. The education tax credit does just the reverse. Rather than losing cash, which is what the government does today with your education dollar, the education tax credit actually doubles the money. The reason it does is because of one fact, and, that is, Americans really are willing to contribute their own cash to American schools and American education. If we can make that investment a little sweeter by offering an education tax credit, sure it still costs the government a little bit in the end, not nearly as much as the bureaucratic process, but the result is for every dollar the Federal Government spends through a tax credit that we are proposing, $2 actually make it to a child.

So when we describe this idea to administrators and schools and teachers and business leaders and people who are involved in the education bureaucracy and have dealt with it for so many years, they are genuinely excited about this.

□ 2245

The people who are most excited about it are the groups represented by the two figures on this chart; the taxpayers, who are tired of seeing their money squandered in Washington and just through government bureaucracy in general, and the others are actually these children. We brought them here to Washington, who have been the beneficiaries of state tax credit proposals and other scholarships throughout the country, and it is a remarkable thing to see 10- and 12-year-old kids testifying before Congress about how this model has changed their lives and really opened up their futures to educational opportunities.

Mr. HOEKSTRA. The other people that really do get excited are the school officials at the local level, because under the bureaucratic model, the dollars that come from the Treasury come with strings attached saying, ''you are getting a dollar and you will spend it this way. And, as a matter of fact, we are going to monitor you to make sure you spend it the way we want you to spend it. When we send you the money, we are going to require you to report back to us that you spent it exactly the way that we mandated that you do, and because we don't really trust you, we will send in auditors on a periodic basis to audit your reports, because we don't trust you are going to tell us exactly the truth.'' So you get this whole bureaucracy in here that does nothing, that totally does not consider the child.

With this model, local officials, they have got an accountability, but they have only got it to the taxpayer, their local taxpayer, in that they have to convince a local taxpayer that says, ''For our school or district or our kids, this is what we want to do. Would you please support us?'' And if the money comes in and they have made a compelling case, it will come in.

That is what my colleague learned in Arizona, that when local school districts make a compelling case that says we get this money from the State and Washington, but our district is just a little bit different and we have got some special needs, at that point people at the local level will step up with the tax credit or the folks will step up and write that extra check and these school officials can meet some very specific needs for their school district, for their kids. They recognize the accountability is not to some faceless bureaucrat in Washington, D.C., but their accountability is to the kids, to the parents of the kids, and to the local taxpayers; and that is exactly where our schools need to have the primary focus, is back into their communities.

Mr. SCHAFFER. We have some opponents to the plan, unfortunately, and I think that opposition is somewhat premature. It is almost reflexive because of the battles that have been traditional here in Washington. When we talk about having a closer connection between taxpayer and child, some people in this bureaucracy over here seem to be threatened by that.

I just want to point out for those interested in preserving this bureaucracy, that is not a goal of mine particularly, but I just want to make it clear the tax credit proposal does not touch this bureaucratic model. We are not messing with the Department of Education laws or the bureaucracy in any way. We are changing the Tax Code, which is different.

But this whole bureaucracy is going to continue to grow. If history has shown us anything, it is that it does not matter who is in charge of Washington, whether it is a Republican or Democrat, this bureaucracy grows by massive proportions from year to year, and that is not something to be proud

about or brag about from my standpoint as a conservative, but that is the reality.

For those who believe that a tax credit means that there will be fewer dollars spent in the traditional bureaucratic way in schools, Arizona is a perfect example. Arizona passed a tax credit proposal similar to what we are proposing here and the result was actually a benefit to Arizona's public school finance law. What happened was the per-pupil operating level actually increased in Arizona schools, and, not only that, but the Arizona school finance laws continued on without any change or any amendments to the way the school finance acts works in Arizona.

I yield to the gentleman from Arizona to highlight that point, perhaps, or anything else he would like to add.

Mr. SHADEGG. I would just like to drive home a couple of the points the gentleman has made and make it very clear that what we are talking about here is more resources for education.

It is kind of interesting, as the gentleman points out, in Arizona we adopted a tax credit. The Arizona tax credit is different than our proposal here in Washington, which is not a dollar for dollar match, but rather a one for two match. If you give $2 to education, you get a tax credit, that is to say in simple English, a reduction in your taxes due, the amount of money you have to pay, of $1. That doubles the amount of money going to education before you even factor in the loss of whatever it is, 25 cents, 35 cents, in the bureaucracy, taking the dollar that goes to Washington down to only 65 cents by the time it gets back to the education system or to the child.

But on top of that, in Arizona, ours is a dollar for dollar. We did not have the multiplier effect. I think the multiplier effect of the proposal here is a very good one, because no one can say this will divert resources from education, because by definition you have to give twice as much in order to get the single deduction, that is, you give $500, you get a tax credit of only $250. That means there is twice as much money for education, and that is a true benefit.

In Arizona, as the gentleman pointed out, the experience has been very positive; and it has encouraged, not discouraged, the funding of education. It has been a boon. It has been good to watch people get excited.

I think our colleague from Michigan pointed out that the accountability is a huge factor. In Arizona, they created what is called the Arizona School Choice Trust, which is a nonprofit charitable organization which collects contributions from people all over the State and then awards scholarships to low-income children trapped in failing schools who want to get a good education and whose parents want a good education for them.

I have known a number of people involved in that effort, and it is very exciting to see the kind of, as the gentleman described, the students who come to Washington, to see the excitement in the eyes of the adults, some of them very wealthy, some of them very ordinary means, who have decided to make this kind of contribution, give money for a tax credit, and then see that money used usefully.

We are in a very competitive world. This is a different world than perhaps our parents or grandparents faced, in that education now is absolutely critical. We all know the stories about America falling behind in education and the ongoing debate about we need more resources.

In Arizona there is a very heated debate, do we not need to put more money into education, more money into education? I am not one of those who believes that money creates a direct link to success in education, but it is true that we do need to pay teachers well, we need to be able to give them the resources to do their jobs.

The gentleman mentioned the professionalism of educators. I am obviously biased in my own view of my wife and two sisters and my niece, but I find they are all intentionally dedicated, concerned individuals. They give a great deal of money out of their own pocket. They go out and buy supplies. My sisters go out and buy supplies for their classrooms. My wife, to my chagrin, goes out forever and buys supplies for her bulletin boards and candy to give away to the kindergartners that she works with to provide rewards when they do well in their performance. My niece in Tucson is a math teacher, and she gets excited when she can help kids.

Giving those teachers the resources they need to educate young minds and to make them be able to be competitive in this globally competitive world we are entering is, I think, one of the greatest challenges we face here as a Nation.

Doing it by the tax credit means, which lets people get personally involved and say okay, I am going to write a check this year for $500. I know I will only get a reduction in my taxes of $250, so I am giving away an extra $250. But I care. I care about the education of kids in general. Business owners care about getting educated workers to come into the workforce.

I think this is an idea that kind of cuts around all of the bureaucracy of other reforms that, as the gentleman pointed out earlier, we might make in the overall system, that indeed the President was trying to make with H.R. 1. He believed he hit upon something that might make education more accountable.

Tax credits let individual people put their money where their mouth is, so to speak, and do something to help educate the kids right in their neighborhood and create a one-on-one relationship with the parent or with the child or even with the school administrator and say hey, I made a $500 contribution this year in Arizona. I gave it to your school, I expect to see you make that money work. The administrators that I have seen in Arizona are very excited about this program, and they believe that they are being given a chance to manage these resources.

I think it is a huge success, and I am very, very hopeful that we can enact here in Washington a modest beginning of this program and get it started across the Nation.

Mr. SCHAFFER. That kind of accountability that the gentleman just described in Arizona is what we are trying to achieve throughout the country. It is the accountability that goes from the recipient of funds, public funds, to the one who donated those funds. Right now school leaders have become proficient in the language of Federal education bureaucracy. They know the language to use in order to get the grants and satisfy the bureaucrats in Washington in order to get the money to the school.

What we want to do is provide really an opportunity to try to reform this whole education culture, so that the relationship goes right back to the neighborhood. The gentleman is right, individuals when they actually physically hand that check over to a school or hand that check over to a scholarship fund are more inclined to follow up than people here in Washington are.

Here is the bill right here. The other element that I think is very attractive, and I just want to clarify this, is you do not have to have a child in order to benefit from the tax credit under this proposal. As long as you are paying taxes, you would be eligible to receive a tax credit if you contribute to a scholarship fund for low-income children to go to the school of their choice, or to an enrichment fund that would be established by a traditional public school. But you do not have to have children in order to be a part of this, to be part of your community education and to be part of the accountability process that goes along with that to create better schools.

Mr. SHADEGG. Every American taxpayer can participate.

Mr. SCHAFFER. Absolutely. I would just like to point out, when I say that existing public school leaders are enthusiastic about the idea, I brought proof with me tonight from Michigan. The Michigan School Board Leaders Association sent us a letter just last week that says, ''Dear Congressman Schaffer, the Michigan School Board Leaders Association supports the proposed legislation allowing tax credits for contributions for both private and public education expenses. This legislation represents a win-win solution. It encourages more corporate giving to public schools, while it also encourages corporate and personal giving to organizations that assist low income children. Such initiatives are essential given that the latest test results,'' this is kind of a Federal benchmark, '' show that 63 percent of the low income children essentially cannot read at the

fourth grade level. The Michigan School Board Leaders Association applauds you in offering fair legislation which creates incentives for investment in the future of America's children, regardless of whether they attend school.''

This is signed by Lori Yakland, the executive director of the Michigan School Board Leaders Association. So this is not something that just appeals to private school leaders, but those that have been involved at the leadership level and business level in trying to promote quality public education in America. This addresses all schools, the American education system. It does not discriminate, this tax credit bill does not discriminate between government-owned institutions and nongovernment institutions. Its focus is rather on all children, all American children; and it treats them all equally.

Mr. HOEKSTRA. I think that is why, for a lot of our public school folks, this is a very exciting proposal, because they only get about 7 percent of their money from Washington to begin with. A lot of that money comes with the strings attached and very little flexibility, but when they see this tax credit proposal, they see it as another avenue to get money to come into their schools, because they are confident that they have built the relationship with their constituents, with the corporations back in their districts, with the parents and the taxpayers in their district, that they have got confidence in their local schools, and with this incentive we are providing through a tax credit, they believe they can go into their community and raise the funds necessary to do some of the special things that they would like to do for their schools.

In a lot of places today, the State of Michigan, it is very difficult for a school district to raise any extra money for operating expenses. I guess it is next to impossible for them to raise operating money for their schools. It all comes on a formula basis out of our State capital.

So what they are saying is this is now a new revenue source for us. They do see it is more money coming into their schools, because they have got a high degree of confidence that the programs and the efforts that they wanted to put in place will be supported by the people in their local districts.

So it really is a good complement, one set of funds coming through the bureaucracy, and another set of funds for their operating coming directly from the taxpayers in their community. It creates a new accountability stream, the one that I think they treasure the most, which is their accountability, number one, to the kids, number two, to the parents of those kids and their schools, and, thirdly, to their communities, because a lot of our communities recognize that their future depends on the quality of the education that their kids are receiving today.

□ 2300

Mr. SCHAFFER. Mr. Speaker, one other element I want to mention is just a little bit about the strategy of bringing this bill to the point we are at now. The school choice components of the Leave No Child Behind bill, H.R. 1, which passed last year, were taken out by the House and never really considered. So we went back to the President and asked him, Mr. President, since the school choice provisions were not part of H.R. 1, we want to continue on with that part of your vision, this vision of leaving no child behind.

The President has committed to helping us with this tax credit proposal. In fact, it is largely because of the discussions we started on this a year ago that we have since secured commitments from our own leaders here in the House: the Speaker, the majority leader, our majority whip, and key committee chairs, to bring this proposal to the floor. So I just want to commend our President for the promises he has made to back the tax credit proposal that is about to be introduced here in the House; and I want to commend the leadership of the House for its commitment to bringing this bill to the floor and get a fair markup in the Committee on Ways and Means and for the team effort that has really led to what I think is just really perhaps the most exciting prospect that we have for reforming American schools.

Mr. SHADEGG. Mr. Speaker, if the gentleman will yield, I would like to begin by saying that the gentleman deserves a lot of credit, along with the gentleman from Michigan (Mr. HOEKSTRA), having been in the lead on this fight. You are both on the committee of jurisdiction, the Committee on Education and the Workforce, and I think you have done a great job on leading this issue.

Whenever we do these Special Orders, it sometimes occurs to me that we sometimes may be talking around or over the heads or past the listening audience. I thought maybe it would be worth just a couple of minutes to explain some of the concepts here. I know that I get in discussions where I use the words ''tax credit,'' or I use the word ''deduction,'' and people do not understand. I mean they do not want to say, I do not understand what you mean, Congressman. But in America, with the withholding structure that we have where both wages and taxes are withheld out of your check, you file a form at the end of the year and you get a check back from the government; I think a lot of people do not really understand what a tax credit is and what a deduction is and why there is such a critical difference.

I think it might be important to kind of walk through the fact of what this would mean for, as the gentleman pointed out, any taxpayer in America who even does not have a child; let us say they are used to filing their tax return and they get a check back from the government saying that they have overpaid their income taxes for the coming year. Let us say they get a check back right now of $1,000 in a given year, and that is because they owed everything else that they had paid in, except that $1,000.

This is not a deduction that reduces the amount of money on which they have to pay taxes; this is rather a reduction, a lowering, of the dollars that they must pay in taxes themselves. So a tax credit means they get, they actually get money back, whether their check refund is larger or whether they write a smaller check to the government at the end of the year; is that not correct?

Mr. SCHAFFER. Yes, sure, the gentleman has described it accurately. Let us just use, for example, the base benefit amount that exists in this proposal, which is $250. That would be the tax benefit to an American taxpayer.

Mr. SHADEGG. So just to make clear, Mr. Speaker, a taxpayer decides, once this bill is in place, I am going to give $500 to help low-income children in my neighborhood or in my State. They give that $500 check. Come the end of the year, they get either a refund check that is $250 larger or, if they owe money at the end of the year, they write a check to the government that is $250 smaller.

Mr. SCHAFFER. Mr. Speaker, that is correct. Because without the bill, as the law stands today, let us just assume Americans who pay taxes, they will be forced to just pay that $250 to the Federal Government. That is where that money will go without our bill.

What we are saying is that if you make a $500 contribution to a school, to a school project or a scholarship fund, you take that $250 that you have given to a school and you no longer send that to Washington. So you are going to pay that money to somebody anyway. What we want to do is give you a choice. You can send the money to the bureaucracy here in Washington, let it go through the political process that we described here before, or you can add a little bit of your own cash to it and take it to the school down the street, which is reflected here on this chart. And you have effectively used the $250 that would have gone to the bureaucracy and instead, taken that, along with another $250 of your own cash, and given it to the kid who needs it.

Mr. SHADEGG. And, Mr. Speaker, of critical importance, for those who say we are underfunding education at the Federal level already, we should not be doing any of these schemes, we should not be diverting dollars, we should not be reducing the amount of money that goes into education. By using this device, by saying you get a $250 tax credit, but only if you make a $500 contribution to education, that argument goes away. Because we have not reduced the amount of money going to education by $250; we have increased the amount of money going to education by $250 that would not have been

there to begin with. And if $500 went to education, not $250, and in a sense we know that out of the $250, only 65 cents out of each dollar would get to the student, we have, as we said earlier, more than doubled the amount of cash going into education, which is why teachers across America, teachers' unions, school superintendents, school administrators, people who are professionals and care about resources for education ought to be excited about this idea.

Mr. SCHAFFER. They are, Mr. Speaker. And from a taxpayer standpoint, most taxpayers are going to be excited about this, I think, especially people who have children in schools and who are familiar with the academic settings in America today.

Some Americans just do not care, and we know this, and that is unfortunate, and some of our colleagues here in Congress do not care. They will be content to continue sending cash to Washington as they always have.

Mr. SHADEGG. As the only mechanism.

Mr. SCHAFFER. Yes, some will just do that, because it will be simpler. Frankly and honestly, it will be easier just to continue shoveling money to Washington, D.C. and letting us spend it here. But for those who believe that getting more bang for the budget, who believe that it is going to help more children, this tax credit really speaks to them, and that is the partnership that we are trying to create that just shows a better way. It does not threaten the bureaucracy which I mentioned before, because there are enough people that want to preserve that system that exists now. I hate to admit that, but that is the cold, hard facts and realities of Washington, D.C. But for those Americans who are taxpayers, who are parents, or who work in public schools who want to see dollars getting directly to children, this tax credit proposal offers them a unique option that they do not have today. It is really, I just think, an important element of new hope in American schools for children.

Mr. HOEKSTRA. Mr. Speaker, my colleague was talking about what is a simpler process for the taxpayer. This is fairly simple to begin with, but the gentleman is right. Having your taxes withheld every week makes this a very attractive, or not attractive, but it is the process that is there, and they have been doing it for years. But this process is very, very difficult for our local school district. They have to clamor with the State, they have to raise a ruckus with us to make sure that they get their fair share, and then they have all the bureaucracy that goes with it.

I mean when we are talking about what is the easiest and what is the fairest method for kids and for local taxpayers, this is the posture that clearly works. There is no bureaucracy, there is a lot of flexibility with how the money is spent to make sure that at the end of the day, what do we want? We want this American child to be the best educated child in the world. It does not mean that we do not want other kids and the rest of the world to be as educated as well as they are; we do. But at the end of the day, this kid cannot come in fifth, tenth, fifteenth, seventeenth, nineteenth like they are on some of the tests today on math and science and those types of things.

Our goal and our objective is to have ours to be the best educated kids in the world. We want to make sure that every child has an opportunity for a great education; that we cannot have 60 percent of our kids getting a good education, we want all of our kids to get a good education.

We want all of our kids to be in safe and drug-free schools. As one of my friends said, the only thing we want our kids to be afraid of when they go to school is the exam tomorrow afternoon, that is it; not fearful of walking from the classroom to the locker to the lunch room or anything like that.

So we have a great vision for education. This really empowers taxpayers at the local level to help build that vision into a reality at the local level.

Mr. SHADEGG. Mr. Speaker, the ''leave no child behind'' phrase is such a great one, because every American believes in that. No American wants to leave a child behind, and it is a great way to point out what we want to do as a country for our children.

□ 2310

But I just want to point out that as a necessary corollary to what the gentleman was saying just a moment ago, the only reason that one would oppose tax credits would be either that one wants to retain the bureaucratic control in Washington, D.C., to be able to order those districts around, or wants fewer dollars to go to education. I just want to make that clear, because I think people are out there debating, who is opposing this and why? I think it is important to understand that.

Given that under this structure we leave the existing structure in place, and it still gets the resources that are directed to it, the Federal dollars to education that are flowing through the Department of Education are still there, and they still go out with all the strings and all the bureaucracy.

This is not in place of that, this is an add-on in addition to that.

The SPEAKER pro tempore (Mr. KELLER). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. SCHAFFER) is recognized for the remainder of the hour, or approximately 10 minutes.

Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Speaker, to continue the point, this tax credit proposal is on top of the existing Federal funding for education. It is more dollars without the control.

So I thought the gentleman did such a good job of making that point, that these are extra dollars and they go without the control; that the only reason one could oppose it would be if one is a bureaucrat in Washington, D.C. and does not want Federal money of any kind going out to educate kids without those Federal dollars being controlled, and the control of them, and the dictate, saying they must spend it this way, coming from Washington, D.C.

It seems to me, given that, that one has to either oppose additional funding for education or genuinely believe that the people back home in the local schools and school districts cannot spend the money unless they are told precisely how it must be spent by Federal bureaucrats.

Unless one believes one of those two things, one ought to be supporting this kind of idea, because it means more dollars for education, more local control, it means more involvement by Americans in the funding of education in a very direct sense, where they want the accountability to them and they get the satisfaction of knowing their money is helping education.

It is, as the gentleman says, a win-win proposal.

Mr. SCHAFFER. And it matters to American students. I brought a couple of copies of the testimony that occurred in Colorado. My State considered a tax credit proposal, and I regret to say it failed really by one vote in our Colorado State senate just a few weeks ago.

But there was a student, Sasha Ward, 11 years old, who testified before the State legislature again on similar legislation. This is a child who did receive a scholarship and was really speaking to the importance of making scholarship funds available to more children in Sasha's situation, and stressing to the State legislature that that would be possible, that would be achieved, through the kind of tax credit proposal we are proposing here, similar to the one that was being considered in Colorado.

Here is what the 11-year-old said: ''My family applied for an ACE scholarship for me to be able to study at the school that I consider a very special place. It is special because it is where I learn the most and where I enjoy learning. It is a place where I can dream and have that feeling that I am going to be successful in my life, successful because of what I am learning right now. In the past, my mom tried to put me in a Catholic school, but she could not afford the tuition for very long. Now I am on my second year in the same school because of these scholarships that she has got for my sisters and me. I will be very happy if I can stay at my school and have the same good school as long as possible. They are special, too.''

That was testimony from someone named Sasha Ward, an 11-year-old from Wheat Ridge, Colorado. The State legislature also received testimony from Maureen Lord. Maureen is a supervisor of a child who initially was designated as learning-disabled.

The supervisor here says to our legislature: ''Joe Ray was designated learning-disabled in the local public school. At the end of his fifth grade year, he was reading between second and third grade level. He hated writing anything. His distraction level was extremely high; and to complicate things even more, he had some fine-motor problems.

''Being an elementary educator myself, I knew Joe Ray would never be at grade level if he continued in a school system where he had only received an hour of special attention during each day. His future looked dismal and accomplishing the basic skills he needed to go on to middle school and high school seemed remote.''

The teacher goes on that one day she heard an advertisement on the radio about the scholarships, and a school that appealed to children similar to Joe Ray, and so this teacher began the application process to try to get one of these scholarships, and succeeded. Here is what happened.

The teacher goes on: ''Joe Ray applied for the ACE scholarship and received a 4-year partial scholarship to a private school. With help from his mentor and his mentor's supervisors, the obstacles were falling one by one. Let me tell you more miracles. Joe Ray aced last semester's report card. His teacher says he is a wonderful young man to work with, an eager learner. The multisensory math program is helping him to remember his times tables, and his confidence is growing. He now frequently looks you in the eye when he talks to you. This is just one young boy who is benefiting from the investments that scholarships have made to his future. I hope this encourages some of you.''

Again, testimony like that is the kind of testimony we are just collecting every day from people around the country who realize the power and the value of finding a way to create a massive cash infusion in America's education system in a way that benefits children in public schools and private schools, and those who perhaps want to move from one category to another.

The system we have today is a discriminatory one, and it is unfortunate to have to say that, but the reality is, it does discriminate. It discriminates; it gives a tremendous amount of favor to those children who make the kinds of decisions or the parents of these children that make the kinds of decisions that meet the satisfaction of people who work in government.

What we are saying is, no, the people in government, they are nice, we care about them, but we want to make children the top priority. That is what the education tax credit does. It starts putting kids like Joe Ray and kids like Sasha Ward in the driver's seat, makes them the top priority, and really forces in the end I think a reformation of the education process, so all of those involved in the education system start serving children, rather than just counting them as numbers to drive dollars through a school finance formula.

Mr. SHADEGG. I think the gentleman said it well. The key is, this is not a replacement for the current system. People in the current system and believers in it should not feel threatened by it. What it is, is a chance to add resources to the current system. It is a chance to make it even stronger. It is a chance to put more dollars behind education. It is a chance to get people more involved in the education of their children. It is a chance to get around the bureaucracy and have the accountability run directly to people in their own neighborhoods.

It is indeed for that reason I think a win-win that should not threaten the education establishment and should encourage them. So I compliment the gentleman and my colleague from Michigan for their very hard work on this project.

Mr. SCHAFFER. I thank the gentleman. I am grateful for my two colleagues for joining me here on the floor for this Special Order. This is a topic we feel very strongly about. We will be back week after week to continue talking about children and education tax credits and the necessity to get this proposal passed to help these children.

WHAT HAPPENS IN AMERICA WHEN CORPORATIONS VIOLATE THE PUBLIC TRUST

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for the time remaining before midnight, or approximately 41 minutes.

Mr. HOEKSTRA. Mr. Speaker, I want to talk about a little bit different issue. I want to talk about what happens in America when corporations violate the public trust.

Max De Pree, a former Fortune 500 CEO, my former boss at Herman Miller, wrote in his book, ''Leading Without Power,'' about the importance of people having trust and confidence in the American economic system in order for it to work. He states, ''When you stop to think about it, it is astounding that anything as complex as the trading of stocks, bonds, commodities, and futures ultimately depends on trust; a value, not a statute, not an SEC regulation, not even a government mandate. The system works on trust.''

We have been rocked during the last couple of months with revelations about corporate management and some of the activities that they have been engaged in. It all started with the actions of Enron Corporation and certain employees of Arthur Andersen, where the actions at Enron and Arthur Andersen I believe were clearly designed to do one thing: to deceive shareholders, customers, and employees of the true nature and health of the business.

□ 2320

After that we had Merrill Lynch. Merrill Lynch just settled a lawsuit in New York after allegations that their brokers were advocating investors purchase certain stocks while at the same time acknowledging in internal memos that these were potentially bad investments. Enron, Arthur Andersen, Merrill Lynch, each of these cases, I think, are classic examples of where leaders in the business community violated the trust that was placed in them by the public, including their customers, their shareholders, and their employees.

The other thing that goes on here is that in my State of Michigan, there is even more examples. CMS Energy, a long-established and well-respected business in Michigan, conducted round trip sales of electricity. My belief is that the sole purpose of this phony business activity was to artificially elevate the sales of one of its business divisions of up to 80 percent, again deceiving shareholders, customers and employees of the true health of the business. What is round-tripping? Round-tripping is I will sell you $1 billion of energy at 9 o'clock in the morning, a billion dollars of electricity at 9:00 in the morning, and at 9:01 you sell it back to me for exactly the same price, and all of the sudden you and I are now both billion dollar companies in the electricity commodities market. And in reality it was a phony sale.

Take a look at this headline recently. Another Michigan company. Kmart, employees at Kmart recently allege that they were forced by management to adjust financial statements to hide the true viability of the business in 2001. The company filed for bankruptcy in 2001. Kmart accused of lying. Whistleblowers came, execs misled, and accountants knew.

What happens when corporations betray the public trust? As we have seen in almost each of these cases, the financial ramifications have been devastating. These companies have even seen their stock values drop; some have been forced into bankruptcy. Worse, innocent people, tricked by these deceptions, have lost their retirement savings, employees have been laid off and investors have seen their investments evaporate. The end result may be that millions of honest businesses in America may be forced to pay a heavy price in new government regulations.

It is really time for the business community and leaders in the business community to become self-policing and to bring forward proposals to address this breaking of the public trust by people in the business community. Remember, the system works on trust.

And then the other thing that happens here is you almost add injury to insult. Many, if not most, of the management people involved in these deceptive activities have not only gone unpunished, they have been rewarded with huge severance or compensation packages. There is something wrong in America when business leaders break

the public trust and harm many but they walk away with a golden parachute. What do I mean here?

Well, we know what happened at Enron, deceptive business practices. Ken Lay, former chair, chief executive and director, sold 1.8 million shares for about $50 a share. Jeffrey Skilling, former chief executive, director, sold 1.1 million shares for $66.9 million, roughly $66 a share. Rebecca Mark, vice chairman, director, 1.4 million shares. She sold them for about $58 a share. Robert Belfer, director, member of executive committee, sold a million shares for $51 dollars a share. Steven Kean sold 64,932 shares for around $70 a share. John Duncan, director of the executive committee, sold 35,000 shares, netted $2 million or around $60 a share. They walked out very, very wealthy. We know that many did not do as well.

After the Enron collapse, to track exactly the dialogue that Enron management would have with their shareholders, I bought 50 shares. I did not have to pay $50. I did not have to pay $66. I did not have to pay $68. I think I paid around 20 cents a share. I bought 50 shares for $10. Lots of investors were hurt because of the deceptive practices at Enron and at Arthur Andersen. But the people at the top, 101 million, 66 million, 79 million, 51 million, 5 million, 2 million, they did not end up selling their shares for 20 cents a share.

The president of CMS Energy, here is how one shareholder described what happened here. Referring to the resignation of the lower ranking Pallas, the shareholder said it was analogous ''to kicking the cat when the dog messed on the carpet.''

Again, the share prices declined. I think the executives are going to do just fine.

Bernard Ebbers, chairman and CEO, WorldCom. Worldcom is being investigated by the SEC for possible fraudulent accounting practices. Its credit rating has been reduced to junk status and it has been removed from the Standard and Poors 500 index, the Wall Street Journal, 6/5 of this year.

Bernard Ebbers will receive $1.5 million a year for life. If his wife survives him, she will receive $750,000 a year for life as long as she lives. The company's credit rating has been reduced to junk status. Bernard Ebbers resigned under pressure in April, but I believe he may do better than the rest of the company.

Richard McGinn, CEO, Lucent Technologies. The SEC is investigating possible fraudulent accounting practices while Lucent employees are suing the company for breach of fiduciary responsibility by inappropriately allowing employees to add company stock to their retirement plans. Richard McGinn, ousted in October of 2000, will receive $5.5 million in cash, pay off a personal loan amounting to $4.3 million, annual pension of $870,000 for life.

Here is an interesting one. CEO for TYCO. TYCO is a company that we in my district are fairly familiar with. They came in and bought a healthy small little business in Zeeland, Michigan, said we will leave things the same. The day after the sale was consummated, the doors were locked. The employees were gone. Dennis Kozlowski made about $334 million over a 3-year period. He resigned earlier this month, indicted on charges of evading $1 million in sales tax. Think about it, making more than $100 million per year, and you got to ask the question, when is enough enough, or does it simply just become greed? $100 million a year and you would do anything to evade $1 million in sales tax so that the rest of us could pick up his tax burden.

TYCO is negotiating a severance package that experts believe will be less than the $135 million he would have received if he had been fired.

Let us talk about the performance of TYCO under Mr. Kozlowski's leadership. TYCO lost $86 billion in market value, faces $27 million in corporate debt. It is now under investigation.

Here is a quote, according to Reuters, ''A pattern of lucrative payoffs to board members and top executives at the troubled manufacturer raises questions about whether they had incentive to keep tabs on the spending of disgraced former chairman Dennis Kozlowski and others.''

□ 2330

Reuters continues citing the Wall Street Journal: ''The criminal indictment has triggered a widening probe into whether Tyco paid for homes and artwork for several corporate officials without telling shareholders.'' Wall Street Journal, series of articles, 6–4 through 5–2.

It is just sad that that is what we are seeing in so much of the business world today. People who are entrusted by the public with a certain element of responsibility have taken that, and in many cases have enriched themselves, while their shareholders, their employees and their customers are paying the long-term price.

Here is another case that just came up in the last couple of days. This is The Washington Post via the Dow Jones, publication date June 2002. A company that was looking for FDA approval for a drug, ImClone, learning that the Food and Drug Administration would not accept its application for a promising cancer drug, driving its share price down. It appears that that word leaked out through the corporation to a number of individuals. The end result is they sold their stock before it collapsed. They came out all right.

The American public has a right to expect and demand more. Companies need to be held accountable. The business community should step up and make recommendations as to what should happen, because when public officials or corporate officials abuse the public trust, the whole sector suffers. In this case, corporate America suffers because of the excesses of a few. It is a painful process to watch and to observe.

The end result now will be that either the private sector will come up with recommendations in how to effect change in the private sector or government will step in. I am not real optimistic about that. I believe that more government regulation of business is a poor replacement for integrity and trust. However, we must face the fact that some in business have abused this trust.

The end result is millions of honest businesses in America may be forced to pay a heavy price in new government regulations. I believe that we must hope that the individuals who failed in their leadership responsibilities are held accountable by their management, their board of directors, their shareholders, or by the laws of our land. They need to be held accountable.

This whole list of companies where millions of individuals got hurt but a few walked away with a golden parachute, here is a quote out of the Wall Street Journal that I find kind of appropriate: ''I don't know that anyone gave a bonus to the captain of the Titanic.''

In many of these cases, that is exactly what we saw, that after the misdeeds and the wrongdoing, whether it is at Enron or any of these other companies or Tyco, their market value plummeted. They sank like the *Titanic*. Yet their captains, their CEOs, walked away with a bonus.

We need to make sure that we prevent that from happening in the future. Yet the systems or laws do not exist to exercise true accountability. Then systems and laws will need to be changed, but let us not forget that, in the end, this is about integrity and trust, common sense and decency; all leadership qualities that cannot be legislated.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HALL of Ohio (at the request of Mr. GEPHARDT) for today and the balance of the week on account of attending the World Food Summit in Rome, Italy.

Mr. LYNCH (at the request of Mr. GEPHARDT) for today on account of family matters.

Mr. COMBEST (at the request of Mr. ARMEY) for today and the balance of the week on account of the death of his father.

Mrs. BONO (at the request of Mr. ARMEY) for today and the balance on account of personal reasons.

Mr. SMITH of Texas (at the request of Mr. ARMEY) for today and the balance of the week on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Ms. CARSON of Indiana, for 5 minutes, today.

Mrs. CAPPS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. SANDLIN, for 5 minutes, today.

Mr. HOLT, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mrs. THURMAN, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. LOFGREN, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. LANTOS, for 5 minutes, today.

Mrs. MCCARTHY of New York, for 5 minutes, today.

Mrs. MEEK of Florida, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. OSBORNE, for 5 minutes, June 12.

Mr. WILSON of South Carolina, for 5 minutes, June 13.

Mr. HUNTER, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. MCCOLLUM, for 5 minutes, today.

Mr. SHOWS, for 5 minutes, today.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1372. An act to reauthorize the Export-Import Bank of the United States.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House, reports that on June 7, 2002 he presented to the President of the United States, for his approval, the following bills.

H.R. 1366. To designate the United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, as the ''Hector G. Godinez Post Office Building.''

H.R. 1374. To designate the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the ''Philip E. Ruppe Post Office Building''.

H.R. 3448. To improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies. RE-ENROLLED.

H.R. 3789. To designate the facility of the United States Postal Service located at 2829 Commercial Way in Rock Springs, Wyoming, as the ''Teno Roncalio Post Office Building''.

H.R. 3960. To designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the ''Joseph W. Westmoreland Post Office Building''.

H.R. 4486. To designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the ''Clarence B. Craft Post Office Building''.

ADJOURNMENT

Mr. HOEKSTRA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 35 minutes p.m.) the House adjourned until tomorrow, Wednesday, June 12, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7298. A letter from the Under Secretary, Acquisition and Technology, Department of Defense, transmitting a report identifying the percentage of funds that were expended during the two preceding fiscal year for performance of depot-level maintenance and repair workloads, pursuant to Public Law 105–85 section 358 (111 Stat. 1696); to the Committee on Armed Services.

7299. A letter from the Assistant Secretary, Department of Housing and Urban Development, transmitting a report describing and evaluating the manufactured home space demonstration; to the Committee on Financial Services.

7300. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Cash Setttlement and Regulatory Halt Requirements for Security Futures Products [Release No. 34–45956; File No. S7–15–01] (RIN: 3235–AI24) received May 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7301. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Disclosure to Participants; Benefits Payable in Terminated Single-Employer Plans—received May 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7302. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age—received May 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7303. A letter from the Chairaman, Nuclear Regulatory Commission, transmitting proposed legislation authorizing appropriations for FY 2003; to the Committee on Energy and Commerce.

7304. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting an annual report on the activities of the Multinational Force and Observers covering the period January 16, 2001, to January 15, 2001, pursuant to 22 U.S.C. 3425; to the Committee on International Relations.

7305. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Revisions and Clarifications to Encryption Controls in the Export Administration Regulations—Implementation of Changes in Category 5, Part 2 (''Information Technology'') of the Wassenaar Arrangement List of Dual-use Goods and Other Technologies [Docket No. 020502105–2105–01] (RIN: 0694–AC61) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

7306. A letter from the Director, White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7307. A letter from the Director, White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7308. A letter from the Director, White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7309. A letter from the Director, White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7310. A letter from the Director, White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7311. A letter from the Director, White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7312. A letter from the Director, White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7313. A letter from the Director, White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7314. A letter from the Attorney/Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7315. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82(MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), MD–88, and MD–90–30 Airplanes [Docket No. 2001–NM–197–AD; Amendment 39–12749; AD 2002–10–03] (RIN: 2120–AA64) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7316. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757 Series Airplanes [Docket No. 2000–NM–414–AD; Amendment 39–12748; AD 2002–10–02] (RIN: 2120–AA64) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7317. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes [Docket No. 2000–NM–198–AD; Amendment 39–12747; AD 2002–10–01] (RIN: 2120–AA64) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7318. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2002–NM–69–AD; Amendment 39–12718; AD 2002–08–10] (RIN: 2120–AA64) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7319. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81),DC–9–82 (MD–82), DC–9–83 (MD–83), and MD–88 Airplanes [Docket No. 2000–NM–165–AD; Amendment 39–12739; AD 2002–09–06] (RIN: 2120–AA64) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7320. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL–600–2B19 Series Airplanes [Docket No. 2001–NM–49–AD; Amendment 39–12738; AD 2002–09–05] (RIN: 2120–AA64) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7321. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Beech Model C90 Airplanes [Docket No. 2001–CE–13–AD; Amendment 39–12745; AD 2002–09–12] (RIN: 2120–AA64) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7322. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc. Tay Model 650–15 and 651–54 Turbofan Engines [Docket No. 2001–NE–36–AD; Amendment 39–12735; AD 2002–09–02] (RIN: 2120–AA64) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7323. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500, Series Airplanes [Docket No. 2000–NM–359–AD; Amendment 39–12757; AD 2002–10–11] (RIN: 2120–AA64) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7324. A letter from the Paralegal Specialist, FAA, Department Of Transportation, transmitting the Department's final rule—Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Model TBM 700 Airplanes [Docket No. 2002–CE–01–AD; Amendment 39–12744; AD 2002–09–11] (RIN: 2120–AA64) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7325. A letter from the Assistant Administrator for Satellite and Information Services, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Call for Proposals to Establish a Cooperative Institute for Ocean Remote Sensing with the National Environmental Satellite, Data, and Information Service [Docket No. 020409082–2082–01] (RIN: 0648–ZB18) received May 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

7326. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Dean John A. Knauss Marine Policy Fellowship, National Sea Grant Program [Docket No. 000522149–1259–03] (RIN: 0648–ZA87) received May 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

7327. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Carryback of Consolidated Net Operating Losses to Separate Return Years [TD 8997] (RIN: 1545–BA76) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7328. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Loss Limitation Rules (RIN: 1545–BA52) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7329. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2002–2) received June 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7330. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters (Rev. Proc. 2002–1) received June 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7331. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters (Rev. Proc. 2002–29) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7332. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Loss Limitation Rules [TD 8984] (RIN: 1545–BA51) received June 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7333. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods and methods of accounting (Rev. Proc. 2002–12) received June 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7334. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Loss Limitation Rules [TD 8998] (RIN: 1545–BA74) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7335. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit or abatement; determination of correct tax liability (Rev. Proc. 2002–40) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7336. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Coordinated Issue Utility Industry United Kingdom Windfall Tax (UIL 901.12–00) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7337. A letter from the Comptroller General, General Accounting Office, transmitting information concerning GAO employees who were assigned to congressional committees during fiscal year 2001; jointly to the Committees on Appropriations and Government Reform.

7338. A letter from the Secretary, Department of the Treasury, transmitting notification that recent revenues have enabled the Treasury to fully restore the G-Fund as required by law, pursuant to 5 U.S.C. 83481(1); jointly to the Committees on Ways and Means and Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3482. A bill to provide greater cybersecurity; with an amendment (Rept. 107–497). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 2388. A bill to establish the criteria and mechanism for the designation and support of national heritage areas; with an amendment (Rept. 107–498). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 2880. A bill to amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, and for other purposes; with amendments (Rept. 107–499). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4103. A bill to direct the Secretary of the Interior to transfer certain public lands in Natrona County, Wyoming, to the Corporation of the Presiding Bishop, and for other purposes; with an amendment (Rept. 107–500). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. House Concurrent Resolution 395. Resolution celebrating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico; with amendments (Rept. 107–501). Referred to the House Calendar.

Mr. HANSEN: Committee on Resources. House Concurrent Resolution 352. Resolution expressing the sense of Congress that Federal land management agencies should fully implement the Western Governors Association ''Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment'' to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National Prescribed Fire Strategy that minimizes risks of escape; with amendments (Rept. 107–502 Pt. 1). Ordered to be printed.

Mr. SESSIONS: Committee on Rules. House Resolution 439. Resolution providing for consideration of the joint resolution (H.J. Res. 96) proposing a tax limitation amendment to the Constitution of the United States (Rept. 107–503). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 440. Resolution providing for consideration of the bill (H.R. 4019) to provide that the marriage penalty relief provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent (Rept. 107–504). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TOWNS:

H.R. 4901. A bill to require that any reductions in payment rates for Medicare home respiratory medication nebulizer drugs be offset by an equal increase in reimbursement for home respiratory medication professional services; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself and Mr. KIRK):

H.R. 4902. A bill to repeal section 801 of the Revenue Act of 1916; to the Committee on the Judiciary.

By Mr. CANTOR (for himself, Mr. GOODE, Mr. BOUCHER, Mrs. JO ANN DAVIS of Virginia, Mr. TOM DAVIS of Virginia, Mr. FORBES, Mr. GOODLATTE, Mr. MORAN of Virginia, Mr. SCHROCK, Mr. SCOTT, and Mr. WOLF):

H.R. 4903. A bill to amend title 31, United States Code, to specify that the reverse of the 5-cent piece shall bear an image of Monticello, and for other purposes; to the Committee on Financial Services.

By Mr. FILNER (for himself, Mr. MORAN of Kansas, Mr. EVANS, Mr. GILMAN, Mr. CUNNINGHAM, Ms. PELOSI, Mr. ROHRABACHER, Mrs. MINK of Hawaii, Ms. MILLENDER-MCDONALD, Ms. LOFGREN, Mr. SCOTT, and Mr. UNDERWOOD):

H.R. 4904. A bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II and surviving spouses of such veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GOSS (for himself, Mr. HASTINGS of Florida, and Mr. KELLER):

H.R. 4905. A bill to authorize the appointment of additional Federal district court judges for the middle and southern districts of Florida, and for other purposes; to the Committee on the Judiciary.

By Mr. LEACH:

H.R. 4906. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to recognize scholar athletes, and for other purposes; to the Committee on Education and the Workforce.

By Mr. DAN MILLER of Florida (for himself, Mr. ISTOOK, Mr. WELDON of Florida, Mr. CUNNINGHAM, Mr. NORWOOD, Mr. PAUL, Mr. SOUDER, and Mr. TANCREDO):

H.R. 4907. A bill to amend chapter 71 of title 5, United States Code, to provide that the same annual reports which are currently being furnished by the Social Security Administration be required of all Government agencies which are authorized to grant official time to any of their employees, and for other purposes; to the Committee on Government Reform.

By Mrs. MINK of Hawaii:

H.R. 4908. A bill to require gifts of less than $100 to be disregarded in determining income under the supplemental security income program under title XVI of the Social Security Act; to the Committee on Ways and Means.

By Mr. PAUL (for himself and Mr. SCHAFFER):

H.R. 4909. A bill to amend the Internal Revenue Code of 1986 to allow individuals a credit against income tax for medical expenses for dependents; to the Committee on Ways and Means.

By Mr. STENHOLM:

H.R. 4910. A bill to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes; to the Committee on Resources.

By Mr. TANCREDO:

H.R. 4911. A bill to require the Secretary of Agriculture to conduct a wildland-urban restoration charter forest demonstration project in the Pike and San Isabel National Forests and Cimarron and Comanche National Grasslands to increase community involvement in decisionmaking regarding the management of those forests and grasslands, to evaluate the feasibility of using a predecisional review process for projects conducted as part of the demonstration project, to provide stewardship contracting authority as part of the demonstration project, and for other purposes; to the Committee on Resources.

By Mr. TANCREDO (for himself, Mr. MCINNIS, Mr. SCHAFFER, and Ms. DEGETTE):

H.R. 4912. A bill to increase the penalties to be imposed for a violation of fire regulations applicable to the public lands, National Park System lands, or National Forest System lands when the violation results in damage to public or private property, to specify the purpose for which collected fines may be used, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. TAUSCHER:

H.R. 4913. A bill to encourage and facilitate the security of nuclear materials and facilities worldwide; to the Committee on International Relations.

By Mr. MARKEY (for himself, Mr. KUCINICH, Ms. LEE, Mr. FILNER, Mr. HOLT, Ms. MCCOLLUM, Ms. MCKINNEY, Mr. PAYNE, Mr. SANDERS, Mrs. MINK of Hawaii, Mr. HINCHEY, and Mrs. JONES of Ohio):

H.J. Res. 97. A joint resolution calling for an end to the threat of nuclear destruction; to the Committee on International Relations.

By Mr. GARY G. MILLER of California (for himself and Mr. OXLEY):

H. Con. Res. 415. Concurrent resolution recognizing National Homeownership Month and the importance of homeownership in the United States; to the Committee on Financial Services.

By Mr. SCHROCK (for himself, Mrs. DAVIS of California, Mr. OTTER, Mr. TIAHRT, Mr. HINCHEY, Mr. WILSON of South Carolina, Mr. JONES of North Carolina, Mr. CRENSHAW, Mr. BARTLETT of Maryland, Mr. LAHOOD, Mr. LANGEVIN, Mr. PUTNAM, Mr. MCNULTY, Mr. HUNTER, Mr. SESSIONS, Mr. SHAW, Mr. FORBES, Mr. DICKS, Mr. FILNER, Mrs. MYRICK, Mr. FOSSELLA, Mr. CAPUANO, Mrs. JO ANN DAVIS of Virginia, Mrs. TAUSCHER, Mr. CUNNINGHAM, Mr. CANTOR, Mr. KOLBE, Mr. SIMMONS, Mr. JEFF MILLER of Florida, Mr. KENNEDY of Rhode Island, Mr. KING, Mr. HORN, Mr. HOSTETTLER, Mr. EHRLICH, Mr. KIRK, Mr. SMITH of New Jersey, Ms. ROS-LEHTINEN, Mr. LARSEN of Washington, Mr. SKELTON, Mr. TAYLOR of Mississippi, Mr. GOODLATTE, Mr. KINGSTON, Mr. PLATTS, Mr. TURNER, Mr. SUNUNU, Mr. TANNER, Mr. KERNS, Mr. SAXTON, Mr. EVANS, Mr. HEFLEY, and Mr. ISAKSON):

H. Con. Res. 416. Concurrent resolution congratulating the Navy League of the United States on the occasion of the centennial of the organization's founding; to the Committee on Armed Services.

By Mr. SULLIVAN (for himself, Mr. PITTS, Mr. MCINTYRE, Mr. TURNER, Mr. SOUDER, and Mr. RYUN of Kansas):

H. Res. 441. A resolution supporting responsible fatherhood and encouraging greater involvement of fathers in the lives of their children, especially on Father's Day; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. LINDER.
H.R. 46: Mr. ROSS.
H.R. 183: Mr. GILMAN.
H.R. 236: Mr. SOUDER.
H.R. 349: Ms. HOOLEY of Oregon.
H.R. 548: Mr. ISTOOK, Mr. MCINNIS, Mr. PRICE of North Carolina, Mrs. MCCARTHY of New York, and Mr. SAM JOHNSON of Texas.
H.R. 599: Mr. STRICKLAND.
H.R. 638: Ms. SANCHEZ.
H.R. 822: Mr. MCGOVERN, Mr. OLVER, and Mr. BOUCHER.
H.R. 826: Mr. STEARNS.
H.R. 839: Mr. BLUMENAUER.
H.R. 1051: Mr. ROTHMAN.
H.R. 1090: Mr. MASCARA, Mr. KENNEDY of Rhode Island, Mr. MOORE, Mr. GRAVES, Mr. WALSH, Mr. HINCHEY, Mr. CANNON, Mr. MOLLOHAN, Mr. DOYLE, Mr. MENENDEZ, Mr. ANDREWS, and Mrs. MALONEY of New York.
H.R. 1111: Ms. MCKINNEY.
H.R. 1176: Ms. SCHAKOWSKY and Mr. GUTIERREZ.
H.R. 1214: Mr. BROWN of Ohio.
H.R. 1307: Ms. VELAZQUEZ.
H.R. 1331: Mr. CAMP.
H.R. 1520: Mr. GORDON, Mr. BARRETT, Mr. OLVER, and Mr. DEFAZIO.
H.R. 1543: Mr. COSTELLO.
H.R. 1556: Mr. BARR of Georgia and Mr. SABO.
H.R. 1581: Mr. BASS and Mr. TURNER.
H.R. 1609: Mr. LARSON of Connecticut.
H.R. 1701: Mr. LAMPSON, Mr. KIRK, and Mr. WILSON of South Carolina.
H.R. 1724: Ms. KAPTUR.
H.R. 1731: Mr. HAYES.
H.R. 1784: Mr. CASTLE.
H.R. 1810: Mr. WU.
H.R. 1811: Mr. THUNE.
H.R. 1935: Mr. OTTER, Mr. GUTIERREZ, Mr. PETERSON of Minnesota, Mr. LATOURETTE, Mr. ROGERS of Michigan, Mr. BEREUTER, Mr. TOOMEY, Mr. MCINTYRE, and Mrs. MYRICK.
H.R. 2014: Mr. CAMP.
H.R. 2125: Mr. HANSEN, Mr. ISTOOK, Mrs. MALONEY of New York, and Mr. BLAGOJEVICH.
H.R. 2357: Mr. COMBEST and Mr. JEFF MILLER of Florida.
H.R. 2373: Ms. DUNN, Mr. HYDE, and Mr. ROSS.
H.R. 2405: Mr. MALONEY of Connecticut.
H.R. 2484: Mr. QUINN.
H.R. 2487: Ms. MILLENDER-MCDONALD and Ms. NORTON.
H.R. 2570: Mr. NADLER.
H.R. 2597: Mr. BLUMENAUER.
H.R. 2654: Mr. GEORGE MILLER of California.
H.R. 2702: Mr. BOEHLERT.
H.R. 2748: Mr. MCNULTY.
H.R. 2808: Mr. TIBERI.
H.R. 2868: Mr. GREEN of Texas and Mr. ETHERIDGE.
H.R. 2874: Mr. DEFAZIO, Mrs. LOWEY, Mr. LYNCH, and Mr. DINGELL.
H.R. 2953: Ms. SANCHEZ and Mrs. NAPOLITANO.
H.R. 3038: Mr. LARSON of Connecticut.
H.R. 3109: Ms. VELAZQUEZ.
H.R. 3132: Mr. DAVIS of Illinois, Mr. JACKSON of Illinois, and Mr. SABO.
H.R. 3236: Mr. DUNCAN and Ms. VELAZQUEZ.
H.R. 3238: Mr. ALLEN.
H.R. 3284: Mr. SANDERS.
H.R. 3292: Mr. ROSS and Mr. RANGEL.
H.R. 3320: Mr. CRANE and Mr. KNOLLENBERG.
H.R. 3388: Mr. BARTLETT of Maryland, Mr. HOLT, and Mr. WELDON of Pennsylvania.
H.R. 3414: Ms. MCKINNEY.
H.R. 3424: Mr. JOHN.
H.R. 3429: Mr. MENENDEZ and Mr. CROWLEY.
H.R. 3469: Mrs. MINK of Hawaii, Ms. DELAURO, Mr. FATTAH, Ms. PELOSI, Mr. EVANS, and Mr. SIMONS.
H.R. 3483: Mr. CLEMENT and Mr. CROWLEY.
H.R. 3496: Ms. SLAUGHTER and Mr. ENGLISH.
H.R. 3534: Mr. SULLIVAN.
H.R. 3584: Mr. FILNER, Mrs. ROUKEMA, and Ms. MCKINNEY.

H.R. 3686: Mr. ROSS.
H.R. 3741: Mr. WEXLER.
H.R. 3746: Mr. STARK.
H.R. 3777: Mr. WU and Mr. PLATTS.
H.R. 3781: Mrs. TAUSCHER, Mr. DEUTSCH, Mr. ISRAEL, and Mr. CROWLEY.
H.R. 3788: Mr. SUNUNU.
H.R. 3794: Mr. SMITH of Washington, Mr. SIMMONS, Mr. LAMPSON, and Mrs. NAPOLITANO.
H.R. 3802: Mr. HERGER.
H.R. 3808: Mr. WELLER.
H.R. 3834: Mr. STRICKLAND, Mr. OBERSTAR, Mr. REHBERG, Ms. MCCOLLUM, Mr. DEUTSCH, and Mr. BAIRD.
H.R. 3884: Ms. RIVERS, Mr. SHERMAN, Mr. SABO, and Ms. NORTON.
H.R. 3887: Mr. KENNEDY of Rhode Island, Ms. BALDWIN, Mr. GUTIERREZ, Mr. SIMMONS, and Mr. DINGELL.
H.R. 3912: Ms. WATERS.
H.R. 3930: Mr. WALDEN of Oregon and Mr. JOHN.
H.R. 3957: Mr. SHERMAN.
H.R. 3973: Mr. GARY G. MILLER of California.
H.R. 3974: Mr. OWENS and Mr. JEFFERSON.
H.R. 3995: Mrs. BIGGERT, Mr. SMITH of Texas, Mr. WAMP, Mr. LAHOOD, Mr. ROTHMAN, Mr. GORDON, and Mr. OWENS.
H.R. 4014: Mr. COOKSEY, Mr. PRICE of North Carolina, and Mr. WOLF.
H.R. 4018: Ms. MCKINNEY.
H.R. 4019: Mr. CALLAHAN, Mr. CAMP, Mr. BROWN of South Carolina, Mr. CHAMBLISS, Mr. HOLT, Mr. CANNON, Mr. BURTON of Indiana, Mr. HAYWORTH, Mr. DEMINT, Mr. KELLER, Mr. PAUL, Mr. DREIER, Mrs. JOHNSON of Connecticut, Mr. BARTLETT of Maryland, Mrs. BIGGERT, Mr. CALVERT, Mr. MICA, Mr. OTTER, Mr. RADANOVICH, Mr. SCHROCK, Mrs. MYRICK, Mr. PICKERING, Mr. HANSEN, Mr. PUTNAM, Mr. FOLEY, Mr. GILMAN, Mr. TERRY, Mr. GOODE, Mr. TIAHRT, Mr. ISSA, Mr. JONES of North Carolina, Mr. KNOLLENBERG, Mr. KIRK, Mr. SCHAFFER, Mr. LATOURETTE, Mr. MCCRERY, Mr. LINDER, Mr. ARMEY, Mr. ROHRABACHER, Mr. WILSON of South Carolina, Mr. OXLEY, Mr. STUMP, Ms. PRYCE of Ohio, Mr. WALDEN of Oregon, Mr. WELDON of Florida, Mr. FRELINGHUYSEN, Mr. TIBERI, Mr. WATTS of Oklahoma, Mr. GANSKE, Mr. KINGSTON, Mr. TAYLOR of North Carolina, Mr. RILEY, Mr. GILCHREST, Mr. DUNCAN, Mr. ROYCE, Mr. RYAN of Wisconsin, Mr. PLATTS, Mr. WICKER, Mr. THUNE, Mr. WAMP, Mr. HOSTETTLER, Mr. MCKEON, Mr. RYUN of Kansas, Mr. POMBO, and Mr. REHBERG.
H.R. 4033: Mr. LYNCH, Mr. FRANK, and Ms. WATERS.
H.R. 4037: Mr. ENGLISH and Mr. MCGOVERN.
H.R. 4066: Mr. BARCIA, Mr. WATT of North Carolina, Mr. SHERMAN, Mr. SHIMKUS, and Mr. SHOWS.
H.R. 4072: Ms. SCHAKOWSKY.
H.R. 4086: Mr. FORD.
H.R. 4113: Mr. BAIRD, Mr. OLVER, Mr. ENGEL, Mrs. JOHNSON of Connecticut, Mr. SANDERS, Mr. HOLT, Ms. LOFGREN, Mr. TIERNEY, Ms. MCCOLLUM, Mr. NADLER, and Mr. PALLONE.
H.R. 4123: Mr. PAYNE and Ms. MCKINNEY.
H.R. 4136: Mr. OBEY.
H.R. 4152: Mr. ENGLISH, Mr. GREEN of Texas, Mr. HASTINGS of Florida, and Mr. HEFLEY.
H.R. 4169: Mr. BARCIA.
H.R. 4210: Mr. HILLIARD.
H.R. 4259: Mr. BAKER.
H.R. 4470: Mr. MANZULLO.
H.R. 4483: Mr. KINGSTON, Mr. HEFLEY, Mr. KELLER, Mr. SULLIVAN, Mr. PETRI, Mr. SAM JOHNSON of Texas, Ms. SANCHEZ, Mrs. LOWEY, Mr. MATSUI, and Ms. SCHAKOWSKY.
H.R. 4582: Mr. WU, Mr. HALL of Texas, and Mrs. MALONEY of New York.
H.R. 4598: Mr. COBLE.
H.R. 4620: Mr. CALVERT.
H.R. 4629: Mrs. JO ANN DAVIS of Virginia.
H.R. 4639: Mr. FRANK.
H.R. 4644: Mr. FROST, Mr. LYNCH, Mr. DAVIS of Illinois, and Mr. TERRY.
H.R. 4646: Mr. HONDA, Mrs. NAPOLITANO, Mrs. MINK of Hawaii, and Mr. BERRY.
H.R. 4658: Mr. WATKINS and Mr. OSE.
H.R. 4660: Mr. CROWLEY, Ms. NORTON, Mr. SANDLIN, and Mr. PUTNAM.
H.R. 4665: Mr. OWENS, Mr. FROST, and Mr. FRANK.
H.R. 4667: Mr. VISCLOSKY.
H.R. 4709: Mr. PALLONE, Ms. MCCOLLUM, and Ms. PELOSI.
H.R. 4715: Mr. BONIOR.
H.R. 4727: Mr. MCNULTY.
H.R. 4728: Mr. TAYLOR of Mississippi, Ms. MILLENDER-MCDONALD, Mr. BURTON of Indiana, and Mrs. ROUKEMA.
H.R. 4729: Mr. OWENS.
H.R. 4754: Mr. KOLBE.
H.R. 4760: Ms. MCKINNEY.
H.R. 4761: Mr. COSTELLO.
H.R. 4777: Mr. SHERMAN, Mr. BERMAN, Mr. SMITH of New Jersey, Mr. GILMAN, Mr. MEEHAN, and Mr. MARKEY.
H.R. 4783: Mr. PAUL.
H.R. 4795: Mr. ENGLISH, Ms. HART, Mr. KILDEE, and Mr. SANDERS.
H.R. 4814: Mr. DOYLE, Ms. SCHAKOWSKY, Mr. KLECZKA, Mr. BALDACCI, Mr. WU, Mr. BARRETT, and Mr. INSLEE.
H.R. 4852: Mr. GOSS.
H.R. 4865: Mr. COYNE and Mr. DINGELL.
H.R. 4866: Mr. GORDON, Mrs. BONO, Mr. WU, Mr. SULLIVAN, Ms. HART, Mr. CASTLE, Mr. FROST, and Mr. BRADY of Texas.
H.R. 4878: Mr. OSE.
H.R. 4880: Mr. NEAL of Massachusetts.
H.R. 4888: Ms. ROYBAL-ALLARD, Mr. BURR of North Carolina, Mr. CUMMINGS, Mr. LEVIN, Mr. MCGOVERN, Mr. GANSKE, Mr. GORDON, and Mr. FROST.
H.R. Res. 6: Mr. LAFALCE.
H.R. Res. 23: Mr. AKIN and Mr. CALVERT.
H.R. Res. 89: Mr. HASTINGS of Florida, Mr. CROWLEY, and Mr. MCGOVERN.
H.R. Res. 93: Mr. WELDON of Florida.
H.R. Res. 96: Mr. SULLIVAN, Mr. CRENSHAW, and Mr. REHBERG.
H. Con. Res. 4: Mr. FERGUSON, Mr. SAXTON, and Mr. MORAN of Virginia.
H. Con. Res. 99: Ms. NORTON, Ms. ROYBAL-ALLARD, Mr. BECERRA, and Mr. MARKEY.
H. Con. Res. 173: Mr. FROST, Ms. MILLENDER-MCDONALD, Ms. DEGETTE, Mr. OLVER, and Mr. ROTHMAN.
H. Con. Res. 188: Mr. PLATTS.
H. Con. Res. 238: Ms. BROWN of Florida.
H. Con. Res. 320: Mr. PRICE of North Carolina.
H. Con. Res. 382: Mr. DELAHUNT, Mr. FRANK, Mr. ABERCROMBIE, Mr. MATSUI, Ms. ESHOO, and Mr. KLECZKA.
H. Con. Res. 392: Ms. WATERS.
H. Con. Res. 394: Mr. FALEOMAVAEGA.
H. Con. Res. 401: Ms. EDDIE BERNICE JOHNSON of Texas.
H. Con. Res. 403: Ms. SCHAKOWSKY.
H. Con. Res. 404: Ms. LEE and Mrs. MINK of Hawaii.
H. Con. Res. 407: Mr. BROWN of Ohio.
H. Con. Res. 413: Mr. SESSIONS, Mr. CUNNINGHAM, and Mr. GREEN of Texas.
H. Res. 18: Mr. UDALL of New Mexico and Mr. LARSEN of Washington.
H. Res. 269: Mr. FERGUSON.
H. Res. 416: Mr. LATOURETTE, Mr. BARCIA, and Mr. GRAVES.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1950: Mr. BISHOP.

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PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, TUESDAY, JUNE 11, 2002 *No. 76*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JON S. CORZINE, a Senator from the State of New Jersey.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, think Your thoughts through us today. We want to love You with our minds and praise You with our intellects. We seek to be riverbeds for the mighty flow of Your wisdom through us. Teach us to wait on You, to experience deep calm of soul, and then to receive Your guidance. We spread out before You the decisions we must make. Thank You in advance for Your guidance. Give us the humility to trust You for answers and solutions, and then, grant us the courage to do what time alone with You has convinced us must be done. You are the author of all truth, the bottomless sea of understanding.

Send Your Spirit into our minds and illuminate our understanding with insight and discernment. We accept the admonition of Proverbs, *Incline your ear to wisdom, and apply your heart to understanding; yes, if you cry out for discernment, and lift up your voice for understanding, if you seek her as silver, and search for her as for hidden treasures; then you will understand the fear of the Lord, and find the knowledge of God. For the Lord gives wisdom; from His mouth come knowledge and understanding.*—Proverbs 2:2–6. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON S. CORZINE, a Senator from the State of New Jersey, led the Pledge of Allegiance as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 11, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON S. CORZINE, a Senator from the State of New Jersey, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CORZINE thereupon assumed the chair as Acting President pro tempore.

SCHEDULE

Mr. REID. Mr. President, this morning the Chair will announce a period of morning business until 10:45, with the first half under the control of the majority leader or his designee and the second half under the control of the Republican leader or his designee.

At 10:45, the Senate will resume consideration of the hate crimes legislation, with 60 minutes of debate prior to a cloture vote at 11:45 a.m. So Senators would have until 10:45 a.m. today to file second-degree amendments to the bill.

The Senate will recess from 12:30 to 2:15 p.m. for the weekly party conferences.

FH UNANIMOUS CONSENT AGREEMENT—S. 2578

Mr. REID. Mr. President, I am going to make a unanimous consent request at the present time. I ask unanimous consent that immediately following the cloture vote today, regardless of the outcome of that vote, the Senate proceed to the consideration of S. 2578, the debt limit extension; that that bill be read the third time and the Senate vote on passage of the bill without any intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, let me express my appreciation to the minority. This is something that the President desires us to do. We tried to work it out last week on the supplemental. We could not do it. This will bring it forward, as painful as it is, to increase the debt if something has to be done. The debt has been incurred, and we have to meet our obligation. That is my opinion.

I appreciate the cooperation of the Republican leadership and the members of the minority for allowing us to do this.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:45 a.m., with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the majority leader or his designee.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Seventeen and a half minutes remain on the leader's time.

ENVIRONMENTAL PROTECTIONS

Mrs. BOXER. Mr. President, I have come to the Chamber today to talk about an issue about which I have spoken before and will continue to do so until we turn around the current climate we are facing, which is a rollback of environmental protections for the American people.

It is stunning to see what has happened to environmental regulations since administrations have changed. We have, fortunately, a group called the NRDC. I have a list of all the actions that have been taken by this administration since they took over. We have seen the average of one anti-environmental action every week since this administration took over.

This chart is way too small for people to read, but it gives a sense of the situation. I have two charts like this. These are 100 rollbacks. Our Nation certainly is in a situation where we are so focused on meeting the challenges that hit us on September 11—and it is very understandable; we are so united on that—but what has happened in the course of that time is that without very much publicity, a lot of these regulations have moved forward.

We face the circumstance where if we in the Senate and those in the House who care about the environment do not speak out, I fear for the future of our country.

Why do I say that? Because when one says the word ''environment,'' it means many things, and one meaning is health and safety. For example, when this administration believed it was not so important that arsenic was in the water, finally the people woke up to what they were doing. Then when they said it was not so important to test poor kids for lead in their blood—even though we know if a child has elevated levels of lead in his or her blood, there is going to be a serious learning problem and illness problem, even problems of death—they went too far.

It does not seem to stop them. In my State, they are against us as we are trying to protect the coastline. They are against us. They said to Florida: We will help you. But as to California, it is unbelievable. Interior Secretary Norton said people in California do not care about their coasts. Mr. President, I am here to say that is an insane statement if you look at the record.

Since the seventies, when under the Carter administration they thought they would drill, we convinced Carter not to drill. We thought that problem was over. The State has a moratorium on drilling off our shores. The fact is, we have set up sanctuaries all along the ocean. This is a terrible statement and an example of how the Bush administration is so blinded by this idea that the environment does not matter, they will say things that do not make sense.

My colleague from Illinois is in the Chamber, and I know he wants to add to this debate. First, I want to cover one more issue before I yield to him. I want to talk about one issue. It is called the Superfund.

I think it is very interesting that the Presiding Officer, as well as Senator TORRICELLI, are two leading proponents for doing something about Superfund sites.

The word ''super'' is a good word: You look super fine. The word ''Superfund'' is not a good word because what it means is that we have sites all over this country that are filled with poison and toxins, and we need to clean up these sites.

This chart shows there are national priority list sites in every single State but one. North Dakota is the only State. New Jersey happens to have the most. Pennsylvania is third. My own State has about 104 sites, and we are second on the list.

What I want to show my colleagues—and I hope the Senator from Illinois will pick up on this—is what is happening specifically to the Superfund program, which is such a popular program in this country. It cleans up these toxic sites. A lot of people live near these sites. Children live near these sites. It makes the sites safe, and it goes after the responsible parties, the polluters, and says the polluter pays, which is the basic premise of the Superfund program.

Under Bill Clinton's administration, we saw a ratcheting up of the cleanup: 88, 87, 85, 87 sites in the last 4 years. We were all set to continue. We were a little disheartened when President Bush said he is only going to clean up 75 sites, but worse than that happened. Now they are saying they are only going to clean up 47 sites, and then 40. We are going back down. We are going back down to a level, frankly, that we have not seen in more than a decade.

This is a horrible situation. I am proud that Senator CHAFEE has joined us, and we have bipartisan legislation to reinstate the Superfund fee so polluters will pay.

I am going to show one last chart because this is so important. This idea of ''polluter pays to clean up their mess'' has been basic to this country for many years, since Superfund was set up in the 1980s, and it led us to a situation where the industry and the polluters were paying 82 percent of the cleanup and taxpayers only 18 percent. That was where we could not find a party or we did not have enough funds in the Superfund trust fund.

This is where we are headed under President Bush. I consider this administration the most anti-environmental that I have ever seen, frankly. I have been in Congress since 1982, with Senator DURBIN, who is about to speak. In 2003, 54 percent of the cleanup in Superfund will be paid for by taxpayers; 46 percent by the industry that polluted. This is not a good trend for the American people, for the taxpayers, and that is why we have so much support for turning this around.

I am proud to be the chair of the environmental team that Senator DASCHLE has appointed to point out the environmental record of this administration and how it is hurting the health, safety, and well-being of the American people.

Mr. DURBIN. Will the Senator yield?

Mrs. BOXER. I am happy to yield to my friend for as long as he would like.

Mr. DURBIN. I thank my friend for her leadership on the environmental issue, and I would like to get back to it, but I would like to ask the Senator to reflect with me for a minute on the larger issue, an issue of corporate responsibility, whether U.S. businesses will accept their responsibilities as part of America, their responsibility not only to their workers, their investors, and shareholders, but the consumers and America at large.

Time and time again, what we find with the Bush administration is they turn their back and ignore this issue of corporate responsibility. We now have a ''Bermuda Triangle.'' This Bermuda Triangle is sucking in American jobs and American tax dollars as more and more corporations are moving their headquarters overseas. As they move their headquarters to Bermuda to avoid paying America's taxes, they are shirking their corporate responsibility to the United States.

When the Stanley Tool Company decided to move from the United States and put their corporate headquarters in Bermuda, did we hear any protests from this administration that they were shirking corporate responsibility? Not at all.

We saw in the paper yesterday that we now have the Norquist black list. Grover Norquist, one of the leading gurus of the Republican Party, has said he is creating a black list of those entities, organizations, and people in Washington who will not be acceptable and welcome in the Bush administration. They want their close circle of corporate friends to have entre to persuade this administration to move in the worst directions. They do not want to hear both points of view, the Norquist black list, part of this Bush administration philosophy.

It really comes through graphically on this issue of the Superfund. Who should pay for the toxic mess? The people who created the toxic mess or the taxpayers, the families of America?

What we are saying basically is if this burden is shifted to the taxpayers of America, corporate responsibility is abandoned. The corporations and businesses that create the mess should bear the burden of cleaning it up.

The Senator from California has made this point: In my State of Illinois, we have 39 sites on the Superfund list and 6 that have been formally proposed. Several others ultimately filled

with PCBs, arsenic chlorinated solvents, and other harmful compounds will qualify. The Bush administration says the corporations and industries responsible for this mess should not pay for it; American families, workers, and taxpayers ought to pay for it. Where is corporate responsibility in this administration?

Mrs. BOXER. I am really pleased my friend has tied this into the bigger picture, because this particular chart shows it all. The Bush administration is moving away from corporate responsibility when it comes to cleaning up the worst toxic sites in America. They are cleaning up half the number of sites. We do not know. We cannot tell.

I am the chair of the Superfund Committee and the Environment Committee. The bottom line is, I cannot even tell whether the sites of the Senator from Illinois are going to be cleaned up because this administration is keeping that information secret.

To get to the point about corporate responsibility, having faced the Enron scandal, and continuing to face it in California, let me state what this means. It means corporations could care less about the people they serve. They tell their own employees to buy Enron stock while the insiders sell out. The shareholders were the last people they thought about. It is a lack of a corporate ethics.

When this administration writes an energy plan, they talk to these very same corporations that essentially turn their back on the American people. As my friend, Senator MIKULSKI, brought up at a meeting we both attended today, some of these corporate executives renounced their citizenship in order to get away with not paying any taxes. They leave the greatest country in the world, which gave them every opportunity to fulfill the American dream, and they throw it all away for dollars and cents.

There is little corporate ethic in America. There are some very good corporations. Why not say to those good corporations: We appreciate what you are doing; join with us. Let us get back a corporate ethic.

On the Norquist black list that my colleague referred to, I thought it was interesting when Ari Fleischer was asked about it in his press conference. He said: I have no comment because we have nothing to do with it. I found that amazing. Does he have no comment on terrorism? He has nothing to do with that. Does he have no comment when something horrible happens around the world that we have nothing to do with? Since when is it that there is suddenly silence when it comes to a black list? I think it is a political embarrassment to them.

More than that, what worries me is they are not distancing themselves from this issue. I hope in America there is room for all kinds of views. When Vice President CHENEY put together the energy plan, they did not want any views from people who had what I would call the public interest versus the special interest. I worry about this small circle around this President that does not hear from people who may have a different view.

Mr. DURBIN. If the Senator will yield for another question, I think we should make it clear what this Norquist black list is all about. Grover Norquist is one of the conservative gurus in the Republican Party. He is now joining in what he calls his ''K Street Project'' with other conservatives. They are really creating a black list of people with which this administration will not deal. People who are fighting for the environment, people who are fighting for human rights, people who are trying to protect the rights of individuals to have health care, people who are trying to protect consumers will be part of the Norquist black list.

Now what the Bush administration is saying is that they really do not know that they want to comment on this. They should comment on it immediately and reject it. They ought to denounce it. This is unacceptable, whether the President is a Democratic or Republican. Every President should be open to every point of view. They may come down and reach a different conclusion, but to create a black list, as Grover Norquist has for those who are standing up and fighting and basically representing the families of America, is plain wrong.

I ask the Senator from California, do we not see this coming back at us in so many different ways? The Senator mentioned Enron, the weak stock market, and the lack of confidence in corporate America. Should we not have leadership from the White House saying we demand corporate responsibility? We do not find that, do we, in this administration response?

Mrs. BOXER. No, we do not find it. As a matter of fact, I am waiting for some indictments on the Enron case, to be honest.

Mr. DURBIN. Not one so far.

Mrs. BOXER. Not one so far. We now know because other whistleblowers are telling us that they set the pace for the energy industry. This was the biggest transfer of wealth from ordinary American families to the pockets of these people. It is extraordinary.

Overlay the whole Enron scandal and anyone can see that California was used as a cash cow to keep Enron afloat while the insiders sold their stock. I have seen videotapes of the highest executives at Enron telling the poor employees—as these top executives were unloading their stock—buy more stock. They wanted to see that the stock was artificially held up and have more people and more employees buying so they could sell out.

I look at the word ''patriotism'' perhaps in a different way than others. Patriotism extends to a very broad range. When I say this, I mean if you are truly patriotic and love this country, yes, you stand with this President in the war against terror. But it extends to the way you treat people in your life, Americans who get up in the morning and work hard, single moms, people with illness who want prescription drugs. To make this the greatest country is making sure we have a strong middle class to buy the products that business makes, to be able to educate their children so this country continues to be the greatest in the world.

When you put greed ahead of the American families in this country and their rights and forget your responsibilities, where is the patriotism there?

Mr. DURBIN. Will the Senator yield?

I have met with business leaders in Chicago from good businesses, from across Illinois, and they are saying the same thing. They are ashamed of what has happened with Enron. They are ashamed of what they are seeing in this area of corporate irresponsibility. They believe they are good Americans creating profit for their shareholders and job opportunities and good products. They are looking for leadership from Washington. Usually business says, Washington, hands off, stay away from us.

Many times they are asking, What are you going to do to help us clean up the mess when it comes to accounting standards and energy regulation? We need leadership from Washington. Yet there is little or nothing coming from this administration when it comes to corporate responsibility. For the sake of this country, for the sake of the good companies in this country, those that are responsible, we need an administration that will speak out now to restore confidence to the American people in our economy, in our business structure, in our stock market. Yet the only thing we hear is the Norquist blacklist. They are going to blacklist certain people from having access to this administration if they deign to speak on behalf of consumers and average people. That sort of thing is totally unacceptable. It is an ethic we should not accept from either political party in this Nation.

I ask the Senator from California if she has heard the same thing from responsible business leaders in her State.

Mrs. BOXER. There is no doubt about it. They are embarrassed by what has happened—the corporate executives who take home millions and millions of dollars and then do not pay their taxes, corporate executives who do not care about their employees and destroy not only their employees' jobs but their pensions. It is a moment in our history where they are looking to us for leadership.

The way I tie it into the environment and health and safety is this: I showed on the floor the environmental record for 2001. This is the record for 2002. Each week, there is another plan to weaken environmental laws and protect the people. It is a terrible message to corporate America.

This chart shows the EPA budget. They eliminated the budget for graduate student research in the environmental sciences.

Look at enforcement. Good businesses welcome enforcement. If you are doing it right and the enforcers come in, you are in good shape. They cut it back, and the bad apples do not get caught.

Look at air quality, nuclear waste, endangered species, mining public lands, something my colleague is involved in, oil and gas drilling, urban sprawl.

This administration zeroed out the funding for urban parks. I would love my friend to comment on this point: 70 percent of our people live within reach of an urban park. Unbelievably, 2 weeks ago the administration sent out a press release bragging about all the grants they made from last year's money, not mentioning in this press release they have now zeroed out the funding for urban parks.

This lack of caring for the people of this country, as I see it, in terms of the environment and this kind of a record set a poor example for everyone, for business leaders. If business leaders see this administration does not really care, when it comes to the environment, about the health and safety of the people, what is the subtle message to a corporate executive? I guess: I don't have to care. I guess the bottom line is my profit.

Mr. DURBIN. I ask the Senator from California to reflect on this. It is not as if this administration cannot find money. When it comes to tax breaks for the wealthiest people in our country, they can find plenty of money. When it comes to an urban park—which is what many working families look forward to on a Sunday afternoon, whether it is in San Francisco, Los Angeles, or Chicago, a place to go with your family and enjoy yourself on Sunday afternoon—the administration says we cannot afford urban parks but we can afford a tax break so that the multimillionaires in this country can go to private clubs and can enjoy a lifestyle that involves a lot of privacy.

For the average working-class family, their lifestyle involves fun perhaps on a Sunday afternoon on the Lake Michigan shoreline or going to an urban park in and around the city of Chicago.

It really is a choice. It is not as if the Bush administration is saying there is just no money for anything. They found money when it came to tax breaks for the wealthiest people in America. When it comes to putting money into America to protect our environment, to protect for prescription drugs under Medicare, for a tax deduction for college education expenses, to give a tax break to small businesses to offer health insurance, this administration cannot see it. It casts a blind eye.

Mrs. BOXER. The point is the message it is sending, subtle or not so subtle, to corporate America, about what is important. There is a relationship between the two.

This chart shows the clean water rule. The administration reverses a 25-year-old Clean Water Act rule that flatly prohibits disposal of mining and other industrial wastes into the Nation's waters. The EPA issued new regulations making it legal for coal companies to dump fill material—dirt, rock, and waste—from mountaintops, moving mining into rivers, streams, lakes, and wetlands.

My point is, if this administration that is charged with protecting the environment, as we are, is so callous about the quality of the water for the people of this country, the not so subtle message to corporate America is: People don't matter that much; just make your profit because we really don't care.

It is stunning. That is why I am glad my friend was here. This connection between this record, which I think is so unmindful of the needs of the American people, does translate over to short-term thinking in corporate America, to thinking that it really is not important to care about the environment, your people, or their health and their welfare reform.

Mr. DURBIN. Did we not go through this same debate on the energy bill a few weeks ago? The Senator and I were coming to the floor and saying, if you want to lessen America's dependence on foreign oil, if you want more energy security, take a look at the No. 1 consumer of oil in this country—the cars and trucks we drive. Have more fuel efficiency and fuel economy. Forty-six percent of the oil we import goes into our cars and trucks. A number of Members came to the floor and said let's improve fuel economy of cars and trucks in America to lessen our dependence on foreign oil. The corporate interests came in and said no, no change, no improvement.

What it means is, we passed an energy bill which fails to address the most basic element of developing energy security, energy independence, and a cleaner environment for America. It literally has been 17 years since we improved the fuel economy of cars and trucks. When we look at this, time and again, it is corporate irresponsibility that turns its back on the environment and energy security for this country.

As the Senator from California has pointed out, this is a pattern which is emerging through this administration. Instead of leading us toward more responsible conduct, as individuals, as families, and as businesses, they are turning their back on corporate responsibility.

I think it all comes together. I think the environmental issue plays into the energy issue and, frankly, the vote we had on the floor where, 67 to 32, the Senate rejected improving fuel efficiency in cars and trucks across America was a shameful vote. It is a vote which, frankly, we are going to have to answer for decades to come.

I ask the Senator from California, whose State has led when it comes to fuel standards and clean air and fuel efficiency, whether she believes this is all part of the same issue?

(Ms. STABENOW assumed the chair.)

Mrs. BOXER. I say to my friend, it is. It is short-term thinking. It is not good for this country. If you want to talk about patriotism, the most patriotic thing you can do, it seems to me, is drive a car that doesn't use all that foreign oil. It is very hard to get such a car, an American car particularly.

It is interesting my friend raised this because he is right. The Senate was weak on this, shamefully weak. But we did not get any help from Vice President CHENEY when, on June 18, 2001, he announced to General Motors executives that the Bush administration has no plans to pursue higher fuel efficiency standards. That set the tone.

When this administration came in, many of us did say there were so many ties to energy, so many ties to oil companies, that we were very worried. But some of us thought maybe, because of that, the administration would bend over backwards to be fair, to lean on this issue. We were sorely disappointed.

If one could sit down and really think it through, we are talking about a very unwise strategy on the part of this administration to not look ahead, to not plan for the future, to not care about your grandchildren or my grandchildren having the opportunity to see the beauty of this country; to not worry that much if the quality of the air goes down or the quality of the water; to convince yourself the environmental laws are a burden on industry. That is disproven and untrue.

My friend talks about California. We have been the leader on environmental protection. We have found when you clean up the environment you create jobs. There has been study after study. One of our best exports happens to be environmental technologies. So by turning away from a clean and healthy environment as a goal to help our people, you are also blocking a very important piece of our economy, a place where we are way ahead.

I remember when the wall fell in eastern Europe, one of my friends who went there said: The trouble is, now you can actually see the air. They had not done anything about air pollution.

I know my friend is leaving. I am about to end what I am saying. But I thank him so much for tying together this horrific anti-environmental record, the anti-environmental record of this administration, to the whole issue of corporate greed, of corporate irresponsibility. We are seeing more and more of the big corporations really turning their back on the people they are supposed to serve, frankly—their customers; the people they are supposed to help, their employees; their shareholders, just using this very shortsighted type of reasoning that this administration uses, which is get it all now and don't worry about the future.

If you take the issue of CO_2 emissions, we had a President who promised that, although he was against Kyoto, he would come up with a plan to cut those emissions back. That is the problem that causes global warming. I don't know of any respected scientists today who say global warming is not a dreadful problem. What it could do to our agricultural products, what it could do to our Nation, what it would mean for the world, is devastating.

It is not a question of panicking about it. It is a question of doing something about it. It is not that hard to do, if we set our mind to it.

This administration's Environmental Protection Agency sent a report to the United Nations where they admitted, yes, there is global warming and, yes, it is caused by human beings, and, yes, it is bad. Now this administration, this President, is backing away from his own administration, what they said. He said: Gee, I really don't agree with that ''bureaucracy.''

I don't get it. This is his Environmental Protection Agency. And the thrust of the report, even though it admitted there were problems, basically said there are these problems but we have to learn to live with them.

I do not understand why people go into Government, would join the Environmental Protection Agency, would run for President or the Senate or the House to say: ''You know, it's a problem.'' And throw up their hands.

That is not what we are about. Our job is to find solutions to problems, to lay those problems out. I know the Senator who is in the Chair is taking the lead in finding solutions to the problem of the high cost of prescription drugs, not only for our seniors but for all of our citizens. She is working long and hard on that, day in and day out, and with her leadership and that of others in the Senate, we are going to come up with a good plan.

I know our leader, TOM DASCHLE, is going to come up with a very good plan that we can all back, on all fronts, dealing with Medicare but also dealing with the pricing of prescription drugs.

You could throw up your hands and just say, ''Isn't this awful, prices are going up,'' and walk away. Why would we deserve to be here if we took that attitude? Why do we deserve to be here if we do not protect people's health—by getting them prescription drugs, but also preventing the health problems that you get when you have dirty air and water and high levels of arsenic and high levels of lead in children's blood.

It is one thing to react at the end of it when they have these illnesses. We need these pharmaceuticals. It is another thing to prevent these problems because many come from a very unhealthy environment.

I am sorry to say that this administration's record in 2001—and let's show 2002—an average of once a week, coming up with an anti-environmental rule, rolling back a pro-environmental, prohealth rule. This record is shameful. I think it is only because we have been so focused, as we have to be, on other issues, that we have not, as Americans, stood up to say this is a terrible circumstance.

I will show the Superfund. I will leave with that one more time, to show the number of sites they are cutting back on the Superfund. Remember, in California 40 percent of Californians live within 4 miles of a Superfund site. I am sure, Madam President, if you examine the Superfund sites in your State—you have many, as unfortunately many of us do, and we will give the exact number later—you will see what is happening. There is a walking away from the responsibility to clean up these sites, which means these sites will remain very dangerous.

We have a site in New Jersey that has become infamous because the wildlife there is turning bright colors from the dioxin that is in the soil, the arsenic that is in the soil, the dangerous chemicals that are in the soil. The EPA will not tell us, Madam President, from which of your sites they are walking away. We are trying desperately to get the information.

Senator JEFFORDS, who is a man of tremendous patience, I can tell you, started trying to get the information in March. We sent a letter and said that we now see you promised to clean up 75 sites. Now you say it is only 47. That is down from 87 sites under the last administration. Tell us, pray tell, which sites are you abandoning? Our people have a right to know. It impacts their lives; it impacts the lives of their children; it impacts the property values in the community. Just tell us which sites you are not going to clean up.

We found in the hearing we held that, in fact, a message went out to all the employees at EPA not to talk to anyone. Don't tell Senators which sites are off the list; don't tell newspapers; refer all the calls to our communications people.

The penchant for secrecy in this administration is growing to be alarming. We couldn't find out who sat in on Vice President CHENEY's meeting when they drew up this energy bill. We had to go to court to find out. Now we know. It was the special interests that wrote that. We know what happens then.

That is not the kind of America we want. We want an America where everyone sits around the table—people from the environmental community, people from the business community, people from the labor community, people from the management community. That is the way we are going to have an America that works for everyone—not when we leave out people with whom we don't agree.

I represent a State which is very diverse in thinking. We go from very liberal to very conservative and everything in between. If I just sat with the people who voted for me, that would be a huge mistake for me; plus, it would be unfair and wrong.

We need to sit with people with whom we don't always agree. That is why this Norquist blacklist is so upsetting, as Senator DURBIN said. If we put a little X on the forehead of people who do not agree with us, and we put them on a blacklist and we never talk to them, what kind of America is this going to be? It is going to be an extremist America—an America that doesn't reflect the values of the American people.

One of the values of the American people is a clean and healthy environment. I hope people will educate themselves to the fact that we cannot find out which Superfund sites are not going to be cleaned. I hope people will understand the danger they face if this continues.

I pledge today to continue to come to the Chamber to talk about this environmental issue, to fight for the Superfund Program, and to fight for clean air and clean water. We are going to take this case to the American people.

I thank the Chair very much. I yield the floor.

The PRESIDING OFFICER. The time controlled by the majority has expired. The remaining time until 10:45 is controlled by the minority leader.

Mrs. BOXER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. THOMAS. Madam President, I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. The Senator may proceed.

Mr. THOMAS. I thank the Chair.

ROLE OF THE FEDERAL GOVERNMENT

Mr. THOMAS. Madam President, we always have different kinds of things to talk about and issues that are before us. That is our job, of course, to deal with the issues. There is no end to the number of issues that come here. We focus on them, as we should. In addition to that, however, it seems to me that it is appropriate from time to time that we focus a little bit on the appropriate role of the Federal Government.

What is the appropriate role of Government spending? I understand the pressures that come from wanting to do something about every problem, partly because we do want to do something about every problem, and partly because of the politics of it. Now we find ourselves getting more and more into the kind of setting, a kind of culture, if you please, where, as the Federal Government continues to grow, every issue that arises—at whatever the level—the first request is let us get

the Federal Government involved; let us get some money from the Federal Government; let us get some programs from the Federal Government. So continuously we get larger.

If you walk down the street and ask in general terms if you think the Federal Government ought to be larger, if you think it ought to be less large, if the issues ought to be considered more close to the people where they have more input at the State and local level, the answer is yes.

I believe we need to stand back from time to time and take a look at what we are doing in terms of the future, and maybe try to get some vision of where we want to be in the next 10 years or 15 years.

What do we want our society to look like in terms of government? Do we want a national government for everyone? I don't think so. That is not what we are. This is the United States of America. We are a federation of States. The Federal Government's role is fairly well defined in the Constitution, and those things not there are to be left to the States. But we move the other way.

I am not anti-Federal Government. I think there is obviously a very serious role for the Federal Government. One of them we are exercising now is defense. That, obviously, is a Federal role, and one that we should and are pursuing.

But take a look at all the things we are in. Take a look at all of the little things in the supplemental budget which we passed last week, and tell me that those are Federal responsibilities—all of those little items in there that we are funding. I am sorry, they are clearly not.

It seems to me that we have to take a look at the concept. I think some of the things we are looking at now are very important. One of them is Medicare. Obviously, Medicare is a Federal program. But we need to take a look at it and see where it is going over time to be other than just patching here or patching there or putting a little more money in there, and then come to the Chamber and complain about not having enough money. But we never seem to look at where we might be.

I am a little frustrated at the feeding frenzy at the public trough of the Federal Government that we have been engaged in over the past several decades. As a matter of fact, I think that is going to be more difficult as we go forward.

First of all, of course, we need to debate and pass a responsible bipartisan budget resolution. To most people, the budget means you have a budget which hopefully you can stay within. If you can't, you can't. It means more than that here. A budget, of course, is some limitation on what you are spending. That is what your plan is, and that is what you are doing. But, in addition to that, there are some restraints that can be used here on the floor of the Senate.

If an appropriations or spending bill goes beyond the budget that we have established, then it becomes more difficult. You have to have more votes to pass it.

It is a very important thing. Here we are without one, I think, for the first time in 27 years. Certainly, we need one. We need to take a long look at some of these appropriations bills that are coming up. We need to do that very soon. We will be talking about hundreds of billions of dollars in expenditures.

Of course, we should be helping to strengthen education. What is the role of the Federal Government in education? Now it contributes about 7 percent to elementary secondary education—most of it in special education. But we continue to look there for more and more money. There are all kinds of recommendations to do that.

I think one of the interesting ones that I run into—and the Presiding Officer does as well—in terms of the Finance Committee is taxes, tax changes, tax credits—tax this and tax that. Every day something comes up that someone wants to give a tax credit for some certain kind of behavior. Then the next day we come to the Chamber and say the tax system is too complicated. It is complicated because every day we use it more to affect behavior than we do for raising money. There is just no end to it. Let us give a tax credit to do this or give a tax credit to do that or we will give a tax credit to help build small communities or give a tax credit for charitable giving or whatever, all of which on their face are nice ideas. But if you step back and say what the role of the Federal Government is in that, then I think maybe you would have to take a closer look at what is really happening. It is one that I believe is very important.

There is constitutional direction, as I mentioned. Some people interpret that in different ways. But, nevertheless, it does indicate that there is a limit to what the Federal Government should do. I don't know. I suppose different States have different things. A good deal of Wyoming belongs to the Federal Government. So one of the things I hear the most is there is too much Government regulation—Federal regulations that impact everybody—probably more than anything else.

The Senator from California was talking about environmental restrictions. That is all I hear—an excessive amount of non-use restrictions on public property—and the idea that you don't have access to the Federal lands that belong to the people. The access, obviously, ought to be limited so that you preserve the environment. But the idea that you have to have roadless areas so you cannot access the property, the idea you cannot go to Yellowstone Park in a snow machine, even though the snow machine can probably be made cleaner than an automobile—these kinds of things are constantly there. At the same time, we want the Federal Government to get bigger, with more regulations. It is quite a frustrating thing. I know it is difficult, but we need to take a look at really where we want to be.

Last summer in Wyoming, I had a series of meetings, two in almost every county; we called it Vision 20/20. We asked people to share with us what they saw in the future for their families, their town, their county, and their State. It was interesting. Of course, it was different in different parts of the State, but several things were pretty unanimous. It would be fun to have this body sit down for a day and say: What do you see as the role of the Federal Government? What do you see the Senate doing in terms of spending, in terms of programs 15 years from now? Do we want to continue to spend the way we have over the last several years? If so, what would be the totals?

A couple years ago, we tried pretty much to have some limitations and held the general budget to about 3 percent, which was basically inflation. This year, notwithstanding terrorism and the necessary emergency spending, it is probably 8 percent—probably more than that, close to a 10-percent increase in Government spending.

Of course, we will hear from our friends on the other side of the aisle that the problem is because of tax reductions. I don't agree with that. Tax reductions are necessary when you have a slow economy, to get things going. Tax reductions help us plan to see the kind of Federal Government we really want—perhaps one with a smaller role—and identifying those things that are clearly the role and responsibility of the Federal Government; perhaps reducing Federal taxes so locals can have more taxes, to do with it what they want.

One of the things I think most of us, I suppose from every State, work on more than anything else is what a bill or a proposal means in terms of our States. For instance, health care. I come from a rural State. Health care delivery in Wyoming is quite different than it is in New York City, so a Federal program that is designed for metropolitan areas doesn't fit at all. There has to be enough flexibility. The same is true with education and most everything else we do. But we don't always give that flexibility. So we find ourselves with programs designed to go nationwide which don't fit nationwide. Yet because we constantly have these Federal programs going, it is most difficult.

I mentioned to you that we are always saying we need to simplify taxes. Yet we use them to affect behavior more than almost anything. The size of the Government continues to grow. We worked very hard last year to get the bill passed that required agencies to look at their activities, and those that are not totally governmental could be put out into the private sector for private contracting. I think it is an excellent idea to try to keep the Government as small as possible. Some of our

folks are opposed to that idea; they want more and more Government and more and more Government employees. Those things that are not certified Government things ought to be dealt with in the private sector.

So I know these are general comments and you don't have an answer for all these issues, but there is a frustration that builds as you go through everything we look at every day, and more and more bills being talked about.

As an example, we are going to have hearings this afternoon on the Park Subcommittee, which I used to chair. I love parks. But there need to be some criteria as to what a national park should be. Failing having criteria, what they say in every community that has an area they would like to develop and set aside is, let's get the Federal Government to take it over and let it be some kind of a Federal park. It is not a Federal park just by its definition. But I understand when we are working for something in our States—some call it pork, and some call it other things, but it doesn't matter—we don't look at the broad picture, we just look at that. It is difficult.

So I am hopeful we can take a long look at what we are doing and, as opposed to simply dedicating ourselves to an election in 2002—to which I think you will find many of these things are very related—let's take a little longer look at where we are going to be. That is really our job for the future. These young pages sitting here, where are they going to be 20 years from now? We have some responsibility to look at that. I think it is a very strong responsibility.

So I hope we can put our emphasis a little more on our responsibility as the Federal Government, how we can best do that, what it means in the future, how we can help build the strength of local and State governments so that it will be close to the people and the people can indeed have a real role in what is being managed in their area.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. KENNEDY. Madam President, as I understand it, the time between now and 11:45 a.m. is equally divided, and at 11:45 a.m., we will vote on the cloture motion on the hate crimes legislation.

The PRESIDING OFFICER. The Senator is correct.

Under the previous order, the Senate will now resume consideration of S. 625, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 625) to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes.

Pending:

Hatch amendment No. 3824, to amend the penalty section to include the possibility of the death penalty.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I wish to briefly review where we are on this issue involving releasing the other arm of the Federal Government to fight hate crimes.

This is an issue that has been before the Congress since 1997. We reported the legislation out of the committee in 1999. It is the year 2002, and we still, in this body and in the House of Representatives, have been unwilling, unable to pass legislation that is going to permit the Federal Government to fight terrorism at home. That is what hate crimes are all about.

I am always surprised that we are unable to break the logjams. This legislation has been before the Senate. We voted on this legislation about a year ago as an amendment to the Defense authorization bill. The vote was 57 to 42.

So we had strong bipartisan support for that legislation. Then we get to the conference and the Republican leadership in the House of Representatives said no.

What we really need is to have the legislation passed free and clear, meaning no amendments attached to the legislation, in spite of the fact that 232 Members of the House of Representatives, Republicans and Democrats, understood as well that we ought to be fighting hate and terror at home. That is what this is all about, whether we are going to deal with the insidious hate crimes that continue to exist in this country and which, in too many instances, are not prosecuted.

We have the strong support of those in the law enforcement area. Twenty-two State attorneys general support it; 175 law enforcement, civil rights, civic, and religious organizations; and 500 diverse religious leaders from across the Nation.

We have to ask ourselves: Why are we really being blocked from permitting the Senate to address an issue which we have already addressed and which is in great need at home? And that is the hate crime issue.

It is an outrage that Congress continues to be AWOL in the fight against hate crimes. Hate crimes are terrorist acts. They are modern-day lynchings designed to intimidate and terrorize whole communities.

Our Attorney General in this past year has said:

Just as the United States will pursue, prosecute and punish terrorists who attack America out of hatred for what we believe, we will pursue, prosecute and punish those who attack law abiding Americans out of hatred for who they are. Hatred is the enemy of justice, regardless of its source.

In the same speech:

Criminal acts of hate run counter to what is best in America, our belief in equality and freedom. The Department of Justice will aggressively investigate, prosecute and punish criminal acts of violence and vigilantism motivated by hate and intolerance.

Our message this morning is unambiguous and clear. The volatile poisonous mixture of hatred and violence will not go unchallenged in the American system of justice.

That is what this legislation is all about, to try to make sure we are going to prosecute these acts of violence that are based upon bigotry and hatred and that affect not only the individuals who are involved but also affect the whole community.

Many of us thought, after September 11 and after the extraordinary loss of lives, after the extraordinary acts of heroism, there was a new spirit in America. I believe that to be so. I think it is true. It is reflected in so many different areas. We are reaching out to understand our communities. We are reaching out to understand our neighbors and friends. We have a strong understanding that America, in many respects, is closer, bonded together in order to try to resist the acts of terror that are at home but also understand the values which are important to each other.

Within that spirit, it is amazing to me that we as a country are so prepared to assault those cells of hatred as they exist in other parts of the world and refuse to address them at home. That is what this legislation is really all about. That is why we need this legislation. It is very simple.

I see my friend and colleague. I reserve the remainder of my time, and I yield such time as he may consume to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Madam President, each day I have detailed in the Senate RECORD another hate crime. Again, these are always violent, they are always sickening, but they always happen to an American citizen. These citizens are not different from you and me. They are Americans. They may be black, they may be gay, they may be disabled, female or of Middle Eastern descent, and yet they are all Americans. We are all, in that important aspect, the same.

I will detail a heinous crime that occurred in the State of Oregon in 1995. I have spoken about this horrible crime before in this Chamber. A 27-year-old Stockton, CA, man murdered a Medford, OR, couple: Roxanne Ellis, 53, and Michelle Abdill, 42. The women, who ran a property management business together, disappeared on December 4, 1995, after showing a man an apartment for rent. He shot them both in the head. The bodies were left bound and gagged in the truck bed. The Stockton man later confessed, saying he had targeted the women because they were lesbians, and he figured they would not have families that would miss them.

I believe the government's first duty is to defend its citizens, to defend them

against the harm that comes out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substantive. I believe that by passing this legislation we can change hearts and we can change minds.

I have noted, starting Friday, continuing most of the day Monday and today as well, that the opponents of this bill, I think, truly have an argument against the larger category of hate crimes. Their argument should not be the inclusion of these new categories of Americans whose minority subjects them to greater vulnerability. This is easy to demonstrate in crime statistics. An argument can be made that hate crimes are inappropriate, that all crime is hateful. This is an argument that has been made many times and in several cases that have reached the U.S. Supreme Court, but the Supreme Court has upheld the category of hate crimes.

So the question for us then becomes: Why not extend them to new categories of Americans who are demonstrably more vulnerable to crime? I argue once again that we should vote in the affirmative to include these new categories. I call on my colleagues to support it.

I have heard many arguments being propounded as to why we should not proceed. I believe we should proceed. I believe we should invoke cloture and get on with a final vote on this bill.

I will say, in defense of my colleagues, particularly our Republican leader, TRENT LOTT, in the rare case when he would invoke cloture early on a bill, he was roundly criticized by our friends on the other side. I wish cloture had not been invoked as quickly in this case so we might have a better chance of winning this vote. I say to my colleagues, this may be their only vote. I am given to understand that this bill will be pulled down if cloture is not invoked, and I think that is a very unfortunate development, because the time to do this is now, and the time to have effectively argued this is beginning Friday, Monday, today, and this week.

So I will be very disappointed, as one who has been present each of these days making this case, if this bill is pulled down because cloture is not invoked.

There may well be some good ideas that could be brought forward, but I think personally it is easy to distinguish between the meritorious arguments that can be made, such as some that Senator HATCH has been making, versus those that are designed to create political TV ads and to pull down this bill. It takes courage in the Senate to push the case, to make the case, and to stay with the case until this body has had time to work its will, but I fear that may not be allowed to occur now, which I regret. I wish more Senators had come the last 3 days to argue on the merits of this bill.

Every day I have entered a hate crime in the CONGRESSIONAL RECORD to demonstrate the need for this legislation. If by having a hate crimes law that covered James Byrd, the Federal Government was able to be helpful to the officials of Texas, why not have a hate crimes law that could have helped the police officers of Wyoming to pursue and prosecute the case against Matthew Shepard? This is about permitting the Federal Government to show up to work. This is about the Federal Government standing with the American people and saying, as to these values, as to opposing crimes so horrible and callous, we will stand united with law enforcement at every level, locally and federally.

This is not an effort on the part of the Federal Government to subvert State law or local police processes. This is an ability to enhance them, to backstop them, to make sure we get the job done. It is a law that is 30 years old. It is a law that ought to be expanded because of our experience. It is a law that we ought to vote on in its final form when this week's work comes to an end.

Mr. KENNEDY. Will the Senator yield?

Mr. SMITH of Oregon. I am happy to yield.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Massachusetts.

Mr. KENNEDY. The Senator makes a very good point that Congress went on record 32 years ago that we were going to have a Justice Department that was going to prosecute hate crimes. We have addressed that particular issue. We have made the decision.

During the more than 30 years since the current hate crimes law was passed, the Federal Government on average, has prosecuted only four hate crimes per year. By working cooperatively, state and federal law enforcement officials have the best chance of bringing the perpetrators of hate crimes swiftly to justice.

Now, as the Senator points out, another frequent argument we hear against the hate crimes bill. Opponents argue that the law is unnecessary because these crimes already are prosecuted at the State level. In the past thirty years, Congress has enacted dozens of federal drug and gun laws that criminalize conduct that already is illegal under state law. We didn't pass these laws because States were failing to their job, but rather because we believed that the Federal government had an important role to play in helping States combat violent crime. Our motivation in passing the hate crimes bill is no different.

The most important benefit of both state and federal criminal jurisdiction is the ability of state and federal law enforcement officials to work together as partners in the investigation and prosecution of serious hate crimes. When federal jurisdiction has existed in the limited areas authorized by current law, the federal government's resources, forensic expertise, and experience in the identification and proof of hate-based motivations have often provided valuable investigative assistance to local authorities without usurping the traditional role of states in prosecuting crimes.

We made a judgment, and even though there were State laws, we were going to pass this because there was an important interest in doing it.

Can the Senator find anything more important than trying to attack the basic core, the bias and hatred that motivates people to commit these crimes and make sure that we have a Justice Department that will be able to fight this with both arms, rather than one arm tied behind its back?

Mr. SMITH of Oregon. I agree with the Senator. We are in a war on terrorism in this world. It is entirely appropriate to focus on the war on terrorism at home. President Bush has proposed a more seamless process by which we backstop as a Federal Government local and State police and all law enforcement in our ability to protect the American people.

I believe government should help Americans as it finds them. Where there is a clearly demonstrated need, particularly as to gays and lesbians, we should show up to help. I believe the Senator would agree with me that in the case of James Byrd, where this African-American brother was dragged to death in a hate crime, the Federal Government, because the statute permits the category of race, was helpful. It did not subvert the local pursuit and prosecution of the murderers of James Byrd. We backstopped it. We brought the good offices and the resources and the expertise to be helpful to Texas in that case.

Come with me to Wyoming, sir, and you will talk to officers that introduced themselves to me as Republican police officers. They did not need to identity their party but their point to this Republican Senator was that this is not a partisan issue. They could have used the help. This became a case that so consumed Laramie, WY, that their limited resources were simply exhausted by one case. They would love to have had the Federal Government show up to work but the Federal Government was statutorily prohibited from coming to help.

Mr. KENNEDY. I ask the Senator one additional question, and we will hold our time with the agreement of the Senator to have the last 10 minutes. Does the Senator believe the Federal Government has less of an interest in combating hate violence against gays and lesbians than hate violence based on race?

Mr. SMITH of Oregon. It has the same interest in defending the American people regardless of their minority, their race, religion, their culture, their sexual orientation, their disability, their agenda.

It seems to me the government's business is not to pick between who among its citizens it will defend, but

that under the banner of equal protection and due process we defend all citizens. As our founding documents make clear, we are created equally.

Mr. KENNEDY. The Senator makes a point on race, religion, on gender, sexual orientation, on disability. This legislation goes to the core of the bias and hatred and addresses that. It gives the Justice Department the tools to be able to prosecute those. I thank the Senator.

How much time remains?

The PRESIDING OFFICER. There are 11 minutes remaining and the other side has 2 minutes remaining.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, last Friday, immediately after calling up S. 625, the hate crimes bill, the Democratic leadership filed for cloture, I believe within 15 minutes after they called it up.

No one is filibustering this bill. In fact, there have only been 20 amendments filed to be considered.

I expected this bill to be debated. We hoped the minority or anyone in the majority, who so chooses, who wants to try to modify this bill and make it better, would have the opportunity to do so. We all know, if cloture is invoked, for the most part, all we can do is make motions to strike. Almost everything will be held to be nongermane and therefore not debatable, unless we get a supermajority to overcome the point of order.

All we are asking is for our side to be given an opportunity to present amendments that may improve this bill.

It is astonishing to me that cloture would be filed on a bill of this magnitude, a bill that has been hotly contested for very legitimate reasons, basically for the purpose of foreclosing any amendments on one side, including my substitute amendment, which I think almost anyone would have to admit is a reasonable amendment. I don't know whether it would be accepted as a substitute or not, but it ought to at least be debated and voted up or down.

I filed an amendment yesterday that preserves the death penalty as an option in hate crime cases. It seems to me that is an option we would not want to deny law enforcement. One would think you would want to give them that additional prosecutorial tool in hate crime cases that result in death of the victim.

We can cite countless cases where, because of the threat of the death penalty, because it is a statutory option, people have pled guilty, accepted life imprisonment, and the matter was solved prior to trial, which preserves judicial resources.

We also know, that when the death penalty is an option, in many cases law enforcement officials can break down one of the conspirators to plead guilty and to become a witness, and an effective witness at that, against the other perpetrators of the heinous murders.

But, if this bill passes, it specifically excludes the death penalty. It specifically takes away those powers of the Federal Government as a tool to resolve some of these matters.

As everybody knows, I am not a big fan of the death penalty. I think it should be used very, very narrowly and only under the most stringent of circumstances. I think it is too widely used today. But it at least ought to be an option that a prosecutor can use to obtain confessions, cooperation from witnesses and, of course, use as a penalty for those who commit really heinous crimes that are proven beyond a reasonable doubt.

On Friday, immediately after calling up S. 625, the Democratic bill, the Democratic leadership immediately filed for cloture, as though anybody wants to filibuster this. I doubt seriously that all 20 amendments would be called up, but with a limited amount of amendments we could finish this bill by Thursday, 2 days from now.

It is an important bill. Everybody admits it. Why would you foreclose to me, the ranking member of the Judiciary Committee, the right to debate an effective substitute that may improve this bill and at least have a vote so those who agree with me can have their vote.

I point out to my distinguished colleague from Massachusetts that it was he and I who passed the Hate Crimes Statistics Act in the early 1990s. I was the Republican Senator who came forward and helped to get that done.

This bill has proved effective in showing there are hate crimes in our society. We know that if the two of us got together, along with the distinguished Senator from Oregon, we could probably resolve the conflicts so we would not have to wait another 5 or 6 years to have hate crimes legislation pass. But, no, there is no desire to try to resolve these matters. There is a desire to invoke cloture, cut off basically all effective debate and all amendments including the amendment of the ranking member, cut off the amendment with regard to imposing or at least requiring the death penalty, and any number of other relevant amendments. For what? Because they want this bill at all costs, when they know that the House leadership will not accept it without further amendment.

So it makes you wonder if this is not done primarily for political reasons instead of working together to try to come up with legislation that literally would work to resolve these problems.

I agree with the distinguished Senator from Oregon. There is no excuse for anybody to abuse, mutilate, kill, or otherwise commit violent conduct against anybody in our society, let alone gays and lesbians. I do not think that is justified, that anybody could get away with that. And we ought to do whatever we can to stop it.

The fact remains that State and local law enforcement are dealing with the problem. We have challenged the other sides to give us examples, if they know any, where local law enforcement, local prosecution has not done the job. I am sure they may be able to come up with a few isolated examples, but I have not heard any yet.

We have had only 1 day of debate on this very important subject yesterday, and it was only a matter of a couple of hours. This is a bill that seeks completely to overhaul and vastly expand the role of the Federal Government in law enforcement. The attempt to prematurely cut off debate on a bill of this magnitude makes a mockery of the role of the Senate as a deliberative body.

If the distinguished Senator from Oregon is correct, if cloture is not invoked today—and I do not believe it should be—that this bill will be brought down, that would be a travesty because we could pass this bill by Thursday. There is not a soul in this body who is filibustering this bill, as far as I know. It just makes a mockery of the Senate as a deliberative body. I think the rush to ward off amendments can only lead to the conclusion it was done for sole purpose of thwarting any meaningful debate and avoiding some tough amendments because there is a wide disparity of viewpoint here with regard to the death penalty. But even if you are against the death penalty, you ought to realize the efficacy of having it there as a threat to criminals against hate crimes—yes, against gays and lesbians, to select that category—they might have to suffer the ultimate penalty because of what they have done.

In most cases the death penalty will not be imposed, but it will be used to obtain confessions, pleas, and cooperation from witnesses.

Again, I want to talk about the television show Law and Order. Although it is a fictional show, it really does portray how law enforcement uses the death penalty to obtain cooperation and confessions, to get people to testify against others, including their coconspirators. If you really want to do something about hate crimes, let's do it the right way and do it by amendment, amending this bill so the House will have to consider it. They are not going to accept this bill in its current form and Senator KENNEDY knows that. I know that. The distinguished Senator from Oregon knows that.

I think Senator KENNEDY would agree with me that this bill deserves more than a single day of debate—or I should say 2 hours or so yesterday—before Senators are precluded from filing amendments.

I agree wholeheartedly that Senator KENNEDY's bill, S. 625, is an important piece of legislation and should be given consideration in the Senate.

In the past I, too, have introduced legislation addressing hate crimes and I intend to offer a viable substitute amendment.

As someone who has remained interested in this issue, as Senator KENNEDY

is and I am, I believe at a minimum I should have the opportunity to offer amendments relative to the discussion of hate crimes and to this bill. This opportunity, of course, can only be ensured if today's cloture vote fails and the leadership then agrees to work this out. Let's get a time agreement. Let's have limited amendments, and I think we can get our side to agree to that.

I believe my amendments will in fact improve this bill as it reads currently. Moreover, I believe the majority of my colleagues not only want to consider my amendments but would also approve my amendments. Protecting the safety and rights of all Americans is the paramount concern to all Senators. To not have a vote on the death penalty? For the first time, remove that as a consideration in these tough cases? If you really want to do something about hate crimes you ought at least to have the death penalty on the books.

There are, however, many differing thoughts about how to best provide the protection. No one is threatening to filibuster this bill. Relying on unsubstantiated rumors of machinations to file numerous irrelevant amendments is insufficient justification to cut off debate. The fact is, only 20 amendments were filed yesterday.

My colleagues and I are trying to engage in a sincere debate on this issue that affects all Americans. It is curious to me why the Senate Democrats are trying to block a substantive debate on hate crimes. By preventing relevant amendments from being offered and considered, the Democrats are shutting the door on any Republican ideas or alternatives, however constructive they may be. At least we should be entitled to a vote on a limited number of amendments. We could agree to that. Every Senator has the right to consider, thoughtfully, legislation that will have a significant impact on the way serious crimes are prosecuted in this country. By filing for cloture prematurely, the leadership is denying all Senators the right to debate and have a vote on issues that are important to them and the constituents of their States. Simply stated, it is wrong to foreclose debate on this very important bill.

I ask the Democratic leadership to rethink their strategy and unreasonable position. I strongly urge Senators to oppose cloture on this bill. I agree with my colleague from Massachusetts, every hate crime is a tragic reflection on our society and we need to address the problem. But no one has made the case to me that the local authorities are not effectively prosecuting these cases. We have asked them to. I believe the proper role of the Federal Government is to assist, not supplant, local law enforcement authorities. That is the approach I have taken in my alternative, which will not even be able to be considered if cloture is invoked today.

Let me just take a moment to review some of these cases that we have been talking about. Take the Roxanne Ellis and Michelle Abdill case here. This is the one that the distinguished Senator from Oregon, if I remember correctly, was referring to. Roxanne Ellis and Michelle Abdill. The defendant was Robert Acremant, the jurisdiction was Oregon. Acremant, shot Ellis and Abdill, a homosexual couple, to death as they lay gagged in the back of his truck—truly a heinous, vicious, reprehensible act.

What happened to this defendant? Was he let go because the Federal law enforcement authorities and prosecutors did not have this hate crimes bill? Not at all. The local law enforcement brought him to trial and he received—guess what—the death penalty. That doesn't sound to me like he is getting away with a hate crime.

Let's go down through a few more. James Byrd—we have heard a lot of about James Byrd and we ought to hear a lot about it. It was a terrible, heinous act that was committed in Texas by three defendants, Lawrence Russell Brewer, John William King, Shawn Allen Berry.

They beat Mr. Byrd, an African-American, unconscious. They chained him to the back of a pickup truck and dragged him for miles down rural roads. That is what all three of these heinous criminals did. What happened to them? Let me tell you. Because the death penalty was available, Shawn Allen Berry pled guilty and became a witness against the other two, who both received the death penalty. That doesn't sound to me like the Federal Government was needed in that case.

The fact of the matter is, the State and local officials said: Enough is enough. We are not going to tolerate this kind of activity, this type of action. The death penalty, because it was available for these crimes—a defendant pled guilty and was sentenced to life in prison without parole. The other two defendants received the death penalty. All we ask is that we be permitted to offer my substitute amendment which preserves the death penalty. I can't imagine that amendment would fail on this bill and it would improve this bill by leaps and bounds.

Matthew Shepard, we have heard a lot of talk about Matthew Shepard and yes, State prosecutors and law enforcement, who believe, as we do, that hate crimes should be prosecuted. In the Shepard case, the two defendants were Aaron McKinney and Russell Henderson. They kidnapped Shepard, a homosexual college student, beat him so severely that his skull was fractured a half dozen times, tied him to a fence post and left him to die. The defendant Henderson drove the truck into which Shepard, a homosexual college student was lured, helped tie him to a fence—and at least stood by while Shepard was beaten senseless.

What happened? Henderson pled guilty in order to avoid the death penalty. He was sentenced to two consecutive life terms with no possibility of parole. Aaron McKinney was sentenced to two consecutive life terms. He avoided the death penalty by agreeing not to appeal the life sentences. Had the death penalty not been there, who knows what would have happened? I think they had the defendants dead to rights, but it certainly did help in both of these cases to have the death penalty available.

Another case involved the homosexual couple, Gary Matson and Winfield Mowder. The defendants, Benjamin Williams and James Williams, shot Mr. Matson and Mr. Mowder to death. The death penalty was available and the prosecution is ongoing in both cases.

In another Texas case, the defendant Mark Stroman was tried for shooting Vasudev Patel, an Indian man, after 9/11, because Stroman thought Patel looked middle eastern. The local officials prosecuted the case and he received the death penalty.

In the case of Sasezley Richardson, an African-American, Jason Powell and Alex Witmer fired 12 shots at him in an attempt to ''earn'' a spider web tattoo from the Aryan brotherhood. The defendant Witmer drove the truck from which Powell fired 12 shoot at Richardson. Because the death penalty was available, Powell pled guilty and testified for the State in order to avoid the death penalty. He was sentenced to life in prison without parole. In the case of Alex Witmer, the death penalty was available, and he pled guilty and was sentenced to 85 years in prison. What if that death penalty had not been available? Who knows whether they could have convinced one defendant to testify against the other.

The next chart begins with the case of Amanda Milan, who was stabbed to death for being a transgender woman. The defendants in this case were Duayne McCuller and Eugene Celestine in New York.

In this case Eugene Celestine gave McCuller the knife with which to kill Milan. The prosecution is currently ongoing, and both are facing the possibility of life in prison.

In another case, the victim, Billy Jack Gaither was bludgeoned to death because he was homosexual. The two defendants, Mullins and Butler, attacked Gaither with an ax handle, slit his throat, threw him on the top of a pile of tires, and set him on fire.

Because the death penalty was available, Mullins pled guilty prior to trial and was sentenced to life in prison without parole. Butler was sentenced to life in prison without parole only because the victim's parents requested that the prosecution not seek the death penalty. But because it was available, they were able to bring these cases to conclusion and these two heinous criminals were sentenced to life because neither wanted to go through a trial where they knew they could get the death penalty. By obtaining pleas prior to trial, the prosecutors saved scarce taxpayer dollars.

In a Virginia case, Danny Lee Overstreet, was killed by the defendant, Ronald E. Gay when Gay went on a shooting rampage in a gay bar, killing Overstreet and wounding six others. Because the death penalty was available, he was sentenced to four life terms.

I have a lot of empathy for those on the other side of this issue at this time who want to pass legislation to address some of these hate crimes. They would like to give the Federal Government more authority. I am not against that. But I would like to have a bill that will pass both Houses. I would like to have a bill that will go to work tomorrow, or the next day, or 2 months from now, when it passes both Houses and is signed by the President, which will really do something about these crimes. I want a bill where there is a threat of the death penalty so we can get pleas and save the taxpayers' money.

Frankly, these cases are important cases. In almost every case that the proponents of this piece of legislation bring up—in almost every case—the State and local law enforcement—in fact, in every case, to my knowledge—they have done the job. My substitute amendment would give them the tools, the money, and so forth to do the job even better.

I would like the opportunity as ranking member of the Judiciary Committee to be able to offer some amendments that should have votes. If I lose, I lose. If I win, I win. But the fact of the matter is that we ought to at least have this opportunity to debate it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Eleven minutes.

Mr. KENNEDY. I yield myself 4 minutes.

With regard to the procedure, there have been two occasions when the majority leader has requested that we have a debate on this legislation and have relevant amendments. That process and that procedure were objected to by the other side.

First of all, during the more than 30 years that the existing hate crimes statute has been on the books, the federal government has never tried a hate crime case in which it sought the death penalty. There is nothing in our bill that prohibits a State with the death penalty from seeking that punishment if the State decides to prosecute the hate crime. The fact remains that nothing in our bill would allow the federal government to take jurisdiction away from a State that wants to prosecute a hate crime and seek the death penalty.

It is interesting. During this debate, we know exactly what our situation is. If you talk about race, national origin, and religion, they are protected, if they fall within the six categories. But sexual orientation is not. Disability is not protected. Neither is gender. Even in the amendment offered by the Senator from Utah, he excludes gender. The Republican leadership of the House of Representatives will not take protection of sexual orientation. Those are the facts. Sometime, some day, we have to deal with the realities.

This has been out there for 5 years. We have the support of 22 attorneys general. We have the support of the former Attorney General of the United States, Dick Thornburgh, who understands the importance of this legislation. There is a need out there. You are not going to get that kind of inclusion, those kinds of protections, in terms of gender, under the amendment of the Senator from Utah, and you will not get it under the Republican leadership.

Those are the facts. We have the list of the amendments. We have an antiabortion amendment by the Senator from Pennsylvania here. Relevant amendments. The list goes on. The leader asked for the ability to do that. At some time we have to take action.

We know what this is really all about. We have had this for 5 years. We passed it 57 to 42 last year and were denied the opportunity to get this out of the conference because of the Republican leadership in the House.

The real question is, Are we going to take the action now? How long do people have to wait to get this protection? They have waited 5 years. We have a lot of pious statements here about the need for protection for American citizens on the basis of sexual orientation and disability and gender. Yet we refuse to address it or pass it.

That is the question and the issue. It is domestic terrorism. These are crimes based upon hate and prejudice that ruin not only the individual but the community and the Nation. That is what we are talking about. Trying to dismiss this as routine kinds of investigations isn't what this is about. The Senator from Utah understands that. That is the question—whether we are going to be prepared to take those steps to provide the limited but extremely important opportunity to make sure we are going to do something.

How about sending a message to those people out there in terms of the potential of hate-motivated crimes? We sent them a message when we passed the church burning legislation. We sent a powerful message, and that virtually stopped. How about doing the same thing with regard to hate crimes because of sexual orientation or gender or disability? What is the other side scared of?

They say we are going to federalize another thing. Well, they found 37 other provisions they are glad to federalize, but not this kind of protection.

As the Senator from Oregon said, this protection is rooted in animus, the basic hatred that motivates these kinds of crimes. The question is, Are we going to do something about it?

This is the time. Twice Republicans rejected the opportunity for debate on relevant amendments. We know what is happening. This is the vote. This is the time. We want to make it very clear, and I am hopeful that we get cloture. If we do not, I want to give the assurance to the Senator from Utah that we are going to be back again and again.

So have no fear about not addressing this issue because this is just the beginning, and we are going to continue the battle through this session.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I have heard all this rhetoric before. We have been working on this for 5 years. The distinguished Senator from Massachusetts knows that we put together some of the most important legislation in history—he and I. He knows darn well that this bill isn't going anywhere if it passes in its current form. He knows darn well that it sounds good to make all these political points, but I would like to pass something. I would like to do something. I would like to have something that works. I am willing to do it in a Federal way.

The Senator seems to be saying, take his viewpoint about this or take nothing, which is what we have done for the last 5 or 6 years. He knows darn well that I will work on the bill with him. We have discussed this in private.

I don't like what is going on in our society any better than he does, but I challenge him to show me where State and local law enforcement are not doing the job. Explain to me why he would not have the death penalty to help law enforcement and the prosecutors to obtain pleas, cooperation from witnesses, and to have witnesses testify against their coconspirators, which conserves judicial resources.

He says that if the States want to prosecute hate crimes, they can seek the death penalty. The fact is, we are taking these matters away from the States and saying the Federal Government ought to prosecute these crimes where there will be no death penalty. I feel embarrassed to have to talk about the death penalty because I am not real enthused about it. I don't want it applied, except in the most stringent of circumstances. There has to be absolute guilt, and the crime has to be so heinous as to justify it.

Look, I would be willing to put sexual orientation in my bill. I don't want every rape to be considered a federal hate crime. I don't want every criminal sexual act to be considered a federal hate crime, leading to the possibility of being brought before the Federal courts. On the other hand, I am certainly willing to talk about compromises.

The charts we just went through show that the criminals are being prosecuted. The crimes against gays and lesbians are being prosecuted. State and local law enforcement are bringing the appropriate prosecutions. The distinguished Senator said ''let's send a

message through this legislation'' if nothing more. I would like to do that. I would like to get a bill that we can pass. I would like to get a bill that the House will accept—instead of accusing the House of not having the same interests at heart than the Senator from Massachusetts.

No one is arguing that hate crimes are not a problem. We have never denied that hate crimes are occurring. Nobody can deny that. I want to get rid of them as much as anybody. No one feels more strongly on this issue than I do, whether they support S. 625 or not. No one—least of all me—is suggesting that hate crimes are not a problem, or that we as an institution should stand by and do nothing about hate crimes. That is why I intend to offer an amendment to S. 625 that provides an alternative approach to helping in the fight against hate crimes. I am willing to sit down with the Senator and see if we can work out something that will pass both bodies. The tremendous record of State and local prosecutions of hate crimes suggest to me, however, that States are doing a great job policing these types of cases.

In my view, a measured, appropriate, and constitutional Federal response should be directed at helping States that ask for our assistance. Nobody is arguing that existing Federal law is adequate. No one contends that we should rest on the existing Federal hate crimes statute. We can all agree that the Federal Government should do more than what 18 U.S.C. 245 currently provides.

That is why I will offer an amendment to S. 625 that provides for an alternative approach to help in the fight against hate crimes. The record is clear. I have always been open to fixing 18 U.S.C. section 245 through amendments.

The PRESIDING OFFICER. The time controlled by the Senator from Utah has expired.

Mr. FEINGOLD. Mr. President, I rise today to oppose the amendment offered by my colleague from Utah, Senator HATCH, to amend the penalty section of this bill to include the possibility of a death sentence.

This amendment is a step in the wrong direction.

Let me be clear. Those who commit crimes, including acts of violence that are motivated by hate, should be punished and punished severely. Federal law enforcement has an important role to ensure that hate crimes are investigated and prosecuted to the fullest extent of the law. And if death results from a hate crime, Senator KENNEDY's bill provides for the full weight of the law to be brought to bear on that individual. It does so by providing for a maximum sentence of life in prison without the possibility of parole.

At a time when Americans are increasingly recognizing that the current death penalty system is broken, this is not the time to expand the Federal death penalty.

We know that justice should be blind. But, unfortunately, in the Federal death penalty system, it appears that justice is not always blind. A report released by the Justice Department in September 2000 showed troubling racial and geographic disparities in the administration of the Federal death penalty. The color of a defendant's skin or the Federal district in which the prosecution takes place can affect whether a defendant lives or dies in the Federal system. Former Attorney General Janet Reno ordered a further analysis of why these disparities exist. And Attorney General Ashcroft has agreed to continue this study.

We have not yet seen the results of this study, nor have we had the opportunity to review and understand what the results might mean for the fairness and integrity of our Federal justice system. While this important study is underway, Congress should not create even more death-eligible crimes.

I also strongly disagree with Senator HATCH's claim that the availability of the death penalty ensures efficient and reliable prosecution and conviction of those who commit hate crimes.

We know that levying death has an immensely coercive effect on the accused. The accused who wants to live and does not have the resources to mount a ''dream team'' defense may feel little choice but to accept whatever deal for less than death that the prosecution offers. This can happen in situations where the accused is less culpable than other defendants, or worse yet, innocent of the charges altogether.

I am very troubled by the practice of some prosecutors who may use the prospect of the death penalty to coerce a defendant, including a defendant who may be innocent, to accept guilt and a plea bargain.

A case involving defense representation from my state illustrates how this coercive tactic undermines the integrity of the justice system. It involves Christopher Ochoa, who confessed to a rape and murder out of fear of facing the death penalty in Texas. Mr. Ochoa was released a little over a year ago after serving 12 years of a life term in Texas. Mr. Ochoa won his freedom as a result of the persistence, hard work, and skill of students and professors at the Innocence Project at the University of Wisconsin-Madison Law School.

According to the Wisconsin State Journal, police arrived to question Mr. Ochoa in November 1988. Mr. Ochoa, who was 22 years old at the time, was ''harangued with grisly details of the crime, many of them false. A burly sergeant told him he would be 'fresh meat' in prison, pounded tables and demonstrated where the death needle would pierce his arm. Ochoa confessed.'' In a forum at the University of Wisconsin after he was released, he said, ''I don't think people can say what they would have done until they're in that situation.'' He said, ''Basically, I was terrified.''

The Federal system is not immune from the use of this coercive tactic or the other flaws that result in the risk of executing the innocent in the state systems. According to the Federal Death Penalty Resource Counsel Project, since the death penalty was re-enacted in 1988, approximately 3 percent of persons the Justice Department has attempted to execute may have been factually or legally innocent.

In one case, David Ronald Chandler claimed his innocence throughout the trial and the appellate process. Chandler believes that the real triggerman made a deal with the government to testify against Chandler, and in return the government would not seek the Federal death penalty against the triggerman. But the triggerman later recanted his testimony. Luckily for Chandler, President Clinton commuted his death sentence to life. But how many other defendants who have claims of innocence will not be so lucky, or feel forced to accept a life sentence? I don't know the answer to that question. None of us do. And that is why a thorough, top-to-bottom review of the death penalty system at the State and Federal levels is needed.

Until such a comprehensive review has been undertaken, and the necessary work has been done to ensure fairness and justice, Congress should refrain from expanding the Federal death penalty. Congress can ensure that perpetrators of crime are effectively punished without resorting to capital punishment.

I urge my colleagues to join me in opposing Senator HATCH's amendment.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I will use leader time to make my remarks this morning.

I appreciate the debate we have had on this issue now for the last couple of days. I am struck by a couple of issues. First, I am struck by the number of hate crimes that occur every day. We are told there are over 20 hate crimes committed in the United States every day—every day. The Southern Poverty Law Center estimates the real number may be 50,000 a year. That comes out to five an hour.

In the time we have had the debate just this morning, according to those statistics, 15 to 20 hate crimes have been committed in this country—in just the time the Senate has been in session this morning.

If there is such a good job being done across this country as we deal with that volume, I would not be able to say that with any authority this morning, but the volume is there. That leads me to the second point.

The second point is that behind each one of those statistics is a human being, a face, a story, a tragedy. That is, in essence, what this debate is all about—to end the tragedy in this country.

As I consider the options we have available to us legislatively, I consider

those options as they must have existed during the civil rights debates of the fifties and sixties, and I am sure when we considered the civil rights issues in the fifties and sixties there were all kinds of reasons it was not the time to deal with civil rights laws; it was not the time to come to closure on how to address the rampant racism that existed in the country at that time.

Finally, it took leadership, it took resolve, it took bipartisan consensus and, ultimately, it took a willingness to commit to a bill. We passed the civil rights acts of the fifties and sixties, and today we are the better for it.

Who today would say we are going to repeal those laws? They have been on the books, they have worked, and we take credit for the fact they have.

This is our moment when it comes to hate crimes. This is our time to tell the Matthew Shepards of the world that we are not going to tolerate that anymore; that we are better than that; we are bigger than that.

Just as we addressed racism in the past, we have to address the prejudice against sexual orientation today. This is our chance. This is our moment. This is our Civil Rights Act for the year 2002. We are not going to have many more. Let's seize this opportunity. Let's seize this moment. Let's send a clear message. Let's end those terrible statistics. We can do it when we vote on cloture in a matter of moments this morning.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, I yield myself time under my leader time that has been reserved.

The PRESIDING OFFICER. The leader has that right.

Mr. LOTT. Mr. President, I do not intend to get into the details now and a discussion on the substance of the bill except to say this: The greatest hate crime of all that we should be dealing with right now is the hate crime of terrorism against America and free and innocent peoples all over the world who have been attacked by terrorists—3,000 approximately killed on 1 day, September 11. There is where our focus should be.

I am disappointed at the timing of this legislation, to say the least. We should be focused on the war on terror. We should be taking up the Defense authorization bill. We should have already taken it up. Normally we deal with the Defense authorization bill in May; certainly the early part of June. Now it appears to me there will be no way to get to the Defense authorization bill before probably next Tuesday at the earliest, and maybe later. Until we do that, we cannot begin on the regular appropriations bills, the first of which should be the Defense appropriations bill. We need to make sure our men and women in uniform and our law enforcement officials all over this country and all over the world who are fighting against this hate crime, terrorism, have what they need in terms of pay, quality of life, weapons, and sophisticated equipment they need to do the job.

While, obviously, this issue can be scheduled at some point—and I assume it will be scheduled—it certainly is one in which there is not an emergency facing us right now. I wanted to raise that point.

We do not even have a budget resolution. We are 2 months behind getting a budget resolution this year. It is just being ignored: No budget resolution. No 2003 numbers to which we have agreed. No policies. No enforcement mechanisms. How are we going to do the appropriations bills? What possible restraint can be provided for the ranking members and the chairmen of the subcommittees on appropriations?

The law requires we do the budget resolution by April 15. We do not have it. We do not know when we are going to have it. Apparently, we are never going to have it.

The Defense authorization bill was reported out of the committee May 15. While there were votes against it, it was a bipartisan vote. What is the problem? There is obviously a weapons system that is causing some consternation. Sooner or later we are going to have to address that issue—sooner rather than later, I hope.

With regard to this particular issue, I know how tough it is being majority leader and dealing with protracted debate and amendments. We saw last week what happens when we have a prematurely filed cloture motion. Tactically, one may think: I have to do it because I have to bring this to a conclusion.

We saw last Thursday night what happens when cloture is invoked and we cut off debate and amendments. Unless it is very tightly germane, it is not in order. So at midnight last Thursday night, we were trying to figure out how do we conclude the supplemental appropriations bill, again, for defense and homeland security. Amendments were being knocked out right and left, probably amendments that were worthy and should have been taken but were not germane.

We are about to do that here. We made the mistake last week, and now we are about to make the mistake again this week. We are going to cut off amendments. As a matter of fact, a substitute amendment by the ranking member of the committee of jurisdiction, Senator HATCH, would be nongermane postcloture. It is not a question of trying to stop unrelated amendments. This is an amendment that even deals with the substance of the issue. Why are we doing that?

I used to file cloture motions perhaps prematurely, and I was royally pilloried by the other side of the aisle: Why did you file a cloture motion so prematurely? You shouldn't do that.

Most of the time I realized it was probably a mistake, and on occasion, I backed off and we vitiated the cloture vote.

Even at the beginning of the last Congress when it was 50–50, under S. Res. 8, the organizing resolution, we agreed specifically in the rule that cloture motions could not be filed before 12 hours of debate had taken place. When the majority changed, that rule went by the board, but the principle was there. Why was it good when we were 50–50 but not good when it is 50–49 and 1? This is not partisan. I have made this mistake. I think it is a mistake. We should not do this.

This cloture motion was filed after 12 minutes, not 12 hours. This bill was called up and within 12 minutes a cloture motion was filed. This is not the way to do business. We are prepared to debate this issue, consider legitimate, substantive amendments, and any other amendment for certainly a reasonable period of time. This is cutting off members of committees of jurisdiction. This is cutting off all Senators. It is a mistake. We made the mistake last week. We should not make the mistake now.

On my side of the aisle, it would be a message that we are not going to prematurely cut off debate. Give it a little time. It works on both sides of the aisle. I urge my colleagues to vote against this cloture motion. Let's have some amendments offered. Let's spend some time making sure we do not get ourselves trapped in the same situation we did last Thursday night, which was not pretty for this institution.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts controls the time.

Mr. KENNEDY. I yield the Senator from Minnesota 2 minutes.

Mr. WELLSTONE. I thank the Senator.

Mr. President, I disagree with my colleague, the minority leader. It is always an emergency when brutal crimes are committed against people because of their sexual orientation or gender or because of disability.

I think it is an emergency for our country when someone such as Matthew Shepard is brutally murdered. I think it is an emergency for our country when what we say to people is not just that they are a victim or that we dehumanize people but, rather, we say to many citizens in our country, by gender or sexual orientation, because they are a gay or because they are a lesbian, they are next. Hate crimes violate not only our Constitution but they destroy our oneness as a people. They diminish us as a country. They take away from what is best in our Nation.

I insist, as a Senator from Minnesota, that this is an emergency and that we should pass this legislation and that this legislation must not be blocked. If it were your loved one who had been murdered, if it were your

loved one who were a target of these hate crimes, you would consider it an emergency and you would want us to pass this very important legislation.

I urge my colleagues to vote for cloture.

Mr. SARBANES. Mr. President, I rise today to express my support for the Local Law Enforcement Enhancement Act of 2001, and my disappointment that the Senate failed to invoke cloture on this important legislation today. As a cosponsor of Senator KENNEDY's bill, I believe it is crucial that we pass hate crimes legislation in an expeditious manner in order to provide the government with the tools it needs to prosecute the many senseless bias-motivated crimes that occur in our country each year. In the past several decades we have made significant progress in reducing discrimination, yet more needs to be done. This legislation is an important step toward ending the scourge of hate crimes that continues to plague our Nation.

Data gathered under the Federal Hate Crime Statistics Act about the prevalence of these crimes is sobering. Beginning in 1991, the Act requires the Justice Department to collect information from law enforcement agencies across the country on crimes motivated by a victim's race, religion, sexual orientation, or ethnicity. Congress expanded the Act in 1994 to also require the collection of data for crimes based upon the victim's disability. For the year 2000, 11,690 law enforcement agencies in 48 states and the District of Columbia reported 8,063 bias-motivated criminal incidents (8,055 single-bias and 8 multiple-bias incidents) to the FBI. The incidents consisted of 9,430 separate offenses, 9,924 victims, and 7,530 distinguishable offenders. According to the data collected, 53.8 percent of the 8,055 single-bias incidents were motivated by racial bias, 18.3 percent by religious bias, 16.1 percent by sexual-orientation bias, 11.3 percent by ethnicity/national origin bias, and 0.5 percent by disability and multiple biases.

The Local Law Enforcement Enhancement Act is carefully tailored to ensure a state's ability to prosecute hate crimes, but it provides the Federal government with additional tools to prosecute hate crimes should a state be unable to do so. The legislation extends the Federal law to prohibit hate crimes against victims because of their gender, sexual orientation or disability. In addition, the legislation allows Federal prosecution of hate crimes wherever they occur and under whatever circumstances, thus broadening the previous requirement that the hate crime occur while the victim is engaged in a ''federally protected activity.''

The need for these limited changes in existing Federal hate crimes laws is clear. For example, according to the Justice Department, 16.1 percent of the hate crimes committed in 2000 were motivated by the victim's sexual orientation. The Local Law Enforcement Enhancement Act would expand the definition of hate crimes to include those committed because of the victim's sexual orientation—in addition to a victim's gender or disability.

A hate crime may meet the federal definition of ''hate crime'' yet the federal government is still powerless to aid in its prosecution. For example, in the wake of the terrorist attacks of September 11th, our Nation has struggled to prevent discrimination and acts of violence against Arab-Americans. Despite the resolve that most Americans have shown in that regard, tragically, crimes have occurred. On September 15, 2001, Balbir Singh Sodhi, a Sikh-American, was shot and killed at his gas station in Mesa, Arizona. This tragic incident was the most serious of several attacks against people of Middle Eastern and South Asian descent who were targeted in the aftermath of the terrorist attacks. Although religion and national identity are already protected under current law, the hate crimes legislation before us would give the Federal government enhanced authority to investigate and prosecute these types of crimes.

Despite the progress towards ending discrimination over the past decades, it is undeniably clear that raw hatred and its tragic consequences continue to exist in our Nation. Strengthening the Federal government's ability to prosecute hate crimes is an important step towards the eradication of hate crimes in our country. Mr. President, I urge my Senate colleagues to bring the Local Law Enforcement Enhancement Act back to the floor of the Senate and to join me in supporting this important hate crimes legislation. We have an invaluable opportunity to make a statement that the United States government will not tolerate crimes motivated by bigotry and prejudice, and I look forward to the day when there is no longer a need in our Nation to legislate such changes.

Ms. CANTWELL. Mr. President, I would like to take this opportunity to express my strong support of the Local Law Enforcement Act of 2001, the ''Hate Crimes Act.'' The Hate Crimes Act is a bill whose time has come. I would like to commend Senator KENNEDY for his long, hard work to pass this important legislation, and I am happy to have the opportunity to vote for it today.

The Hate Crimes Act creates an intergovernmental assistance program which would provide technical, forensic, prosecutorial and other forms of assistance to state and local law enforcement officials for hate crimes based on race, color, religion, national origin, gender, sexual orientation and disability. The bill authorizes the Justice Department to award grants of up to $100,000 to state, local, and Indian law enforcement officials who have incurred extraordinary expenses associated with investigating and prosecuting hate crimes. This legislation requires grant applicants to coordinate with affected community groups, schools, and colleges and universities. In addition, this bill gives the Justice Department jurisdiction over crimes of violence involving bodily injury, if motivated by a person's actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability, if it meets both the interstate commerce and certification requirements in the underlying statute. Lastly, the bill amends the Hate Crimes Statistics Act to include gender and requires the FBI to collect data from states on gender-based hate crimes in the same manner that it currently collects data for race, religion, sexual orientation, disability, and ethnicity.

The number of reported hate crimes has grown by almost 90 percent over the past decade and we cannot afford to ignore this growing problem. The recent hate-motivated crimes in my state of Washington demonstrate the destructive and devastating impact hate crimes have on individual victims and entire communities. On May 9th, 2002, Patrick Cunningham pled guilty to the September 13, 2001 attack of an Islamic Idriss Mosque in Seattle. Mr. Cunningham doused two cars with gasoline in the mosque parking lot in an attempt to destroy the mosque and harm worshipers inside. Cunningham also shot at the worshipers after being discovered. Just a few days later, on September 18, 2001, Kulwinder Singh, a Sikh cabdriver in Seatac, Washington, was harassed and physically assaulted by a passenger.

This legislation takes important steps to ensure that crimes motivated by the victim's race, gender, sexual orientation, disability or religion can be prosecuted to the full extent of the law, and it removes the artificial limitations that currently keep local law enforcement from getting needed assistance. The Hate Crimes Act provides the necessary complement between state and federal law enforcement officials in order to ensure that perpetrators of hate crimes are brought swiftly to justice. The federal government's resources, forensic expertise, and experience in the identification and proof of hate-based motivations have often provided invaluable addition to the important work conducted by local investigators. One need only remember the brutal killing of James Byrd in Jasper County, Texas to understand the benefits of an effective hate crimes investigative partnership between state and federal authorities. This partnership is also crucial to the work of the National Church Arson Task Force and to the increase in the number of hate crimes solved by arrests and prosecutions.

I believe that the Hate Crimes Act is necessary to ensure that violent hate crimes based on sexual orientation, gender, or disability do not go unpunished. Every year, a significant number of hate crimes are perpetrated

across our nation based on anti-gay bias. Current law, however, leaves the federal government without the authority to work in partnership with local law enforcement officials or to bring federal prosecutions when gay men or lesbians are the victims of murder or other violent assaults because of bias based on their sexual orientation.

This Act would fix the inadequacies in pre-existing federal law, which became painfully apparent in the vicious murder of Matthew Shepard in Laramie, Wyoming, and the subsequent investigation and prosecution of his assailants. The lack of federal funding caused significant financial hardships on the local sheriff's department in its efforts to bring Matthew's killers to justice, and, as a result, five law enforcement staff members were laid off. In response, this bill amends the criminal code to cover hate crimes based on sexual orientation and authorizes grants for state and local programs designed to combat and prevent hate crimes.

This legislation would have a measurable impact in my state of Washington and help prosecute the growing string of hate-based attacks targeting individuals' sexual orientation. On April 6, 1995 in Olympia, Washington, four young adults brutally assaulted Bill Clayton, an openly bisexual high school student, and his friends who happened to be walking with him. Just two months after the assault, the seventeen-year-old committed suicide. Prior to his suicide he had explained to his mother that he was just tired of coping, and that it was the constant knowledge that any time he could be attacked because he was bisexual, that despite the love of his family and friends, all he could see ahead of him was a lifetime of facing a world filled with hate and violence, going from one assault to another. We cannot let our citizens live in fear for their safety, knowing that their attackers will not be prosecuted to the full extent of the law. This legislation is necessary to fill the current void to ensure vigorous prosecution of individuals who perpetrate a hate crime. The extra federal resources that this Act would make available in the investigations and prosecutions of hate-motivated crimes would serve as both a significant deterrent and punishment, and would likely bring a greater number of cases to successful resolution through arrest and prosecution. We must do all we can to prevent the incidents that led to Bill Clayton's tragic death.

I believe it is important that we recognize from the beginning that not all crimes are hate crimes. The reason behind this is simple. All crimes are not created equal and mental states, in addition to acts, have always played an important role in determining the severity and subsequent punishment of a crime. Recognizing this, it is well established that a legislature can properly determine that crimes committed against certain classes of individuals are different or warrant a stiffer response. Moreover, the U.S. Supreme Court had unanimously ruled that bias-inspired conduct inflicts greater individual and societal harm.

I share Senator KENNEDY's concerns regarding hate crimes, and I have consistently supported hate crimes legislation, from the time I was in the Washington state House of Representatives to now. There are nearly 8,000 hate crime incidents reported annually each year. The Hate Crimes Act sends a clear message that violence against a person based on skin color, sexual orientation, or religion will not be tolerated anywhere in this country. The bill will provide broader federal jurisdiction to prosecute hate crimes, including crimes motivated by race, color, religion, gender, sexual orientation, and disability. Broadening federal jurisdiction will allow effective prosecution even when hate crimes are committed in states that lack hate crime statutes, or where local law enforcement lacks the resources for this type of prosecution. Additionally, the bill will provide federal grant money to states to better enable these jurisdictions to successfully prosecute hate crime offenders. We cannot afford to wait any longer to pass this vital legislation. Our sons and daughters, brothers and sister, mothers and fathers depend upon this Act to ensure full protection of their right to be free from hate-motivated crimes. I urge my colleagues to support this bill.

Mrs. FEINSTEIN. Mr. President, I am pleased to join my colleagues in expressing my strong support for The Local Law Enforcement Act of 2001, legislation of which I am an original cosponsor.

Popularly known as The Hate Crimes Prevention Act, this legislation would: expand current federal protections against hate crimes based on race, religion, and national origin; amend the criminal code to cover hate crimes based on gender, sexual orientation, and disability; authorize grants for State and local programs designed to combat and prevent hate crimes; and enable the federal government to assist State and local law enforcement in investigating and prosecuting hate crimes.

While past efforts to enact this legislation have received strong bipartisan support, we have not been able to get it to the President's desk for his consideration. We must now work to ensure that this legislation is not simply supported, but actually passed and signed into law by the President.

In the aftermath of the tragic events of September 11th, we saw a terrible rise in hate crimes in the United States. California was not immune to the violence.

In San Gabriel, CA, Adel Karas, an Egyptian-American grocer, was shot to death while he worked in his store. It is believed that he was a victim of an attack motivated by the September 11 attacks, not a robbery, because all the cash was left in his register.

In Palmdale, CA, a public high school found a notice threatening a ''massacre'' to avenge the terrorist attacks, complete with the names of five Muslim students who would be targeted.

In Lancaster, CA, Gerald Pimentel, a Hispanic man, was attacked after he was mistaken for being Iranian. Two men bumped his car three times while he was driving. His car was then blocked, and the men began yelling and running toward him. They chased him through his yard and into his home. When he tried to defend his family, they beat him. ''They'd been calling him an Iranian,'' Gerald's daughter later said. ''I couldn't understand why. You know, my dad is not Iranian. They just kept hitting and hitting my dad,'' she said.

The FBI has investigated over 300 incidents since September 11 in which individuals perceived to be Muslim or of Middle Eastern decent have been attacked or threatened because of their religion or national origin.

President Bush moved swiftly to protect Muslims and Arab-Americans from hate crimes and sent out a message that this nation will not tolerate such attacks against any Americans.

The President implored, ''In our anger and emotion, our fellow Americans must treat each other with respect . . . Those who feel like they can intimidate our fellow citizens to take out their anger don't represent the best of America, they represent the worst of humankind . . . ''

Attorney General John Ashcroft reiterated the President's message by warning that, ''We must not descend to the level of those who perpetrated [September 11th] violence by targeting individuals based on race, religion or national origin.''

Now, it is the Senate's turn to speak out. We can, and must, do more to prevent these types of hateful threats and acts of violence, and passing The Local Law Enforcement Enhancement Act would do just that.

I have seen, first-hand, the devastating impact hate crimes have on victims, their families and their communities. A hate crime divides neighborhoods and breeds a sense of mistrust and fear within a community.

I am an original cosponsor of The Local Law Enforcement Enhancement Act because it is aimed at protecting citizens from crimes based on their real or perceived race, ethnicity, religion, gender, disability, or sexual orientation.

The current hate crimes law simply does not go far enough. It covers only crimes motivated by bias on the basis of race, color, religion or national origin, and it only covers instances in which the victim was targeted because he or she was engaged in a federally-protected activity, such as voting, attending a public school, or if the crime occurred on federal property.

The limitations of current Federal law prevent it from reaching many hate crimes where individuals are

killed or injured by just walking down the street or, in the case of Clint Risetter, where he was sleeping in his own home.

On February 24, 2002, Clint Risetter awoke in his Santa Barbara apartment engulfed in flames and then tried to escape as he was burning. When firefighters arrived, they found him dead on his patio. Two days later, Martin Hartmann walked into the Santa Barbara Police Department and admitted to entering Clint's apartment, pouring gasoline on him as he slept, and then setting him on fire.

Hartmann had known Clint for several months but had learned just recently that Clint was gay. He told police about his hatred toward gays and how he '' . . . decided to put [Clint] out of his misery,'' because he was gay. He believed that he was doing the right thing and that Clint deserved to die.

Clint's murder is being prosecuted as a hate crime because it took place in California which has its own hate crimes law that includes sexual orientation. However, had it taken place in one of the 27 states that do not have hate crimes laws that include sexual orientation, Clint's family might not receive the justice they are entitled to.

Gay men and lesbians are the third-largest hate-crime victim group in the country, the second-largest in California. They were the targets of more than 16 percent, or almost 1,300, of all hate crimes in 2000. Yet, current Federal hate crimes law does not include crimes against individuals because of their real or perceived sexual orientation.

Current law does not extend basic civil rights protections to every American, only to a few and under certain circumstances.

The Local Law Enforcement Enhancement Act would expand current Federal protections against hate crimes based on race, color, religion, and national origin, and amend the criminal code to cover hate crimes based on gender, disability, and sexual orientation.

Extending the law would not provide special rights, it would ensure equal protection.

In the past, we have made some progress in the sentencing and prosecution of hate crimes, but more needs to be done. I am proud to have sponsored The Hate Crimes Sentencing Enhancement Act which was signed into law in 1994, and has just recently been invoked for the first time.

In 1996, Julianne Marie Williams and Laura Winans were discovered dead in Virginia's Shenandoah National Park, bound and gagged with their throats slit.

In April of this year, Attorney General John Ashcroft announced that The Hate Crimes Sentencing Enhancement Act would be invoked in the murder indictment against the perpetrator of this horrific crime, Darrell Rice, ''to ensure justice for victims of hate crimes.''

Rice chose his victims based on their gender and sexual orientation. He even stated that he intentionally selected women to intimidate and assault ''because they are more vulnerable than men'' and that these two women ''deserved to die because they were lesbian whores.''

With this indictment, the Federal Government has recognized the horrendous nature of this hate crime and that it should be prosecuted to the fullest extent of the law.

However, prosecutors were only able to use The Hate Crimes Sentencing Enhancement Act because the two women were killed in a national park. If these murders had occurred in almost any other place in America, The Hate Crimes Sentencing Enhancement Act could not have been invoked and, again, justice might not have been ensured for the victims and their families.

Enacting The Local Law Enforcement Enhancement Act would ensure that all hate crimes can be investigated and prosecuted no matter what the victims are doing when they are targeted and no matter where the crime is perpetrated.

It would also significantly increase the ability of State and Federal law enforcement agencies to work together to solve and prevent hate crime.

Until we enact this legislation, many hate crime victims and their families may not receive the justice they deserve.

Those who are opposed to this legislation would say that we should leave it up to the states to legislate, enforce and prosecute hate crimes laws.

To those, I would refer you to a May 3rd, 2002, New York Times editorial which put it best. It read:

> Congress has long recognized that the Federal Government should play a role in pursuing certain crimes, like bank robbery, kidnapping and racketeering, where the national interest is great and where federal law enforcement is in a good position to offer help to local police and prosecutors. Crimes in which individuals are singled out because of their race, religion or membership in other protected groups strike directly at this nation's commitment to equality, and are worthy of this sort of special federal involvement.

Other opponents of this legislation often argue that any crime of violence is a hate crime and that the motives behind and harms caused by a hate crime are not relevant or distinguishable from other crimes. I disagree.

The crimes perpetrated against Gerald Pimentel, Julianne Williams and Laura Winans, and Clint Risetter were carried out with a different intent and motive than other violent crimes.

Unfortunately, they are characteristic of many hate crimes in America; where an attacker repeatedly beats, stabs or severely burns his victim as if he is removing whatever it is he hates out of the person.

And the attacker feels justified in doing so, as if he is doing a great service to humanity by killing the person.

Congress should expand the ability of the Federal Government to investigate these heinous crimes, and it should expand the ability to prosecute anyone who would target victims because of hate.

Final passage of the Local Law Enforcement Enhancement Act is long overdue. It is necessary for the safety and well being of millions of Americans.

No American should be afraid to go to work or school because of his or her religion or national origin.

No American should be afraid to go hiking for fear of a gender-motivated attack.

And certainly, no American should be afraid to sleep in their own home because of his or her sexual orientation.

We have had strong bipartisan support for this legislation in the past, and it continues to receive bipartisan support. It now has 50 cosponsors in the Senate and 206 cosponsors in the House.

Today, I urge my colleagues to invoke cloture and vote in favor of this legislation. Let us now send a message to all Americans, that we will no longer turn a blind eye to hate crimes in this country.

Mr. WYDEN. Mr. President, I speak today because it is time for Congress to send its own message to those who would perpetrate hate crimes. That message should be that Federal law will no longer tolerate intolerance. Hate crimes are a stain on our national greatness, and it is time to stop that stain from spreading.

Fighting hate crimes should not be a partisan issue. This is not about giving preferences to one group of people or another. I am talking about opposing violence. I am talking about opposing brutal crimes.

When the fight for a hate crimes law first began in the early 1990s, many Americans questioned whether the problem was serious enough to warrant a specific law. But during the past decade, from one coast of the United States to the other, tragic events have proven that a law is badly needed.

These crimes are so unspeakably ugly that the names of the victims are seared in our minds. James Byrd, Jr., dragged to his death because he was black. Matthew Shepard, beaten and left for dead because he was gay.

My home State has been wounded by hate crimes, too. Oregonians will not forget Roxanne Ellis and her partner, Michelle Abdill, who were taped up and shot twice in the head in the back of their own pickup truck in Medford, Oregon in December 1995. Or Loni Okaruru, who was found last August bludgeoned to death in a field in Washington County, just outside Portland. Loni was a transsexual planning to undergo surgery. She had been beaten multiple times prior to that night.

The Senate has passed hate crimes legislation unanimously several times, only to see it jettisoned in Conference with the other body. The consequences of all this legislative wrangling are

real. Each time Congress delays, more brutal, hate-driven deaths go unpunished. Each time Congress delays, more hate crimes happen, because the perpetrators have no fear of being punished for the true nature of their acts.

The legislation before this body today will close the loopholes in Federal hate crimes law. It will give local law enforcement the full force of Federal resources in investigating and prosecuting crimes motivated by bias against sexual orientation, gender or disability.

This legislation will not preempt State and local laws or authorities. But it will provide Federal backup to important local efforts. Based on testimony before the Senate Judiciary Committee, it is likely that Federal help will be sought by local authorities in a dozen cases a year.

The message Congress sends in passing this bill is as important as the resources that will be made available to local law enforcement. It is time to limit the lengths to which people can go to infect our society with diseases like racism, and homophobia, and religious intolerance.

Hate crimes are intentionally directed at victims because of who they are. They strike not just at a person but at the heart of a community, be it a black community, a gay community, or a disabled community. And when any one group is targeted, the entire American community feels the blow.

The scourge of hate crimes must be confronted and eradicated. This legislation gives Congress the means to do so. I urge my colleagues to vote for cloture on the bill so that it can be enacted swiftly.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I understand we have 3½ minutes remaining. I yield 2 minutes to the Senator from Oregon, and I will take the last minute and a half.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. As I contemplate the conclusion of this debate, my own judgment is that it has been one of the poorer debates I have witnessed in the Senate. Until this moment, there has been very little participation in it. Frankly, I find that disappointing because, as the Senator from Minnesota pointed out, this is an emergency.

I have to think of all of our gay brothers and sisters who may be watching, who cannot follow the confusion of Senate procedure, who will be very disappointed that once again we are thwarted from proceeding on a matter that is, in fact, very important. This is about domestic terrorism and about the Federal Government showing up to work.

On a positive note, I say, as Senator KENNEDY has said, we will be back and we will find another vehicle and another opportunity to proceed. I hope in the meantime we will reach out to Senator HATCH and others who have legitimate concerns to find ways to incorporate their concerns in an even better bill, and I hope we will do that in the spirit of the great example set in the New Testament. When confronted with a woman who had committed adultery, Christ himself was able to say in the public square he did not condemn, he did not endorse the lifestyle, but he did save a life. I think we ought to do the same as the Federal Government. It is in that spirit I intend to vote to invoke cloture.

I yield the floor.

Mr. KENNEDY. Mr. President, the most fundamental right we have as citizens is to be able to live in a peaceful country without the fear of violence in our society. We have seen so many different instances where violence has come in our society based on race, religion, and national origin. We have, over a period of years, tried to free ourselves from that form of discrimination. That is what this is about: Making sure that every American, regardless of their race, religion, national origin, sexual orientation, disability, or gender, is going to have the full support and weight of the Justice Department to ensure they will be able to live in this country in peace and dignity and some security. That should be a responsibility of the Justice Department, and it should be a common responsibility for all Americans.

That is not the state of affairs today, but this legislation will guarantee that. That is why it is so important. We are not prepared to exclude any different group. We want to include all Americans. That is why this legislation includes all of those groups. It is broadly supported by the law enforcement community, 22 attorneys general, former attorneys general from the United States, Republicans, and by virtually all the diverse religious leaders. They understand the moral issues, the moral compulsion, as well as the issues of liberty that are included. I hope we would now invoke cloture.

So all Members know, obviously if the amendments are germane, they will be considered after cloture. But let us give this message to all Americans that they will live in a secure nation.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Calendar No. 103, S. 625, a bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes:

Hillary Clinton, Harry Reid, Jack Reed, Russell Feingold, Richard Durbin, Edward Kennedy, Evan Bayh, Charles Schumer, Debbie Stabenow, Maria Cantwell, Daniel Akaka, Ron Wyden, Carl Levin, Daniel Inouye, Joseph Lieberman, E. Benjamin Nelson, Byron Dorgan, Patrick Leahy.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived. The question is, Is it the sense of the Senate that debate on S. 625, a bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Missouri (Mr. BOND), and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''no.''

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

The yeas and nays resulted—yeas 54, nays 43, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—54

Akaka	Dodd	Lieberman
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Miller
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Graham	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Johnson	Schumer
Cleland	Kennedy	Smith (OR)
Clinton	Kerry	Snowe
Collins	Kohl	Stabenow
Conrad	Landrieu	Torricelli
Corzine	Leahy	Wellstone
Dayton	Levin	Wyden

NAYS—43

Allard	Frist	Nickles
Allen	Gramm	Roberts
Bennett	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Hutchinson	Specter
Cochran	Hutchison	Stevens
Craig	Inhofe	Thomas
Daschle	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Ensign	McCain	Warner
Enzi	McConnell	
Fitzgerald	Murkowski	

NOT VOTING—3

Bond	Crapo	Helms

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 43. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Mr. DASCHLE. Madam President, I enter a motion to reconsider the vote by which cloture was not invoked on S. 625, the hate crimes legislation.

The PRESIDING OFFICER. The motion is entered.

Mr. LIEBERMAN. Mr. President, I rise to express my severe disappointment in the Senate's failure to invoke cloture on the Local Law Enforcement Enhancement Act—also known as the

Hate Crimes bill. I am proud to be a cosponsor of this bill, but I am not proud of what the Senate did to that bill today.

One of the things we try to do in this Chamber, as lawmakers, is to adopt laws that express and encode our values as a society—to, in some sense, put into law our aspirations for the kind of people we want to be. Clearly, one of the bedrock values, one of the fundamental values, of America is equality—equality of treatment before the law, equality of opportunity but, beyond that, a broader notion of tolerance in our society. It is part of what brought generations of immigrants to this country—the idea that they would be judged on their personal merit, not on anything related to their personal status or characteristics.

Starting with our Declaration of Independence—our nation's documentary explication of the values underpinning our experiment in self-government—our country's leaders have laid out a vision of a nation born and bred in notions of tolerance and equality. We know for a certainty that our nation did not live up to that vision when it was first articulated, but in each successive generation we have tried hard to meet the ideals we set out for ourselves. And in each successive generation we have come a bit closer to meeting that goal. Sometimes, obviously, we do not achieve those aspirations and we are intolerant toward one another. Then the law has not only the opportunity but the obligation to step in and to try to create incentives or deterrents toward the worst forms of intolerance, even hatred. That is what this bill is about.

Clearly, over the decades our Nation has built a strong and proud history of protecting the civil rights of Americans who are subject to racial, religious, gender-based, or disability-based discrimination in the workplace, in housing, in life. In more recent times, many of us here in the Chamber have worked to try to extend some of those protections to cover discrimination based on sexual orientation.

This bill stands solidly in that tradition and is just one more step on our nation's path to make its vision of itself a reality. Like the civil rights laws of which we are all so proud, this bill proclaims that there is certain conduct that is unacceptable to us as a nation. This bill takes Federal criminal jurisdiction and extends it to the prosecution and punishment of those who are accused of having caused bodily injury or death based on an animus, a hatred that comes from feelings about the victim's race, religion, nationality, gender, disability, or sexual orientation. In other words, this is another way for our society to express our disdain, to put it mildly, at acts of violence committed based on a person's race, religion, nationality, gender, disability, or sexual orientation.

It is also a way, as is traditionally the province of criminal law, not just to speak to the common moral consensus of our society about what is right and what is wrong—that, after all, is what the law is all about—but also by punishing those who are proven to have committed the wrongs and to deter others in the future from committing those same acts that society generally finds abhorrent.

Current law expresses this but in a way that is limited. It permits Federal prosecutions of hate crimes resulting from death or bodily injury if two conditions are met: First, the crime must be motivated by the victim's race, religion, national origin, or color. Second, the perpetrator must have intended to prevent the victim from exercising certain specific federally protected rights. Of course, I support this law and the goals that it embraces: The Federal prosecution of people who inflict serious harm on others because of the color of the victim's skin, the sound of the victim's voice, a foreign accent, or the particular place in which the victim worships God. In short, these are crimes committed because the victim is different in some way from the perpetrator. Such crimes, I conclude, should be eligible for federal prosecution.

But the current federal law is too limited to address many of the hate crimes that are deserving of federal prosecution, and we need for the law to more fully express some of the principles I talked about at the outset: equality, tolerance, doing everything we can to stop the most abhorrent acts of violence against people based on their characteristics. I think we ought to add to the list of prohibited bases of these crimes, crimes committed against someone because of gender, because of sexual orientation, and because of disability. Adding these categories—gender, sexual orientation, disability—seems to me to be an appropriate extension of the basic concept of equal protection under the law. As the law now stands, it also imposes a requirement, a bar to prosecution relating to race, color, religion, and national origin that we ought to change, which is that the law is only triggered if the victim is prevented from exercising a specific type of federally protected activity.

There are obviously crimes that are committed based on hatred that are triggered in cases other than the prevention of the exercise of a specific federally protected activity, thus, the provision of this bill that would eliminate this obstacle and, therefore, broaden the ability of Federal prosecutors to pursue crimes motivated by racial or religious hatred. It would still, however, require prosecutors to show a connection to interstate commerce.

Just as importantly for those concerned that this bill unnecessarily intrudes upon State prerogatives, the bill also includes language requiring the Justice Department, prior to indicting a defendant for a hate crime, to certify not just that there is reasonable cause to believe that the crime was motivated by improper bias, but also that the U.S. Attorney has consulted with local law enforcement officials and determined one of four things—that the state doesn't have or won't exercise jurisdiction to prosecute the crime, that the State has asked for federal prosecution, that the State does not object to federal prosecution or that the State has completed its prosecution and the Justice Department wants to initiate a subsequent prosecution. This process ensures both that we will avoid an unnecessary overlap between the exercise of State and federal jurisdiction and that those in local law enforcement, closest to the alleged crime, will have the first opportunity to pursue those committing these heinous crimes.

At the same time, it makes clear that in cases where federal prosecutors determine that federal prosecution is essential to vindicate federal values, this statute will be available to them. This certification process should lay to rest the concerns some of my colleagues have who fear that Federal prosecutors will interfere with State efforts to bring perpetrators of hate crimes to justice.

At a time when so much else is going on here in the Capitol with the high profile issues of this session, this bill brings us back to America's first principles of equality and tolerance and challenges each of us to think about the appropriate and constructive role that the law can play, understanding that the law can't control the hearts of people in this country.

Ultimately, we have to count on people's own sense of judgment and tolerance and, hopefully, the effect that other forces in their lives will have on them to make them fair and tolerant, such as their families, their schools, their religions, their faith. But this bill is here to say in the cases when all of those other sources of good judgment and values in society fail to stifle the hatred that sometimes does live in people's hearts and souls, to say that this is unacceptable in America and to attach to that statement the sanction of law, hoping that we thereby express the higher aspirations we have for this great country of ours as it continues over the generations to try to realize the noble ideals expressed by our founders in the Declaration of Independence, but also to put clearly into the force of law the punishment that comes with law when one goes so far over the line to commit an act of violence based on hatred, hoping thereby that we will deter such heinous acts from occurring again in the future.

The Senate had a chance today to bring us one step closer to making the law more closely reflect our founding vision. The Senate should have taken that step. It is a truly deep disappointment that it did not do so. This will not, though, be our last chance. The bill's opponents will not be able to hide behind procedural posturing forever. This bill will come back again this

year to the Senate and when it does, I believe that we have no choice but to pass it. Our values as a nation will allow for no less.

I thank the distinguished Chair. I yield the floor.

INCREASING THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. Under the previous order, the clerk will report S. 2578 by title.

The legislative clerk read as follows:

A bill (S. 2578) to amend title 31 of the United States Code to increase the public debt.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read for the third time, the question is, Shall the bill pass?

Mr. KERRY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Missouri (Mr. BOND), and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

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

The result was announced—yeas 68, nays 29, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—68

Akaka	Edwards	Miller
Allen	Feinstein	Murkowski
Baucus	Frist	Murray
Bennett	Grassley	Nelson (FL)
Biden	Gregg	Nelson (NE)
Bingaman	Hagel	Nickles
Boxer	Hatch	Reed
Breaux	Hutchinson	Reid
Brownback	Hutchison	Roberts
Bunning	Inouye	Rockefeller
Burns	Jeffords	Santorum
Byrd	Johnson	Sarbanes
Cantwell	Kennedy	Schumer
Carnahan	Kerry	Snowe
Cleland	Kohl	Specter
Cochran	Landrieu	Stevens
Collins	Leahy	Thomas
Craig	Levin	Thompson
Daschle	Lieberman	Thurmond
DeWine	Lott	Voinovich
Dodd	Lugar	Wellstone
Domenici	McConnell	Wyden
Durbin	Mikulski	

NAYS—29

Allard	Ensign	Lincoln
Bayh	Enzi	McCain
Campbell	Feingold	Sessions
Carper	Fitzgerald	Shelby
Chafee	Graham	Smith (NH)
Clinton	Gramm	Smith (OR)
Conrad	Harkin	Stabenow
Corzine	Hollings	Torricelli
Dayton	Inhofe	Warner
Dorgan	Kyl	

NOT VOTING—3

Bond	Crapo	Helms

The bill (S. 2578) was passed, as follows:

S. 2578

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

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking ''$5,950,000,000,000'' and inserting ''$6,400,000,000,000''.

Mr. REID. Madam President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. CANTWELL. Madam President, I rise today to offer my support for increasing the federal debt ceiling by $450 million. This is a difficult issue and I well understand that we need to raise the debt ceiling. We have troops conducting military operations overseas. We are working here at home to address critical national security needs. But if we hadn't acted today, the United States would have been on the verge of defaulting on its debt for the first time in history. This is unacceptable.

However, now that we have voted to raise our debt limit, we must begin an honest and open debate about why we are having this vote. I want to make it crystal clear that I believe we need to extend the budget enforcement procedures and establish reasonable discretionary spending caps as soon as possible.

At the beginning of last year, the Congressional Budget Office projected a ten-year surplus of $5.6 trillion and the debt ceiling seemed to be high enough to last through fiscal year 2008. That all changed, however, as the projected big surpluses first started to decline last year and then dramatically changed into a $2.7 trillion deficit. We know that the current deficit is the result of last year's tax cut, the recession, and the tragic events of September 11, 2001.

One of the most important actions we can take for the nation's future economic stability is to pay down the national debt. According to Chairman of the Federal Research Board, Alan Greenspan, paying down the national debt lowers interest rates and keeps the capital markets and investment going. In January, he told the Senate Budget Committee that one of the reasons long-term rates have not come down is the sharp decrease in the surplus and the diminishing prospects for paying down the debt.

I want to make it clear that the change in our fiscal situation has driven estimated federal interest costs higher: CBO has boosted its projection of federal interest costs in 2002 through 2011 from just over $600 billion a year ago to $1.6 trillion. The dramatic downturn in the federal budget will force taxpayers to pay $1.2 trillion more in debt payments, money that could have been used to invest in additional defense, homeland security, education, and job training.

Our total budget must be crafted within the need to maintain fiscal discipline, and stimulate economic growth through continued federal investment in education and job training, while also protecting the environment. Furthermore, we need to invest in our nation's economic future by making a commitment to public research and development in science and technology—maintaining our status as a global leader.

It is a balance. We must make these investments to secure our country. But we must do so within a framework that ensures we don't spend beyond our means. If we want our economy to be strong, if we want revenues, and if we want to make the right decisions, we need to keep paying down the debt.

Having spent time in the private sector, I can tell you this: No private sector organization thinks it can spend its way out of programs; nor can we as a country. This is why I supported and cosponsored the Gregg-Feingold Budget Enforcement Amendment last week—and why I will continue to work with my colleagues on extending the pay-as-you-go budget enforcement procedures as well as setting up reasonable discretionary spending limits.

Some voted against this debt limit increase today because it had not been paired with procedures for a fiscally disciplined framework. I certainly empathize with that position. We are in tough times. And tough times force us to make tough decisions. Today's vote was one of them.

Mr. CONRAD. Madam President, I voted against S. 2578, a bill that would increase the public debt limit by $450 billion.

I support taking action to increase the debt limit, in order to protect the full faith and credit of the U.S. government. Frankly, we have no choice but to raise the limit. The United States must pay its bills. What I cannot support, however, is increasing the limit without also putting in place procedures for arresting this dramatic downturn in our nation's fiscal health.

I want to provide a little background on how we arrive at this juncture. You might remember that a little over a year ago, when the Bush administration submitted its first budget, we were told that, even with the enactment of the President's proposed tax cut, we would not hit the Federal debt limit until 2008. By August, with the tax cut enacted, the administration acknowledged it was wrong and that we would actually hit the debt limit in 2004. By December, that estimate was moved up again, with the Treasury Secretary admitting the debt limit would be reached within months and pleading with Congress to raise the limit so that the United States wouldn't default on its financial obligations.

And, I should not, the administration didn't just request a small debt limit increase. It requested a $750 billion increase, which would constitute the second largest one-time increase ever-surpassed only by the $915 billion increase

signed into law by the President's father during his term in office, in November 1990.

That dramatic turnaround in events followed a period of rapidly falling deficits in the 1990s and 4 years of surpluses. In total, as a result of the fiscal discipline put in place in the 1990s, we paid down $400 billion of publicly-held debt and were on the path to eliminate our debt in preparation for the retirement of the baby boom generation. What a sad turn of events we now face today.

It is imperative that we find a way out of this mess. Last week, we were close in the Senate on adopting a bipartisan deal to restore budget discipline and prevent us from digging the hole any deeper. That deal would have extended PAYGO and the Budget Act points of orders, and set a cap on discretionary spending for 2003. Unfortunately, our Republican colleagues blocked its consideration. It seems that many in this chamber are still in denial about the dire position we find ourselves in today as a result of last year's tax cut, the brutal attacks on this nation last September, and the slowdown in the economy.

Let me state again that the Congress has an obligation to ensure that the government avoids default, an event that would have severe consequences for our financial markets and for the government's cost of borrowing funds. However, I feel just as strongly that we should either have passed a much smaller increase—in the range of $100 billion to $200 billion—or passed the current bill in conjunction with the adoption of bipartisan budget measures that would help us stop the fiscal bleeding and return the budget to a path of balance. Simply increasing the debt limit does nothing to force the President and this Congress to deal with the very real fiscal problems we now face today, problems that will only worsen as the baby boomers begin retiring over the next decade. I feel we missed a great opportunity today to adopt those measures as part of the increase in the public debt limit.

Mr. DORGAN. Madam President, today the Senate voted to increase the debt limit by $450 billion. I agree with many of my colleagues that raising the debt limit is the responsible thing to do. We must protect the full faith and credit of the United States government and we are dangerously close to debt limit. The Department of Treasury has already used extraordinary measures to avoid a default. The time for action is now.

However, I also believe that we must put pressure on the Congress and the Administration to find solutions to our budget problem. We must work together to restore fiscal discipline to the Federal government. The bill approved by the Senate would raise the debt limit by $450 billion which will provide sufficient funds for the government to operate through next spring. I opposed this increase. I would have supported a smaller increase in the debt limit—$150 billion, for example—that would prevent a default but would force an agreement on our budget issues this fall. It would have given us leverage to force a solution to our budget problems.

The debt limit must be raised. It is the responsible thing to do. However, a smaller increase would have kept the pressure on the Congress and the Administration to come to agreement on a long term solution to put our fiscal policy back in touch and develop a plan to eliminate our budget deficits.

Mr. HATCH. Madam President, as a longtime proponent of a balanced budget amendment to the Constitution, I rise to speak concerning S. 2578. While we are told that this bill will increase the Nation's debt limit, what we really voted on today was whether to keep the statutory commitment that Congress has made to the Social Security trust fund.

Social Security's current surplus is the main reason we need to raise the debt limit. Every single dollar of that surplus goes into the Social Security trust fund, and by law, every single dollar of the trust fund counts as part of the total Federal debt. Social Security is expected to run a $160 billion surplus this year, with an even higher surplus next year. Ironically, in order to place that surplus in the Social Security trust fund, the law requires us to increase the debt limit. Only in Washington, DC, can running a surplus increase your level of debt.

Of course, the debt that is included in the Social Security trust fund is just money that the Treasury owes to itself. What really matters for the Government's budget and for the U.S. economy as a whole is the amount of debt held by the general public. Over the last few years, as a Republican Congress put the brakes on spending, debt held by the public actually fell, lowering the amount of money our Government had to spend on interest payments. However, the war on terrorism, our current recession, and Congress's recent extravagant spending have combined to increase the public debt over the past year. While it is important for Congress to meet its statutory responsibilities to the Social Security trust fund by increasing the debt limit, it is even more important that Congress get its fiscal house in order by working to cut discretionary spending and restore the economy's health.

Time to act on the debt limit is running out. In fact, the Secretary of the Treasury says that the main reason he has called June 28 the ''drop-dead'' date for raising the debt limit is because on that day, Treasury is scheduled to make a large payment into the Social Security trust fund. I am pleased that the Senate voted to raise the debt limit today, and we can get a final bill to the President for his signature.

Finally, now that we have voted on this wartime increase in the debt limit, I hope that Congress enacts tough budget caps, strong limits on discretionary spending, and productivity-enhancing legislation so we can bring our budget back into balance and restore the American economy to its full potential.

ORDER OF PROCEDURE

Mr. REID. Madam President, I ask unanimous consent that at 2:15 p.m. today, the Senate proceed to a period for morning business until 3:15 p.m., with Senators permitted to speak for up to 10 minutes each; that at 3:15 p.m., the Senate proceed to the consideration of H.R. 8 under the parameters of the unanimous consent agreement of April 23, 2002.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. And I will not object, although I have an inquiry I need to make and I will probably ask consent as a result of that.

We need to go to the Defense authorization bill. That should be our first issue before anything else. I have made the points that we have not done a budget resolution and there is nothing more important than the defense of our country and that we need to go to the Defense authorization bill.

I know there was an agreement entered into on this death tax issue, and I think we should go to it as soon as possible. But I inquire about what is the plan with regard to the Defense authorization bill. I note that S. 2514, the Defense authorization bill, is on the calendar and was reported May 15.

Under my reservation, can I get some information about what is the plan with regard to the Defense authorization bill?

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, as the distinguished Republican leader and I discussed a few minutes ago, the plan is certainly to take up the Defense authorization bill prior to the time we leave for the July 4 recess. That has always been my intention. I have indicated that on several occasions to the Republican leader and to others, and that certainly is my intention again today. We know it will take some time. Senators have expressed an interest in offering some amendments to the bill, and they are in some cases not quite ready yet to go to the bill as they are examining amendment options.

In the meantime, we want to also fulfill our obligation to Senators on the estate tax. We made that commitment some time ago, and we are hoping to do that. We are also talking to the Senator from Kansas, the Senator from California, and others about the cloning-stem cell research debate. We are hoping we can get a unanimous consent agreement to do that on Friday of this week and Monday.

In addition to that, we are working on terrorism insurance, and we are hoping to get its passage before we leave. I would like to get a unanimous consent agreement on that matter.

Senator LOTT mentioned we were not able to get the budget language resolved. Unfortunately, our Republican colleagues objected to doing that last week during the debate on the supplemental, so we were precluded from doing that last week, but we will continue to work to find a way, hopefully without the objections of our Republican colleagues, on the budget as well.

I will reiterate my commitment to the distinguished Republican leader that the Defense authorization bill is legislation we will finish prior to the time we leave for the July 4 recess.

Mr. LOTT. Under my reservation, I note there is a great deal of difference between going to the budget resolution and having full consideration, and agreeing to a number and enforcement numbers on supplemental appropriations. I am prepared to try to help find a solution, to have some limits and some enforcement mechanisms, but obviously the way it has been done for the past 25 years is to have a budget resolution. I do think it is the right thing to do, to go to this death tax issue, and I do want us to continue to work on that.

We are going to get an agreement on how to proceed to the cloning issue because I made that commitment some time ago, as did Senator DASCHLE, to Members on both sides of the issue and on both sides of the aisle. I think we are very close.

I ask to be added to this unanimous consent agreement that following the disposition of this death tax issue, H.R. 8, the next order of business be the Defense authorization bill, which is S. 2514.

Mr. DASCHLE. Madam President, of course we will object to that. Let me reiterate, because the Senator has noted his desire as well to deal with cloning, to deal with terrorism insurance, to deal with a number of other issues, that I know he will be prepared to cooperate in scheduling. We have to take this a step at a time. We may not be ready to deal with Defense tomorrow, but we are going to be ready to deal with it before the end of this work period. So we will continue to do that.

I look forward to working with him to find that date when we can accomplish all we need to accomplish in a very short period of time.

Mr. LOTT. With that assurance then, I withdraw my further reservation, but I again express my concern that if we wait too late on bringing up the Defense authorization bill, being able to complete it before the recess could be a problem. We need to get it done so we can go to the Defense appropriations bill and the military construction appropriations bill.

In view of the objection and the assurances, I withdraw my reservation.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. The hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:53 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

UNANIMOUS CONSENT REQUEST

Mr. BUNNING. Mr. President, I have a unanimous consent request to propose. This unanimous consent is to pass a badly needed permanent extension of the adoption tax credit. If we do not pass this extension that was part of President Bush's tax relief bill of last year, it will sunset.

If the adoption tax credit is allowed to sunset, the following things will happen: The adoption tax credit will be cut overnight from a maximum of $10,000 to $5,000. Families adopting special needs children will no longer receive a flat $10,000 credit; instead, they will be limited to a maximum of $6,000. The tax credit no longer will be permitted if we have to extend it each year. Families claiming the tax credit may be pushed into AMT, alternative minimum taxes. The income caps will fall from $150,000 to $75,000 so that fewer families will be eligible for the credit.

There are over 500,000 kids in foster care right now. Let's help them find loving homes. Let's make it easier for families to adopt, not throw up barriers.

The PRESIDING OFFICER. Is there objection to the request of the Senator?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. BUNNING. May I carry on a colloquy with the Senator from Massachusetts?

The PRESIDING OFFICER. The Senator has made a request to engage in a colloquy with the Senator from Massachusetts.

Mr. KENNEDY. I would be more than glad to engage in a colloquy.

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

Mr. BUNNING. I ask the Senator from Massachusetts, does he have a specific objection to the permanent extension of the adoption tax credit at this time for some specific reason?

Mr. KENNEDY. Mr. President, I am doing it on behalf of the leadership because I understand we have Members who want to offer amendments and have a somewhat different view than the Senator from Kentucky and want the opportunity to do so and have that determined by the Senate.

For that reason, I object.

Mr. BUNNING. I understand the objection. I hope when the other objectors come forward, we will have an opportunity to discuss this permanent extension of the adoption tax credit and to try to work with whoever the objectors are on that side to make it possible that we have this extension made permanent so families can adopt and continue to get the permanent $10,000 tax credit under which they are now operating. My fear is that will expire and then we will have all kinds of bad consequences.

I thank the Senator and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I say to the Senator from Kentucky, I think the objective of the Senator is enormously worthwhile. I may very well come out and support the proposal of the Senator from Kentucky. I have been notified by the leadership there are those who have a proposal that may have some different features and they would like to be heard on that particular proposal, but I thank the Senator. I think the issues on adoption are enormously important. I think the idea of trying to provide assistance to those families is incredibly valuable.

I have had the opportunity, for example, to have hearings on families from Canada with grown children who have adopted children with special needs. They adopted these children who had special needs even though they had younger children because, under the Canadian health care system, they offset the medical aspects of the special needs children.

I asked the mother why she adopted special needs children when she had three or four children of her own. Her response was she wanted her children to understand what love was really all about.

I may very well support the Senator and try to go even further than the Senator from Kentucky. I admire him for raising the issue on the floor, and I only object because of what I have been notified by the leadership.

Mr. BUNNING. If the Senator will yield, my personal interest goes beyond just the permanent credit. I have a daughter who had four children and adopted a special needs child, and then had seven more children after that. So I am very familiar with the change in life and the loving care that comes with adopting a special needs child. I am just fearful the Senate will not act in a reasonable manner to make sure this credit becomes permanent. That is my reason for bringing it up at this time.

I understand the objection of the Senator.

Mr. KENNEDY. Since I am the one who objected, I say I will bring it up with the chairman of the Finance Committee and ask him if he would talk to the Senator from Kentucky about what their plans are and urge him to give us an opportunity to address this issue.

Mr. BUNNING. I thank the Senator and yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

ENVIRONMENTAL POLICY

Mr. NELSON of Florida. Mr. President, it was a Republican President, Theodore Roosevelt, who, in the early 1900s, established our Nation's first national forests and refuges, and his fifth cousin, President Franklin D. Roosevelt, who, during the Great Depression of the 1930s, launched the Civilian Conservation Corps. Then, under Dwight Eisenhower in 1960, our country set aside the first part of Alaska's Arctic National Wildlife Refuge. Under Richard Nixon, in 1970, we enacted the Clean Air Act to limit air pollution from cars, utilities, and industries.

Then, 20 years later, a major expansion of that act was signed into law by President George H.W. Bush, the father of now-President Bush.

For 100 years, Republican and Democratic Presidents alike saw that saving America's natural wonders ought not be a partisan political issue. Yet today we see the present Bush administration, time and again, side, with corporate political interests trying to roll back the time-tested and bipartisan measures aimed at protecting our land, our air, and our water.

Let me give some examples. The Federal Superfund Program for cleaning up toxic waste sites is running out of money. It was set up in 1980. It was sponsored, fostered and encouraged under several Presidents. It was set up under President Carter, and continued by President Reagan, then President H.W. Bush, and President Clinton. They all encouraged the use of the Superfund and the concept of the polluter pays.

In 1980, an agreement was struck with the oil companies and the chemical companies. The oil and chemical companies would pay into a trust fund, and when a toxic waste site was found—and this happened after the Love Canal situation had riveted the Nation's attention—there would be money in the trust fund if they could not find the polluter to pay. If the polluter had fled town or had gone bankrupt, there was a fund from which you could then get the toxic waste site cleaned up.

I just toured one of these toxic waste sites about 12 miles west of Orlando, a site that has been there for several decades, a site where at one point what I call a witch's brew of boiling DDT, which formed another chemical compound, had flowed into a holding pond. Why was it a holding pond? Because it was a depression in the ground. And where did that go? It was a sinkhole that went into the Floridian aquifer.

At one point it spilled out of this holding pond into this creek that ran into Lake Apopka, a lake of thousands of acres that used to have 4,000 alligators, and which has 400 now—and you know how sturdy a beast an alligator is.

Yet what the present Bush administration has said is we do not want to continue the polluter pay concept. We want the taxpayer to pay for cleaning up toxic waste sites instead of the polluter. As short as we are on money, with the surplus having evaporated, with the war requiring more and more money, an appropriation from the general fund of taxpayer money for the Superfund may not happen. So sites such as the one 12 miles west of Orlando, are not going to get cleaned up. If we do not re-authorize the polluter pays provisions—which have had bipartisan Presidential support—then we are going to have a serious problem. The site west of Orlando will continue to jeopardize the water supply for all of that part of Florida. That is how serious it is.

Let's take another case. We had the matter of arsenic.

First, the administration was not going to lower the parts per billion in drinking water. It would remain at 50 parts per billion, a standard set before we knew arsenic caused cancer. Based on years of study, the previous Administration had recommended it go down to 10 parts per billion. There was such an outcry that the public was finally heard. And, before the Congress had to act, the administration, relented and adopted the 10 parts per billion standard.

In the Senate 2 months ago, we defeated the administration's attempt to permit oil and gas drilling in the pristine Alaska Wildlife Refuge. Unfortunately, we were unable to overcome the administration's opposition to improving automobile fuel economy standards.

If we are going to get serious about weaning ourselves from our dependence on foreign oil supplies, we are simply going to have to go to where we consume the most energy. The most energy is consumed in the transportation sector. If we don't get serious about increasing the miles per gallon on our automobiles and trucks, we are simply not going to be able to address our dependence on foreign oil. We should follow a balanced approach on the energy question. It should be part production, part conservation, part alternative fuels, part increased use of technology and part renewable fuels. We can use our technology—we have it today—to increase significantly the miles per gallon fuel economy of our transportation sector.

It is so hard, because of all the special interests involved, to pass good public policy. A good example is the defeat of our effort to increase corporate average fuel efficiency standards. But mind you—it is going to take a crisis, such as a terrorist sinking a supertanker in the 19-mile-wide, Strait of Hormuz which suddenly stops the flow of oil traffic out of the Persian Gulf to the industrialized world, to give us a major disruption of energy supplies.

We will rue the day that we did not increase the corporate average fuel efficiency standards of our cars and trucks because the transportation sector accounts for 42 percent of the oil we consume in this country.

Here, again, is another example of where this administration has not faced up to the reality of the environment and of energy. By the way, we have cars today—particularly Hondas and Toyotas—that can get over 50 miles per gallon. These are the hybrid vehicles that shift from gasoline to electric. Because of the computer, the driver and the passengers do not even notice the shift. There is no dimunition of the electrical output of the automobile.

Again, it is another example of where we are just on the wrong course with regard to our energy and to our environmental policies.

If our energy legislation stalls and the environment remains under siege, is it all lost? I don't think it is. Our citizens and their elected representatives can demand and get better.

In the past, we saw an outcry regarding arsenic levels in our drinking water and arsenic used to treat wood. We won on both counts. The arsenic standard for drinking water was dramatically decreased and the wood preserving industry agreed to cease the manufacture of arsenic treated wood for residential uses by the end of 2003. Children's playground equipment will no longer be manufactured with wood treated with arsenic. More needs to be learned about the dangers of arsenic-treated wood but, I will continue to seek answers from the Administration.

Last year we were able, fortunately, to scale back the sale of new oil and gas leases in the Gulf of Mexico right off of the coast of Florida—keeping the drilling more than 100 miles from the Florida shores, preventing the spoiling of our coastal environment and protecting the $60 billion a year tourism industry in Florida.

Senator GRAHAM and I tried to block that sale altogether and we will continue to battle exploration off Florida's coasts. Floridians, regardless of our individual party affiliations, overwhelmingly oppose offshore oil drilling that threatens our beaches, fisheries and tourist-dependent economy.

On saving the environment, our Federal Government today may be split largely along political party lines. But, in Florida, and across the Nation the people are not.

I thank you for the opportunity to share these thoughts with the Senate. I yield the floor.

Ms. STABENOW. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I rise today to speak about an important part of the strategy to lower prescription drug prices for all of our citizens, particularly our seniors who are using about 18 different medications in a year. We have a strategy to focus on with the intent to do everything possible to update Medicare to cover prescription drugs with a comprehensive Medicare prescription drug benefit which is long overdue.

Medicare was set up in 1965. It covers the way health care was provided in 1965. It needs to be updated to cover the primary way we provide health care today, which is outpatient prescription drug coverage.

We also know there are a number of other actions we can take to lower prices for everyone. I had the opportunity yesterday with the Detroit Regional Chamber of Commerce to hear from a number of businesspeople, large and small, who are struggling with their health care insurance premiums, some choosing to no longer be able to provide health care, and others finding they are having to cut back, and hospitals and nursing homes and home health agencies, all affected by the explosion in prescription drug prices.

When we look at the rising cost of health care, the majority of it is the cost of prescription drugs. A number of us have looked at what it is we can do to bring more competition, to bring prices down, and to make it more fair for Americans.

Americans today are underwriting the cost of research. I am very proud that, through the National Institutes of Health, we are providing billions of dollars in basic research. We support companies then taking that research, and we allow them to write off their research costs as well as their advertising and other costs to be able to provide the necessary research and development for new prescription drugs. We give them a patent to protect their development so they can recover their cost. But at the end of that process, we find that Americans, even after we have heavily subsidized, supported, and helped pay for the research and development, are paying the highest prices in the world.

One of the reasons is that there was a law passed in the late 1980s that puts a fence around the border of the United States as it relates to prescription drugs. It says that we as Americans cannot go across the border to Canada to purchase American-made, FDA-approved and safe drugs that are sold to Canada, on average, at half the price. We can't go to any other country as well.

In fact, as was shown in the Wall Street Journal last Friday in a front page article, every time the European Union or Canada or some other country negotiates lower prices for their citizens, the drug companies make it up by raising American prices, even though we are the ones paying for the research that creates the new miracle drugs.

To demonstrate this and to promote legislation, S. 2244, which Senator DORGAN, Senator JEFFORDS, myself, and many others, have introduced—it is a bipartisan bill to bring down this barrier at the border so Americans can get the very best prescription drugs at the very best prices from Canada—a number of us have been helping to sponsor bus trips to Canada to make the point.

This is a picture of a number of us who were joining, from the House and Senate last week, a bus in front of the Capitol. This is a bus that the Alliance for Retired Americans has been sponsoring. In fact, we have over 14 different trips planned in the next several days into Canada. We kicked off one in Detroit yesterday where a group of citizens got on the bus to go 5 minutes across the Ambassador Bridge, in which they were able to lower their prices on average by half, just by going across the bridge.

This is not about putting seniors or families on buses to go across bridges to get lower prices. This is about dropping the barrier at the border. This is protectionist legislation that does not allow us to have business relationships across the border to bring back those American-made drugs at a reduced price.

We can trade with Canada on agricultural products, manufacturing products, all kinds of things. People go back and forth across the border and do business every day. But when it comes to prescription drugs, we have not been able to do that. That creates a situation where we don't see the kind of pressure on our companies to be competitive and fair to Americans.

We want to get people off the bus. We want those prescriptions coming back to the United States to our neighborhood pharmacy, so a senior can walk in and get the reduced price.

I will just share with you some of the price differences we have seen as we have taken the bus trips to Canada from Michigan. Zocor, for high cholesterol, if you need to purchase this in Michigan, the price will be somewhere in the range of $109. If you drive that 5-minute bus trip across the border, you can get that same Zocor for $46. If we look at Prilosec for heartburn and ulcer relief, $115 in Michigan; $55 across the border to Canada.

Probably one of the most disturbing ones for me is a breast cancer treatment drug. I have taken to Canada breast cancer patients, who are in desperate need of this lifesaving treatment and medication. Tamoxifen is a well-known breast cancer treatment, $136.50 in Michigan; $15.92 across the bridge.

There is something wrong with this picture. There is something wrong when Americans are supporting and funding the development and underwriting costs and subsidizing, through tax deductions and tax credits, the development of these lifesaving medications, and we are paying so much more for these lifesaving drugs. It makes no sense.

I urge my colleagues to support our effort, to come on as cosponsors and support the effort to open our borders and lower prices for prescription drugs. We have a bipartisan bill, S. 2244. The time is now. We want to get the seniors off the bus, get lower priced prescriptions into the local pharmacy or the hospital or into the clinics around the State of Michigan. It is time to do that. It is past time to lower the prices for people.

This isn't the same as buying a new pair of tennis shoes. It is not the same as buying a new car, although coming from Michigan, I want to see people buy a new car every year. But if they don't, it is not going to threaten their life. But if a breast cancer patient does not get her Tamoxifen, it does threaten her life. That is the difference.

This is medicine. It is not optional. It is time we understand that and get serious about lowering prices, about creating the competition that will allow us to lower prices.

I have never seen an issue that affects more the economy of this country. It affects every businessperson trying to provide health insurance for themselves and their employees. It affects our universities' health clinics. The president of Michigan State University came to me expressing great concern about his rising health care premiums and the requirement that he was going to have to lay off people because they couldn't keep paying these rising costs, most of it from prescription drugs, and maintain the same number of staff at the university. This is ridiculous.

Most importantly, this is ridiculous because of what it means to our families and our seniors. Yesterday on the bus were a couple who are paying $1,300 a month for their prescriptions, people on a fixed income. They were getting on that bus yesterday to go to Windsor, Canada, out of desperation to lower their prices so they could live independently in their own home and not have to be hospitalized or go into a nursing home and receive the kind of medicine they need.

It is wrong that we are seeing this kind of disparity. I urge my colleagues, while we are working on the important issue of Medicare prescription drug coverage, that we do something today to lower prices. We can do something right now by just simply opening the border to Canada and making sure that our citizens get the prices shown by these yellow bars on this chart, instead of paying the high prices we see they are paying right now.

I thank you, Mr. President. I urge my colleagues to get engaged in one of the most important issues affecting seniors and our families today. It is time to bring the prices down.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

EDUCATION

Mr. KENNEDY. Mr. President, in the Washington Post today in the front

section on page A3, there is an article titled: ''Report Urges Stricter Tests for Teachers, Expertise Is Stressed Over Theory.''

This is an important report. It is one that underscores what a number of other reports have said, including those by the National Center on Education Information, which is a report that was out earlier this year, and the was a very solid report from 1996, which is most comprehensive on teacher quality, called ''What Matters Most: Teaching for America's Future.'' The Administration's report is very important because it outlines the challenges we face.

I want to give an assurance to the American people that we do not need more legislation. We already have the legislation in place in the No Child Left Behind Act, and in the Higher Education Act of 1998, that, if fully implemented and funded, would address the real challenges we are facing in the States. We know that we need to hire over 2 million teachers over the next ten years, we need to improve teacher preparation, and we need to increase professional development. But we don't need new legislation. The No Child Left Behind Act requires 100-highly percent qualified teachers in our classrooms in four years. I believe that is the most important ingredient to have a well-qualified teacher in every classroom, increase professional development each year, and provide funding for mentoring.

The Higher Education Act, title II, provides funding for States and universities to improve the teacher preparation with high-quality strategies, including improving alternative routes to certification, and improving the quality of colleges of education.

Mr. President, what is left out of the report is the need for resources to help states meet these goals. We need resources to be able to achieve these goals for the children in this country. We need to do more than just count on alternative routes to certification. Alternative routes to certification could provide, at best, one-third of all of the teachers we need in our public school systems. For example, the Troops to Teachers only places about 700 teachers per year. We need to hire more than 200,000 teachers per year to address the shortages. Many of these new teachers need to have specialized training in special education, math and bilingual education. The alternative route programs can provide some assistance, but they are not the core of the solution. The solution lies in improving all of the teacher preparation and training programs and providing all teachers with the ongoing support they need once they are in the classroom.

Some traditional teacher preparation programs and alternative routes are successful. All the successful programs have the same characteristics. The recent report by the National Center on Educational Information said that a successful alternative route program is specifically designed to recruit individuals with college degrees; that is, the emphasis is on content. Such a program has a rigorous screening process to attract high-quality candidates. The program is field based to give practical experience through internships. New teachers receive mentoring from trained teachers. Candidates must meet high standards upon completion.

The 1996 report had similar characteristics for a high-quality teacher preparation program at universities: organize teacher education around standards for students and teachers; develop and extend year-long programs with year-long internships; create and fund mentoring programs; and create high-quality sources of professional development for ongoing support.

So the Administration's report is useful and valuable today, but this is something we have understood now for a number of years. It really is nothing very new. The statistics may give us more recent information on particular States, but we know what needs to be done. We outlined in the No Child Left Behind legislation a series of programs to help and assist the States to address the teacher shortage, but the administration has requested zero increase in their proposed budget for improved teacher quality and reduced class size. There is an excellent study that says all these things need to be done—better training, recruitment, professional development and mentoring. We have to do them. But when it comes to the resources to be provided, we are just not getting it from the administration. That, I think, is a matter of enormous importance.

All of us want to address the kinds of needs that are outlined in this report. It is a good report. But in order to do that, it means funding the various programs that we have that are out there and in existence.

Mr. President, I want to mention several of the programs that the administration failed to fund this year that cut teacher quality programs by $155 million this year. They include: The elimination of funding for preparing tomorrow's teachers to use technology is enormously important. You can get the new technology in the classroom, but unless the teacher understands how to use the technology and how to develop the curriculum to use the technology, you have missed the opportunity for success.

This program was oversubscribed, but it was eliminated by the Administration. Funding for the National Board for Professional Teaching Standards, which is enormously important, was eliminated. Certification by the National Board for Professional Teaching Standards, all across the country, is the key for increasing compensation, increasing professionalism, and increasing success. The National Board has been incredibly important and effective and yet the Bush Administration eliminates it.

The Bush budget eliminates programs to prepare teachers to teach writing and civics, and provides a 50-percent cut in grants to help train teachers to teach American history.

So the point I am making, Mr. President, is that we can have these studies and they can point out what the problem is, but we know what the problem is, but we already know what the problem is. What it takes now is the increased investment in the No Child Left Behind Act and other programs that can really make a difference in terms of teacher quality.

We have to look at this in a comprehensive manner. We need to improve working conditions for teachers, including increasing pay, increasing the prestige of teaching, and improving schools so they are safe, modern places in which teachers can work and children can learn. Many schools have obsolete, crumbling, and inadequate facilities. All teachers and students deserve safe, modern facilities with up-to-date technology. Sending teachers and children to dilapidated and overcrowded classrooms sends an unacceptable message. It tells them they don't matter. No CEO would tolerate a leaky ceiling in the boardroom—and no teacher should have to tolerate it in the classroom.

This is all part of what we have to understand if we are going to expect that we are going to get quality teachers to teach in our schools.

Mr. President, this is just a final point I want to mention on the subject. Despite the goals we share in the recent report, I am concerned that the administration is not meeting the letter of the law in implementing the requirements of the No Child Left Behind Act to ensure a high-quality teacher in every classroom.

In the draft guidance of the new ESEA title II Teaching Quality Program, released on June 6, the Department proposes a large loophole for alternative routes to certification that I believe violates the law and could lower teacher quality.

The guidance says: ''Any Teacher who has obtained full state certification, whether he or she has achieved certification through traditional or alternative routes, has a four-year college degree, and has demonstrated subject matter competence, is considered to be highly qualified under the law. Teachers who are participating in an alternative route program may be considered to meet certification requirements of the definition of a highly qualified teacher if participants in the program are permitted by the state to assume functions as regular classroom teachers and are making satisfactory progress towards full certification as prescribed by the state and the program.''

This creates a double standard when it comes to teachers working through alternate routes compared to teachers working through the regular certification program—those working

through the regular certification program must be fully certified—no emergency, temporary provisional certification.

Alternate route teachers can be considered highly qualified while holding a provisional certification while they are working to obtain full certification. This is inconsistent with the definition in the ESEA which holds the same standards for all teachers.

I hope the draft guidance will be changed to ensure when we say all teachers will be highly qualified, we mean all teachers are highly qualified. We do not want to find on the one hand statements about the importance of these findings, and then on the other hand have the drafting of rules and regulations which are going to result in lower standards for the teachers in the classroom.

We welcome this report, but it comes back again to the issue of whether we are prepared to help the States, schools, parents, and children in this country by helping ensure there is a well-qualified teacher in every classroom. We have the legislation. We have followed these various recommendations, and all we need is the investment to make this happen. That is why we are going to continue to battle for the children of this country by insisting that we have an adequate budget invested in teacher quality.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CARPER). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

DEATH TAX ELIMINATION ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 8.

The senior assistant bill clerk read as follows:

A bill (H.R. 8) to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period, and for other purposes.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, I ask unanimous consent Senators GRAMM and KYL be recognized for 5 minutes each; however they want to divide up the 10 minutes to speak on the general subject of the estate tax, and Senator CONRAD be recognized for up to 10 minutes. Following that, we would be, I believe, in a position to lay down the first-degree amendment at that time pursuant to the order and the 2-hour time will start running at that time.

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

The Senator from Texas.

Mr. GRAMM. Mr. President, let me take a couple of minutes to tell people where we are. We worked out an agreement several weeks ago to debate the permanent repeal of the death tax. I thank the majority leader for agreeing to allow this to happen. We now have a unanimous consent agreement that dictates how the debate will occur. I will go over it so everyone will know exactly what we are doing.

Under the unanimous consent agreement, a majority member, a Democrat, will be recognized to offer a first-degree amendment related to the death tax. That amendment, by a majority member, will be subject to two second-degree amendments also offered by majority members. Those two second-degree amendments will be disposed of—either with a point of order, a motion to table, or a vote—and will be accepted or rejected. Then there will be one amendment standing, whether it is amended or not, and it will be voted on. Then I will be recognized to offer a first-degree amendment. It will not be subject to an amendment. I will offer an amendment identical to the permanent repeal of the death tax adopted by the House of Representatives. So if my amendment is be adopted, the bill would again pass the House and the President could sign it into law.

If any other amendments should be adopted, we have to have a debate as to whether we would name conferees and we would potentially have to go to conference with the House.

That is basically where we are. We are now awaiting the offering of a first-degree amendment. Then that will be subject to two second-degree amendments, offered by the majority. We will vote on each one of them, in order, and then we will vote on the underlying amendment. I assume we would probably get through one vote this afternoon and then we would have three votes tomorrow and we would finish up tomorrow sometime in the mid-early afternoon if all the time is used.

I remind my colleagues there are 2 hours on the first second-degree amendment, 2 hours on the second second-degree amendment, 2 hours on the underlying first degree, and then there would be 2 hours on my amendment which would repeal the death tax, in exactly the same form the House has passed, and then there would be a vote on it and we would be finished.

That is where we are in terms of the structure of the debate. I wanted everyone to understand exactly where we are. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, this afternoon we begin a very important debate on the question of the estate tax. My friends on the other side characterize it as a death tax. It is really not. There is no such thing as a death tax in America. Nobody pays taxes at death. There is an estate tax. For estates over a certain amount, they contribute to the revenue of the Federal Government by paying an estate tax.

The problem with the current estate tax is that it cuts in at too low a level. Currently, estates begin to be taxed at about $1 million. The fact is, only about 2 percent of all estates pay any tax, even under that circumstance. But with what has happened in the national economy, many of us believe we do need to reform the estate tax—not eliminate it but reform it.

Why? First of all, because it is not fair to have the estate tax cut in at that level, given the increase in assets that has occurred in the country in the last decade. At the same time, it does not make much sense to us to eliminate the estate tax completely because of the cost. What our friends on the other side of the aisle are proposing is a $100 billion cost in this decade and a $740 billion cost in the next decade, right at the time the baby boom generation retires—all of this in the context of budget deficits as far as we can see.

I believe we ought to reform the estate tax. I believe we ought to increase the level at which it cuts in on individuals and their families. But to eliminate the estate tax and dig the deficit hole deeper, put us deeper into debt and take it all out of Social Security, I do not think is defensible.

Last year, the President said this about paying down the debt:

My budget pays down a record amount of national debt. We will pay off $2 trillion of debt over the next decade. That will be the largest debt reduction of any country, ever. Future generations should not be forced to pay back money that we have borrowed. We owe this kind of responsibility to our children and grandchildren.

What a difference a year makes, because just a few hours ago we responded to the President's request for the biggest increase in the debt—the second biggest increase in the debt in our Nation's history. That is what we did just hours ago. Has this Chamber already forgotten? Have we already forgotten that we just responded to the President, who said he was going to pay down the biggest amount of debt in our Nation's history, in fact he said the biggest amount of any country ever? And now, just 2 hours ago, 3 hours ago, we responded to his request for not debt paydown but the biggest expansion of the debt—the second biggest expansion in our Nation's history?

Here is the comparison. The only time we had a bigger increase in the debt than what the President is seeking was when his father was President. When his father was President, we had to increase the debt by $915 billion, in November of 1990. Now this President comes and asks for a $750 billion increase in the debt. That is after telling

us last year he was going to pay down the debt by the maximum amount possible, the biggest of any country ever.

Last year, the President told us it would be 7 years before we would have to increase any debt. In August of last year, he told us it would be 3 years before any increase in the debt. In December 2001, he told us 2 months. Right now, the Treasury Department is using extraordinary means to finance the debt of the United States. They are taking from the retirement funds of Federal employees to cover the Federal debt.

Let me say this. If any private company tried that, they would be on their way to a Federal facility, but it would not be the White House of the United States, it would not be the Congress of the United States, they would be on their way to a Federal penitentiary because that is a violation of Federal law. But that is what is going on right now.

You recall in the previous administration they did that for a short time and in the House of Representatives our friends across the aisle filed impeachment proceedings against the Secretary of the Treasury for doing what this Secretary of the Treasury is now doing.

Can we forget what just happened a few hours ago, when there was a vote here to increase the debt of the United States by $450 billion? The President requested $750 billion in increased debt. We increased it $450 billion.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has used 6 minutes of his 10; 4 minutes remain.

Mr. CONRAD. Mr. President, remember last year? We have to put this in context. We have to think about the circumstance within which we are making decisions. Last year, we were told there was going to be $5.6 trillion of surpluses over the next decade. That is what we were told just last year. Now we look at the budget circumstance of the United States, and the surpluses are all gone. There are no surpluses. In fact, if we look at the President's budget and we look at the latest shortfall in revenues and we look at the stimulus package just passed, what we see over the next decade is not $5.6 trillion of surpluses, what we see is $600 billion of deficits. It is a pretty stunning turnaround. In 1 year we go from $5.6 trillion of surpluses to $600 billion of deficits. And our friends on the other side want to dig the hole much deeper—much deeper—by adding $100 billion, and another cost in the next 10 years of $740 billion, right at the time the baby boom generation retires. It does not make much sense to me to eliminate this estate tax instead of reforming it.

Yes, let's address the problems that exist with the estate tax. Let's increase the amount of the exemption in a responsible and rational way. But let's not dig the hole deeper and deeper with respect to the deficits and debt of this country.

Here is where we are, looking back to 1992, when there were deep deficits, not counting Social Security. We were able, over a period of years, to pull our country out of this deficit and debt morass. We were able to run surpluses for 3 years. But look at what happened last year. We are right back in the soup. For anybody who thinks it is going to be short-lived, here is the hard reality. We are poised to be back in deficit for the entire next decade—billions, hundreds of billions of dollars of deficit and debt.

Again, I say our friends on the other side, in their proposal, say: Don't worry about that; don't worry about all this red ink; don't worry about all these deficits; don't worry about piling up the debt; let's just go out there and cut some more taxes and not pay for it. That is their answer. They will add another $100 billion to these deficits over the next decade. But what is really stunning is in the second 10-year period they would take another $740 billion right out of Social Security trust funds.

There is an alternative that deals both with the question of reforming the estate tax and making it more fair and at the same time reducing the cost dramatically over what our friends on the other side of the aisle are proposing.

What I am proposing is immediate relief. Take the estate tax exemption to $3 million next year—$1 million now, and increase that to $3 million next year—$6 million for a couple for 2009, and thereafter the exemption would increase to $3.5 million. The maximum estate tax rate would be frozen at 50 percent. We retain the stepped-up basis.

Mr. President, I ask for an additional 3½ minutes and for the other side as well.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CONRAD. Mr. President, we have retained the stepped-up basis. The other side's proposal goes to what is called a carryover basis.

This is a hugely important issue that people should understand. We will have a chance to go into it as we proceed.

Let me say at this point that in a stepped-up basis, when a relative dies, you inherit their property at its value at the time they die.

That is a very important concept to understand. Let me repeat it.

Under a stepped-up basis, you pay future taxes based on the value of the property of the loved one that is giving you the property. You pay on the basis of the value of the property at the time they died—not what they paid for it but the value at the time they died.

Under the alternative proposal offered on the other side, you are going to go to what is called a carryover basis. You are not going to pay future taxes based on the value at the time that your relative died. You are going to go back to the value of what they paid for it.

Let us say you inherit a farm. You don't inherit the value of the farm at the time your father died or your grandfather died. You are going to pay future taxes based on what they paid for the property.

There is a big difference between our proposals. It is an accounting nightmare.

What our friends are proposing we tried before—the carryover basis, going back to what grandpa paid for a property. It was an administrative nightmare for all concerned. And we quickly abandoned it. They want to go back to the bad, old days.

Not only does this proposal fundamentally reform the estate tax and make it more fair and avoid going to carryover basis, but it also saves hundreds of billions of dollars in the second decade. In this decade it saves $87 billion. The cost of our proposal in this decade is $12.5 billion. The cost of their proposal is $99.4 billion.

Under the proposal I am making, by 2009, only .3 percent of estates will face any estate tax liability. That means 99.7 percent of estates would pay zero, nothing, have no estate tax liability.

We will have more to say about this as we go forward.

At this point, I want to yield the floor so my colleague from Arizona, Senator KYL, can have a chance at this initial moment to speak on this subject.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, in addition to the 3 minutes granted by the extension, I inquire about how much time remains on our side.

The PRESIDING OFFICER. Ten minutes.

Mr. KYL. Which includes the 3 minutes.

The PRESIDING OFFICER. That is correct.

Mr. KYL. I will speak for 5 minutes, and our colleague from Texas will speak for 5 minutes.

I thank the Chair.

Mr. President, let me make three points.

First of all, I find it very interesting that our Democratic colleague is worried about the debt of the United States. This does not seem to be much of a concern to him or his colleagues when they vote for spending bills around here.

Just recently—I took some of the more recent ones—the railroad retirement bill was $15 billion in one payment. I voted against that. The farm bill was $82.8 billion over the baseline, over the budgeted amount. I voted against that.

Mr. CONRAD. Will the Senator yield?

Mr. KYL. I am happy to yield for a moment—for a moment, please.

Mr. CONRAD. The amount that the Senator refers to is not over the budget. Every penny of the money in the

farm bill is within the budget. Does he acknowledge that?

Mr. KYL. No. Let me reiterate what I said. The fact is that the distinguished Senator from North Dakota, chairman of the Budget Committee, has not been able to bring a budget to the floor. So there is no budget. We are talking about the baseline. I believe my number is accurate with respect thereto. We are spending billions on this farm program above what we originally had decided to spend; under trade adjustment assistance, over $11 billion over the President's request—a 10-year number; in the supplemental that we just passed—a 1-year number—about $4 billion above the President's request.

The highway bill is about 5.7 above the President's request.

My point is that it seems to be a little contradictory when some colleagues are so concerned about the debt, and all of a sudden they are happy to spend very large sums of money above the baseline.

Let us get into this debt business a little bit more. With what do we pay down debt?

We pay down debt with Social Security income. Under Social Security revenues—the FICA tax—you pay in 7.6 percent and your employer pays 7.6 percent. That is Social Security.

The death tax receipts don't pay for Social Security. Not one nickel of the death tax collections or estate tax collections pay for Social Security benefits—not one nickel. If we repeal the entire death tax today, Social Security wouldn't lose one nickel because that isn't where Social Security gets its money. You all know where Social Security gets its money—from the FICA tax, the Social Security payments. Those right now are in surplus.

What do we do with the surplus? We pay down the debt with it.

If my colleagues are worried about the need to pay down the debt, then they are talking about taxes, Social Security money, and paying down the debt with that. That is exactly what happens every single year. We all agree to that.

If they are worried about taking away money for Social Security, then they need to be worried about the Social Security tax collections and not the estate tax collections. None of that money goes for Social Security.

This is a bogus argument that Social Security would in any way be affected by a reduction of the estate tax collections.

Finally, to this argument that somehow it is unfair for us to step up the basis—or, rather, to carry over the basis rather than have a stepped-up basis, this may seem to be an arcane argument to folks who aren't familiar with these terms. Here in practical terms is what it means.

You have a billionaire and he dies. His wife inherits the money. Under the proposal of the Senator from North Dakota, if the spouse decides the day after her dear loved one's departure to sell all of that property, cash it in, do you know how much she pays in capital gains tax? Zero. Zip. Nothing. That is how much you pay under the amendment of the Senator from North Dakota.

Under our proposal, you would pay the capital gains on the original value of the property.

If her dear loved one bought that property for $100 million way back when and sells it for $1 billion, that is a $900 million gain. She would pay a capital gains tax on that again.

Our idea is that death should not be a taxable event. You can't anticipate it. It is the worst possible time to have to pay a tax. It is not fair. Most of the Tax Code says you pay a tax when you do something knowing what the tax consequences will be. You earn money, you sell property—those are taxable events. What we are doing is replacing one tax for another.

The estate tax is unfair, it is wrong, and it should be repealed. It will be replaced by a capital gains tax.

The interesting thing about it is that really wealthy people will end up paying a tax when they sell that property; whereas, they would not pay nearly as much tax as they would under the amendment of the Senator from North Dakota.

What it really boils down to is you are still paying the tax. What it really boils down to is a matter of policy. You are going to pay sooner or later. But do you want to pay with death being the taxable event or do you want to pay a tax based on an economic decision you made knowing what the tax consequences would be. That is what our Tax Code theory is and the death tax should comport with that.

The PRESIDING OFFICER. The Senator from Texas is recognized for 4½ minutes.

Mr. GRAMM. I don't mind yielding to my Democratic colleague.

Mr. CONRAD. I inquire as to the time.

The PRESIDING OFFICER. Four and one-half minutes remain to the Senator from Texas.

Mr. CONRAD. Do I have time on my side?

The PRESIDING OFFICER. No, you do not.

Mr. GRAMM. Mr. President, we all understand that the death tax basically says if somebody works a lifetime, they scrimp and save and sacrifice, they plow the money back into their business or their farm or their estate, they do it for their family, and then they die, then their family has to sell their business or sell their farm or sell off their estate to give the government a double taxation of 55 cents out of every dollar they have earned in their lives. It is an absolute outrage. The American people believe that.

Today and tomorrow, as we debate this issue, our Democrat colleagues are not going to defend the death tax as such. They are going to try to make a series of points. You are going to get to hear it in the long debate, but since we are waiting for them to come forward with their amendment, I want to make some points early on. They are going to say: OK, it is wrong to make people sell off their life's work, but shouldn't we redistribute wealth? Shouldn't we say that above a certain level we are going to have a death tax? They are basically going to try to appeal to this old class struggle, this old Marxist idea that has been rejected everywhere else in the world but still carries currency in the United States of America.

The second thing they will do is say: Look, we wanted to repeal the death tax but we can't afford it. We just can't afford it. Let me remind my colleagues, we don't have to go way back to the railroad retirement debate of last year to see that this is not true. Let's go to last Thursday. Last Thursday this body, the Senate, voted overwhelmingly—and I think almost every Democrat Member of the Senate voted for the bill—to spend $14 billion more than the President requested for nonemergency items in a supplemental appropriation. That's $14 billion more than the President asked for in nonemergency items. That is 4 times what it costs to repeal the death tax next year.

So our colleagues today are brokenhearted: You would repeal the death tax and deny the Government that money, and we are so worried. They are worried about the deficit and the debt. Where were they Thursday? Where were they Thursday night? I was here. I raised a point of order against 80 amendments. Where were they? They were willing to spend four times as much this coming year on spending the President didn't ask for in an emergency bill than it would cost to repeal the death tax.

On the farm bill, they were willing to spend seven times as much as the cost of repealing the death tax. Now they are worried about the debt. They are worried about the deficit. But last month when we passed this bloated, inflated farm bill, they were willing to spend seven times as much as it would cost this coming year to repeal the death tax. They were not worried then, but they are really worried today.

Then there was the energy tax incentive. They weren't worried then. They were willing to spend more on energy tax incentives than it would cost next year to repeal the death tax.

Finally, just to add insult to injury, on the budget that was reported on a straight party-line vote out of the Budget Committee, the Democrat majority increased nondefense discretionary spending by a whopping $105.8 billion above the level requested by the President. In other words, when they cast that vote, they could afford $106 billion. That is more than enough to fund the repeal of the death tax for the next 10 years.

I know they are upset today. They are very upset about the deficit and the debt. But they are only upset when we

are talking about letting people keep more of what they earn. They are never, ever upset when it comes to spending money.

They write a budget that spends more money on new discretionary programs than repealing the death tax would cost, but when it is time to let people keep money, they are worried.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Nevada.

Mr. REID. It is my understanding that all time has been used that was previously allocated.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I would now say to the Chair that under the unanimous consent request before the Senate, there is an opportunity now for the majority to lay down an amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask that Senator CONRAD be recognized for that purpose.

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

The Senator from North Dakota.

AMENDMENT NO. 3831

Mr. CONRAD. 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 North Dakota [Mr. CONRAD] proposes an amendment numbered 3831.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to restore the estate tax with modifications)

Strike all after the enacting clause, and insert the following:

SECTION 1. RESTORATION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(b) SUNSET NOT TO APPLY.—

(1) Subsection (a) of section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''this Act'' and all that follows and inserting ''this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.''.

(2) Subsection (b) of such section 901 is amended by striking '', estates, gifts, and transfers''.

(c) CONFORMING AMENDMENTS.—Subsections (d) and (e) of section 511 of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subsections, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsections, and amendments, had never been enacted.

SEC. 2. MODIFICATIONS TO ESTATE TAX.

(a) INCREASE IN EXCLUSION EQUIVALENT OF UNIFIED CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to applicable credit amount) is amended by striking all that follows ''the applicable exclusion amount'' and inserting ''. For purposes of the preceding sentence, the applicable exclusion amount is $3,000,000 ($3,500,000 in the case of estates of decedents dying after December 31, 2008).''.

(2) EARLIER TERMINATION OF SECTION 2057.—Subsection (f) of section 2057 of such Code is amended by striking ''December 31, 2003'' and inserting ''December 31, 2002''.

(b) MAXIMUM ESTATE TAX RATE TO REMAIN AT 50 PERCENT; RESTORATION OF PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—Paragraph (2) of section 2001(c) of such Code is amended to read as follows:

''(2) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative tax is to be computed) as exceeds $10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) and $224,200.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2002.

SEC. 3. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.

(a) IN GENERAL.—Section 2031 of the Internal Revenue Code of 1986 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

''(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

''(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

''(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

''(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

''(2) NONBUSINESS ASSETS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'nonbusiness asset' means any asset which is not used in the active conduct of 1 or more trades or businesses.

''(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

''(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

''(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

''(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

''(3) PASSIVE ASSET.—For purposes of this subsection, the term 'passive asset' means any—

''(A) cash or cash equivalents,

''(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

''(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

''(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

''(E) annuity,

''(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

''(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

''(H) commodity,

''(I) collectible (within the meaning of section 401(m)), or

''(J) any other asset specified in regulations prescribed by the Secretary.

''(4) LOOK-THRU RULES.—

''(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

''(B) 10-PERCENT INTEREST.—The term '10-percent interest' means—

''(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

''(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

''(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

''(5) COORDINATION WITH SUBSECTION (b).—Subsection (b) shall apply after the application of this subsection.

''(e) LIMITATION ON MINORITY DISCOUNTS.—For purposes of this chapter and chapter 12, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), no discount shall be allowed by reason of the fact that the transferee does not have control of such entity if the transferee and members of the family (as defined in section 2032A(e)(2)) of the transferee have control of such entity.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

Mr. CONRAD. Mr. President, I have already described what my amendment does. I will use the first part of my time to answer the very creative arguments made by my colleagues on the other side. I have never heard such imaginative arguments on the Senate floor. This is really intriguing.

They start out by justifying eliminating the estate tax by an attack on the farm bill, saying the farm bill was over the budget and, therefore, what does it matter if we take another $700 billion out of Social Security in order to eliminate the estate tax. How soon they have forgotten their own votes. They voted for the farm bill budget which they decry. Yes, they did. The

farm bill budget was provided for in the last budget resolution.

Our colleagues on the other side of the aisle voted aye. They voted for the Republican budget resolution. The Republican budget resolution passed on the floor of the Senate was their resolution. Their colleagues in the House passed exactly the same budget resolution. Do you know what else? Their President proposed a budget with exactly that amount of money in it for the farm bill.

I hate to rain on their parade, but they supported the Republican budget resolution that funded the farm bill. That was their budget resolution. That was their proposal. They voted for it. Now they come out here and attack it. They should have been here voting against their own budget resolution because that is what provided the budget for the new farm bill.

The Senator from Texas talks about the bill that just passed that was requested by the President. He has attacked the supplemental appropriations bill that was requested by the President. The difference between what we passed here, which he attacks, and what the House of Representatives passed, according to the Congressional Budget Office, is $1.3 billion, not the $10 billion to which he referred. The $10 billion he referred to is an absolute myth. There is $1.3 billion of difference between what the Senate passed and the House passed.

By the way, the President praised what the House passed and condemned what the Senate passed. In a $30 billion bill, there was only $1 billion difference. Where is the difference? The Senate bill has more money for first responders, the policemen and the firemen we expect to protect this Nation, a $600 million difference there. There was $300 million more in the Senate bill than the House bill to protect our nuclear facilities.

Has anybody read the paper the last few days? Of what did the administration warn us? They warned us of a ''dirty'' bomb attack on the Capitol of the United States. What is a ''dirty'' bomb? It is a regular bomb with nuclear fissile material around it. Do you know what would happen if that kind of bomb were dropped in the vicinity of the Capitol? The former Vice Chairman of the Joint Chiefs of Staff, Admiral Owens, told me in a breakfast just 2 weeks ago, it would make the Capitol area uninhabitable in a mile circumference for 400 years.

From where might that nuclear fissile material come? It might come from our own labs. That is why the Senate added $300 million to protect our nuclear facilities and added $650 million for our first responders—our policemen and firemen—and added another $700 million to protect our ports, because one of the things we know is that nuclear fissile material might come into this country everyday in thousands of containers. And only 2 percent are checked.

So is this some big, wasteful spending program to protect our nuclear facilities, to protect our ports and to provide funding to our first responders? I don't think so. That is the difference between the House bill the President praised and the Senate bill that the President attacked. There is no $10 billion difference. That is total fiction.

Let's go back to the question of the fundamental issue before us. Is spending a threat to our fiscal future? Absolutely. But our fiscal future is determined not just by spending, but by the relationship between spending and revenue. Deficits are created by an imbalance between spending and revenue. You only have deficits when you spend more than your income.

We know the circumstance we face as a nation. It has become abundantly clear to all of us. We face a circumstance in which we see in our future an ocean of red ink. Here it is. We go back to 1992 on this chart. We were facing deficits, not counting Social Security, of $341 billion. In 1993, we passed a 5-year plan that started lifting us out of deficit.

By the way, not one of our friends on the other side voted for it. It was the plan that started lifting us out of deficit.

Each year, we were coming out of deficit. Then in 1997, on a bipartisan basis, we passed a plan that finished the job. We actually got back into surplus. We were there for 3 years, and then we got plunged back into the deficit hole by the events of last year: No. 1, the tax cut advocated by our friends on the other side; No. 2, the attack on this country; No. 3, the economic slowdown.

When you wonder where the surpluses went, here is what we find: 42 percent went to the tax cuts that were passed last year; 23 percent went to the economic slowdown; 18 percent went to the increased costs of the attack on our country; 17 percent are due to technical changes, mostly underestimations of the cost of Medicare and Medicaid.

We have before us a fundamental question: How are we going to deal with this ocean of red ink? Our friends on the other side say: Well, let's keep digging the hole deeper. It doesn't matter. We were for eliminating the estate tax last year, and we are still for it. It doesn't matter that the surpluses have evaporated. It doesn't matter that the money is all gone. We are going to stay steady on this course—even if the course leads to insolvency. It doesn't matter that just a few hours ago this Chamber voted to increase the debt of the United States by $450 billion.

That is after the President and our friends on the other side promised us last year that they had a financial plan that was going to lead to the maximum paydown of our debt. That is what they said a year ago. They had a plan that would lead to the maximum paydown of the debt. Now they have asked for the second biggest increase in the debt in our Nation's history. They told us a year ago that we would have surpluses of $5.6 trillion in the next decade. Now the money is all gone. Instead of surpluses, there are deficits. That is the hard reality.

So the question before us is, what do we do about the estate tax? Let me stipulate that they have one part of this argument right. We need to change the estate tax. We should not leave it the way it is. We should not let it hit people with a million dollars of assets. We ought to increase it. That is what my proposal does. My proposal goes to $3 million next year, $6 million for a couple. You don't have to wait until 2007, as you do under their proposal. We go to $3 million for an individual and $6 million for a couple next year. You don't have to pay a penny of estate tax. In 2009, we go to $3.9 million.

On their side, they talk about how much they care about helping people. But they want to wait. They want to wait. I don't want to wait. I want to go to $3 million for an individual, $6 million for a couple next year. Give them the estate tax relief they deserve. Don't eliminate it. Don't say to the wealthiest among us—the super wealthy—you don't ever have to face any estate tax. Why? Because it costs too much, Mr. President. Their proposal costs $99 billion—$99 billion in this decade.

The proposal I am making costs $12.6 billion in this decade. So it seems to me it is a pretty good proposal. No. 1, it gives immediate and substantial relief to estates by going from a million dollars of exemption to $3 million for an individual, $6 million a couple, not in 2007 or in 2008, but next year. No. 2, it costs a lot less because you don't eliminate the estate tax, you reform it. Their plan costs $99.4 billion. Mine costs $12.6 billion.

Mine includes a stepped-up basis rather than a carryover basis. I know that is confusing and I know those are words most people don't use. What it means is simply this: Under my plan, you will pay future taxes based on the value of the assets you inherit at the time you inherit them. You will not be paying taxes based on what grandpa paid for the asset you inherited. Think of the difference. Not only is that a big tax difference, that is a big difference in terms of practicality and simplification.

We tried what they are proposing, this idea of carryover basis, this idea that you are going to go back to the value of what grandpa paid for the farm, of what grandpa paid for the stock, of what grandpa paid for the real estate. Do you know what we found? Most people don't even have the records. Most people don't even know what grandpa paid. Most people don't have any idea, and they can't find out because it happened 30 or 40 or 50 years ago. We tried this. We tried what they are proposing. It was an administrative disaster, an administrative nightmare.

We will hear the other side saying that these assets have already been

taxed. The fact is, an analysis has been done. The vast majority of these assets have never been taxed. Yet they say it is double-dipping. Most of these cases are assets that have never been taxed. I believe the proposal that——

Mr. KYL. Will the Senator yield for a question on that?

Mr. CONRAD. Yes.

Mr. KYL. I am curious about the source of the statement that the majority of assets has never been taxed.

Mr. CONRAD. Yes. I will get the Senator a copy of the analysis on that.

Mr. KYL. I thank the Senator.

Mr. CONRAD. The hard reality is that we have to make choices. We ought to reform the estate tax. We ought to increase the amount of exemption. We should not wait for 2007 and 2008. We ought to do it now.

Under my proposal, we go to $3 million from $1 million today for an individual, $6 million for a couple. At the same time, it costs a lot less. That means we do protect Social Security. We do protect the financial structure of this Government. We are fiscally responsible.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, how much time does the Senator from Alabama need?

Mr. SESSIONS. Ten minutes.

Mr. GRAMM. I yield 10 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Texas for his leadership on this issue and for yielding me time.

One of the issues we need to recognize as we talk about a budget—and we have the distinguished chairman of the Budget Committee here—is we do not have a budget. One was proposed in the Budget Committee by the Democratic members. It was brought up, voted on, and got zero votes. The reason is that there is not sufficient discipline to make tough choices in this body, and the budget that was proposed had no political support, did not balance, and did not make sense.

We are in trouble with spending. When the President proposes an $18 billion emergency spending bill and this Senate adds $14 billion more to it for special projects that I do not believe are necessary, and, in fact, I think the President's supplemental was generous, we are losing discipline on spending.

The reason we had a surplus from 1994 to 1998 is we had almost no increase in spending in this body. We kept our spending flat on discretionary spending. It resulted in tremendous gains in balancing the budget.

It is time for us to deal with this estate/death tax. In 2000, we voted to eliminate it. It phases out at the end of 10 years, in 2010. People do not like it. It is unfair. It disrupts the American economy. To have the Federal Government reach in at the time of death of a family member and take out 55 percent of what that family has accumulated is a confiscation. It is an absolute decimation of a family's life and savings.

I had an individual tell me about their grandfather. Everybody was home for Christmas. It was just after Ronald Reagan had pushed through a modification of the estate tax. It would have saved his family a little money. The grandfather was there at Christmas. The cancer was taking its toll on him. Every day, he asked what day it was. She told me: My grandfather died at 10 a.m. on January 1. His last act was to do what he could to keep the taxman from taking away what he had earned and preserve it for his family.

I think this is a big deal. It touches a lot of people. Some people say: Oh, it is huge revenue, we cannot afford it. It is only 1 percent of the total income into this Government at best. That is something we certainly can afford to eliminate.

No tax causes more gyrations, more lawyers, more accountants, CPAs, appraisers, and strategists to try to beat this tax than does the death tax.

In addition to that, the Federal Government spends more on trying to collect the tax than on any other tax. For the 1 percent we get, we are getting the heaviest cost on the economy, the heaviest cost on the Government to collect them. I think it is very unwise. It causes extraordinary stress on the elderly.

Sit down, as I have done as a practicing lawyer, and talk with a family about the tough decisions they may have to make. Do they want to create a trust? Do they want to advance gift money to children to try to reduce the impact of this tax? This is forcing the elderly to make decisions they ought not have to make. It upsets them, makes them nervous, and causes them to make uneconomic decisions that reduce oftentimes the productivity and efficiencies of their corporations and businesses.

It is, in my view, a huge nightmare to collect. Much of the dispute is in litigation over appraised values of properties. Many of these issues are just really a nightmare for the elderly.

Let me share with my colleagues briefly what I think is the most pernicious part of this tax. My good friend's proposal to raise the exemption to $3 million really will not touch it. These are the growing, vibrant, midsize, local, home-based companies that are doing well.

I know of a company that had 27 automobile parts stores. They built up from one. They had headquarters in Alabama. One of the members dies, and then what do they do? They meet, have a discussion, and the net result is that this locally owned company, competing with some of the biggest parts companies in America, sells out to Carquest. I have nothing against Carquest, but that is a national company, maybe even an international company in scope, moving millions and millions of dollars a year in parts. As a former parts person myself and a former equipment dealer, I have some empathy for them.

I will just say this: Carquest, as a major national company, a broadly held stock company, never pays the death tax. It is never impacted by a death tax. But a closely held corporation is savaged by the death tax.

It reminds me of a situation in which there are some trees growing up. There are some big trees and there are some little trees growing. They are trying to compete with the big trees to get more sunlight and develop and expand and compete with the big trees, and somebody comes along with the clippers and clips the tops off them, making it impossible for them to compete.

If my colleagues want to know why in America today we see a collapse of local companies, why we see an unusual conglomeration of wealth in the big stock companies, the reason is they do not pay this tax. This is a tax that falls only on the small companies in a way that devastates them too often.

I am concerned about that situation. I ask you: Do GM, GE, DaimlerChrysler, Toyota, or Mitsubishi pay a death tax? No, they do not. But I can take you back to the small bank in my hometown, the small manufacturing company, or the small chain of auto parts stores. I can tell you about a young man who told me that he and his father and brother owned four motels in Alabama. They would like to see their business expand. He explained to me that he, his brother, and his father were paying $5,000 a month for a life insurance policy on their father's life so they could pay the estate tax in case he died. Otherwise, they would have to take the money out of their company—and they had no money to take out of the company; they were pouring their money into the company—they would be forced to sell off maybe to a Holiday Inn, maybe to a Ramada, or some big company that does not pay the death tax.

We need to quit nickel-and-diming this issue. We have voted to eliminate this despicable, unfair, abusive tax that eliminates and weakens competition in America. It brings in little revenue at extraordinary cost to the tax collector and to the American people who have to pay it. It is long overdue to get rid of it. Let's not back up now. Let's go forward. Let's not let those who want more money to spend, spend, spend, spend, and keep us from doing the right thing.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the time is controlled by the Senator from North Dakota. I wonder if the Senator will yield me time to talk about some of the statements I heard this afternoon.

Mr. CONRAD. I will be happy to do that. Maybe I will take a minute.

Mr. REID. Fine.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we have heard a lot from the other side about spending running away.

If we examine the budget before us, all of the increase is in two areas: defense and homeland security. Both sides of the aisle have supported those increases. The President proposed major increases in defense spending after the attack on this country. Those of us on our side of the aisle immediately agreed. The President proposed major increases in homeland security. Those on our side of the aisle immediately agreed.

There are big increases in spending, but every part of that increase is in those two areas of defense and homeland security. That is where the big increases are occurring, and I think it is understandable why we have big increases in defense proposed by the President and agreed to by our side of the aisle. I think it is very easily understood why we have a big increase in homeland security proposed by the President and agreed to by our side of the aisle.

Mr. REID. Will the Senator yield for a question?

Mr. CONRAD. Yes, I would be happy to yield.

Mr. REID. I have said publicly and, of course, privately that I think the Senator from North Dakota really has a grasp on numbers. The Senator is aware, is he not, that about a year ago at this time, it was approximately a $4.7 trillion surplus over 10 years? The Senator would agree now that that basically is gone; is not that right?

Mr. CONRAD. Yes. Actually, the Senator will recall, we were told a year ago that we were going to have $5.6 trillion of surpluses over the next decade. That is what we were told a year ago, January of 2001, $5.6 trillion of surpluses.

Now when we look at the President's budget proposal, plus the shortfall in revenue in this filing season, plus the stimulus bill that has been passed, there are no surpluses, none. Remember, about half of this money was Social Security money. In other words, $2.5 billion of this amount of surpluses is Social Security money. It is all being used for other purposes now.

When the Senator from Arizona says it does not matter about the estate tax and Social Security because estate tax money is not used for Social Security, the point he misses is when money is taken out of the revenue stream, and there already is not enough to meet the obligations and now even more money is taken, something has to give. What is the one place that is left to give?

Mr. REID. Social Security.

Mr. CONRAD. The Social Security trust fund. So he can say there is no connection, but there is a very direct connection. There is a very real connection. The only place there is any money is the Social Security trust fund. So if he takes a big chunk more of revenue, how is it going to get covered?

Mr. REID. Will the Senator answer another question?

Mr. CONRAD. I would be happy to.

Mr. REID. The tax cuts that were passed in this body also had some impact on the future financial security of this country. Is that a fair statement?

Mr. CONRAD. There is no question about it. If we look at, where did all the money go, here is where it went. Our friends on the other side like to say it all went to spending. No, no, no. Forty-two percent went to the tax cut. That is the biggest reason for the disappearance of the surplus. The second biggest reason is economic changes. That is the economic slowdown. That is the second biggest reason. The third biggest reason is spending, and virtually all of it is defense and homeland security.

The final reason was underestimations of the cost of Medicare and Medicaid. That is where the money went.

Mr. REID. I would like to ask the Senator another question or two. Is that appropriate?

Mr. CONRAD. Sure.

Mr. REID. We passed Friday, about 1 a.m., a supplemental appropriations bill. I have heard statements all day from the other side of the aisle about this supplemental appropriation and how it contains big spending. I direct the Senator's attention to a number of items. First, I ask the Senator from North Dakota, the chairman of the Budget Committee, he realizes, does he not, that there was $14 billion in that bill for defense? Is the Senator aware of that?

Mr. CONRAD. That is correct. Of the $31 billion, $14 billion was for defense.

Mr. REID. That was requested by the President; is that true?

Mr. CONRAD. That is correct.

Mr. REID. The Senator is aware also that there was approximately $5.5 billion requested by the President for homeland security efforts; is that true?

Mr. CONRAD. That is correct.

Mr. REID. The Senator is also aware that Senator BYRD and Senator STEVENS held hearings over a period of 3 weeks that included seven Cabinet officers and scores of other witnesses to find out what was needed for homeland security for this next fiscal year. Is the Senator aware of that?

Mr. CONRAD. I am.

Mr. REID. After having done that on a bipartisan basis, unanimously out of the Committee on Appropriations, is the Senator aware that figure was increased by about $3 billion?

Mr. CONRAD. That is correct.

Mr. REID. Is it not true, I say to my friend, that of those moneys that were increased, there was a billion for first responder programs? I say to my friend, I heard on public radio this morning a long piece on how State and local government is being killed financially because of the responsibilities they have for providing security for their people, and these are responsibilities they believe that the Federal Government should bear. They gave an example of a place in Florida. Tomorrow I think they said they are going to go to Orange County, CA, and indicate how these entities are being decimated financially as a result of their requirements, these unfunded mandates that we have passed on to them. Is the Senator aware of that?

Mr. CONRAD. I am. I say to my colleague, I looked at the increases because, frankly, there were parts of that bill that I did not support. I voted against a number of the provisions in that bill. If one is fair and objective about what was offered, where did the increases occur?

According to the Congressional Budget Office, the difference between the Senate-passed bill and the House-passed bill is $1.4 billion, not the $10 billion that is being discussed on the other side; $1.4 billion of differences between the House bill and the Senate bill when scored consistently by the Congressional Budget Office. Where were the differences? First responders, $600 million more in the Senate bill; nuclear facilities, $300 million more to protect our nuclear facilities; port security, $700 million more.

If anybody has been reading the newspapers, they know there is a tremendous vulnerability of the United States to a so-called ''dirty'' bomb that would make this Capital uninhabitable for 400 years. I do not think it is unreasonable to say we are going to protect the nuclear facilities where that fissile material might come from, that we are going to protect the ports of America where those threats could come in to America.

Another $250 million was added for airport security to protect against these materials coming into the airports of the country in the holds of planes.

I say to my colleagues, that is spending that was designed to protect America.

Mr. REID. Will the Senator also acknowledge that there has been in this bill that we passed in the Senate last Friday morning $387 billion for bioterrorism, including to improve lab capacity at our Centers for Disease Control and the National Institutes of Health? Does the Senator from North Dakota acknowledge the importance of studying bioterrorism after the anthrax that closed down a major office building for 3 months in the Senate?

Mr. CONRAD. It not only closed down a major office building in the Senate but closed down post offices and closed down businesses.

Mr. REID. And killed people.

Mr. CONRAD. Killed people.

Now that we know a significant part of the planning by the al-Qaida network is bioterrorism, we know that a significant part of the planning of the al-Qaida network is a ''dirty'' nuclear device to be dropped on this Nation's

Capital, we cannot choose to turn our backs and not worry about defending the country.

Our first obligation as United States Senators is to defend this Nation.

Mr. REID. Would the Senator acknowledge there is $200 million in this bill that the President requested based on hearings held by Senators BYRD and STEVENS for food safety, including food inspectors, laboratories, protections against animal and plant disease, and also to assess risks to rural water systems; and also aware there is $154 million for cyber-security, there is also $100 million for the Environmental Protection Agency to look at assessments of water system security?

We have people quibbling, and I say ''quibbling'' because I cannot find another word to describe what they are talking about this afternoon. The Senator has shown in graphic form billions of dollars taken away from the American people and given to a very small percentage of the people. Less than 1 percent of the American taxpayers, 42 percent, is gone because of that; is that right?

Mr. CONRAD. Yes.

Mr. REID. I don't mean to denigrate, but I cannot come up with another word other than ''quibbling.'' We are talking about billions of dollars that is gone—like that—and here we are talking about programs that Senators BYRD and STEVENS worked on for weeks, that passed in the Senate without any problem at all because it was good for homeland security, good for the people of my State, good for the people of your State, and as I heard on Public Radio this morning, good for the people of Florida and even Orange County, CA, which has been devastated. I might mention, Orange County, CA, is a very rich county, but they have been devastated by virtually unfunded mandates that we passed on them since September 11.

Mr. CONRAD. I ask my colleague, are there times when money is spent inappropriately? Absolutely. Do we need to restrain spending? Absolutely.

Under the budget proposal I made to my colleagues, we would take spending to the lowest level since 1966. I applaud the Senator from Texas and the Senator from Arizona for saying we have to restrain spending. There is no way out of this hole that has been dug except to look at both sides of the equation—spending and revenue.

To eliminate the estate tax that costs $99 billion under their proposal, when instead we could reform the estate tax and increase the exemption to $3 million for an individual, $6 million for a couple, at a cost of one-eighth as much, a cost of $12.5 billion instead of $99 billion, makes no earthly sense to me. I hope we think carefully about these votes and what it means for the financial future of the country.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. How much time do I have?

The PRESIDING OFFICER. Thirty-one and a half minutes.

Mr. CONRAD. I am happy to yield to the Senator from West Virginia, 15 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the distinguished Senator from North Dakota.

Mr. President, I understand there is a little bit of grousing and gnashing of teeth concerning the moneys that were appropriated for homeland security in the supplemental appropriations bill last week. Let us stop, look, and listen.

In the last several hours, the threats against this Nation from terrorist attack once again were made evident with the arrest of an American citizen who apparently has been working with the ''al-Qaida'' terrorist network, plotting an attack on the nation's capital.

Once again, our eyes have been opened to the fact that terrorists live among us. The threats are real. The danger is present. We should not continue to delay actions that will fund immediate steps to protect American lives from attack.

Soon, the supplemental bill, which is being criticized by some today, will be in conference. I will fight hard for the $8.3 billion homeland security package that this Senate overwhelmingly approved last week. I hope that President Bush will match his rhetoric on homeland security with support for a funding package that meets so many of the critical security shortfalls in this country.

The announcement about yesterday's arrest only amplifies the concerns raised by administration officials within the past few weeks. The Vice President warned that a strike is ''almost certain.'' Secretary of Defense Donald Rumsfeld has stated that it is inevitable that terrorists will acquire weapons of mass destruction. Secretary of State Colin Powell has warned that ''terrorists are trying every way they can'' to get nuclear, chemical or biological weapons. And Homeland Security Director Tom Ridge said, ''While we prepare for another terrorist attack, we need to understand that it is not a question of if, but a question of when.''

Clearly, we know that the threat exists. We know that terrorists plan to strike. We do not know where or how or when, but we know that they will strike again. The question remains, will we be prepared?

Last week, the Senate took steps to address the many gaps in our homeland security network. By a vote of 71 to 22, the Senate voted very clearly to provide critical resources to protect American lives and to try to prevent future tragedies like the one we witnessed last September. Unfortunately, despite all of its rhetoric that homeland security is a top priority, the administration continues to oppose this critical legislation. In fact, the administration has gone so far as to threaten to veto the bill.

The President today travels to a water treatment plant in Kansas City, MO, to showcase a piece of his proposed Department of Homeland Security. This piece would create a threat analysis unit, envisioned as part of Mr. Bush's proposed intelligence-analyzing division, that would study the vulnerabilities of critical infrastructure such as water, road, and financial systems.

The supplemental bill approved by the Senate and currently opposed by the Bush Administration would put us several steps ahead on this threat assessment.

During Senate Appropriations Committee hearings over the last several weeks, Senators learned that more than $400 million is needed for local governments to conduct vulnerability assessments for our water systems. The supplemental bill includes $125 million for cities to assess the vulnerabilities of their water systems and for vulnerability assessments and security improvements to protect rural water systems. The administration did not request funding to help secure our drinking water systems, and it is opposing the Senate-passed supplemental bill that does make appropriations for our drinking water.

This spring, the Department of Energy sent the Office of Management and Budget a request for additional funds to secure America's nuclear weapons complex and labs, but the request was turned down. Now the administration has lauded its arrest of one man linked to a ''dirty bomb'' plot. But instead of supporting funds to better secure our nuclear labs and material, the administration is opposing the Senate supplemental bill that contains $200 million for that very purpose.

While in Kansas City today, the President is also expected to trumpet his plans to address vulnerabilities within the nation's financial systems. A cyber attack is a real possibility. As Senator BENNETT has pointed out, ''In the cyber-age, many of the attitudes we have had about warfare, about vulnerability, about opportunity have to be thought through entirely differently.'' Instead of supporting our efforts to address this threat, the President is opposing the Senate-passed supplemental bill that includes $154 million for cybersecurity to help combat the threat to Federal and private information systems.

Today, the President will talk about his support for local communities in the overall homeland security effort. A major part of that local effort is the actions of first responders, namely, local police officers, firefighters, emergency medical teams. The Federal Emergency Management Agency received $3 billion worth of applications from local firefighters for new equipment and training, but FEMA only had $360 million to meet the request. The administration did not ask for any additional funds in its supplemental bill. But the Senate-passed legislation last

week does include $300 million to continue to meet this massive gap in our homeland security network.

Last week, the President announced a massive governmental reorganization to respond to terrorist threats. I support the concept of a Department of Homeland Security, as do most Members of this Congress, I believe, but there are many details to be worked out and many questions to be answered. We should not wait to address the gaps in our Nation's defenses while this new department is crafted. Terrorists will not swear off further violence until a new department is up and running. We should not delay our efforts to thwart that attack. The appropriations bill the Senate passed last week with a huge margin will do just that.

It is time for the administration's rhetoric on homeland security to be matched by action. It is time for the administration to recognize that simply talking about homeland security will not save lives. It is time for the administration to support investments in homeland security, to support the Senate's work to save lives, and to help fill the gaps that currently exist in our Nation's homeland security network. The administration should support the supplemental appropriations bill passed by the Senate last week, and I hope the President will speak to that end.

I was down at the White House this morning, and I urged the President to support the supplemental appropriations bill that the Senate passed last week. This bill will go a long way toward matching the rhetoric by the administration.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. I say to my colleague, Senator CONRAD was going to yield me 10 minutes.

Mr. GRAMM. I can do it either way. I was going to speak, but if the Senator has a time constraint, I am happy to step aside for 10 minutes.

Mr. WELLSTONE. If my colleague would be willing to do so, that would help me.

Mr. GRAMM. I will be glad to do so. Let my colleague speak.

Mr. REID. How much time does the Senator from Minnesota desire?

Mr. WELLSTONE. Ten minutes. I will take more time tomorrow.

Mr. REID. Senator CONRAD has how much time remaining?

The PRESIDING OFFICER. There remain 22.5 minutes.

Mr. REID. On behalf of Senator CONRAD, I yield 10 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I strongly oppose the full repeal of the estate tax for multimillionaires and billionaires. It is unfair, and it is unaffordable. Let's repeal it for small businesses. Let's repeal it for family farmers. We all agree on that. Let's go with the Conrad formula of $3 million individual, $6 million a couple, up to $7 million, but let's retain some modicum of fiscal sanity before we give away nearly $1 trillion in tax cuts to a handful of the ultrarich. That is what this is.

The timing could not be more ironic. We now immediately follow a vote to increase the Federal debt limit by $450 billion. That was to borrow another $450 billion, which is only enough credit to last until next March.

Many of my colleagues voted for the tax cuts last year but they opposed increasing the debt limit; that is to say, in the words of the old Yiddish proverb, dancing at two weddings at the same time, although I don't think you should be able to do so.

It is now clear that the claims that have been made by the White House, by the President, and by too many Senators and Representatives, that we can have massive tax cuts for the wealthy—Robin Hood in reverse—with most of the breaks going to the top 1 percent, pay down the debt, and invest in critical public priorities, were completely false.

Of course, there is plenty of that to go around. Colleagues were out here advocating nearly a $1 trillion tax cut for billionaires less than a week after there was so much heartburn on the Senate floor over an extra $1 billion for homeland security. Where did the fiscal conservatives go? They will spend $1 trillion to protect some wealthy kid's inheritance, but they will not spend $1 billion to protect our cities and towns from terrorists.

Spend $1 trillion to protect some wealthy kid's inheritance but not $400 million for veterans' health care, with so many veterans falling between the cracks.

Give away almost $1 trillion over the next 20 years, erode the revenue base—it is fine to do it for billionaires and multimillionaires, but we don't have enough money for education, not for smaller class size, not to recruit and retain good teachers, not to have good, affordable prescription drugs, not to do something about deplorable conditions in nursing homes, not to help elderly people stay at home, live at home in as near normal circumstances as possible with dignity, not to expand health care coverage. We will not have any of the money to do that.

Full repeal of the estate tax would cost $104 billion over the next 10 years, literally to protect a few thousand ultrawealthy families. Even worse, from 2013 to 2020 it is going to cost the taxpayers over $800 billion to provide this ''relief.'' This means that the full cost of this effort to have full repeal of the estate tax over 20 years is nearly $1 trillion.

Nationally, only 1.6 percent of all estates were made up with significant small business assets and only 1.4 percent had significant farm assets. This means that virtually all the estate tax is paid by extremely wealthy people who do not own farms or small businesses. The Conrad amendment really targets this.

In contrast, many rely on Social Security. Over 740,000 Minnesotans currently receive Social Security. Make no bones about it, what we are going to be doing here is not only not providing the investment in education or health care or affordable housing, but in addition we are just going to basically be taking it out of the Social Security trust fund. That is what this is all about.

For helping multibillionaires and billionaires, refusing to target this—which is what the Conrad amendment does—refusing to exclude small businesses and family farms that are handed from family to family—which is exactly what the Dorgan amendment does—instead, we have this effort to erode the revenue base $1 trillion over 20 years, most of the benefits going to the wealthiest Americans. And at the same time, we will not even be able to live up to our commitment in Social Security.

I believe this is really a proposal which defies common sense. If we want to do it the right way, we cap the estate tax exemption at a reasonable level. That is what the Conrad amendment does. If we want to do it the right way, we exempt, as I said before, family farms and family-owned businesses. If we want to do it the right way, we will have some balance.

I finish on this note. I do not fault my colleagues because I think for many of them, this is their position. If you believe that when it comes to the most pressing issues of people's lives—be it to make sure Social Security benefits are there, to make sure we adequately fund Medicare reimbursement for our hospitals and nursing homes and home health care providers, to make sure people can afford prescription drugs, to make sure we live up to our commitment to get the dollars back to our schools and our school districts, our teachers, our children, our young people from prekindergarten through higher education, to make sure something is done about the lack of affordable housing, to make sure we can provide some help for people who have no health care coverage, to make sure we can provide some help for small businesses that can't afford health care costs—if you believe, when it comes to those pressing issues, there is nothing the Government can or should do—and I believe that in some ways that is the ideological position some of my colleagues take—then eliminating the estate tax, not targeting it, is the perfect way to go.

It is win-win. You help the millionaires and the multimillionaires and the billionaires, you erode the revenue base, and you make it impossible for the Senate and the House of Representatives and the Federal Government to play a positive role in helping people. You make it impossible for the Federal Government to play a positive role in dealing with some of the most pressing issues of the lives of people we represent.

That is what this estate tax cut does. That is what this proposal to completely eliminate the estate tax accomplishes.

In one broad stroke of public policy, you have Robin Hood in extreme reverse with the benefits going to the wealthiest Americans, and at the same time you make it impossible for us to make the investments in health care, in education, in affordable housing, in Social Security, and in Medicare.

From the point of view of some of my colleagues, it is win-win. From my point of view, it is lose-lose.

I hope our colleagues will support the Conrad amendment as at least a commonsense, reasonable alternative.

I am not sure my colleague from Texas fully agrees with my statement, but I appreciate his graciousness.

Mr. GRAMM. Mr. President, I first wish to say something that I consider to be positive about our colleague from Minnesota. There are many people who want to take the repeal of the death tax back, but they do not want to own up to why they want to do it. They want to do it because they want to spend the money. The one thing I have always admired about the Senator from Minnesota is that he does not dilute his liberalism with the alloy of hypocrisy. He says exactly what he believes. I think in doing so he not only is true to his conscience but he does the Senate a service by defining exactly what all of this is about.

I wish to yield myself 20 minutes of the remaining 50 minutes we have.

Let me begin by saying that I think I am a good person to be a leader on this issue in the sense that the only thing I have ever been bequeathed in my life is that my grandmomma's brother, my great-uncle Bill—who was a great checkers player and I guess in the minds of the world since he worked in a cotton mill he may not have been a very important person, but he was an important person to me—but he bequeathed to me a cardboard suitcase full of yellow sports clips from the 1950s. I have often thought that had it been baseball cards I would be a rich man today. So I will never pay a death tax. I hope someday my children and grandchildren will have enough wealth that it would be an issue if we don't repeal it. But I am against the death tax because it is profoundly wrong.

I know it is easy to envy what another family achieves. But how can it be right? I am not talking about budgets, I am not talking about dollars, I am talking about right and wrong. People may work a lifetime, they scrimp, they save, they sacrifice, they plow back into their business, they work 12 and 14 hours a day, they accumulate, they build, and they build America while they are building. How can it be right simply because we are greedy and we want their money to make their children sell off the fruits of their life's work to give the Government a 55-percent share of everything they have accumulated during their lifetime simply because they have been successful?

It is a question of right and wrong. I will say about the constituents of my State—I can't speak for any other State in the Union—but in my State when I am talking about this issue—whether I am talking to farmhands, or railroad retirees, or rich people in North Dallas—when I talk about it being wrong to make a man or a woman sell off the life's work of their parents to give the Government a double taxation, people stand up and applaud because they are against it. They are flat against it because it is wrong and because it is un-American. It is un-American to do that. By doing it, we prevent accumulation.

I would like to refer to two thick studies. I would put them in the CONGRESSIONAL RECORD, except it would cost a lot of money. So let me refer to them so if people want them they can get them off the Internet. I will save probably $25,000 by not putting these in the RECORD.

There was a study by the Joint Economic Committee, entitled ''The Economics Of The Estate Tax.'' It was published in December of 1998 by the Joint Economic Committee.

All of their analyses and numbers boil down to the conclusion that the death tax has reduced by $500 billion the capital stock and the total investment that the Nation has made in job creation. They conclude that we are not raising net revenues by forcing people to destroy small businesses, destroy family farms, and to tear up the bequeath of Americans who have been successful. They argue that it destroys capital and that actually we are not collecting net revenue. I commend this to my colleagues.

The second study is a private study that was done by the Institute for Policy Innovation, entitled ''The Case For Burying The Estate Tax.''

They conclude that there are costs to collecting the estate tax. There is a decline in economic efficiency as people sell off their business because they do not want their children to have to deal with the estate tax problem. People buy insurance with money they could be investing in their business, and they do that to try to avoid the estate tax. When you look at all those costs, the Institute for Policy Innovation concludes that on net we are not even collecting any taxes with the death tax.

Finally, even if you accept the IRS data as net data—in other words, that we are really losing revenue—when you take into account what it costs to collect the tax, what people spend trying to avoid it, and how it hurts the economy, contrary to all of the debate you have heard from the Democrat side of the aisle, we collected less than one cent out of every dollar of taxes collected in America last year from the death tax.

Under the best of circumstances, we are not collecting very much money. Under more likely scenarios, we are not netting any money from the tax.

This policy of death tax is driven by collective greed. It is not driven by economics. It makes no sense to make people sell off their business, or destroy their farm, or tear up their life's work. And it hurts the economy to do it. But we continue to do it because of this collective envy that somehow there is something wrong about people accumulating.

Let me take the richest man in the world, Bill Gates. They say he is worth $46 billion. But because Bill Gates has $46 billion, I am richer. He changed the life of everybody on this planet with what he did in terms of information technology and the management of data. He created 10 or 100 times that wealth from which we have all benefitted. He is giving over 90 percent of it away.

You might say that is a lot of money. Many of our colleagues will say, let us take it, we can spend it. But what moral right do we have to take it? He has already paid taxes on every dollar of it. He is the largest taxpayer in the world. I am not doing this for Bill Gates, but he is the extreme example.

The point is that this is not collecting very much money. Interestingly enough, one of the great paradoxes is the substitute that has been offered by Senator CONRAD raises the deduction immediately to $3 million over the next 5 years and it would cost $20 billion.

The way we phase out the repeal, our repeal over the next 5 years only costs $6.8 billion, and the real cost comes in the 10th year. The incredible paradox is the substitute that is being offered takes money out of the Treasury exactly when we don't have it, and it doesn't take money out in 2010 when we are going to have a surplus, according to the estimates of the Congressional Budget Office projection I have in front of me, of $653 billion.

In other words, in trying to prevent us from making the repeal of the death tax permanent, the Senator from North Dakota offers a substitute that actually drives the deficit up in the next 5 years, whereas by phasing out the death tax, the real large cost of our phaseout does not occur until a year where we have about $600 billion of surplus. Why not give it back?

The point is, we voted to repeal the death tax. We all celebrated it. We talked about it all over the country. Now we have a quirk in the budget where it comes back in 10 years. Did we mean to repeal it or didn't we? I believe we did. I believe we should.

The second line of defense in all this is: But we don't have the money. We just don't have the money. We want to make the death tax repeal permanent, but we don't have the money.

The only point I make, and I don't want to be unkind to anybody, but why is this argument about not having money never made when we are spending money? Why is it only made when we are letting people keep more of what they earn?

I want to give you five examples. Whether it was good or whether it was bad—and my guess is some of it was good and some of it wasn't good—last Thursday we spent $14 billion more than the President requested on nonemergency items. That is four times the amount it would cost over the next 2 years to make the death tax repeal permanent. So if last Thursday we had enough money to spend $14 billion that the President did not request as an emergency, how come we don't have enough money to make the death tax permanent today?

On the farm bill, I voted against the farm bill because I thought it was completely larded. I thought it was abusive in its spending. But how come we had enough money to spend next year on the farm bill that is seven times as much as it would cost next year to make the death tax repeal permanent? We had seven times as much money to spend 3 months ago when we passed that bill, but we don't have one-seventh that amount to be sure that people don't have to sell their farm when their dad dies?

It is a matter of priorities. On the energy bill, we had more new tax cuts in that bill for the next year than it would cost to repeal the death tax.

The trade bill contains new entitlements, and we had several times as much new spending in that bill that we passed last month as would be required to pay for repealing the death tax.

In railroad retirement, we had 15 times as much in the first year as it would take to fund repealing the death tax.

And finally, in the stimulus bill, in the amount we spent above the President's request, we could have funded repeal of the death tax over twice over.

Here is my point: I am not saying that every one of these things was terrible and there weren't good things in them. I am just saying, here are five examples where we spent multiples of the amount of money that would be required this year for us to repeal the death tax. Nobody who today is saying we just don't have the money said that on any one of those five things I mentioned. I said it, I believe, on each and every one of them.

The point is, the people who are saying we don't have enough money to make the repeal of the death tax permanent are the same people who voted to spend all this money.

A final point on this issue: The Democrat budget that we voted on last week on the floor and not one Member of the Senate voted for—I guess every Democrat thought it didn't spend enough and every Republican thought it spent too much, but nobody voted for it—increased spending on the discretionary account. I am not talking about national security items. I am not talking about defense. I am talking about $106 billion more than the President requested. That was more than enough to have funded the repeal of the death tax. The same people who thought we needed that $106 billion of spending now say we can't afford to repeal the death tax.

It is a matter of priorities. Many of our colleagues can never afford to let working people keep more of what they earn, but they can always afford to spend the money. That is what this debate is about.

It really boils down to this: First, we said we would repeal the death tax. It turns out it is coming back in 10 years. Should we make it permanent or not? Is it not wrong to force people to destroy the life work of their parents to give the Government 55 cents out of every dollar they have ever earned and accumulated even though they paid taxes on every penny of it?

Second, are these programs that we want to spend money on so valuable that it is worth tearing up family farms and family businesses and the life's work of our people to pay for it? I don't think so.

Finally, we have good, solid studies, including by our own Joint Economic Committee, that suggest we are not even collecting money on these taxes because they make the economy less efficient.

So this is really not even about money. This is about collective greed in that we want to redistribute wealth when people die. We don't believe death ought to be a taxable event. That is what it boils down to.

Let me sum up, and then I will yield the floor. What is the No. 1 reason that 70 percent of all family businesses do not survive into the second generation? Seventy percent of all small businesses that somebody founded do not survive into a successful operation by their children. Why? According to the National Federation of Independent Business, it is the death tax.

Eighty-seven percent of all small businesses fail before they get to the third generation of the family member who started them. Why? The NFIB says the No. 1 reason is the death tax.

And finally, 60 percent of all small business owners report that they would create new jobs over the coming year if estate taxes were eliminated. We have businesses that are buying great big insurance policies so their children won't have to sell the business. That money could be going into the business instead of being wasted economically. If you don't want to destroy small businesses, repeal the death tax.

My second point: Under the death tax, you are taxed once, you die, and then you are taxed again. Why is it right that you earn a dollar; the Government takes 40 cents out of the dollar; you plow what is left of the aftertax dollar back into your business or your farm; you die; and your children have to sell the business or farm to pay a tax on the 60 cents that you got to keep out of the original dollar? How is that right? It is not right.

No. 3, this is simple, it is clever, but it is just the truth, too. It is just the pitiful truth. No one should have to visit the undertaker and the IRS on the same day. It is just not right. So often we debate these things over numbers and budgets and all these other things when this is an issue about right and wrong. This tax is wrong.

Finally, repealing the death tax would create jobs.

According to an article in the Wall Street Journal, ''The True Cost of Dying,'' on July 28, 1999, they estimate that repealing the death tax would create 200,000 jobs. Now, it is true that some of our colleagues say if we take the tax cut back and we make people sell their farm or their business and give us 55 percent of its value, we can spend it on programs. But are those programs worth 200,000 jobs? I don't think so.

So we have before us a proposal that says let's repeal the death tax, but only for a few people. Let's raise the cost now when we have a deficit, but let's not eliminate the tax when we can afford it and when we have a huge surplus. It makes no sense. The plain truth is that a great bulk of the cost of making this tax cut permanent occurs in the year it expires, which is 2010, and by the most recent Congressional Budget Office projections our elimination of the death tax will occur in a year when we will have a surplus of $653 billion. And $335 billion of that will not belong to Social Security.

Why should we not repeal the death tax? Is there anything we can spend that money for that would be more valuable? I don't think so. I hope my colleagues will agree.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Arizona is recognized.

Mr. KYL. Madam President, I appreciate the fine explanation of my colleague from Texas. He has been an advocate of the repeal of the death tax for a long time. I am pleased to join with him in this amendment and to be able to say that we have finally been able to bring before the Senate the permanent repeal of the death tax.

I want to make several points. I see that the Senator from Oklahoma is here. Was he intending to make a point at this time?

Mr. NICKLES. I have about 7 or 8 minutes.

Mr. KYL. I will go ahead. Will the Chair let me know when I have spoken for 12 minutes?

The PRESIDING OFFICER. Yes.

Mr. KYL. I appreciate that. The first point the Senator from Texas made was that the death tax is bad tax policy. Let me explain a little bit more of what we mean by that. The Tax Code generally taxes you for voluntary conduct. If you sell property, you know there is going to be a capital gains tax on that. If you work, you know you are going to earn income and you are going to be taxed on that. People make decisions based upon tax consequences. But there are a few situations in our Tax Code that are treated as involuntary conversions.

If the Government condemns your property and pays you money for that, you don't want that money; you want your property. The Government recognizes that as an involuntary action on your part, so you don't pay ordinary income at that time on that money. If your house burns down and you collect money from an insurance policy, you didn't intend for that to happen. The Government doesn't treat those insurance proceeds to you as ordinary income. It is taxed in a different way. The same thing is what we are proposing to do with the estate tax. Nobody intends for your father, or whoever it might be, to die. He certainly doesn't. The money that you may get as a result of that is coming to you involuntarily. You didn't take some action in order for it to occur. So that money coming to you should be treated in a different way.

The way that it is treated under the amendment of the Senator from North Dakota is to take 50 percent of the amount over $3 million. In other words, there is a $3 million exemption and, after that, every other dollar is taxed at 50 percent. If it is over $10 million, it is at 55 percent.

Now, that is bad tax policy. What we say instead is that the tax is not due on the date of death. Death is not a taxable event. Instead, the money passes to the heirs and, at that point, if they sell the property, there is a taxable event. You pay the capital gains on that property. In fact, the basis for the capital gain is the original basis on when the property was purchased by the decedent, not the value at the time of death. So, in effect, we are replacing one tax with another tax. Much of the revenue is not lost to the Treasury as a result. But at least as to the decision to pay Uncle Sam, the money comes from the voluntary act of people who inherited the property and who are willing to pay the capital gains tax if they sell the property, or part of it.

But what you don't have to do, as the Senator from Texas said, is visit the IRS the same day you visit the mortuary. That is wrong. That is why over 60 percent of the American people believe this is an unfair tax.

It is interesting that three-fourths of the people surveyed who say it is an unfair tax say they would favor its repeal, even though they don't believe that repeal would have any effect on them because they would not be receiving any of that money, or paying it, as an heir. So it is an unfair tax. As a matter of fact, the Senate agreed that it was unfair. We repealed it. A majority of Senators voted to repeal the estate tax.

Now, under the procedures under which that was done, no action that we took could last longer than 10 years. So the irony is after 10 years, none of our tax relief exists; it evaporates and we go back to where we were in 2001. Did we intend that? When we told our constituents we reduced the marriage penalty and reduced their individual income-tax rate and repealed the estate tax, were we kidding or did we really mean it? We will find out tomorrow.

If we were just kidding, then we will defeat the Gramm-Kyl amendment, or adopt some other proposal. If we meant what we said, saying we meant to repeal it, to cast the vote to do that, and since that sunsets after 10 years, we are going to permanently repeal it with our vote today, you will support the Gramm-Kyl amendment.

Some say this doesn't affect many people. The fact is that it doesn't just affect the rich. The descendant—the rich person—died. He cannot be affected; he is gone. Most of the people who inherit the money are not rich, and certainly the employees of their companies or the farms are not rich. So most of the people who are affected by the death tax are not wealthy at all.

The question is, Do you want to take half of what they are going to get from the person who worked so hard during his or her life to provide it to them? According to the Treasury Department, 45,000 families paid some level of estate tax in 1999. That is families. If it is a family of four, multiply that by 4 to see the number of people who are immediately affected, and then you can add to that the people indirectly affected. What is not included in the statistics is twice as many people sell their business or their farms. Many more people are adversely impacted when jobs in the community are lost when a family-owned business is sold to pay the tax.

In addition, more than 2 percent of Americans bear the aggregate costs of this tax—fees to lawyers and accountants and life insurance agents. As a matter of fact, it costs just about exactly as much for the people who pay the lawyers and insurance agents and the accountants to avoid the total consequence of the tax as the Federal Government collects from those who actually end up paying. So it ends up being a double tax on Americans. Half pay the tax to Uncle Sam and the other half pay the lawyers. I don't know which is worse.

The death tax not only impacts more than 2 percent of Americans, it burdens family-owned businesses under $100 million in value. According to the IRS, in 1999, 116,500 estate tax returns were filed; 60,700 of these returns were filed by estates with values of less than a million dollars. Estates valued between $1 million and $5 million filed 50,600 returns. There were 5,200 estates filed of more than 5 million. So even combined, the millionaires filing for the tax do not exceed the nonmillionaires.

The bottom line is that Americans recognize it is an unfair tax. It affects a lot more people than the person who had wealth when he died. The Senate recognized the same thing when it adopted the repeal of this tax.

Madam President, I was a bit surprised by the amendment of the Senator from North Dakota.

I know a lot of our colleagues on the other side of the aisle are opposed to permanent repeal of the estate tax. I thought what they would do was offer a fairly generous package that would be tempting for our colleagues to vote for in lieu of the real repeal, which is the Gramm-Kyl repeal. As it turns out, that was not done. It is a very straightforward proposal which is not generous at all. As a matter of fact, it is worse—it is worse—than the status quo. People would be better off under the existing law, even without the ultimate repeal, than they would be taking the amendment of the Senator from North Dakota.

It is interesting that while he is concerned about the cost of repeal in the first 5 years, for which we have figures, the repeal of the proposal before us of the Senator from North Dakota would be about $22 billion versus $9 billion for our proposal at a time when we are in a deficit situation, as the Senator from Texas noted.

The only way this is made up is that in return for that, we immediately go from a reduced rate of taxes under our bill and under the status quo to a 50-percent rate under the amendment of the Senator from North Dakota. The exemption amount is $3 million. The exemption under ours by the year 2009 is $3.5 million and, of course, in the final year, there is no need for an exemption from the estate tax because the estate tax is repealed.

Under the substitution of the capital gains tax for the estate tax in the Gramm-Kyl proposal, we retain a $5.6 million equivalent to an exemption so that nobody will pay a capital gains tax who would not have paid an estate tax. People are made whole, in other words.

Under no scenario would you be better off under the amendment of the Senator from North Dakota. You would be much better off under the amendment Senator GRAMM and I have proposed.

Let me make one other point. When we talk about the cost of this proposal, it is always a bit frustrating for me because we are talking about lost revenues to the Federal Treasury. To me, that is not a cost; that is an opportunity for Americans to keep more of their own money.

What we know from tax policy generally is if you reduce people's taxes, you improve the status of the economy. One thing we forget when we talk about the alleged cost of the repeal of the estate tax is the positive effect that has on the economy. A study conducted by Alan Sinai shows the GDP of our country could increase a total of $150 billion over 10 years and job growth could increase 165,000 per year with repeal. The increase in household savings would be between $800 and $3,000 annually. So the impact on families and on the GDP would be significant from a repeal of the estate tax.

A Joint Economic Committee study estimates the existence of the tax has reduced the Nation's pool of savings by $497 billion. An expert in this area testified before our Finance Committee

and said immediate repeal of the death tax would result in a $40 billion economic stimulus.

If you really want to stimulate the economy, if you really want to create more jobs, if you want to enhance the GDP and if you want to enhance personal savings and personal income, then repeal the tax.

It is true that the Federal Government is a little worse off if we repeal the tax. It does not take in quite as much money. But American families have a lot left, and the American economy is a lot healthier as a result.

What happens when the economy grows? We all know that tax collections by the Government actually increase when the economy grows. We do not have an exact study on what Federal revenue increases would be, but we know they would be significant.

A final point: There is always the bottom line argument: when you cannot scare people any other way, say that Social Security might be affected.

There is zero effect; there can be no effect on Social Security by repeal of the death tax. The death tax has nothing to do with Social Security. The death tax goes to the general revenues. It is about 1 percent, 1.5 percent of general revenues. It has no impact on Social Security. It pays none of the Social Security benefits.

Today, in the year 2002, we will be taking in about $624 billion in Social Security, and the payments to Social Security recipients are about $465 billion, so we have about a $175 billion surplus in Social Security funds.

No Social Security recipient could be affected by repeal of the death tax. Let's at least understand that and not scare people by suggesting there is an adverse impact on Social Security.

We have more points. I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, first, I compliment my friends, Senator KYL and Senator GRAMM, for their leadership in trying to eliminate one of the most unfair taxes in U.S. history. We have a chance to do it. We have two proposals that are before us. One is by Senator GRAMM and Senator KYL, of which I am a cosponsor, to repeal the death tax so there will not be a taxable event on somebody's death. Now there will be a taxable event when the property is sold, also known as a capital gains tax. That is 20 percent. That ought to be enough.

We are trying to make permanent the repeal in the year 2010. Let's make that permanent. That is our objective. Under that scenario, if there is property in an estate—let's say it is a business, a manufacturing company, maybe it is a farm or ranch, maybe it is a restaurant in downtown Washington, DC. That restaurant may sell for $5 million. Maybe it is a second or third generation restaurant, Mortons, and it is worth several million dollars. If the son or daughter takes over that business and they do not sell it, there is not a taxable event. But if they decide it is too much of a hassle and they do not want to continue the operation and they sell it, then there is a taxable event. It will be taxed as capital gains at 20 percent instead of under Senator CONRAD's proposal of 55 percent.

I probably shocked somebody when I said 55 percent. I read Senator CONRAD's proposal as 50 percent. He has an exemption of $3 million, and in a few years $3.5 million, but above that is taxable at 50 percent. If you have an estate between $10 million and $17 million, there is another 5 percent kicker, and so the Federal Government will get 55 percent.

Why in the world would the Federal Government be entitled to take over half of somebody's property for which they worked their entire lives? Should the Federal Government come in and take half or over half? That is what is in the Conrad proposal.

We have two competing proposals. What will the impact be? Look at the businesses in Washington, Oregon, or Maine. We can all think of very successful people who have built businesses and have employed a lot of people. A lot of those are worth more than $3.5 million. Senator CONRAD's proposal says we want half of the property's worth when somebody passes away. I happen to think that is absolutely wrong. Whether the value of that business is $3 million or $100 million, if somebody wants to continue operating that business, why should the Government come in and say: No, stop, we want half; somebody died; stop; we want the Federal Government to come in and take half? That is what Senator CONRAD's proposal is. I object to that.

I learned the hard way. My grandfather started a business. My dad built it up. He died when he was pretty young, and the Government came in and said: Stop, we want half. We fought the Government for 7 years. Frankly, the business was a small, family-held business, and Uncle Sam said: We want half of it. We objected to that and we fought them for years. We ended up settling. They ended up getting a lot more than they should have.

The Government's purpose and function should be to protect our property, not confiscate it. If one thinks about it, under the Conrad proposal, if they get half—and let's say it is over $3 million,—somebody passes away this year, and then in the next generation somebody else passes away 20 years later, and they get half again. What a disincentive to grow, build, and expand.

There are countless generations across the country trying to grow, build and expand by employing more people and creating more products. I think of a company in Perry, Oklahoma called Ditch Witch. They manufacture trench makers. These machines are used to lay cable, phone lines, pipelines, help build roads, among many other uses. Perry, OK, has a population probably of 12,000 people, of which Ditch Witch employs a couple thousand. It is a great little family-owned business. Why should the Government come in and say: Stop, the proprietor passed away; we want half of it? What about those thousands of jobs?

Look at another company called Bama Pies. They make pies in Tulsa, OK. They make millions of pies, including all the pies for McDonald's. They employ hundreds, if not thousands, of people. It is a closely held business.

Why should the Government come in and take half because the entrepreneur who built that business happens to pass away and the value of the business is in the millions? I do not think they should.

That is what we are talking about. Should the Government come in and say, oh, well, you have been relatively successful, and because your estate is in the upper maybe 1 percent or 2 percent, it is okay if we sock it to you? What is right about that? What is fair about it? Where are the jobs that are in that kind of an ordeal? We think the Government can operate it better? Sorry, you have to sell it to pay estate taxes. We hope the company will survive in its next form. Maybe it will. Maybe it will not. There are a lot of operations that cannot withstand that type of a heavy tax.

A farm or a ranch is another good example. You might have a fairly decent farm or ranch maybe adjacent to a large city and so its property valuation is very high. This value could maybe exceed it's agriculture valuation, or the profits or the money that would be generated from the agriculture. Just because it happens to be next to San Diego it is worth millions on the valuation sheets. Maybe somebody says, well, I want to continue farming it and ranching it; I am second or third generation. And we are going to say, no, we are sorry; we have valuated this, and because it happens to be next to San Diego, it is worth millions of dollars so the Federal Government is entitled to take half. They cannot pay half by continuing their agricultural operation, so the only way they can pay taxes is to sell it. What kind of victory is that? We have just broken up a family business, a family farm, or a family ranch. Why? So Uncle Sam can take half that property? Maybe that property is not worth near as much in that present function. What right do we have to do that?

Some taxes are wrong, and this tax happens to be one of those that are wrong. The power to tax, it has often been said, is the power to destroy. If the Government can take half—and in the amendment of Senator CONRAD, the Government can take half. If you have a taxable estate over $3 million, then they have taken away a lot of your—maybe destroyed a lot of incentive to build, grow, expand, and employ. I think of so many entrepreneurs who have built and expanded businesses that are now worth millions of dollars.

I look at this amendment and it says: Stop; do not grow anymore because Uncle Sam is going to come in and take half of it. We have decided that is our property and we can handle it better than you can. How many employees will the Government hire out of that type of operation?

I completely disagree with the premise espoused of, let's keep the rates at 50 or 55 percent. Again, I mention the rate. Under the proposal of Senator CONRAD, there is a maximum rate because he has this bonus 5 percent hit if your taxable estate is between $10 million and $17 million. Well, $10 million and $17 million sounds like a lot if that is your disposable income, but if that is your investment that you have grown in plant and equipment, and you are putting the money back in the business year after year, it may not be that big. You may not make that much money. You may have a business that is worth $20 million but it may not make very much money. Yet, under Senator CONRAD's amendment, too bad: You pass away, we have a taxable event, and Uncle Sam gets half. If it is a $20 million business, take away your $3 million deductible and you have a $17 million business. Under his proposal, half of it goes to Uncle Sam—actually, 55 percent of the $17 million. The Government is going to get almost $9 million out of a $20 million business. Congratulations, you are really successful. If this is the case, where are the liquid assets in this $20 million business? You do not have them. You have invested them in plant and equipment, in machinery, in jobs. You did not have them sitting around in CDs and cash, so you have to sell the business to pay the taxes.

That is what the amendment of the Senator from North Dakota is. It says, Government, you are entitled to take half; and many of us say, no, you are not. This tax is unfair. It needs to be repealed.

We took a giant step in that direction when we phased down the tax and repealed it in the year 2010. We need to make it permanent, and that is exactly what the Gramm-Kyl-Nickles amendment does, makes it permanent. Senator CONRAD's amendment says, no, we do not want to do that. We will increase the exemption a little bit and then the Government is entitled to get half.

I hope my colleagues will reject that type of unfair tax policy that needs to be repealed. Even if it applies to one small percentage of the American population, it is not right to take it. One can say, well, is it right to take 100 percent of somebody's property if it only affects a few? I think of that as theft, rather than good, sound tax policy.

I heard some people complain, what about the effects on deficits? I started looking at spending. I always hear when we talk about taxes, but when we talk about spending we do not hear about people talking about, what is the impact on Social Security? What is the impact on future deficits? Between the years 2000 and 2001, budget authority went up from $584 billion to $664 billion. That is a 14-percent increase. Between the years 2001 and 2002, it went up to $710 billion. That is a 7-percent increase. That was before we started working on the supplemental. The budget we are working on now that just passed—if we include the supplemental that just passed Congress—is $768 billion. If we add that together, that is an 8-percent increase over the previous year. So we are compounding spending at 14, 7, 8 percent.

Then I look at some of the other requests. The farm bill that we passed about a month ago was $82 billion over the baseline. We are paying cotton farmers 72 cents per pound when we look at cotton that is selling for 32 cents. The market price for cotton is 32 cents, but we are going to pay farmers 72 cents for 6 years.

Look at railroad retirement. We are writing out a check for $15 billion for railroad retirement, something we have never done before.

The Trade Adjustment Assistance Program we passed had $11 billion of new entitlements, where the Federal Government is going to pick up 60 percent of health care costs for people who happen to be uninsured, unemployed.

We are going to have a new wage entitlement insurance program under trade adjustment assistance. The supplemental was $3.9 billion over the President's request. The supplemental was almost $4 billion above the President's request. Trade adjustment assistance had $11.1 billion over the President's request in new entitlements. The farm bill was $82.8 billion over the baseline. Railroad retirement is $15 billion. So there is a lot of new spending in excess of about $120 billion that Congress has passed in the last few months. Where is the outrage on the impact on deficits on these bills?

When we start talking about not taking away half of somebody's property when they die and reject this tax policy, perhaps we should have the tax policy be enacted when their property is sold by their beneficiaries. Then there is a taxable event and that taxable event is taxed at the capital gains rate, which is 20 percent. With this method, you would eliminate these billions of dollars that are being spent presently to avoid the tax. To everyone who knows estate planning, the lawyers and the accountants, this is an enormous field, which in my opinion uses a lot of minds in a productive venture to avoid a very unfair tax.

If we said, let us have a tax on capital gains, it would simplify taxation. I think we would see a lot of businesses grow if they did not receive this signal, stop, do not grow anymore because we are going to take half of everything you have. The economy would respond in a very positive way. We would create thousands, maybe hundreds of thousands, of jobs if we could repeal this unfair tax.

I urge my colleagues, when we vote tomorrow, when we have final passage, to vote in favor of the Gramm-Kyl-Nickles amendment to repeal permanently this unfair death tax.

Mr. CONRAD. Madam President, I have been amazed at the argument from the other side, absolutely amazed. My amendment is not as good as the status quo? Their proposal is better? What math are they using?

I grew up in North Dakota, went to North Dakota schools where one and one is two; two and two is four; four and four is eight. That is the math I learned. I don't know what math they are talking about.

Let's talk about the difference between my proposal before the Senate and their proposal. Let's talk about current law. They say mine is not as good as current law. Under current law, next year the exemption will be $1 million. That is 2003. Under my proposal, the exemption is $3 million. So the rate for an individual who has an estate that is taxed next year below $3 million, the rate is zero; their rate above $1 million is 41 percent. Which is better? A zero rate up to $3 million, as in my proposal? Or their proposal, which is a 41-percent rate over $1 million? Can we do the math? Which proposal means less tax to the individual in the family? Zero percent up to $3 million? Or their proposal that says a 41-percent rate over $1 million.

Compare it to current law. My rate is zero percent up to $3 million. They have zero up to $1 million. That is current law. But over that the rate is 41 percent. Let's see, are you going to pay less tax under my proposal or their proposal? Are you going to pay less tax under my proposal or under current law? Come on. I am ready to have an honest debate but let's not twist things around and claim that my proposal taxes more than your proposal. That stands truth and logic on its head.

Mr. KYL. Will the Senator yield for a question?

Mr. CONRAD. I yield.

Mr. KYL. I agree with the point in the first year there is a greater benefit for individuals but a higher cost to the Government. Would the Senator continue the timeline over the next 10 years?

Mr. CONRAD. I would be happy to do that.

The next year, 2004, their exemption is $1.5 million for current law with a 41-percent rate. Their proposal is a $1.5 million exemption with a 43-percent rate. My proposal is $3 million, nothing, no tax. So you are higher in 2003; you are higher in 2004; you are higher in 2005; you are higher in 2006; you are higher in 2007. That is a long time in which my proposal is better than your proposal.

Not only is my proposal better in terms of the taxpayer for those years, my proposal is better for the Federal Government's Treasury and for fiscal responsibility and for Social Security because our proposal costs less over the

next decade than does theirs. Why is that? Because at the end of the decade they eliminate the estate tax completely. It does not matter how big. It does not matter if you have a $50 billion estate, they say you pay no tax.

The Senator from Texas talked about what is fair and right. Let me give an example of why I think what he is proposing is less fair, is less right, than what I am proposing.

Under their proposal, someone with an estate of $50 million—for example, Mr. Skilling, the executive who ran Enron. He would have his estate tax eliminated. The $55 million he would save would be equivalent to all of the Social Security taxes paid in one year by 30,000 people earning $30,000. In other words, in their idea of what is fair, it is more important to take Mr. Skilling off the tax rolls completely, even though his gains, many might say, are ill gotten, it is more important to take him off than to worry about the 30,000 Americans earning $30,000 a year paying that amount of money into Social Security. Make no mistake, these things are directly related.

The proposal I have offered reforms the estate tax. It says nothing is paid starting next year if you are an individual with an estate of less than $3 million, and for a couple that is up to $6 million. You pay zero. That is much better for next year, and 2004, and 2005, and 2006, and 2007, than their proposal. But, at the same time, my proposal costs less because we do not eliminate the estate tax. So my proposal costs $12.6 billion in the first decade; their proposal costs $99.4 billion. That is a dramatic difference. It is at a time when we will be running deficits for the entire next decade. Let me repeat that. We will be running deficits for the entire next decade unless something changes. And just hours ago we had to increase the debt of the United States $450 billion. They are proposing a cost in the second 10 years of $740 billion.

Reform, not repeal, is the best thing for this country's economy, for our fiscal stability, and for fiscal responsibility. And interestingly enough, it is the best thing for taxpayers. It is the best thing for taxpayers because they get a better break now. We go from a $1 million exemption to a $3 million. Next year, that would be $6 million for a couple.

This idea of repeal which they have proposed is a hoax. I don't think it will ever happen. They can pass it now, but I don't think it will happen. By some other name this tax will come back and we will have denied people the ability to plan and we will also have denied people the chance to get a greater exemption now, which is what I am proposing.

When I was raised, I was taught a bird in the hand is worth two in the bush. This proposal I am making is a bird in the hand, a $3 million exemption, or a $6 million exemption for a couple, starting next year, instead of the $1 million exemption that exists in current law and the $1 million they have in their plan.

The choice is pretty clear, pretty simple, but pretty important.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, our dear colleague has a substitute which costs a ''fraction'' of a repeal but it is better. If his amendment sounds too good to be true, it is because it is too good to be true.

The first thing he never mentioned was if you are a small business or family farm and you are engaged in any estate planning, and we know that small businesses and family farms spend dollars in estate planning, this completely wipes all that out. I can show figures on a small business, a $10 million small business, the tax would equally be higher next year under his proposal than under ours. But we do not have to get into all this gamesmanship. It really boils down to a simple question. We repeal the death tax for everybody.

Mr. CONRAD. Will the Senator yield on that last point?

Mr. GRAMM. I will yield. I only have a couple of minutes, so do it fast.

Mr. CONRAD. I would love to see the calculation the Senator has.

Mr. GRAMM. I will be glad to show him. I have someone from the Finance Committee here, the staff person who worked on this. She worked out the example of $10 million, and I will send her over with it so your staff can take a look at it.

Mr. CONRAD. I would love to take a look at that.

Mr. GRAMM. Here is the point. We don't need to get into all this business about ''he did,'' ''he didn't,'' ''he did,'' ''he didn't.'' It boils down to this. We said we repeal the death tax and we repealed it. Only there is a trick: it comes back in 10 years.

Senator KYL and I want to repeal it so it is dead forever. We do not think death ought to be a taxable event. We don't think you ought to have to sell your family's farm, business, or estate to pay tax on money which you have already paid taxes on.

The Senator says let's do it for some people but not other people. Let's do it for some Americans but not other Americans. And let's, at the same time, ban all of the procedures whereby every small business in America and every family farm in America is planning for estate taxes to try to minimize their costs.

The bottom line is: Are you for a repeal for everybody or are you for a repeal for some of the people? It really boils down to that simple issue.

As for this argument about Social Security, I hope everybody understands that we collect a payroll tax for Social Security. The death tax collects less than 1 percent of revenues, and none of that money goes into Social Security. In fact, as I pointed out over and over and over, five times in the last 9 months we have spent cumulatively about 20 times the amount that it would take to repeal the death tax. So, obviously, it is not a question of money. It is a question of priorities.

I yield the floor. We are through on our side.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Arizona.

Mr. KYL. Might I address a question to the Senator from North Dakota since the Senator from Nevada is not here. It is our understanding under the unanimous consent agreement the next amendment that will be laid down will be laid down by Senator DORGAN or by Senator REID on his behalf?

Here is Senator REID. Perhaps we could get this underway now. If I could inquire of the Senator from Nevada, the time having expired under the unanimous consent agreement on the first amendment laid down, is the amendment of the Senator from North Dakota next? The next thing that will transpire is that the Senator from Nevada on behalf of the other Senator from North Dakota will lay down an amendment; is that right?

The PRESIDING OFFICER. The Senator from North Dakota still has 5 minutes.

Mr. KYL. I am sorry. I thought the Chair said all time had expired.

The PRESIDING OFFICER. The time of the Senator from Texas had expired.

Mr. KYL. If the Senator from North Dakota still has 5 minutes, I will yield the floor to the Senator from North Dakota. But if we could get a clarification about what is going to happen when that time has expired, I would appreciate it.

Mr. REID. If the Senator from North Dakota will yield without this time counting against his 5 minutes, I will respond to the question of the Senator from Arizona.

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

Mr. REID. I say to the Senator, at this time the Senator from North Dakota, Mr. DORGAN, is working on some minor changes in the amendment that he offered previously. That amendment, I cannot go into detail on.

Basically, what it does is exempt from the estate tax small farms and businesses that let descendants take over after the death of the party—the same amendment he offered previously that I think got 43 votes. Basically, that is the amendment.

I do say to my friend, I just talked to the cloakroom and he is making some changes. We were and are entitled to two second-degree amendments under the unanimous consent agreement. At this stage we may only offer one of them. Senator DORGAN is trying to change the one amendment so there may be one amendment rather than two. As soon as we get something in writing, we will let the Senator from Arizona know. I do not think there is any question that the amendment you are going to lay down is the same one we have seen before, just an outright repeal?

Mr. KYL. Also, not taking away the time of the Senator from North Dakota, the Senator from Nevada is correct. I just inquire, then, for the benefit of all Senators, when the Senator from North Dakota has completed his 5 minutes of concluding remarks, could the Senator from Nevada explain what happens at that point?

Mr. REID. I have spoken to the majority leader. We have the Prime Minister of Australia coming for a joint session of Congress tomorrow morning. We are going to do a limited amount of morning business in the morning. Then the escort committee would go with the Senators over to the House side and listen to that speech. That is expected to be completed and we will be back in session approximately 12:30 tomorrow afternoon.

At that time, Senator DORGAN will lay down his second-degree amendment with a 2-hour time limit. We would vote at approximately 2:30 on the Dorgan amendment, then the Conrad amendment, and then we would turn to the Senator from Texas. He would lay down his amendment which would probably be around 3:15. At 5:15 or 5:30, thereabouts, debate on that would be completed, and I hope on or about that time we could vote on the amendment of the Senator from Texas and be finished with this matter.

Mr. GRAMM. If the Senator will yield, let me just reaffirm so everybody knows, I will offer exactly the language that passed the House, repealing the death tax permanently. So if we did it, it would go right to the President, he would sign it into law.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, let me conclude this debate as I began. I believe our votes must be informed by the current fiscal condition of the country. As the President said to us last year, his budget was going to pay off $2 trillion of debt over the next decade. He said, at that time, that would be the largest debt reduction of any country ever.

Now the President comes to us 1 year later and says: Whoops, forget about that. Forget about maximum paydown of the debt. Forget about paying down more debt than any country ever. Instead of paying down debt, I am asking you, Members of Congress, for the second biggest increase in the debt in our Nation's history.

The only bigger request for an increase in the debt was made by the current President's father when he was President. He asked for and received a $915 billion increase in the national debt in one fell swoop, in November of 1990.

Now comes this President and he asks for a $750 billion increase in the debt, the second biggest in our Nation's history.

We all have to think a moment about the changed circumstances. Just hours ago, this Chamber voted to increase this Nation's debt by $450 billion. Now our colleagues on the other side are here saying they want to increase the debt another $100 billion in this 10 years, by another $740 billion in the second decade.

Let's look at where we are and where we are headed. This chart shows that from 1992 to 2000 we pulled out of deficit. We got ourselves into circumstances in which we were running surpluses. Last year with the President's budget plan we plunged back into deficit, and we now are told that we can expect deficits the entire rest of the decade. That is before their proposal to dig the hole even deeper. And the outlook for the years beyond is even more serious.

That brings us to the question of what do we do on the estate tax. I acknowledge we need to reform the estate tax—$1 million is too low for a tax to be imposed. So I proposed that next year we go to $3 million of exemption for an individual estate; $6 million for a couple. They would pay zero under my proposal. A couple would pay no estate tax up to $6 million. Our friends on the other side, they don't get to $3 million until 2009.

My proposal also freezes the maximum estate tax rate at 50 percent. It retains stepped-up basis. I know that is a confusing term, but it is an important one. What it means is that in the future, you will pay taxes on what you inherit based on the value at the time you inherit it, not what grandpa paid for the property, not what grandma paid for the property, but what it was worth when it passed to you.

That is a very important difference between their proposal and mine. While my proposal is more generous to taxpayers in the short term, it is also more fiscally responsible because we don't eliminate the estate tax completely as their proposal does. They are proposing to eliminate the estate tax completely after the year 2010. My proposal saves hundreds of billions of dollars that otherwise are going to come straight out of Social Security. There is no other place for it to come from. They deny it. They say this has no effect on Social Security. Really? Where is the money coming from? There is only one place it can come from; that is, straight out of Social Security.

My proposal will reduce the number of estates that are taxable from the current level, which is 2 percent. Only 2 percent of all estates in America have any tax. I would reduce that to three-tenths of 1 percent, but at the same time save the fiscal position of the country.

There is no question that what they are talking about—estate tax repeal—raids Social Security trust funds. Look at what it does. Their idea of fairness is to eliminate the estate taxes for somebody like Mr. Skilling, former CEO of Enron, who would save under their plan an estimated at $55 million. That is equivalent to all of the Social Security taxes paid in a year by 30,000 American people earning $30,000.

They say their proposal is fair. They say their proposal is equitable. I don't see it. Taking all of the taxes from 30,000 people earning $30,000 a year to eliminate the estate taxes of Mr. Skilling is not fair.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DAYTON). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DASCHLE. 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. DASCHLE. Mr. President, I wanted to announce that there will be no further votes today. I appreciate the vigorous debate we have had on the Conrad amendment, and appreciate Senators coming to the floor to move the schedule along.

It is my hope that we will have a vote at approximately 2:30 tomorrow, and it may be stacked with another amendment.

I urge Senators to offer their amendments because we will miss a window here, and we will then make a point of order on the bill itself sometime tomorrow.

We are not going to wait for Senators. They are either going to offer their amendments or they are going to miss the opportunity.

So those Senators who have amendments need to come to the floor and lay them down and have the debate, as Senator CONRAD did this afternoon.

We will pick up this debate again tomorrow morning.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DAYTON). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 10 minutes each.

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

TRIBUTE TO FLOYD CALVERT, JR.

Mr. NICKLES. Mr. President, I recognize an American who honorably served our Nation for nearly 40 years. At the age of 25, Lieutenant Floyd Calvert Jr., an Oklahoman and Cherokee Indian, served as a bomber pilot in the U.S. Army Air Corps flying B–29 aircraft in the Pacific Theater during World War II.

On June 1, 1945, Lt. Calvert and his crew of ten from the 504th Bomb Group took off from Tininan Island, in the Marianias to strike Osaka, Japan. Immediately after delivering his ordnance, his B–29 aircraft was hit and severely damaged by anti-aircraft artillery fire. Lt. Calvert's headset was blown off inflicting wounds in his scalp and left arm. His co-pilot was also wounded and unable to assist in flying the damaged B–29. With the right inboard engine on fire, Lt. Calvert placed his aircraft in a steep dive to extinguish the flames. With the fire out he tried in vain to feather the engine but the runaway propeller spun off and flew into the right outboard engine, creating a very grave situation with both engines on the right side inoperable. Lt. Calvert's crew decided to remain with the crippled B–29. Wounded and bleeding, Lt. Calvert flew solo toward the airfield at Iwo Jima. To reduce the aircraft's weight and extend its range, he proceeded to jettison all removable items, to include life rafts, reducing their chances of survival if they had to ditch the aircraft into the Pacific Ocean. Once over Iwo Jima, Lt. Calvert circled his bomber to permit other bomber aircraft to recover or bail out over the tiny island. In a feat of unprecedented airmanship and heroism, Lt. Calvert then flew a flawless approach and landing, bringing his crew to safety in an aircraft that would never fly again.

Like so many of his time, Lt. Calvert returned to Oklahoma and began a fifty-one year marriage and raised five children. He worked for 34 years as a federal employee at Tinker Air Force Base in Oklahoma City and served on his local school board and in his church. Today, at age 82, he resides with his youngest daughter, her husband and their two children, and he remains an inspiration to our generation as we look back and admire the heroes of our past. I thank him for his unwavering service and sacrifice to the United States of America. May God bless Floyd Calvert Jr. and his family.

RECOGNITION OF THE VALOR, DEDICATION, AND PATRIOTISM OF CHALDEAN AMERICAN VETERANS

Mr. LEVIN. Mr. President, later this month, on June 14th, people in my home state of Michigan will be gathering at a special ceremony to honor men and women of the U.S. armed forces who have served to preserve our nation's freedom. This ceremony held by the Chaldean American Ladies of Charity will pay tribute to Chaldean American men and women who have served or are currently serving in our Nation's military.

It is particularly poignant that people are gathering to honor Chaldean American veterans on the day set aside to honor our foremost symbol of freedom: the American flag. At a time when we are reminded of the priceless value of our many freedoms, it is important that we do not forget the heroes who fought so fearlessly and valiantly in past conflicts to protect our nation and our freedoms. Such brave men and women have preserved our liberty and democratic values and safeguarded our freedom to pursue the American dream.

The Chaldeans are people who possess a long and fascinating history. They have traditionally spoken a form of Aramaic, the language in which the New Testament was written, and possess an interesting theological history that includes a reunion with the Roman Catholic Church in 1551 A.D. This reunion led to the establishment of the Chaldean rite of the Catholic Church.

Many Chaldeans immigrated to the United States from Iraq, and have played an important part in our nation's growth and success. Detroit is privileged to be home to the largest Chaldean community in the United States. In Detroit and throughout the nation, Chaldean Americans have dedicated themselves to the making a better life in America. Detroit, the State of Michigan and our nation have benefitted from their patriotism, hard work and dedication to community, faith and family. These many contributions have greatly benefitted our nation and have included the service of nearly two hundred Chaldean Americans in the United States Armed Forces.

The entire Chaldean American community can take pride in their long and honorable tradition of service to our nation, particularly their service in our nation's armed forces. I am sure that my Senate colleagues join me and the Chaldean American Ladies of Charity in paying tribute to Chaldean American veterans.

REMEMBERING THE MIA'S OF SULTAN YAQUB ON THE TWENTIETH ANNIVERSARY OF THEIR CAPTURE

Mr. SCHUMER. Mr. President, I rise today to ask my colleagues to join me in remembering the Israeli soldiers captured by the Syrians during the 1982 Israeli war with Lebanon. It is with great sadness that we mark today 20 long years of anguish for their families, who continue to desperately seek information about their sons.

On June 11, 1982, an Israeli unit battled with a Syrian armored unit in the Bekaa Valley in northeastern Lebanon. Sergeant Zachary Baumel, First Sergeant Zvi Feldman, and Corporal Yehudah Katz were captured by the Syrians that day. They were identified as an Israeli tank crew, and reported missing in Damascus. The Israeli tank, flying the Syrian and Palestinian flag, was greeted with cheers from bystanders.

Since that terrible day in 1982, the governments of Israel and the United States have been doing their utmost by working with the office of the International Committee of the Red Cross, the United Nations, and other international bodies to obtain any possible information about the fate of the missing soldiers. According to the Geneva Convention, Syria is responsible for the fates of the Israeli soldiers because the area in Lebanon where the soldiers disappeared was continually controlled by Syria. To this day, despite promises made by the government of Syria and by the Palestinians, very little information has been released about the condition of Zachary Baumel, Zvi Feldman, and Yehudah Katz.

Today marks the anniversary of the day that these soldiers were reported missing in action. Twenty pain-filled years have passed since their families have seen their sons, and still Syria has not revealed their whereabouts nor provided any information as to their condition.

One of these missing soldiers, Zachary Baumel, is an American citizen from my home of Brooklyn, New York. An ardent basketball fan, Zachary began his studies at the Hebrew School in Boro Park. In 1979, he moved to Israel with other family members and continued his education at Yeshivat Hesder, where religious studies are integrated with army service. When the war with Lebanon began, Zachary was completing his military service and was looking forward to attending Hebrew University, where he had been accepted to study psychology. But fate decreed otherwise and on June 11, 1982, he disappeared with Zvi Feldman and Yehudah Katz.

During the 106th Congress, I co-sponsored and helped to pass Public Law 106–89, which specifies that the State Department must raise the plight of these missing soldiers in all relevant discussions and report findings to Congress regarding developments in the Middle East. We need to know that every avenue has been pursued in order to help bring about the speedy return of these young men. Therefore, I strongly feel that we must be sure to continue the full implementation of Public Law 106–89, so that information about these men can be brought to light.

Zachary's parents Yonah and Miriam Baumel have been relentless in their pursuit of information about Zachary and his compatriots. I have worked closely with the Baumels, as well as the Union of Orthodox Jewish Congregations of America, the American Coalition for Missing Israeli Soldiers, and the MIA Task Force of the Conference of Presidents of Major American Jewish Organizations. These groups have been at the forefront of this pursuit of justice. I want to recognize their good work and ask my colleagues to join me in supporting their efforts. For two decades these families have been without their children. Answers are long overdue.

I am not only saddened by the plight of Zachary Baumel, Zvi Feldman, and Yehudah Katz, but I am disheartened and angered by the fact that even as we

have continued to search for answers about their welfare, we have been forced to add more names to the list of those for who we have no knowledge of their location, health, or safety.

IDF Soldier Guy Chever disappeared without a trace from his army base in the Golan on August 17th, 1997. Almost three years later, Colonel Elchanan Tanenbaum was kidnapped by Hezbollah while on a business trip in Europe on October 15th, 2000. Left behind are two more families who simply do not know what has become of their loved ones.

And at this time, I feel it is also appropriate to speak not only of those who remain missing, but for those who were unfairly taken from their families never to return. I am speaking of course of Sergeant Adi Avitan of Tiberias, Staff Sergeant Binyamin Avraham of Bnei Brak, and Staff Sergeant Omar Souad of Salma.

In a clear-cut violation of international law, these three Israeli soldiers were abducted by Hezbollah on October 7, 2000 while on operational duty along the border fence in the Dov Mountain range along Israel's border with Lebanon. It is believed that they were wounded during the incident.

According to an investigation by the IDF Northern Command, Hezbollah terrorists set two roadside bombs, then crossed through a gate near the fence, pulled the three soldiers out of their jeep and fired anti-armor missiles at the empty vehicle. The soldiers were then taken by the terrorists to the Lebanese side of the border. Although the United States called on Syria to assist in the timely release of these three soldiers, no information was given as to their conditions or whereabouts. The International Red Cross had also been requested to intervene by attempting to arrange for a visit with the three kidnapped IDF soldiers in order to ascertain their status.

After much soul searching and heartache, it was determined that the return of these men to their homes and loved ones could no longer be hoped for. Their families have grieved, and my heart goes out to them. The hope I hold now is that we will not allow the families of those who remain missing to suffer in the same way.

The agony of the families of these kidnapped Israeli soldiers is extreme. They have not heard a word regarding the fate of their sons who are being held captive for political ransom. We must pledge to do our utmost to bring these soldiers home, for the same of peace, decency and humanity.

VOTE EXPLANATION

Mr. LIEBERMAN. Mr. President, I regret I was not able to vote on S. Res. 272. My airline flight back to Washington, DC was delayed for many hours because of adverse weather conditions. I express my support for this measure and applaud its passage. A national referendum to support a more democratic process based upon 10,000 signatures to the Cuban National Assembly is laudable. I ask that the record show that I would have voted in favor of S. Res. 272 and I support its passage. My vote did not affect the outcome because the resolution passed overwhelmingly.

SUPPORT OF AMERICAN SILVER EAGLE BULLION PROGRAM ACT

Mr. CRAPO. Mr. President, last week I introduced with my colleague from Nevada, Senator REID, the Support of American Silver Eagle Bullion Program Act. This legislation will preserve our most successful silver coin program, the American Silver Eagle Bullion Program.

From the inception of the program, the Silver Eagle coin has been the domestic and global market share leader in commemorative coin programs. It is also the largest of the United States Mint's silver coin programs. From Fiscal Year 1995–2001, the program has generated revenues of more than $264 million. Profits from this program ultimately go into the Treasury General Fund, which reduces the government's debt.

Since 1986, the Mint, through interagency agreements with the Defense Logistics Agency, has been using the Strategic and Critical Materials Stockpile as a source of silver from the American Eagle Silver Bullion Program. The use of the Stockpile silver is a result of legislative mandates. This stockpile of silver, which had a beginning balance of 137.5 million ounces, is rapidly being depleted. At the current rate of depletion, the silver will be depleted in approximately two months.

With the depletion of silver reserves in the Defense Logistics Agency Stockpile, it has become necessary for the Department of the Treasury to acquire silver from other sources in order to continue the Silver Eagle Program. This bill adds a stockpile depletion contingency provision to the United States Code that allows the Secretary of the Treasury to obtain silver from other available sources, while not paying more than the average world price.

I rise today to introduce this legislation because it is vital to the economy in my home State of Idaho. The mines of the Silver Valley in North Idaho produce more than $70 million of silver per year, along with employing over 3,000 Idahoans and contributing more than $900 million to the overall Idaho economy.

Moreover, I am proud to recognize that the blanks used by the United States mint in their American Eagle Silver Bullion Program are produced by Sunshine Minting, Inc., in Coeur d'Alene, ID. Approximately 60 people at Sunshine Minting work directly on the U.S. Mint Silver Eagle Program.

Idaho's mining sector is a critical component of our national economy, and this bill makes certain that we preserve the Silver Eagle program and keep valuable mining jobs in Idaho and other silver mining states. It is my hope that the Senate will move expeditiously to consider and pass this legislation before the stockpile is deleted.

ADDITIONAL STATEMENTS

FOUR SOUTH CAROLINA STUDENTS TO PRESENT HISTORY PROJECTS

● Mr. HOLLINGS. Mr. President, I wish to congratulate four Cheraw, SC, students who will be in Washington, DC tomorrow exhibiting their history projects as part of National History Day.

These young historians were selected out of more than half a million from across America, and they are bringing with them months of research. They earned the trip by showing they are the best of the best, and our State and Nation are better off for their hard work. When young people, on their own, want to understand the fundamental principles and values of our democracy, they are more likely to vote. They are more likely to participate in public service. They are more likely to take seriously the civic commitment this nation needs in the new century.

I wish the very best to Bryan Blair, whose exhibit is ''The Orangeburg Massacre: Revolution, Reaction, and Reform in South Carolina''; and to Meagan Linton, Mary Hudson, and Jordan Thomas, whose exhibit is: ''Tears of Sorrow or Tears of Joy: Reaction to the Assassination of Abraham Lincoln.''●

IN HONOR OF W. RALPH GAMBER, FOUNDER OF DUTCH GOLD HONEY

● Mr. SANTORUM. Mr. President, Friday, June 14, is our National Flag Day. This year, Flag Day has special meaning for many in Lancaster, PA, it will be a day of remembrance for the life and work of W. Ralph Gamber. It is particularly appropriate that Ralph's legacy will be honored on Flag Day; in many ways, he lived the American dream through the kind of patriotism that is grounded in community involvement and love of family. The company Ralph founded in 1946, Dutch Gold Honey, Inc., will also be honored as part of his legacy and those who will gather at the site of his family business in Lancaster will dedicate a flagpole in his memory.

Ralph Gamber began his honey processing business with a $27 investment in three beehives in the mid-1940s. What was initially a hobby of canning honey in the family garage grew to be a vehicle for innovation and a model for the success of hard work and family cooperation. Today, Dutch Gold Honey is one of the largest independent honey packers in the nation and, as an industry symbol of quality and partnership, remains family-owned and operated. The plastic honey bears seen on the shelves of every grocery store in America are Ralph's invention and their success led to the creation of the Gamber

Container Company. Ralph, his wife Luella, and his three children have made an incredible contribution to the Lancaster area through their business accomplishments. Ralph served a term as president of the National Honey Packers & Dealers and in 1992, was recognized as Pennsylvania Entrepreneur of the Year by Entrepreneur Magazine. Additionally, the Gambers established the Gamber Foundation, a resource to support local charities and nonprofit organizations, honeybee research, and scholarships for the children of Dutch Gold Honey employees.

Ralph Gamber's legacy, however, is not limited to his honey-related work. His life's worth of community and family focus is what earns him particular attention on Flag Day. To Ralph, work was an extension of family togetherness and he firmly believed that when families pray together, they stay together. Evidently, a family that stays together is one that can also share in building a unique, successful business. Ralph would count his 66-year marriage, three children, eight grandchildren, and nine-great-grandchildren among his greatest accomplishments. He was involved with the Salvation Army and helped to found his local fire company. He was a veteran of the Second World War and, with a strong connection to his church, Ralph acted as Sunday school superintendent for many years, was a member of his church council, and later chaired the church's stewardship committee. Throughout his life and through his livelihood, Ralph has demonstrated his commitment to the community and people he cared so much about. I share his story today because I believe it is worthy of our admiration and it is evidence of how the American Dream continues to inspire us.

My thoughts will be with the family and friends of Ralph Gamber this Flag Day. When our national banner is raised over Dutch Gold Honey, it will be a reminder to all who see it that love, perseverance, and community are the keys to success in family and in life.●

AMERICA: A NATION OF IMMIGRANTS

● Mr. KENNEDY. Mr. President, each year the American Immigration Law Foundation and the American Immigration Lawyers Association sponsor a national writing contest on immigration. Thousands of fifth-grade students from across the country participate in the competition, responding to the statement, ''Why I'm Glad America is a Nation of Immigrants.''

These essays remind us that it is of great importance that we not forget our rich history and heritage as a nation of immigrants. Continued immigration is part of our national well-being, our identity as a nation, and our strength in today's world.

I had the privilege of serving as one of the judges for this year's contest, and was very impressed by the young writers. In their essays, the students showed great pride in our Nation's diversity and its immigrant heritage, and many told the story of their own family's immigration.

I am pleased to announce that this year's winner is a Massachusetts resident, Nicole Florio, a fifth-grade student in Framingham, MA. In her poem, ''Why Am I Glad,'' Nicole explores the value of her friends' cultures and how their diversity enhances her life. She describes the diverse traditions and treasures of her friends, from Ceilidh's Irish step-dancing to Anastasia's nesting dolls. In the final stanza, Nicole notes how she herself is a product of immigrants, as all of us are, and that without immigration, ''there would be no me!''

Other students honored for their creative essays were Mike Duffy of Sarasota, FL, Emily Friedman of Los Angeles, CA, Christina Jundt of Norcross, GA, and Ilana Peña of North Miami Beach, FL.

I believe that these award-winning essays in the ''Celebrate America'' contest will be of interest to all of us in the Senate, and ask that they be printed in the RECORD.

The essays follow.

WHY AM I GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Nicole Florio, Hemenway Elementary School, Farmingham, MA, Grand Prize Winner)

People come to America
from many different places,
I have lots of friends
of many different races.

Ceilidh's from Ireland,
we have loads of fun,
she taught me Irish step-dancing
we dance till day is done!

Jessica's from Colombia,
she speaks Spanish,
to speak two languages
is my wish.

Anastasia is from Russia,
I adore her nesting dolls,
I looked for them
in all of the malls.

Cara and Cady are from China,
Cady's grandma grows bamboo.
They both love Chinese New Year
and I do too!

Murat is from Turkey,
his wedding I did love,
when we left the
fireworks blasted 'bove!

Nicole is from Israel,
she is thirteen.
When she had her Bat Mitzvah
she looked like a queen!

If I didn't have these friends,
how boring life would be!
I'm glad America has immigrants
as you can plainly see.

Mom's family is from Poland,
Dad's from Italy,
if my grandparents didn't come
there would be no me!

Based on a true story!

WHY I AM GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Mike Duffy, Pine View Elementary, Sarasota, FL, Runner-Up)

I am glad America is a nation of immigrants. When the original immigrants came to America, they came here seeking freedom of expression, religious freedom, and freedom from oppression. This helped to form our constitution, which gives us those same equal rights today.

The diverseness of the people who came here for opportunities brought about a culture that the world had not previously seen before. It also gave us ideas that would have never come to light otherwise.

Living with other cultures teaches us new things and makes us more tolerant and understanding of our fellow man. The education we gave each other makes us more open to new ideas and better technology. Our nation is the strongest and best because of our unity.

In America all religions are practiced freely. Our different beliefs are acknowledged and respected. This makes us strong and proud. Our way of life is often challenged though. Freedom is always at stake from those who wish to dominate. Brave immigrants past and present, who took the chance of coming here for a better life; help keep our country free and strong. Once they have enjoyed the freedom we have, they are willing to stand up and fight to keep that freedom.

Mutual respect, which all people can enjoy here in this country, is why we (all cultures) come together so readily, when any part of our nation is in trouble. It is living proof that despite our differences we are all Americans at heart.

A NATION OF IMMIGRANTS

(By Emily Friedman, Stephen S. Wise Elementary, Los Angeles, CA, AILA Southern California Chapter Contest Winner)

In early September my teachers asked, ''Do you think America is a melting pot or a salad bowl?'' After thinking about it, I decided America is neither. America is not like a melting pot because all the cultures do not blend together and become unnoticeable. However, America is not a salad bowl because cultures do not stay as distinct as lettuce and cucumbers in a salad. I thought America should be described as a chunky, minestrone soup. The ingredients stay distinct, but as the soup simmers, the ingredients like cultures interact and blend with each other.

The different spices and vegetables that go into minestrone soup are like the immigrants from different places around the world. The immigrants spice up the soup and make it flavorful. With the exception of Native Americans, we were all once immigrants. The best secret of a minestrone soup is that it never stays the same. As immigrants come from all over the world, they contribute to the taste of the soup. They bring their language, traditions, foods and customs and their various dreams for a better life for freedom and opportunity. They also add their ideas for a better America and make contributions to our society.

I am proud to live in a country where people can be free and where everyone can contribute. I am glad America is a nation of immigrants because without them, America wouldn't be a chunky bowl of delicious minestrone soup.

AMERICA—A NATION OF IMMIGRANTS

(By Christina Jundt, Simpson Elementary School, Norcross, GA, AILA Atlanta Chapter Contest Winner)

As Immigrants traveled over the rolling sea, checked in at Ellis Island, suffered

through minimum wage jobs, and endured criticism from the people around them, they had no idea they would change American people, and America itself forever.

America is like a giant mosaic—the most beautiful in the world. If the mosaic was all one color, the beauty would be gone. The pieces are all beautiful in their own way. Not one piece is more important than another. Not one piece shines more brightly than another. The mosaic is perfect, and without Immigrants, this could not have been accomplished. So much of our lives would be different if it wasn't for the diverse nationalities, and the Immigrants that traveled from those nations. Every time you eat a plate of spaghetti, think of an Italian Immigrant. Every time you bite into a bar of chocolate, think of a Mexican Immigrant. Every time you look around your community, and see people nationalities, who have different religions, who have different customs, think of an Immigrant who bravely traveled from their hometown, to bring us those unique ways of life. These Immigrants enriched and influenced our lives in so many positive ways.

WHY I'M GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Ilana Peña, Oaks Elementary School, North Miami Beach, FL, AILA Southern Florida Chapter Contest Winner)

Tomatoes, cucumbers, lettuce . . . Russians, Cubans, Asians . . . This is America, a nation of immigrants. Many people say America is a melting pot, everybody coming from different nations but melting into America. We are all proud to be Americans, but I think of us not as a melting pot, but as a salad bowl.

A salad bowl is made up of different vegetables, each with it's own distinct flavor. When you take a bite, you still taste each individual vegetable, but mixed all together, the salad is delicious. Each American has his own distinct identity yet mixes together to create our wonderful America, a country made up of different people, with different cultures and backgrounds.

Being a country of immigrants makes America a dynamic place to live. We are rich with unique cultures. I have a friend whose family comes from India, and I am fascinated by her stories about her family's home country. Because of immigrants, there are different foods in our country, different clothing, different songs, and different ways of dancing.

My father and his family came from Cuba, and my mother's family came from Russia. I am grateful that my country welcomed them here in the United States of America. On our Thanksgiving table is not only the traditional turkey, but frijoles negros, and kugel pudding. It makes me realize what a remarkable country I live in, as we all, Jews and Cubans, sit around a long table with the salad in the center representing our country, and share our cultures.●

TRIBUTE TO DAN KUNSMAN

● Mr. THOMAS. Mr. President, I rise today to say good-bye to a good friend who has worked with me for over 10 years.

Dan Kunsman has been my Communications Director for the last eight years, adding to some 3 years of assisting me on the House side when I was the lone congressman from Wyoming. Also a native son of Wyoming, his work for me and the great State extends deeply into the heart and soul of the West and will continue long into the future.

Dan joined my office in the U.S. House of Representatives in 1991 right out of school. Dan did a great job for me and was promoted to Communications Director when I was elected to the U.S. Senate in 1994.

Dan has not only been valuable in Washington, he was also a crucial part of three, statewide, victorious campaigns. He also took time from our efforts on sabbatical to assist with the success of my good friend and colleague, Senator ENZI, on his initial election effort in 1996.

We're part of a team, my staff and I. Along with my wife, Susan, we feel strongly bound to service for the people of Wyoming. As we say in the West, Dan's a good hand. That's a high compliment. It means that he's part of the team, reliable in a storm or any circumstance. In the House, Senate and on the campaign trail, Dan has proved to be one of the brightest and most effective public policy communicators and political strategists in Wyoming and Washington.

Dan has decided to join Brimmer Communications and will lead a new Washington, DC office for the public relations firm based in Jackson Hole, Wyoming. While it's always hard to see good people move on, in this case, I'm glad Dan plans to go to a strong firm at home and stay close to Wyoming people.

I'm not always the best at saying good-bye. I don't like to say it. So I'll just say see you, and I hope that's true. I'll look forward to it.

To our friend, Dan, I wish him and his wife, Isabel, the best of luck, and I know the Senate does as well.●

COMMEMORATION OF KING KAMEHAMEHA I

● Mr. AKAKA. Mr. President, I rise today in commemoration of the birthday of Hawaii's first monarch, King Kamehameha I. More than two centuries since his birth, Kamehameha is a legendary, indeed, mythical figure renown worldwide for his bravery and martial brilliance. He commands the respect of Hawaii's people for his wise and just leadership, and his accomplishments continue to influence and govern Hawaii today.

Historically, Kamehameha is notable because of his brilliance as a military strategist and political leader. Kamehameha adapted Western innovation, weaponry, and science to gain a decisive advantage in his drive to unify the Hawaiian Islands. For Native Hawaiians and the people of Hawaii, Kamehameha is beloved for his concern and attention to the well-being of his subjects and for his commitment to do what was just and right for the people.

Kamehameha's wisdom, even more than his strength, stature, and daring, is his greatest and most enduring legacy for Hawaii's indigenous peoples—the Native Hawaiians, the people of Hawaii, and all students of history. Mamalohoe, the Law of the Splintered Paddle, is the most prominent example of Kamehameha as a wise and just leader. Mamalahoe is Hawaii's first Bill of Rights protecting the common people from assault, and it is still part of our State's constitution.

One hundred and ninety years ago, in the summer of 1812, Kamehameha returned to the Kona Coast. Having unified the islands and established peace and stability, Kamehameha worked to build prosperity for his people by increasing agricultural production and foreign trade.

The first observance of a day honoring King Kamehameha was proclaimed by King Kamehameha V on June 11, 1872, in the Kingdom of Hawaii. It remains an annual holiday in the State of Hawaii. This year marks the 130th anniversary of the only holiday in the United States created to honor a once-reigning monarch in the only state that was once a kingdom, the State of Hawaii.●

MISSION OF PEACE HOUSING COUNSELING AGENCY

● Mr. LEVIN. Mr. President, I have come today to ask the Senate to join with me in paying tribute to the Mission of Peace Housing Counseling Agency which is located in the City of Flint, in my home state of Michigan.

Home ownership has long been one of the best ways for individuals and families to acquire capital, build equity and secure entry into the middle class. Mission of Peace Housing Counseling Agency was founded in 1997 by Reverend Elmira Smith-Vincent to assist those who desire to own their own home thereby gaining further control over their financial futures. As a real estate agent, Reverend Smith-Vincent saw a need to educate people and provide them with the skills needed to purchase a home. A faith-based, non profit agency, Mission of Peace Housing Counseling Agency provides assistance to families and individuals in the skills needed to purchase a home.

Since its inception, Mission of Peace Housing Counseling Agency has developed strong working relationships with the Department of Housing and Urban Development, The Fannie Mae Corporation, the Fannie Mae Foundation, the United States Department of the Treasury, the Federal Reserve Bank, area banks and lenders, local governments, schools, and the faith-based community. These strong relationships have enabled the Mission of Peace Housing Counseling Agency to have accomplished many great things since its inception only five years ago.

In 2001, they formed a partnership with Fannie Mae to offer the Mission of Peace Faith-Based Home ownership Initiative. As well, they implemented with great success an Individual Development Account program which allows participants to open an account at the Fifth Third Bank to save toward the

down payment and closing cost of home purchase. Most recently, the United States Department of the Treasury announced that Mission of Peace Housing Counseling Agency is a recipient of a First Accounts Program Grant to assist ''unbanked'' people. Through this grant, they will provide services in Genesee, Lapeer, Oakland, Saginaw and Shiwasee Counties.

Mission of Peace Housing Counseling Agency is a leader in helping people take control of their financial well-being and has been recognized numerous times for their achievements. Some of the agencies awards include the Local and National HUD Best Practices Award, the Congress of National Bank Churches Client Volume Award, Homeowners and Outstanding Achievement Awards, Fannie Mae Partner Award, State of Michigan Special Tribute Award, the City of Flint Peppy Rosenthal Human Service Award and the Project Zero Partner of the Year Family Independence Agency of Genesee County Award. I know my Senate colleagues join me in congratulating Mission of Peace Housing Counseling Agency on the work that they have done, and in wishing them well in the years to come.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE PARTICIPATION OF THE UNITED STATES IN THE UNITED NATIONS AND ITS AFFILIATED AGENCIES DURING CALENDAR YEAR 2000—PM 91

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit herewith the final version of a report, prepared by my Administration, on the participation of the United States in the United Nations and its affiliated agencies during the calendar year 2000. The report is submitted pursuant to the United Nations Participation Act (Public Law 264, 79th Congress) (22 U.S.C. 287b).

GEORGE BUSH.

THE WHITE HOUSE, *June 11, 2002.*

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:22 p.m. a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1372. An act to reauthorize the Export-Import Bank of the United States.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 11, 2002, she had presented to the President of the United States the following enrolled bill:

S. 1372. An act to reauthorize the Export-Import Bank of the United States.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7387. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Visiting Committee on Advanced Technology of the National Institution of Standards and Technology (NIST) for 2001; to the Committee on Commerce, Science, and Transportation.

EC–7388. A communication from the General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Protective Orders in Immigration Administrative Proceedings'' (RIN1125–AA38) received on June 5, 2002; to the Committee on the Judiciary.

EC–7389. A communication from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Adjustment of Status under Legal Immigration Family Equity (LIFE) Act Legalization Provisions and LIFE Act Amendments Family Unity Provisions'' (RIN1115–AG06) received on June 6, 2002; to the Committee on the Judiciary.

EC–7390. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–7391. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–7392. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–7393. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–7394. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports for March 2002; to the Committee on Governmental Affairs.

EC–7395. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the lists of the General Accounting Office for February 2002; to the Committee on Governmental Affairs.

EC–7396. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–377, ''Government Attorney Certificate of Good Standing Filing Requirement Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–7397. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–380, ''Omnibus Anti-Terrorism Act of 2002''; to the Committee on Governmental Affairs.

EC–7398. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Extension of Import Restrictions Imposed on Archaeological and Ethnological Materials from Peru'' (RIN1515–AD12) received on June 4, 2002; to the Committee on Finance.

EC–7399. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Civil Aircraft'' (RIN1515–AC59) received on June 4, 2002; to the Committee on Finance.

EC–7400. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice'' (Notice 2002–38) received on June 5, 2002; to the Committee on Finance.

EC–7401. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Procedure for GUST Non-Amenders'' (Rev. Proc. 2002–35) received on June 5, 2002; to the Committee on Finance.

EC–7402. A communication from the Chairman of the Medicare Payment Advisory Commission, transmitting, pursuant to law, a report relative to paying for outpatient services in cancer hospitals dated November 2001; to the Committee on Finance.

EC–7403. A communication from the Chairman of the Medicare Payment Advisory Commission, transmitting, pursuant to law, a report relative to reducing Medicare complexity and regulatory burden, a report concerning blood safety in hospitals and Medicare inpatient payment, and a report concerning paying for interventional pain services in ambulatory settings dated December 2001; to the Committee on Finance.

EC–7404. A communication from the Office of Congressional Affairs, Office of the Executive Director for Operations, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Enhancing Public Participation in NRC Meetings; Policy Statement'' received on June 4, 2002; to the Committee on Environment and Public Works.

EC–7405. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Visible Emissions and Open Fire Amendments'' (FRL7220–1) received on June 6, 2002;

to the Committee on Environment and Public Works.

EC–7406. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Motor Vehicle Inspection and Maintenance Program—Request for Delay in the Incorporation of On-Board Diagnostics Testing'' (FRL7224–8) received on June 6, 2002; to the Committee on Environment and Public Works.

EC–7407. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to the Air Resource Regulations'' (FRL7211–7) received on June 6, 2002; to the Committee on Environment and Public Works.

EC–7408. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Marine; Negative Declaration'' (FRL7227–1) received on June 6, 2002; to the Committee on Environment and Public Works.

EC–7409. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of an Air Quality Implementation Plan Revision; South Dakota; Rapid City Street Sanding Regulations to Protect the National Ambient Air Quality Standards for PM–10'' (FRL7216–1) received on June 6, 2002; to the Committee on Environment and Public Works.

EC–7410. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Consolidated Emissions Reporting'' (FRL7223–8) received on June 6, 2002; to the Committee on Environment and Public Works.

EC–7411. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Municipal Solid Waste Landfill Location Restrictions for Airport Safety'' (FRL7227–9) received on June 6, 2002; to the Committee on Environment and Public Works.

EC–7412. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Great Basin Unified Air Pollution Control District and South Coast Air Quality Management District'' (FRL7224–1) received on June 6, 2002; to the Committee on Environment and Public Works.

EC–7413. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Underground Injection Control Program-Notice of Final Determination of Class V Wells'' (FRL7225–8) received on June 6, 2002; to the Committee on Environment and Public Works.

EC–7414. A communication from the Assistant Secretary of Defense, Force Management Policy, transmitting, pursuant to law, the report of a notice of a proposed demonstration project; to the Committee on Armed Services.

EC–7415. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC–7416. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determination'' (Doc. No. FEMA–B–7428) received on June 6, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7417. A communication from the Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled ''Prohibition Against Use of Interstate Branches Primarily for Deposit Production'' (12 CFR Part 25) received on June 7, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7418. A communication from the Assistant Secretary for Housing, Federal Housing Commissioner, Department of Housing and Urban Affairs, transmitting, pursuant to law, the final report on Portfolio Reengineering Demonstration Program (PReDemo) dated December 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–7419. A communication from the President of the Perkins County Rural Water System, Inc., transmitting, pursuant to law, the Final Engineering Report; to the Committee on Energy and Natural Resources.

EC–7420. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Triflusulfuron Methyl; Pesticide Tolerance'' (FRL7180–8) received on June 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7421. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Carboxin; Pesticide Tolerance'' (FRL7180–6) received on June 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7422. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Carfentrazone-ethyl; Pesticide Tolerances for Emergency Exemptions'' (FRL7178–1) received on June 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7423. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Spinosad; Time-Limited Pesticide Tolerance'' (FRL7182–1) received on June 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7424. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Triflumozole; Pesticide Tolerance'' (FRL7180–5) received on June 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7425. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants'' (FRL7229–4) received on June 10, 2002; to the Committee on Environment and Public Works.

EC–7426. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production'' (FRL7225–6) received on June 10, 2002; to the Committee on Environment and Public Works.

EC–7427. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants'' (FRL7229–5) received on June 10, 2002; to the Committee on Environment and Public Works.

EC–7428. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Nevada: Final Authorization of State Hazardous Waste Management Program Revisions'' (FRL7228–1) received on June 10, 2002; to the Committee on Environment and Public Works.

EC–7429. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report relative to Development Assistance and Child Survival and Health Programs Allocations for Fiscal Year 2002; to the Committee on Foreign Relations.

EC–7430. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–7431. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Technical Revisions to Medical Criteria for Determinations of Disability'' (RIN0960–AE99) received on May 8, 2002; to the Committee on Finance.

EC–7432. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Announcement 2002–34'' (NOT–113496–02) received on June 6, 2002; to the Committee on Finance.

EC–7433. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Replacement Cost for Automobile Dealers'' (Rev. Proc. 2002–17) received on June 6, 2002; to the Committee on Finance.

EC–7434. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Proc. 2002–20'' received on June 6, 2002; to the Committee on Finance.

EC–7435. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Service-imposed Changes in Methods of Accounting'' (Rev. Proc. 2002–18) received on June 6, 2002; to the Committee on Finance.

EC–7436. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 2002–33'' received on June 7, 2002; to the Committee on Finance.

EC–7437. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule

entitled ''Medicare Program; Modifications to Managed Care Rules Based on Provisions of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, and Technical Corrections'' (RIN0938–AK90) received on June 6, 2002; to the Committee on Finance.

EC–7438. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Labeling; Nutrient Content Claims, Definition of Sodium Levels for the Term ''Healthy''; Extension of Partial Stay'' (RIN0910–AA19) received on June 6, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–7439. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Orthopedic Devices: Reclassification of the Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis'' (Doc. No. 99P–1864) received on June 6, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–7440. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Ear, Nose, and Throat Devices; Reclassification of the Endolymphatic Shunt Tube with Valve'' (Doc. No. 97P–0210) received on June 6, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–7441. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Rule to Implement Restrictions under the Northeast Multispecies Fishery Management Plan'' (RIN0648–AP78) received on June 6, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7442. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Parts and Accessories Necessary for Safe Operation; Trailer Conspicuity; Final Rule; Partial Suspension of Deadline'' (Doc. No. FMCSA–1997–2222) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7443. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Parts and Accessories Necessary for Safe Operation; Manufactured Home Tires; Final Rule; Denial of Petitions for Rulemaking and for Extension of Deadline'' (Doc. No. FMCSA–97–2341) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7444. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Signal and Train Control: Miscellaneous Amendments'' (RIN2130–AB06) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7445. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Railroad Workplace Safety'' (RIN2130–AA48) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7446. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Reinvention of Regulations Addressing Discontinuance or Modification of Signal Systems'' (RIN2130–AB05) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7447. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Grade Crossing Signal System Safety'' (RIN2130–AA97) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7448. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Control of Alcohol and Drug Use: Changes to Conform to New DOT Transportation Workplace Testing Procedures'' (RIN2130–AB43) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7449. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Back River, ME'' ((RIN2115–AE47)(2002–0054)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7450. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Operation Native Atlas 2002, Waters Adjacent to Camp Pendleton, California'' ((RIN2115–AA97)(2002–0083)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7451. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Gulf Intracoastal Waterway, Boca Grande, Charlotte County, Florida'' ((RIN2115–AE47)(2002–0055)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7452. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Liquid Natural Gas Carrier Transits and Anchorage Operations, Boston Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AA97)(2002–0085)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7453. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters'' ((RIN2115–AE84)(2002–0008)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7454. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Calvert Cliffs Nuclear Power Plant, Chesapeake Bay, Calvert County, MD'' ((RIN2115–AA97)(2002–0084)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7455. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; Chesapeake Bay Near Annapolis, MD'' ((RIN2115–AE46)(2002–0013)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7456. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Mississippi River, Iowa and Illinois'' ((RIN2115–AE47)(2002–0052)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7457. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Mississippi River, Iowa and Illinois'' ((RIN2115–AE47)(2002–0053)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7458. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Protection of Naval Vessels (LANT AREA–01–001 and PAC AREA–01–001'' (RIN2115–AG23) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7459. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Protection of Naval Vessels (LANT AREA–01–001 and PAC AREA–01–001'' (RIN2115–AG23) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7460. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Discharge of Effluents in Certain Alaskan Waters by Cruise Vessel Operations'' (RIN2115–AG12) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7461. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations (including 10 regulations)'' ((RIN2115–AE46)(2002–0014)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7462. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations (including 197 regulations)'' ((RIN2115–AA97)(2002–0086)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, without amendment:

H.R. 577: A bill to amend title 44, United States Code, to require any organization that is established for the purpose of raising funds for creating, maintaining, expanding, or conducting activities at a Presidential archival depository or any facilities relating to a Presidential archival depository to disclose the sources and amounts of any funds raised, and for other purposes. (Rept. No. 107–160).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2039: A bill to expand aviation capacity in the Chicago area. (Rept. No. 107–161).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 2607. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to collect recreation fees on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (for himself, Mr. GREGG, Mr. KERRY, Ms . SNOWE, Mr. INOUYE, Mr. REED, Mr. BREAUX, Mr. CLELAND, Mr. DEWINE, Mr. SARBANES, Mr. BIDEN, Mr. KENNEDY, Ms. MIKULSKI, Mr. COCHRAN, Mr. TORRICELLI, Mrs. MURRAY, Ms. LANDRIEU, Mr. CORZINE, and Mr. LIEBERMAN):

S. 2608. A bill to amend the Coastal Zone Management Act of 1972 to authorize the acquisition of coastal areas in order better to ensure their protection from conversion or development; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself and Mr. SCHUMER):

S. 2609. A bill to require the Federal Trade Commission to promulgate a rule to establish requirements with respect to the release of prescriptions for contact lenses; to the Committee on Commerce, Science, and Transportation.

By Mr. WELLSTONE (for himself and Mr. CORZINE):

S. 2610. A bill to amend part A of title IV of the Social Security Act to include efforts to address barriers to employment as a work activity under the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

By Mr. REED (for himself, Mr. KENNEDY, Ms. COLLINS, Mr. JEFFORDS, Mr. FRIST, Mr. COCHRAN, Mr. LEVIN, Mr. CHAFEE, Ms. LANDRIEU, Mr. DAYTON, and Mr. WELLSTONE):

S. 2611. A bill to reauthorize the Museum and Library Services Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself and Mr. ENSIGN):

S. 2612. A bill to establish wilderness areas, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

ADDITIONAL COSPONSORS

S. 471

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 471, a bill to amend the Elementary and Secondary Education Act of 1965 to provide grants for the renovation of schools.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 701

At the request of Mr. BAUCUS, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to provide special rules for the charitable deduction for conservation contributions of land by eligible farmers and ranchers, and for other purposes.

S. 905

At the request of Mr. HARKIN, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 905, a bill to provide incentives for school construction, and for other purposes.

S. 913

At the request of Ms. SNOWE, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 917

At the request of Ms. COLLINS, the names of the Senator from Virginia (Mr. WARNER), the Senator from Ohio (Mr. DEWINE), and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1022

At the request of Mr. WARNER, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1152

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1152, a bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes.

S. 1204

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1204, a bill to amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received an organ transplant.

S. 1339

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1383

At the request of Mrs. CLINTON, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1383, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of incentive stock options and employee stock purchases.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1395

At the request of Mr. ENSIGN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1395, a bill to amend title XVIII of the Social Security Act to make a technical correction in the definition of outpatient speech-language pathology services.

S. 1707

At the request of Mr. JEFFORDS, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1785

At the request of Mr. CLELAND, the names of the Senator from North Carolina (Mr. EDWARDS), the Senator from Louisiana (Mr. BREAUX), the Senator from Washington (Ms. CANTWELL), the Senator from South Dakota (Mr.

DASCHLE), and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1867

At the request of Mr. LIEBERMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 2006

At the request of Mr. GRAHAM, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 2006, a bill to amend the Internal Revenue Code of 1986 to clarify the eligibility of certain expenses for the low-income housing credit.

S. 2119

At the request of Mr. WELLSTONE, his name was added as a cosponsor of S. 2119, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes.

S. 2194

At the request of Mr. MCCONNELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

S. 2215

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

At the request of Mrs. BOXER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2215, supra.

S. 2233

At the request of Mr. THOMAS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2233, a bill to amend title XVIII of the Social Security Act to establish a medicare subvention demonstration project for veterans.

S. 2246

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 2246, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

S. 2317

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2317, a bill to provide for fire safety standards for cigarettes, and for other purposes.

S. 2386

At the request of Mrs. LINCOLN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2386, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to diagnose, evaluate, and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 2426

At the request of Mr. SCHUMER, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 2426, a bill to increase security for United States ports, and for other purposes.

S. 2490

At the request of Mr. TORRICELLI, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2490, a bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program.

S. 2520

At the request of Mr. HATCH, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2520, a bill to amend title 18, United States Code, with respect to the sexual exploitation of children.

S. 2558

At the request of Mr. REED, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 2558, a bill to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

S. 2560

At the request of Mr. ALLARD, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2560, a bill to provide for a multi-agency cooperative effort to encourage further research regarding the causes of chronic wasting disease and methods to control the further spread of the disease in deer and elk herds, to monitor the incidence of the disease, to support State efforts to control the disease, and for other purposes.

S. 2577

At the request of Mr. FITZGERALD, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2577, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 2607. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to collect recreation fees on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am introducing legislation to authorize the Federal land management agencies, the National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management and Forest Service, to collect visitor recreation fees, and to use the proceeds from the fees to continue to fund high priority resource protection and maintenance backlog needs.

Following enactment of the Recreation Fee Demonstration Program in 1996, the Federal agencies have been authorized to experiment with various fee collection proposals. That program also authorized the Federal agencies, for the first time, to retain all of the fee revenues and to use those funds, without the need for further appropriation, on maintenance backlog and other funding needs.

The Recreation Fee Demonstration Program has been extended each year, most recently through September 30, 2004. For the most part, the fee demonstration program has been very successful. However, unlike the previous fee authority in the Land and Water Conservation Fund Act, the fee demonstration program contained no guidance to the agencies or limitations on the types of fees that could be collected. As a result, the program has generated some controversy, especially with respect to certain Forest Service and Bureau of Land Management lands where fees had not historically been charged.

The bill I am introducing today builds upon the positive results from the Recreation Fee Demonstration Program, while including new criteria to ensure that fees are not imposed inappropriately. The bill provides the Secretary of the Interior and the Secretary of Agriculture with considerable discretion to administer the program while ensuring that recreational access to Federal lands remains available to all Americans. Most importantly, the bill maintains the existing requirement that a majority of the fees be retained for expenditure at the site where collected.

I believe there is strong support for enacting permanent fee authority. The Committee on Energy and Natural Resources will hold a hearing on this bill on June 19, and I hope it will be ready for consideration by the full Senate in the near future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2607

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Lands Recreation Fee Authority Act''.

SEC. 2. RECREATION FEES ON FEDERAL LANDS.

(a) GENERAL AUTHORITY.—Except as provided in subsection (b):

(1) The Secretary of the Interior is authorized to collect recreation fees, including entrance and use fees, on the following lands administered by the Secretary:

(A) Units of the National Park System;

(B) Units of the National Wildlife Refuge System; and

(C) National monuments and national conservation areas administered by the Bureau of Land Management.

(2) The Secretary of Agriculture is authorized to collect recreation fees, including entrance and use fees, on the following National Forest System lands administered by the Secretary:

(A) National monuments;

(B) National volcanic monuments;

(C) National scenic areas; and

(D) National recreation areas.

(3) The Secretary of the Interior, with respect to lands administered by the Bureau of Land Management, and the Secretary of Agriculture, with respect to National Forest System lands, is also authorized to collect fees at areas not described in paragraphs (1) and (2) if—

(A) such area is managed primarily for outdoor recreation purposes and contains at least one major recreation attraction;

(B) such area has had substantial Federal investments, as determined by the appropriate Secretary, in—

(i) providing facilities or services to the public; or

(ii) restoring resource degradation caused by public use; and

(C) public access to the area is provided in such a manner that entrance fees can be efficiently collected at one or more centralized locations.

(5) The Secretary of the Interior or the Secretary of Agriculture, as appropriate, may reduce or waive any fee authorized under this Act, as appropriate.

(6) For each unit or area collecting an entrance fee, the appropriate Secretary shall establish at least one day each year during periods of high visitation as a ''Fee Free Day'' when no entrance fee shall be charged.

(7) No recreation fees of any kind shall be imposed or collected for outdoor recreation purposes on Federal lands under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture, except as provided in this Act.

(b) PROHIBITION ON FEES.—(1) No recreation fees shall be charged under this Act—

(A) for travel by private, noncommercial vehicle over any national parkway or any road or highway established as a part of the National Federal Aid System, as defined in section 101 of title 23, United States Code, which is commonly used by the public as a means of travel between two places, either or both of which are outside of the fee area;

(B) for travel by private, noncommercial vehicle over any road or highway to any land in which a person has any property right if such land is within the unit or area at which recreation fees are charged;

(C) for any person who has a right of access for hunting or fishing privileges under a specific provision of law or treaty; or

(D for any person who is engaged in the conduct of official business within the unit or area at which recreation fees are charged.

(2) Entrance fees shall not be charged—

(A) for any person under 16 years of age;

(B) for admission of organized school groups or outings conducted for education purposes by schools or other bona fide educational institutions;

(C) for any area containing deed restrictions on charging fees;

(D) for any person entering a national wildlife refuge who is the holder of a valid migratory bird hunting and conservation stamp issued under section 2 of the Act of March 16, 1934 (16 U.S.C. 718b) (commonly known as the Duck Stamp Act);

(E) for any person holding a valid Golden Eagle Passport, Golden Age Passport, Golden Access Passport, or for entrance to units of the National Park System, a National Parks Passport; and

(F) at the following areas administered by the National Park Service:

(i) U.S.S. Arizona Memorial;

(ii) Independence National Historical Park;

(iii) any unit of the National Park System within the District of Columbia or the Arlington House—Robert E. Lee National Memorial in Virginia; and

(iv) any unit of the National Park System located in Alaska, with the exception of Denali National Park and Preserve (notwithstanding section 203 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh–2)); and

(G) in Smoky Mountains National Park, unless entrance fees are charged on main highways and thoroughfares, no fees shall be charged for entrance on other routes into the park, or any part thereof.

(c) FEE CONSIDERATIONS.—(1) Recreation fees charged by the Secretary of the Interior or the Secretary of Agriculture shall be fair and equitable, taking into consideration—

(A) the direct and indirect cost to the Federal agency involved;

(B) the benefits and services provided to the visitor;

(C) the public policy and management objectives served;

(D) costs to the visitor;

(E) the effect of multiple fees charged within the same area;

(F) fees charged at comparable sites by other public agencies; and

(G) the economic and administrative feasibility of fee collection at the site.

(2) The Secretary of the Interior and the Secretary of Agriculture shall work cooperatively to ensure that comparable fees and services are established on Federal lands under each Secretary's jurisdiction, and that guidelines for assessing the type and amount of recreation fees are consistent between areas under each Secretary's jurisdiction.

(3) The Secretary of the Interior and the Secretary of Agriculture shall, to the extent practicable, seek to minimize multiple fees within specific units or areas.

(d) RECREATION USE FEES.—(1) The Secretary of the Interior and the Secretary of Agriculture may provide for the collection of recreation use fees where the Federal agency develops, administers, provides, or furnishes at Federal expense, specialized outdoor recreation sites, facilities, equipment, or services.

(2) As used in this subsection, the term ''specialized outdoor recreation sites, facilities, equipment, or services'' includes—

(A) a developed campground;

(B) a swimming site;

(C) a boat launch facility;

(D) a managed parking lot;

(E) facility or equipment rental;

(F) an enhanced interpretive program;

(G) a reservation service; or

(H) a transportation service.

(3) Recreation use fees may not be charged for—

(A) general access to an area;

(B) access to a visitor center;

(C) a dispersed area with little or no Federal investment;

(D) a scenic overlook or wayside;

(E) drinking fountains or restrooms;

(F) undeveloped parking;

(G) picnic tables (when not part of a developed campground or recreation area);

(H) special attention or extra services necessary to meet the needs of the disabled; or

(I) any nonrecreational activity authorized under a valid permit issued under any other Act.

(e) SPECIAL RECREATION PERMIT FEE.—The Secretary of the Interior or the Secretary of Agriculture may require a special recreation permit and may charge a special recreation permit fee for recreation use involving a group activity, a commercial tour, a commercial aircraft tour, a recreation event, use by a motorized recreation vehicle, a competitive event, and an activity where a permit is required to ensure resource protection or public safety.

SEC. 3. ANNUAL PASSES.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Agriculture shall jointly establish procedures for the issuance of, and make available the following passes:

(1) GOLDEN EAGLE PASSPORT.—An annual admission permit, to be known as the ''Golden Eagle Passport'', to be valid for a period of one year for admission into any unit or area collecting an entrance fee under this Act.

(2) GOLDEN AGE PASSPORT.—A lifetime admission permit to any citizen of, or person domiciled in the United States sixty-two years of age or older, entitling the permittee to admission into any unit or area collecting an entrance fee under this Act.

(3) GOLDEN ACCESS PASSPORT.—A lifetime admission permit to any citizen of, or person domiciled in the United States who is blind or permanently disabled, to be issued without cost.

(4) OTHER PASSES.—The Secretary of the Interior and the Secretary of Agriculture may develop such other annual, regional or site-specific passes as they deem appropriate.

(b) TERMS AND CONDITIONS.—

(1) Unless determined otherwise by the Secretary of the Interior and the Secretary of Agriculture, the passes authorized under this section shall be issued under the same terms and conditions as existed for such passes as of the date of enactment of this Act.

(2) The Secretaries shall develop such terms and conditions for the passes authorized in this section as they deem necessary.

(c) NATIONAL PARK PASSPORT.—Nothing in this Act affects the authority of the Secretary of the Interior to issue national park passports, as authorized in title VI of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5991 et seq.).

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Agriculture shall establish guidelines identifying the process by which the agencies under each Secretary's jurisdiction shall establish and change the amounts charged for any recreation fee, including entrance fees, recreation use fees, or special recreation permit fees collected under this Act. Such guidelines shall require that the agencies coordinate with each other, to the extent practicable, when establishing or changing fees.

(b) NOTICE.—The Secretary of the Interior or the Secretary of Agriculture, as appropriate, shall post clear notice of any entrance fee and available passes at appropriate locations within each area where a recreation fee is charged. Notice shall also be included in publications distributed at the unit or area where the fee is collected. The Secretaries shall jointly take such actions as may be necessary to provide information to the public on all available passes authorized by this Act.

(c) NOTICE OF RECREATION FEE PROJECTS.—The Secretary of the Interior and the Secretary of Agriculture shall, to the extent practicable, post clear notice of where work is being done using fee revenues collected under this Act.

(d) FEE MANAGEMENT AGREEMENTS.—Notwithstanding the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301 et seq.), the Secretary of the Interior and the Secretary of Agriculture may enter into fee management agreements, that provide for reasonable commissions or reimbursements, with any governmental or nongovernmental entities to provide fee collection and processing services, including visitor reservation services.

(e) VOLUNTEERS.—The Secretary of the Interior and the Secretary of Agriculture may use volunteers, as appropriate, to collect fees and sell passes authorized by this Act.

SEC. 5. EXPENDITURE OF FEES.

(a) SPECIAL ACCOUNT.—The Secretary of the Treasury shall establish a separate special account in the Treasury for each Federal agency collecting recreation fees under this Act. Amounts collected by each agency under this Act shall be deposited into its special account in the Treasury, and shall be available for expenditure by the appropriate agency, without further appropriation, to remain available until expended.

(b) DISTRIBUTION.—(1) Eighty percent of the amounts collected at a specific unit or area shall remain available for expenditure without further appropriation, at the unit or area where the fees were collected, except that the Secretary of the Interior or the Secretary of Agriculture, as appropriate, may reduce the local allocation amount to not less than 60 percent of the fees collected if the Secretary determines that the unit or area's revenues in any specific fiscal year exceed its reasonable needs for which expenditures may be made.

(2) Amount not retained at the site or area collecting the fee shall remain available for expenditure without further appropriation to the Federal agency administering the site, for distribution in accordance with national priority needs within such agency.

(3) Revenues from the sale of annual passes shall be distributed in accordance with revenue sharing agreements developed by the Secretary of the Interior and the Secretary of Agriculture.

(c) USE OF FEE REVENUES.—Amounts made available under subsection (b)(1) for expenditure at a specific unit or area shall be accounted for separately from amounts available under (b)(2). Both amounts shall be used for resource preservation, backlogged repair and maintenance projects (including projects related to health and safety), interpretation, signage, habitat for facility enhancement, law enforcement related to public use, maintenance, and direct operating or capital costs associated with the recreation fee program.

SEC. 6. CONFORMING AMENDMENTS.

(a) REPEAL OF OTHER FEE AUTHORITIES.—Section 4 of the Land and Water Conservation Fund Act (16 U.S.C. 4601–4a) and section 315 of Public Law 104–134, as amended (16 U.S.C. 4601–4a note), are repealed, except that the repeal of such provisions shall not affect the expenditure of revenues already obligated. All unobligated amounts as of the date of enactment of this Act shall be transferred to the appropriate special account established under this Act and shall be available as provided in this Act.

(b) FEDERAL AND STATE LAW UNAFFECTED.—Nothing in this Act shall be construed—

(1) to authorize Federal hunting or fishing licenses or fees;

(2) to authorize charges for commercial or other activities not related to recreation;

(3) to affect any rights or authority of the States with respect to fish and wildlife;

(4) to repeal or modify any provision of law that provides that any fees or charges collected at specific Federal areas be used for, or created to specific purposes or special funds as authorized by that provision of law; or

(5) to repeal or modify any provision of law authorizing States or political subdivisions thereof to share in revenues from Federal lands.

By Mr. HOLLINGS (for himself, Mr. GREGG, Mr. KERRY, Ms. SNOWE, Mr. INOUYE, Mr. REED, Mr. BREAUX, Mr. CLELAND, Mr. DEWINE, Mr. SARBANES, Mr. BIDEN, Mr. KENNEDY, Ms. MIKULSKI, Mr. COCHRAN, Mr. TORRICELLI, Mrs. MURRAY, Ms. LANDRIEU, Mr. CORZINE, and Mr. LIEBERMAN):

S. 2608. A bill to amend the Coastal Zone Management Act of 1972 to authorize the acquisition of coastal areas in order better to ensure their protection from conversion or development; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, I rise today with my colleague Senator GREGG to introduce the Coastal and Estuarine Land Protection Act of 2002. I would like to thank our cosponsors, Senators KERRY, SNOWE, INOUYE, J. REED, BREAUX, CLELAND, DEWINE, SARBANES, BIDEN, KENNEDY, MIKULSKI, COCHRAN, TORRICELLI, MURRAY, and LANDRIEU for their support of this bill, which marks another important chapter of our thirty year effort to put coastal and ocean issues at the forefront of environmental policy.

When I was Governor of South Carolina over 30 years ago, I experienced first hand the need for Federal direction and assistance to the States to enable them to effectively and sustainably manage coastal development. My experiences during a series of coastal hearings and continued research in the Senate led me to write the Coastal Zone Management Act of 1972, which provided clear policy objectives for states to establish coordinated coastal zone management programs to help balance coastal development with protection. Since the CZMA became law, 34 of the 35 coastal states have established approved programs to help preserve and utilize their precious resources, and the program has proven to be a successful partnership between the Federal government and our states.

But we appear to need more tools to help States continue the job we started in 1972. In the year 2002, as our population grows, more and more people are moving to the coast to enjoy its beauty and recreational opportunities. In fact, by 2010, an estimated 60 percent of Americans will live along our coasts, which represent less than 17 percent of our land area. More than 3,000 people move to coastal areas everyday, and fourteen of the Nation's 20 largest cities are on the coast, and are five times more densely populated than the interior of the country. As these good folks move to take advantage of coastal living, we have to be careful that we don't destroy the natural resources and quality of life that draw them to our shores. Big changes are coming to all of our coastal counties, and we must make some careful and smart decisions if we want to keep the very resources we depend on.

In particular, estuaries and wetlands have many unique attributes that make them important to both our natural resources and our economy. Estuaries, and the watersheds that flow into them, support fisheries and wildlife and contribute immensely to the coastal area economies. Wetlands are critical to many life cycles of organisms and help improve surface water quality by filtering our wastes. But these ecologically and economically important watersheds are also under the most threat from land development and conversion away from their natural state. The Forest Service's recently released Southern Forest Resource Assessment shows that coastal urbanization trends are particularly strong in the southeastern areas. In my state alone, the natural forests of the coastal plain are projected to decrease by 1.9 million acres in the next 40 years—a 35 percent loss of South Carolina's forests. These findings and future trends tell me that for the good of our coastal communities we need some fast, targeted action to protect ecologically important coastal areas most threatened with development or conversion.

Now more than ever, the pressures of urbanization and pollution along our Nation's coasts threaten to impair watersheds, impact wildlife habitat and cause irreparable damage to the fragile coastal ecology. This year the Environmental Protection Agency rated the overall condition of our coastal waters as fair to poor, with 44 percent of estuarine areas impaired for human or aquatic life use. While some areas of the country are seeing some improvement as a result of control on industry, the experts predict that the more pristine areas like the Southeast, which as some of the best water quality in the Nation, will experience degradation of water quality due primarily to runoff of pollutants from rapid development in our coastal watersheds. This is very bad news for the shrimpers, oystermen, and recreational users who depend on these waters for their livelihood and quality of life.

We see strong signals of what continuing down this path will bring us: sustained beach closings due to excess sewage drainage; shellfish bed closings and fish consumption advisories resulting from toxic runoff or bacteria; fish kills due to lack of oxygen from nutrient runoff; marine mammal diseases; and human health impacts. The National Research Council reports that over the next 20 years over 70 percent of our estuaries will experience more of

these low oxygen, or ''eutrophic'' conditions, such as the Gulf ''Death Zone.'' If this trend continues, our coastal economies will suffer and perhaps never recover. I know in my state the economy would falter greatly from the lack of fishing, shrimping and tourism opportunities, and this is true up and down the Atlantic coast, which contains 37 percent of the Nation's estuarine areas.

The good news is that there are ways we can make a difference, and we have some goods models we can turn to. I am proud to say my home state of South Carolina is a leader in this area. The past decade I have led an extensive cooperative conservation effort, bringing together the State of South Carolina, private landowners, groups like the Nature Conservancy, Ducks Unlimited and Federal partners like NOAA and the Fish and Wildlife Service to protect the ACE Basin. It is now the largest pristine estuarine reserve on the East Coast, a 350,000-acre area at the convergence of the Edisto, Ashepoo and Combahee Rivers, which comprises many ecologically important habitats that are home to many fish and bird species, including a number of endangered species. An outcome of these efforts is that the ACE Basin, already home to a National Wildlife Refuge, was declared a National Estuarine Research Reserve in 1992, and has been growing in size ever since. In building the ACE Basin, the partners worked creatively and in a coordinated manner, and we successfully obtained land acquisition funds through a variety of federal sources, including the Forest Legacy Program.

What became clear, however, is that there is no federal program explicitly setting aside funding for conservation of coastal lands, where the needs are clearly the greatest. That is exactly what the Coastal and Estuarine Land Protection Act of 2002 will do. The bill, which is strongly supported by The Trust for Public Land, Coastal States Organization, The Nature Conservancy and Land Trust Alliance, amends the CZMA to authorize a competitively matching grant program in NOAA to enable states to permanently protect important coastal areas. Under this NOAA program, coastal states can compete for matching funds of up to 75 percent to acquire land or easements for the protection of endangered coastal areas that have considerable conservation, recreation, ecological, historical or aesthetic values threatened by development or conversion. The bill also provides funding for a regional watershed demonstration project that can be used as a model for future watershed-scale programs. The program is authorized at $60 million for fiscal year 2003 and beyond, with an additional $5 million for the regional watershed demonstration project.

By establishing a plan for the preservation of our coastal areas, the Coastal and Estuarine Land Protection Act will build on the foundation laid down by the CZMA, all in stride with the changing times, growing number of people, and limited resources available today. When it comes to the environment, rules and regulations sometimes can't do it all. Sometimes cooperative actions work better and we can turn to models that encourage joint conservation projects among folks who all want the same thing, sustainable coasts.

Partnership programs among federal government, state agencies, local governments, private landowners and nonprofits, like the ACE Basin Project, work and we need to encourage these partnerships in all our coastal areas if we are to prevent degradation of our coastal resources. The good news is that we can make a difference today by providing the funding for land conservation partnerships provided for by Coastal and Estuarine Land Protection Act. I am proud to be a sponsor of this bill, which will not only improve the quality of the coastal areas and marine life it supports, but also sustain surrounding communities and their way of life.

Mr. GREGG. Mr. President, I rise today along with Senator HOLLINGS to introduce S. 2608, the Coastal and Estuarine Land Protection Act. We are introducing this much needed coastal protection act along with Senators COCHRAN, DEWINE, SNOWE, BIDEN, CARPER, CLELAND, INOUYE, BREAUX, LANDRIEU, SARBANES, MIKULSKI, KENNEDY, KERRY, TORRICELLI, and MURRAY. In addition, this legislation is supported by the Coastal States Organization, the National Estuarine Research Reserve Association, the Trust for Public Lands, The National Conservancy, and the Land Trust Alliance.

The Coastal and Estuarine Land Protection Act promotes coordinated land acquisition and protection efforts in coastal and estuarine areas by fostering partnerships between non-governmental organizations and federal, state, and local governments. With Americans rapidly moving to the coast, pressures to develop critical coastal ecosystems are increasing. There are fewer and fewer undeveloped and pristine areas left in the nation's coastal and estuarine watersheds. These areas provide important nursery habitat for two-thirds of the nation's commercial fish and shellfish, provide nesting and foraging habitat for coastal birds, harbor significant natural plant communities, and serve to facilitate coastal flood control and pollutant filtration.

The Coastal and Estuarine Land Protection Act pairs willing sellers through community-based initiatives with sources of federal funds to enhance environmental protection. Lands can be acquired in full or through easements, and none of the lands purchased through this program would be held by the federal government. S. 2608 puts land conservation initiatives in the hands of state and local communities. This new program, authorized through the National Oceanic and Atmospheric Administration at $60,000,000 per year, would provide federal matching funds to states with approved coastal management programs or to National Estuarine Research Reserves through a competitive grant process. Federal matching funds may not exceed 75% of the cost of a project under this program, and non-federal sources may count in-kind support toward their portion of the cost share.

This coastal land protection program provides much needed support for local coastal conservation initiatives throughout the country. In my role as the Ranking Member of the Commerce, Justice, State Appropriations Subcommittee, I have been able to secure significant funds for the Great Bay estuary in New Hampshire. This estuary is the jewel of the seacoast region, and is home to a wide variety of plants and animal species that are particularly threatened by encroaching development and environmental pollutants. By working with local communities to purchase lands or easements on these valuable parcels of land, New Hampshire has been able to successfully conserve the natural and scenic heritage of this vital estuary.

Programs like the Coastal and Estuarine Land Protection program will now enable other states to participate in these community-based conservation efforts in coastal areas. This program was modeled after the U.S. Department of Agriculture's successful Forest Legacy Program, which has conserved millions of acres of productive and ecologically significant forest land around the country.

I welcome the opportunity to offer this important legislation, with my close friend, Senator HOLLINGS. I am thankful for his strong leadership on this issue, and look forwarding to working with him to make the vision for this legislation a reality, and to successfully conserve our ecologically, historically, recreational, and aesthetically important coastal lands.

By Mr. LEAHY (for himself and Mr. SCHUMER):

S. 2609. A bill to require the Federal Trade Commission to promulgate a rule to establish requirements with respect to the release of prescriptions for contact lenses; to the Committee on Commerce, Science, and Transportation.

Mr. LEAHY. Mr. President, the Contact Lens Prescription Release Act of 2002 will rectify a troubling anomaly in competition and health care law: Eye doctors have long been required to provide patients with the prescriptions for their eyeglasses, but not for contact lenses. This bill will require ophthalmologists and optometrists to release contact lens prescriptions to their patients, just as they have long been required to do for eyeglass wearers.

Since 1973, when the Federal Trade Commission issued a regulation requiring the automatic release of eyeglass prescriptions, the millions of citizens who wear glasses have had access to,

and the use of, their own prescriptions. They have long been able to ''shop around'' for the best provider of eyeglasses for themselves, but contact lens wearers are often forced to purchase their contacts from their eye doctors, because they have been denied possession of their own prescriptions.

The contact lens industry was in its infancy in 1973, and thus was excluded from the FTC's regulation. Now that 35 million Americans wear contact lenses, the industry is profoundly different. Thirty years ago, it made sense that the FTC did not extend its rule to cover contact lenses, but now that so many patients wear contacts, it seems the time is ripe for the law to reflect this growing health care trend. In addition, because patients' prescriptions can be exclusively held by their doctors, anticompetitive behavior among some eye doctors has escalated, to the detriment of consumers and competition.

In some instances, doctors can effectively force their patients to buy contact lenses from their doctors who can also require them to come in for eye exams before they receive replacement lenses, even if there is no change to the prescription. Patients must then pay for medical services they do not want, and cannot shop around for the best price or most convenient delivery service for their contact lens, like on-line ordering, or discount dealers. In fact, thirty-two State Attorneys General have recently settled an antitrust suit against the American Optometric Association and Johnson & Johnson, maker of ACUVUE disposable contact lenses, in which the attorneys general alleged that defendants conspired to force patients to buy their lenses only from eye doctors, and to eliminate competition from alternative distributors of contact lenses.

The Contact Lens Prescription Release Act would require the FTC to amend its trade regulation rule on ophthalmic practice to require a contact lens prescriber to release to the patient, or her agent, a copy of the prescription, and it would make it an unfair practice for any contact lens supplier to represent that the lenses could be obtained without a valid prescription. This bill would put contact lens wearers in the same position as their bespectacled brethren: They could have control of their own medical information, and be able to choose the right supplier, from a more competitive marketplace of suppliers, for themselves.

By Mr. WELLSTONE (for himself and Mr. CORZINE):

S. 2610. A bill to amend part A of title IV of the Social Security Act to include efforts to address barriers to employment as a work activity under the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

Mr. WELLSTONE. Mr. President, I rise today to introduce the Chance to Succeed Act of 2002 on behalf of myself and my colleagues Senator CORZINE.

The research is clear that many of the parents still receiving Temporary Assistance for Needy Families, TANF, cash assistance have barriers, often multiple barriers, that make it harder, sometime impossible, for them to work. These barriers include mental and physical impairments including learning disabilities, domestic and sexual violence, substance abuse, limited English proficiency, and hopelessness. In some cases, parents are caring for a child with disabilities and this inhibits their ability to meet the State's work requirements.

In my own State of Minnesota, we are beginning to see compelling evidence that many families receiving TANF, have significant barriers to employment. A recent study done by Lifetrack Resources looked at welfare recipients participating in a transitional jobs program. This research found that individuals participating in the program had an average of seven barriers to employment, ranging from a lack of reliable transportation to limited education to domestic violence issues. Welfare offices in Ramsey and Hennepin Counties, where the bulk of families approaching their 5 year lifetime limit live, found similar results as they have begun testing TANF recipients for learning problems, mental illness, physical limitations and other disabilities. They found that: about two-thirds of the parents in each county have problems severe enough to qualify for benefits extension; In Ramsey county, testers who have worked with several hundred parents, have found the average IQ for English speakers was 82. An IQ of 100 is considered average; and Hennepin County found that 24 percent of a sample of 66 parents reaching their time limits had a mental illness.

With additional help, many of these families in Minnesota and elsewhere, will be better able to maximize their potential and move toward greater financial independence. In order to be able to better help these families address such barriers and move toward work, States need to have in place policies and procedures that help identify these families and the barriers they face and provide them with the services and supports they will need to eventually succeed in the workplace. There is no need for these policies and procedures to be identical—one size does not fit all for states or families. But, the failure to have any such procedures results in families with barriers being inappropriately sanctioned while also unable to work. It also means that States are not using their limited TANF resources most efficiently to ensure accurate matching of families' barriers with program to help to address those barriers. Inadequate screening and assessment impedes states' ability to better tailor their programs and the individual's responsibility plan to meet a family's needs.

Some States have already taken steps along the lines proposed in this bill. The purpose of the provisions in this bill is to put into place a skeletal structure in each State, leaving the States with flexibility in terms of exactly how the various provisions are implemented, will help to ensure that both states and families have the tools they need to ultimately ensure that more low-income families succeed in the workplace. The Chance to Succeed Act encourages states to better serve the needs of TANF recipients with barriers to employment by: giving states broad flexibility to place TANF recipients in barrier-removal activities and count recipients participating in such activities toward federal work participation rates for at least three months; improving service delivery for families with barriers by developing a screening, assessment and service delivery process; providing technical assistance to states to develop model practices, standards and procedures for screening, assessment and addressing barriers to move individuals into employment; and providing funding for state-level advisory panels to improve state policies and procedures for assisting families with barriers to work; helping TANF recipients with barriers to employment move into the workforce by creating personal responsibility plans that outline an employment goal for moving an individual into stable employment; the obligations of the individual to work toward becoming and remaining employed in the private sector; the individual's long-term career goals and the specific work experience, education, or training needed to reach them; and the services the State will offer based on screening and assessment; and developing sanction, conciliation and follow-up procedures that address barriers and improve compliance.

TANF recipients want to work and be able to provide for themselves and their children. To be poor in this country is difficult enough, but to be poor and on welfare carries with it a stigma that makes life nearly impossible. States like Minnesota and others are only now coming to understand the true depth and extent of the kinds of barriers to employment that many TANF recipients face. It takes a tremendous commitment of effort and resources to provide individuals with the services and supports they need to address these barriers so that they may successfully transition into the workforce. It is critical that our federal TANF policies do all that is possible to help those states that are already making this kind of commitment. I believe this bill does just that, and I urge each of my colleagues to support it. I look forward to working with my colleagues on the Finance Committee and others to ensure that the provisions in this bill are included in the Senate TANF reauthorization bill.

By Mr. REED (for himself, Mr. KENNEDY, Ms. COLLINS, Mr. JEFFORDS, Mr. FRIST, Mr. COCHRAN,

Mr. LEVIN, Mr. CHAFEE, Ms. LANDRIEU, Mr. DAYTON, and Mr. WELLSTONE):

S. 2611. A bill to reauthorize the Museum and Library Services Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce the Museum and Library Services Act of 2002. I am pleased to be joined by Senators KENNEDY, COLLINS, JEFFORDS, FRIST, COCHRAN, LEVIN, CHAFEE, LANDRIEU, and DAYTON in introducing this legislation to strengthen museum and library services.

Museums and libraries are rich centers of learning, woven into the fabric of our communities, big and small, urban and rural.

Today's library is not simply a place where books are read and borrowed. It is a place where a love for reading is born and renewed again and again, and where information is sought and discovered. American libraries also coordinate and provide comprehensive services to meet the needs of their communities and people of all ages. They provide Internet access, family literacy classes, homework help, mentoring programs, English as A Second Language, ESL, classes, job training, and resume writing workshops.

America's museums bring wonderment and joy to young and old alike, encouraging discovery and celebrating our heritage and our heroes. Today's museums bring everyday objects, art, music, science, technology, and much more to life. Museums help us preserve our past, understand our present, and plan our future.

The Federal Government has a long history of supporting our Nation's libraries and museums, providing direct aid to public libraries since the adoption of the Library Services and Construction Act, LSCA, in 1956 and funding to museums since the enactment of the Museum Services Act in 1976.

The Museum and Library Services Act was enacted in 1996, reauthorizing federal library and museum programs under a newly created, independent federal agency called the Institute for Museum and Library Services, IMLS. The Museum and Library Services Act consists of two main subtitles, the Library Services and Technology Act and the Museum Services Act. Senator KENNEDY, Senator JEFFORDS, and my predecessor, former Senator Claiborne Pell, were instrumental in the development and enactment of this law.

Under the Library Services and Technology Act, LSTA, IMLS funds four grant programs for libraries to improve access to information through technology, to ensure equity of access and to help bring resources to underserved audiences. These programs serve all types of our nation's 122,000 libraries: public, academic, research, school, and archive.

In Rhode Island, LSTA funding allows libraries to provide summer reading programs for students and participate in the Rhode Island Family Literacy Initiative that helps families with limited English language skills. Last fall, the Providence Public Library was one of 6 museums and libraries recognized by IMLS with a National Award for Museum and Library Service.

Under the Museum Service Act, IMLS provides funding and technical assistance to museums for preservation of museum collections, new technologies for exhibits, and general operations. Approximately 15,000 U.S. museums from aquariums to arboretums and botanical gardens, to art museums, to historic houses and sites, to nature centers, to science and technology centers, to zoological parks benefit from the IMLS's existence. Several Rhode Island museums have received IMLS funding, including the Children's Museum of Rhode Island, the Museum of Art at the Rhode Island School of Design, and the Slater Mill Historic Site in Pawtucket.

The legislation we are introducing today is based on the testimony we heard at an April 10 hearing of the Health, Education, Labor, and Pensions Committee, which I chaired, as well as proposals that the museum and library communities each crafted using a cooperative and collaborative process. We are grateful for their efforts to come together on proposals so the law meets the future needs of museum and library users.

The Museum and Library Services Act of 2002, which extends the authorization of museum and library services for six years, makes several important modifications to current law. The bill ensures that library activities are coordinated with the school library program I authored and contained within the No Child Left Behind Act of 2001. It establishes a Museum and Library Services Board to advise the Director of IMLS, and it authorizes IMLS to award a National Award for Library Service as well as a National Award for Museum Service. The bill also ensures a portion of administrative funds are used to analyze annually the impact of museum and library services to identify needs and trends of services provided under museum and library programs, and it establishes a reservation of 1.75 percent of funds for museum services for Native Americans (a similar reservation is currently provided for library services under the Library Services and Technology subtitle). Lastly, the bill updates the uses of funds for library and museum programs, and it increases the authorization of LSTA from $150 million to $350 million and Museum Services from $28.7 million to $65 million.

I want to specifically highlight one other provision in the legislation. The Museum and Library Services Act of 2002 doubles the minimum State allotment under the Library Services and Technology Act to $680,000. The minimum State allotment has remained flat at $340,000 since 1971, hampering the literacy and cultural efforts of our Nation's smaller states. An analysis prepared by the staff of the Joint Economic Committee shows that it would take $1.5 million for our small States to keep pace with inflation. The library community has instead suggested a modest, but essential doubling of the minimum State allotment to $680,000. This will enable every State to benefit and implement the valuable services and programs that larger States have been able to put in place. We heard about the importance of this change from David Macksam, Director of the Cranston Public Library, during the April 10 hearing. I will be fighting to retain this provision as we work with the House to put this legislation on the President's desk for his signature.

The House Committee on Education and the Workforce has already taken action on a reauthorization bill. Last year, during the reauthorization of the Elementary and Secondary Education Act (ESEA), I was pleased to work with Senator COLLINS, Chairman KENNEDY, and others to secure funding for school libraries for the first time in twenty years. I hope we can also move forward on a similar bipartisan basis on a swift reauthorization of the Museum and Library Services Act.

I urge my colleagues to cosponsor this important legislation and work for its passage.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 2611

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Museum and Library Services Act of 2002''.

TITLE I—GENERAL PROVISIONS

SEC. 101. GENERAL DEFINITIONS.

Section 202 of the Museum and Library Services Act (20 U.S.C. 9101) is amended—

(1) by striking paragraphs (1) and (4);

(2) by redesignating paragraph (2) as paragraph (1);

(3) by inserting after paragraph (1), as redesignated by paragraph (2) of this section, the following:

''(2) INDIAN TRIBE.—The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''; and

(4) by adding at the end the following:

''(4) MUSEUM AND LIBRARY SERVICES BOARD.—The term 'Museum and Library Services Board' means the National Museum and Library Services Board established under section 207.''.

SEC. 102. INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

Section 203 of the Museum and Library Services Act (20 U.S.C. 9102) is amended—

(1) in subsection (b), by striking the last sentence; and

(2) by adding at the end the following:

''(c) MUSEUM AND LIBRARY SERVICES BOARD.—There shall be a National Museum and Library Services Board within the Institute, as provided under section 207.''.

SEC. 103. DIRECTOR OF THE INSTITUTE.

Section 204 of the Museum and Library Services Act (20 U.S.C. 9103) is amended—

(1) in subsection (e), by adding at the end the following: ''Where appropriate, the Director shall ensure that activities under subtitle B are coordinated with activities under section 1251 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6383).''; and

(2) by adding at the end the following:

''(f) REGULATORY AUTHORITY.—The Director may promulgate such rules and regulations as are necessary and appropriate to implement the provisions of this title.''.

SEC. 104. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended—

(1) by redesignating section 207 as section 208; and

(2) by inserting after section 206 the following:

''SEC. 207. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.

''(a) ESTABLISHMENT.—There is established in the Institute a board to be known as the 'National Museum and Library Services Board'.

''(b) MEMBERSHIP.—

''(1) NUMBER AND APPOINTMENT.—The Museum and Library Services Board shall be composed of the following:

''(A) The Director.

''(B) The Deputy Director for the Office of Library Services.

''(C) The Deputy Director for the Office of Museum Services.

''(D) The Chairman of the National Commission on Libraries and Information Science.

''(E) 10 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified in the area of library services by virtue of their education, training, or experience.

''(F) 11 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified in the area of museum services by virtue of their education, training, or experience.

''(2) SPECIAL QUALIFICATIONS.—

''(A) LIBRARY MEMBERS.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(E)—

''(i) 5 shall be professional librarians or information specialists, of whom—

''(I) at least 1 shall be knowledgeable about electronic information and technical aspects of library and information services and sciences; and

''(II) and at least 1 other shall be knowledgeable about the library and information service needs of underserved communities; and

''(ii) the remainder shall have special competence in, or knowledge of, the needs for library and information services in the United States.

''(B) MUSEUM MEMBERS.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(F)—

''(i) 5 shall be museum professionals who are or have been affiliated with—

''(I) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

''(II) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, botanical gardens, and museums designed for children; and

''(ii) the remainder shall be individuals recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

''(3) GEOGRAPHIC AND OTHER REPRESENTATION.—Members of the Museum and Library Services Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum and Library Services Board may not include, at any time, more than 3 appointive members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums and libraries.

''(4) VOTING.—The Director, the Deputy Director of the Office of Library Services, and the Deputy Director of the Office of Museum Services shall be nonvoting members of the Museum and Library Services Board.

''(c) TERMS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, each member of the Museum and Library Services Board appointed under subparagraph (E) or (F) of subsection (b)(1) shall serve for a term of 5 years.

''(2) INITIAL BOARD APPOINTMENTS.—

''(A) TREATMENT OF MEMBERS SERVING ON EFFECTIVE DATE.—Notwithstanding subsection (b), each individual who is a member of the National Museum Services Board on October 1, 2002, may, at the individual's election, complete the balance of the individual's term as a member of the Museum and Library Services Board.

''(B) FIRST APPOINTMENTS.—Notwithstanding subsection (b), any appointive vacancy in the initial membership of the Museum and Library Services Board existing after the application of subparagraph (A), and any vacancy in such membership subsequently created by reason of the expiration of the term of an individual described in subparagraph (A), shall be filled by the appointment of a member described in subsection (b)(1)(E). When the Museum and Library Services Board consists of an equal number of individuals who are specially qualified in the area of library services and individuals who are specially qualified in the area of museum services, this subparagraph shall cease to be effective and the members of the Museum and Library Services Board shall be appointed in accordance with subsection (b).

''(C) AUTHORITY TO ADJUST TERMS.—The terms of the first members appointed to the Museum and Library Services Board shall be adjusted by the President as necessary to ensure that the terms of not more than 4 members expire in the same year. Such adjustments shall be carried out through designation of the adjusted term at the time of appointment.

''(3) VACANCIES.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

''(4) REAPPOINTMENT.—No appointive member of the Museum and Library Services Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

''(5) SERVICE UNTIL SUCCESSOR TAKES OFFICE.—Notwithstanding any other provision of this subsection, an appointive member of the Museum and Library Services Board shall serve after the expiration of the term of the member until the successor to the member takes office.

''(d) DUTIES AND POWERS.—

''(1) IN GENERAL.—The Museum and Library Services Board shall advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum and library services, including financial assistance awarded under this title.

''(2) NATIONAL AWARDS.—The Museum and Library Services Board shall assist the Director in making awards under section 209.

''(e) CHAIRPERSON.—The Director shall serve as Chairperson of the Museum and Library Services Board.

''(f) MEETINGS.—

''(1) IN GENERAL.—The Museum and Library Services Board shall meet not less than 2 times each year and at the call of the Director.

''(2) VOTE.—All decisions by the Museum and Library Services Board with respect to the exercise of its duties and powers shall be made by a majority vote of the members of the Board who are present and authorized to vote.

''(g) QUORUM.—A majority of the voting members of the Museum and Library Services Board shall constitute a quorum for the conduct of business at official meetings, but a lesser number of members may hold hearings.

''(h) COMPENSATION AND TRAVEL EXPENSES.—

''(1) COMPENSATION.—Each member of the Museum and Library Services Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum annual rate of pay authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum and Library Services Board. Members of the Museum and Libraries Services Board who are full-time officers or employees of the Federal Government may not receive additional pay, allowances, or benefits by reason of their service on the Board.

''(2) TRAVEL EXPENSES.—Each member of the Museum and Library Services Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

''(i) COORDINATION.—The Director, with the advice of the Museum and Library Services Board, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.''.

SEC. 105. AWARDS; ANALYSIS OF IMPACT OF SERVICES.

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended by inserting after section 208 (as redesignated by section 104 of this Act) the following:

''SEC. 209. AWARDS.

''The Director, with the advice of the Museum and Library Services Board, may annually award National Awards for Library Service and National Awards for Museum Service to outstanding libraries and outstanding museums, respectively, that have made significant contributions in service to their communities.

''SEC. 210. ANALYSIS OF IMPACT OF MUSEUM AND LIBRARY SERVICES.

''From amounts described in sections 214(c) and 274(b), the Director shall carry out and publish analyses of the impact of museum and library services. Such analyses—

''(1) shall be conducted in ongoing consultation with—

''(A) State library administrative agencies;

''(B) State, regional, and national library and museum organizations; and

''(C) other relevant agencies and organizations;

''(2) shall identify national needs for, and trends of, museum and library services provided with funds made available under subtitles B and C;

''(3) shall report on the impact and effectiveness of programs conducted with funds made available by the Institute in addressing such needs; and

''(4) shall identify, and disseminate information on, the best practices of such programs to the agencies and entities described in paragraph (1).''.

TITLE II—LIBRARY SERVICES AND TECHNOLOGY

SEC. 201. PURPOSE.

Section 212 of the Library Services and Technology Act (20 U.S.C. 9121) is amended by striking paragraphs (2) through (5) and inserting the following:

''(2) to promote improvement in library services in all types of libraries in order to better serve the people of the United States;

''(3) to facilitate access to resources in all types of libraries for the purpose of cultivating an educated and informed citizenry; and

''(4) to encourage resource sharing among all types of libraries for the purpose of achieving economical and efficient delivery of library services to the public.''.

SEC. 202. DEFINITIONS.

Section 213 of the Library Services and Technology Act (20 U.S.C. 9122) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (1), (2), (3), (4), and (5), respectively.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 214 of the Library Services and Technology Act (20 U.S.C. 9123) is amended—

(1) by amending subsection (a) to read as follows:

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $350,000,000 for fiscal year 2003 and such sums as may be necessary for fiscal years 2004 through 2008.''; and

(2) in subsection (c), by striking ''3 percent'' and inserting ''3.5 percent''.

SEC. 204. RESERVATIONS AND ALLOTMENTS.

Section 221(b)(3) of the Library Services and Technology Act (20 U.S.C. 9131(b)(3)) is amended to read as follows:

''(3) MINIMUM ALLOTMENTS.—

''(A) IN GENERAL.—For purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(B) RATABLE REDUCTIONS.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the requirement of subparagraph (A), each of the minimum allotments under such subparagraph shall be reduced ratably.

''(C) EXCEPTION.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2002—

''(I) the minimum allotment for each State otherwise receiving a minimum allotment of $340,000 under subparagraph (A) shall be increased to $680,000; and

''(II) the minimum allotment for each State otherwise receiving a minimum allotment of $40,000 under subparagraph (A) shall be increased to $60,000.

''(ii) INSUFFICIENT FUNDS TO AWARD ALTERNATIVE MINIMUM.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2002 yet is insufficient to fully satisfy the requirement of clause (i), such excess amount shall first be allotted among the States described in clause (i)(I) so as to increase equally the minimum allotment for each such State above $340,000. After the requirement of clause (i)(I) is fully satisfied for any fiscal year, any remainder of such excess amount shall be allotted among the States described in clause (i)(II) so as to increase equally the minimum allotment for each such State above $40,000.

''(D) SPECIAL RULE.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

''(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

''(iii) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.''.

SEC. 205. STATE PLANS.

Section 224 of the Library Services and Technology Act (20 U.S.C. 9134) is amended—

(1) in subsection (a)(1), by striking ''not later than April 1, 1997.'' and inserting ''once every 5 years, as determined by the Director.''; and

(2) in subsection (f)—

(A) by striking ''this Act'' each place such term appears and inserting ''this subtitle'';

(B) in paragraph (1)—

(i) by striking ''1934,'' and all that follows through ''Act, may'' and inserting ''1934 (47 U.S.C. 254(h)(6)) may''; and

(ii) by striking ''section 213(2)(A) or (B)'' and inserting ''section 213(1)(A) or (B)''; and

(C) in paragraph (7)—

(i) in the matter preceding subparagraph (A), by striking ''section:'' and inserting ''subsection:''; and

(ii) in subparagraph (D), by striking ''given'' and inserting ''applicable to''.

SEC. 206. GRANTS TO STATES.

Section 231 of the Library Services and Technology Act (20 U.S.C. 9141) is amended—

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

''(1) expanding services for learning and access to information and educational resources in a variety of formats, in all types of libraries, for individuals of all ages;

''(2) developing library services that provide all users access to information through local, State, regional, national, and international electronic networks;

''(3) providing electronic and other linkages among and between all types of libraries;

''(4) developing public and private partnerships with other agencies and community-based organizations;

''(5) targeting library services to individuals of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to individuals with limited functional literacy or information skills; and

''(6) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.''; and

(2) in subsection (b), by striking ''between the two purposes described in paragraphs (1) and (2) of such subsection,'' and inserting ''among such purposes,''.

SEC. 207. NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.

Section 262(a)(1) of the Library Services and Technology Act (20 U.S.C. 9162(a)(1)) is amended by striking ''education and training'' and inserting ''education, recruitment, and training''.

TITLE III—MUSEUM SERVICES

SEC. 300. SHORT TITLE.

Subtitle C of the Museum and Library Services Act (20 U.S.C. 9171 et seq.) is amended by inserting before section 271 the following:

''SEC. 270. SHORT TITLE.

''This subtitle may be cited as the 'Museum Services Act'.''.

SEC. 301. PURPOSE.

Section 271 of the Museum and Library Services Act (20 U.S.C. 9171) is amended to read as follows:

''SEC. 271. PURPOSE.

''It is the purpose of this subtitle—

''(1) to encourage and support museums in carrying out their public service role of connecting the whole of society to the cultural, artistic, historical, natural, and scientific understandings that constitute our heritage;

''(2) to encourage and support museums in carrying out their educational role, as core providers of learning and in conjunction with schools, families, and communities;

''(3) to encourage leadership, innovation, and applications of the most current technologies and practices to enhance museum services;

''(4) to assist, encourage, and support museums in carrying out their stewardship responsibilities to achieve the highest standards in conservation and care of the cultural, historic, natural, and scientific heritage of the United States to benefit future generations;

''(5) to assist, encourage, and support museums in achieving the highest standards of management and service to the public, and to ease the financial burden borne by museums as a result of their increasing use by the public; and

''(6) to support resource sharing and partnerships among museums, libraries, schools, and other community organizations.''.

SEC. 302. DEFINITIONS.

Section 272(1) of the Museum and Library Services Act (20 U.S.C. 9172(1)) is amended by adding at the end the following: ''Such term includes aquariums, arboretums, botanical gardens, art museums, children's museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks.''.

SEC. 303. MUSEUM SERVICES ACTIVITIES.

Section 273 of the Museum and Library Services Act (20 U.S.C. 9173) is amended to read as follows:

''SEC. 273. MUSEUM SERVICES ACTIVITIES.

''(a) IN GENERAL.—The Director, subject to the policy advice of the Museum and Library Services Board, may enter into arrangements, including grants, contracts, cooperative agreements, and other forms of assistance to museums and other entities as the Director considers appropriate, to pay for the Federal share of the cost—

''(1) to support museums in providing learning and access to collections, information, and educational resources in a variety of formats (including exhibitions, programs, publications, and websites) for individuals of all ages;

''(2) to support museums in building learning partnerships with the Nation's schools and developing museum resources and programs in support of State and local school curricula;

''(3) to support museums in assessing, conserving, researching, maintaining, and exhibiting their collections, and in providing educational programs to the public through the use of their collections;

''(4) to stimulate greater collaboration among museums, libraries, schools, and other community organizations in order to share resources and strengthen communities;

''(5) to encourage the use of new technologies and broadcast media to enhance access to museum collections, programs, and services;

''(6) to support museums in providing services to people of diverse geographic, cultural, and socioeconomic backgrounds and to individuals with disabilities;

''(7) to support museums in developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and State institutions;

''(8) to support professional development and technical assistance programs to enhance museum operations at all levels, in order to ensure the highest standards in all aspects of museum operations;

''(9) to support museums in research, program evaluation, and the collection and dissemination of information to museum professionals and the public; and

''(10) to encourage, support, and disseminate model programs of museum and library collaboration.

''(b) FEDERAL SHARE.—

''(1) 50 PERCENT.—Except as provided in paragraph (2), the Federal share described in subsection (a) shall be not more than 50 percent.

''(2) GREATER THAN 50 PERCENT.—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to enter into arrangements under subsection (a) for which the Federal share may be greater than 50 percent.

''(3) OPERATIONAL EXPENSES.—No funds for operational expenses may be provided under this section to any entity that is not a museum.

''(c) REVIEW AND EVALUATION.—The Director shall establish procedures for reviewing and evaluating arrangements described in subsection (a) entered into under this subtitle. Procedures for reviewing such arrangements shall not be subject to any review outside of the Institute.

''(d) SERVICES FOR NATIVE AMERICANS.—From amounts appropriated under section 274, the Director shall reserve 1.75 percent to award grants to, or enter into contracts or cooperative agreements with, Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as defined in section 7207 of the Native Hawaiian Education Act (20 U.S.C. 7517)) to enable such tribes and organizations to carry out the activities described in subsection (a).''.

SEC. 304. REPEALS.

Sections 274 and 275 of the Museum and Library Services Act (20 U.S.C. 9174 and 9175) are repealed.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

Section 276 of the Museum and Library Services Act (20 U.S.C. 9176)—

(1) is redesignated as section 274 of such Act; and

(2) is amended, in subsection (a), by striking ''$28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.'' and inserting ''$65,000,000 for fiscal year 2003 and such sums as may be necessary for fiscal years 2004 through 2008.''.

TITLE IV—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT

SEC. 401. AMENDMENT TO CONTRIBUTIONS.

Section 4 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1503) is amended by striking ''accept, hold, administer, and utilize gifts, bequests, and devises of property,'' and inserting ''solicit, accept, hold, administer, invest in the name of the United States, and utilize gifts, bequests, and devises of services or property,''.

SEC. 402. AMENDMENT TO MEMBERSHIP.

Section 6(a) of the National Commission on Libraries and Information Science Act (20 U.S.C. 1505(a)) is amended—

(1) in the second sentence, by striking ''and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly'';

(2) by amending the fourth sentence to read as follows: ''A majority of members of the Commission who have taken office and are serving on the Commission shall constitute a quorum for conduct of business at official meetings of the Commission''; and

(3) in the fifth sentence, by striking ''five years, except that'' and all that follows through the period and inserting ''five years, except that—

''(1) a member of the Commission appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed, shall be appointed only for the remainder of such term; and

''(2) any member of the Commission may continue to serve after an expiration of the member's term of office until such member's successor is appointed, has taken office, and is serving on the Commission.''.

TITLE V—TECHNICAL CORRECTIONS; CONFORMING AMENDMENT; REPEALS; EFFECTIVE DATE

SEC. 501. TECHNICAL CORRECTIONS.

(a) TITLE HEADING.—The title heading for the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

''TITLE II—MUSEUM AND LIBRARY SERVICES''.

(b) SUBTITLE A HEADING.—The subtitle heading for subtitle A of the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

''Subtitle A—General Provisions''.

(c) SUBTITLE B HEADING.—The subtitle heading for subtitle B of the Museum and Library Services Act (20 U.S.C. 9121 et seq.) is amended to read as follows:

''Subtitle B—Library Services and Technology''.

(d) SUBTITLE C HEADING.—The subtitle heading for subtitle C of the Museum and Library Services Act (20 U.S.C. 9171 et seq.) is amended to read as follows:

''Subtitle C—Museum Services''.

(e) CONTRIBUTIONS.—Section 208 of the Museum and Library Services Act (20 U.S.C. 9106) (as redesignated by section 104 of this Act) is amended by striking ''property of services'' and inserting ''property or services''.

(f) STATE PLAN CONTENTS.—Section 224(b)(5) of the Library Services and Technology Act (20 U.S.C. 9134(b)(5)) is amended by striking ''and'' at the end.

(g) NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.—Section 262(b)(1) of the Library Services and Technology Act (20 U.S.C. 9162(b)(1)) is amended by striking ''cooperative agreements, with,'' and inserting ''cooperative agreements with,''.

SEC. 502. CONFORMING AMENDMENT.

Section 170(e)(6)(B)(i)(III) of the Internal Revenue Code of 1986 (relating to the special rule for contributions of computer technology and equipment for educational purposes) is amended by striking ''section 213(2)(A) of the Library Services and Technology Act (20 U.S.C. 9122(2)(A)'' and inserting ''section 213(1)(A) of the Library Services and Technology Act (20 U.S.C. 9122(1)(A))''.

SEC. 503. REPEALS.

(a) NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT.—Section 5 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1504) is amended by striking subsections (b) and (c) and redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(b) MUSEUM AND LIBRARY SERVICES ACT OF 1996.—Sections 704 through 707 of the Museum and Library Services Act of 1996 (20 U.S.C. 9102 note, 9103 note, and 9105 note) are repealed.

SEC. 504. EFFECTIVE DATE.

The amendments made by this Act shall take effect on October 1, 2002.

By Mr. REID (for himself and Mr. ENSIGN):

S. 2612. A bill to establish wilderness areas, promote conservation, improve public land and provide for high quality development in Clark County, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, today I rise with my good friend Senator ENSIGN to introduce a bill that is important to Las Vegas, important to Clark County, important to Nevada, and important to America. The Clark County Conservation of Public Land and Natural Resources Act of 2002, known as the Clark County Conservation PLAN, provides a solution for southern Nevada's growth and conservation challenges.

The Clark County Conservation PLAN balances the needs for infrastructure development, recreational opportunities, and conservation of our precious natural resources in southern Nevada.

Our bill is a broad-based compromise. We do not expect everyone to advocate every provision of this bill. Indeed, we know that many people will oppose various components of our legislation. The complaints we receive will reflect the tendency for people to fear change, protect the status quo, and miss the forest for the trees in this case, the Joshua trees.

Before I discuss each title of the Clark County Conservation PLAN, I will take a few moments to describe the profound challenge that public land issues pose for Nevada. 87 percent of the land in Nevada, that is nearly 9 out of every 10 acres in our State, is owned and managed by the Federal Government. This includes land managed by the U.S. Forest Service, the Bureau of Reclamation, the Bureau of Land Management, the Department of Energy, the National Park Service, the Fish and Wildlife Service, the U.S. Army, the U.S. Navy, and the U.S. Air Force.

The Secretaries of Interior, Agriculture, Defense and Energy bear tremendous responsibilities for the management, development, and conservation of natural resources in Nevada. Unlike most of America where land use decisions are made by communities, in Nevada, many land use decisions require concurrence of Federal officials and, in some cases, the passage of Federal laws. This is a circumstance that very few Senators understand from experience, but I know that my colleagues can imagine the tremendous challenge inherent in this system regardless of the State they represent.

The challenge of Federal land ownership is not unique to Nevada, in fact it characterizes much of the West. However, this situation is compounded in Clark County where the fastest growing population in America springs from the heart of one of the most extreme and fragile regions in North America, the Mojave Desert.

Many people believe that this scenario embodies an impossible challenge. Some believe that guiding growth in Southern Nevada and protecting our desert for future generations are mutually exclusive. Some believe that protecting our air and water quality and setting aside some open space as wilderness are overly costly barriers to growth that unnecessarily restrict recreation and development. Some believe that the Federal Government's management of public land is too strict; others believe it is too lenient. Some believe that every acre of Clark County should be privatized. Some believe that not a single acre more should be auctioned from the public domain. As different as these views are, what they have in common is that they are passionately held by Nevadans.

By describing the fundamental context within which Senator ENSIGN and I are working, I hope I have demonstrated why compromise is not just necessary but warranted. We fully expect to be criticized for what this bill is not, for example it does not designate all of the 2 million acres in Clark County that the Nevada Wilderness Coalition advocates nor does it release all the wilderness study areas in Nevada as others advocate. We do not need to apologize for this compromise, rather we will advocate for what it is, a fair-minded, forward-looking framework for the future development and protection of public land in Clark County.

The Clark County Conservation PLAN reflects three complementary goals: 1. Enhancing our quality of life; 2. Protecting our environment for our children and grandchildren; and 3. Making public land available for quality development consistent with these two principles.

The remainder of my statement today will explain how the Clark County Conservation PLAN will improve the quality of life and enhance economic opportunities for Nevadans while enriching and protecting the awe-inspiring natural resources that bless southern Nevada for the benefit of future generations of Nevadans and all Americans.

When Congress passed the Southern Nevada Public Lands Management Act in 1998, we made the decision that it was in the public interest to transition away from Federal-private land exchanges and competitively auction those parcels of land deemed by the BLM to be disposable. This decision has proven to be quite effective and fair and likely represents the future of land privatization in Nevada and the West. However, at the time the law was enacted, Congress did contemplate that a limited number of ongoing land exchanges would be completed. One of these exchanges is familiarly known as the Red Rock Canyon Howard Hughes exchange. This exchange would be completed by Title I of the Clark County Conservation PLAN.

In the Red Rock Exchange, the Bureau of Land Management will acquire roughly 1,070 acres of land owned by the Howard Hughes Corporation. This land forms promontories above the gently-sloping bajada in the foothills of the La Madre Mountains on the western border of the Red Rock Canyon National Conservation Area. This acreage affords spectacular views of the Las Vegas Valley but development there would degrade the Red Rock NCA and diminish the beauty of the view from Las Vegas to the west, a view many Las Vegans treasure.

This bill provides that the lands I have described will become part of the Red Rock NCA once acquired by the federal government. In exchange for the Red Rock lands, the Howard Hughes Corporation will receive acreage of equal value, as determined by a government-certified appraiser, within the Las Vegas Valley. Finally, the Howard Hughes Corporation will convey some of their acquired acreage to Clark County for use as a county park and for inclusion in a regional trail system. As I mentioned earlier, this proposal has been around for a number of years and enjoys unusually broad support ranging from the County to the environmental community. The time when this exchange should have reached completion through the administrative process has long since passed and a legislative resolution is now in order.

Nevada has nearly 100 wilderness study areas on Federal land across the State. These areas, which are primarily owned by the Bureau of Land Management, are managed to protect wilderness character of the lands under current law. These areas remain as de facto wilderness until Congress passes a bill changing wilderness study status by either designating the land as wilderness or releasing the land from wilderness study area consideration.

Although there is broad support for addressing Nevada's wilderness study areas through federal legislation, there is no consensus regarding how to do so. Those who advocate for wilderness designation and those who oppose further additions to the wilderness system hold strong and, in many cases, irreconcilable views on this issue.

Those of us who wrote this bill likewise hold different views regarding wilderness. In developing the wilderness component of this bill, Senator ENSIGN, Congressman GIBBONS and I made compromises that will likely cause heartburn for all interested parties. We believe, however, that this is a critical step toward addressing the outstanding wilderness study issues in the state of Nevada. Our bill designates wilderness and releases wilderness study areas. It creates 20 wilderness areas: 6 managed by the BLM; 4 jointly managed by the Park Service and BLM; 7 managed by the Park Service; and 3 jointly managed by the BLM and the Forest Service

In addition to the wilderness described earlier, our bill releases from wilderness study area status acreage associated with each of the BLM and forest service areas we address. In fact, we release three BLM study areas in their entirety. Two of these areas will eventually accommodate growth at the north end of the Las Vegas Valley and help provide jobs for decades into the future. These lands might be conservatively valued at about $1 billion.

We have provided for wilderness management protocols that address the particular circumstances of southern Nevada. For example, we explicitly require the Secretary of the Interior to allow for the construction, maintenance and replacement of water catchments known as guzzlers when and where that action will enhance wilderness wildlife resources. In addition, we believe that the use of motor vehicles should be allowed to achieve these purposes when there is no reasonable alternative and it does not require the creation of new roads.

Some wilderness purists argue that these man-made guzzler tanks disturb the naturally functioning ecosystems of the Mojave Desert. I respect this view, but I believe that these water projects actually help restore more natural function to ecosystems that have been forever fragmented by development including roads. These projects which are privately funded by dedicated sportsmen have a legitimate place in southern Nevada wilderness and this bill is clear on that point.

In our effort to create a fair wilderness designation, we have benefitted from the advice and suggestions of many Nevadans representing a range of views. These advocates include the Nevada Land Users Coalition, The Sierra Club, The Virgin Valley Sportsmen's Association, The Nevada Wilderness Project, The Fraternity of Desert Bighorns, the Nevada Mining Association, Red Rock Audubon, and Partners in Conservation, to name just a few. We appreciate their help and believe that this compromise honors our commitment to listen carefully to all parties. We are also grateful for the help we have received from the Federal land managers in Clark County and look forward to working with them to improve this bill to help make their jobs easier and the public experience on public land better.

Early in the development of this bill we decided not to address wilderness issues within the Desert National Wildlife Range. I recognize that this is a major disappointment to many in the environmental community who view the wilderness resources in the Range as some of the best in the Mojave Desert. Wilderness in the Range is, however, beyond the scope of this bill.

The Clark County Conservation PLAN does transfer the management responsibility of three wilderness study areas, totaling more than 49,000 acres, from the Bureau of Land Management to the Fish and Wildlife Service. These areas lie between State Highway 93 and the Range so this transfer helps rationalize the federal land ownership pattern in northern Clark County.

In addition, this bill transfers a small parcel of land from the Bureau of Land Management to the National Park Service for use as an administrative site on the road between Searchlight and Cottonwood Cove. This transfer will save taxpayer dollars by allowing the Park Service to consolidate two planned administrative sites into one and manage the Lake Mead National Recreation Area more effectively.

When Congress passed the Southern Nevada Public Lands Management Act of 1998, it established a new paradigm for the sale of public lands in Clark County, Nevada. One of the core principles of this new way of doing business was that the proceeds from the sale of Federal lands should be reinvested in federal, state, and local environmental protection and recreational enhancements in the state in which the lands are sold.

The Clark County Conservation PLAN Act modifies the Southern Nevada Public Lands Management Act and expands the so-called Las Vegas valley disposal boundary. This expansion will make an additional 25,000 acres of BLM land available for auction and development years into the future. The proceeds from the sale of this Federal land will continue to accrue to the Southern Nevada Public Lands Special Account and be invested in the purchase of environmentally sensitive land, the development of Federal land infrastructure, the implementation of the Clark County Multi-Species Habitat Conservation Plan, and local government open space, recreation and conservation projects. Our bill further provides that at least one-quarter of the Special Account be dedicated to the last of these purposes.

One of the most important infrastructure issues facing southern Nevada is siting a new international airport. The County's preferred and likely site is in a dry lake bed between Jean and Primm, Nevada south of the Las Vegas Valley in the Interstate 15 transportation corridor near the California border. Congress made federal land at that site available for use as an airport, pending environmental reviews.

The Clark County Conservation PLAN complements that law in two important ways. First, our bill conveys federal land adjacent to the proposed airport to the Clark County Airport Authority so that it can promote compatible development within the area impacted by the noise of the airport. Any proceeds derived from sale of these Airport Authority lands would be distributed similarly to lands sold within the Las Vegas Valley Disposal Boundary.

Second, our bill directs the Bureau of Land Management to reserve a right-of-way for non-exclusive utility and transportation corridors between the Las Vegas valley and the proposed airport. This corridor is important because for the new airport to remain economical will require significant utility development to come from the north. Our bill does not dictate exactly where, when, how, or by whom this infrastructure will be developed; it simply reserves land explicitly to serve this purpose.

One of the most precious areas in southern Nevada is a relatively nondescript canyon near Henderson. It is an area graced with hundreds of wonderful and curious petroglyphs. Under ordinary circumstances, I would not reveal the location of this site because public knowledge of prehistoric rock art sites commonly leads to their destruction. In this case, however, this canyon is in desperate need of protection because it is within a short walk of the Las Vegas valley. Similar resources elsewhere in the desert Southwest have been destroyed by urban growth and lack of intensive management.

The Clark County Conservation PLAN designates the Sloan petroglyphs site and the area that comprises most of its watershed as the North McCullough Mountains Wilderness. This wilderness combined with about 32,000 acres of open space comprises the proposed Sloan Canyon National Conservation Area. The NCA and wilderness will provide critical protection for the Sloan petroglyphs, preserve open space near Henderson's rapidly growing neighborhoods and together represent a legacy of cultural and natural resource conservation our grandchildren will value dearly one day.

The sheer number of public lands bill requests Senator ENSIGN and I receive is staggering. If we chose to introduce stand-alone legislation to address each legitimate issue that constituents bring to our attention, we would create an awkward patchwork of new Federal laws. In the Clark County Conservation PLAN, we have attempted to provide a comprehensive vision and framework for conservation and development in southern Nevada by balancing competing interests.

The final title of our bill includes a select few of the many important public interest land conveyances. For example, we include two land grants to further the higher education mission of Nevada's university system. One provides land to the UNLV research foundation for the development of a technology park. The other provides land for the planned Henderson State College.

We convey a small active shooting range to the Las Vegas Metropolitan Police Department for training purposes. We grant a modest parcel of land to the City of Las Vegas for the development of affordable housing. We provide for the conveyance of the Sunrise Landfill from the Bureau of Land Management to Clark County pending completion of the environmental clean-up at the site. We convey park and open space land to the City of Henderson and provide for a cooperatively managed zone comprised of federal land around Henderson Executive airport. These are relatively small but important actions that help our communities, law enforcement, and educational system better serve southern Nevada.

The Clark County Conservation PLAN Act that Senator ENSIGN and I introduce today promises a better tomorrow for our public lands in southern Nevada, for the more than 1.5 million people who call Clark County home, and for the millions of Americans who visit southern Nevada every year. This constructive compromise provides land for development, land grants for public purposes, wilderness for conservation in perpetuity, and a new national conservation area to celebrate and protect the wonderful natural and cultural resources of the North McCullough Mountains including the Sloan petroglyph site.

Senator ENSIGN and I have been working on this bill since he came to the Senate a year and a half ago. We are proud of the progress we've made together and with Congressman GIBBONS and believe that this public lands bill should serve as a model for bipartisan cooperation and constructive compromise. We look forward to working with Chairman BINGAMAN and the Energy and Natural Resources Committee to perfect this bill so that we can enact the Clark County Conservation PLAN into law this year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2612

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Clark County Conservation of Public Land and Natural Resources Act of 2002''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term ''Agreement'' means the Agreement entitled ''Interim Cooperative Management Agreement Between the United States Department of the Interior-Bureau of Land Management and Clark County'', dated November 4, 1992.

(2) COUNTY.—The term ''County'' means Clark County, Nevada.

(3) SECRETARY.—The term ''Secretary'' means—

(A) in the case of land in the National Forest System, the Secretary of Agriculture; and

(B) in the case of land not in the National Forest System, the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of Nevada.

TITLE I—RED ROCK CANYON NATIONAL CONSERVATION AREA LAND EXCHANGE AND BOUNDARY ADJUSTMENT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002''.

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Red Rock Canyon National Conservation Area is a natural resource of major significance to the people of the State and the United States, and must be protected and enhanced for the enjoyment of future generations;

(2) in 1990, Congress enacted the Southern Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), which provides for the protection and enhancement of the conservation area;

(3) the Howard Hughes Corporation, which owns much of the private land outside the eastern boundary of the conservation area, is developing a large-scale master-planned community on the land;

(4) included in the land holdings of the Corporation are 1,087 acres of high-ground land adjacent to the eastern edge of the conservation area that were originally intended to be included in the conservation area, but as of the date of enactment of this Act, have not been acquired by the United States;

(5) the protection of the high-ground land would preserve an important element of the western Las Vegas Valley viewshed; and

(6) the Corporation is willing to convey title to the high-ground land to the United States so that the land can be preserved to protect and expand the boundaries of the conservation area.

(b) PURPOSES.—The purposes of this title are—

(1) to authorize the United States to exchange Federal land for the non-Federal land of the Corporation referred to in subsection (a)(6);

(2) to protect and enhance the conservation area;

(3) to expand the boundaries of the conservation area; and

(4) to carry out the purposes of—

(A) the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.); and

(B) the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2343).

SEC. 103. DEFINITIONS.

In this title:

(1) CONSERVATION AREA.—The term ''conservation area'' means the Red Rock Canyon National Conservation Area established by section 3(a) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc–1(a)).

(2) CORPORATION.—The term ''Corporation'' means the Howard Hughes Corporation, an affiliate of the Rouse Company, which has its principal place of business at 10000 West Charleston Boulevard, Las Vegas, Nevada.

(3) FEDERAL PARCEL.—The term ''Federal parcel'' means the approximately 1000 acres of Federal land in the State proposed to be exchanged for the non-Federal parcel, as depicted on the map.

(4) MAP.—The term ''Map'' means the map entitled ''Southern Nevada Public Land Management Act'', dated June 10, 2002.

(5) NON-FEDERAL PARCEL.—The term ''non-Federal parcel'' means the approximately 1,085 acres of non-Federal land in the State owned by the Corporation that is proposed to be exchanged for the Federal parcel, as depicted on the Map.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 104. RED ROCK CANYON LAND EXCHANGE.

(a) IN GENERAL.—The Secretary shall accept an offer of the Corporation to convey all right, title, and interest in the non-Federal parcel to the United States in exchange for the Federal parcel.

(b) CONVEYANCE.—Not later than 60 days after the date on which the Corporation makes an offer under subsection (a), the Secretary shall convey—

(1) a portion of the Federal parcel, depicted on the Map as ''Public land selected for exchange'' to the Corporation; and

(2) subject to subsection (f), a portion of the Federal parcel, depicted on the Map as ''Proposed BLM transfer for County park'', to the County.

(c) VALUATION.—An appraiser approved by the Secretary shall determine—

(1) the value and exact acreage of the Federal parcel; and

(2) the value of the non-Federal parcel.

(d) TIMING.—The exchange of the Federal parcel and the non-Federal parcel under this section shall occur concurrently.

(e) MAP.—

(1) REVISION.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a revised map reflecting the modifications to the boundary of the conservation area under this section.

(2) PUBLIC AVAILABILITY.—A copy of the Map and the revised map shall be on file and available for public inspection in—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the State Director of the Bureau of Land Management of the State; and

(C) the Las Vegas District Office of the Bureau of Land Management.

(3) TECHNICAL CORRECTIONS.—The Secretary may correct clerical and typographical errors in the Map and the revised map.

(f) LAND TRANSFERRED TO COUNTY.—

(1) IN GENERAL.—The portion of the Federal parcel conveyed to the County under subsection (b)(2) shall be used by the County as—

(A) a public park; or

(B) part of a public regional trail system.

(2) REVERSION.—The portion of the Federal parcel conveyed to the County shall revert to the United States if the County—

(A) transfers, or attempts to transfer, the portion of the Federal parcel; or

(B) uses the portion of the Federal parcel in a manner inconsistent with paragraph (1).

SEC. 105. STATUS AND MANAGEMENT OF ACQUIRED LAND.

(a) ADMINISTRATION.—The non-Federal parcel acquired by the United States in the land

exchange under section 104 shall be added to, and administered by the Secretary as part of, the conservation area in accordance with—

(1) the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.);

(2) the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2343); and

(3) other applicable law.

(b) BOUNDARY ADJUSTMENT.—If any part of the non-Federal parcel acquired under section 104 lies outside the boundary of the conservation area, the Secretary—

(1) shall adjust the boundary of the conservation area to include that part of the non-Federal parcel; and

(2) shall prepare a map depicting the boundary adjustment, which shall be on file and available for public inspection in accordance with section 104(e)(2).

(c) CONFORMING AMENDMENT.—Section 3(a)(2) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc–1(a)(2)) is amended by inserting before the period at the end the following: ''and such additional areas as are included in the conservation area under the Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002, the exact acreage of which shall be determined by a final appraisal conducted by an appraiser approved by the Secretary''.

SEC. 106. GENERAL PROVISIONS.

(a) VALID EXISTING RIGHTS.—Each conveyance under section 104 shall be subject to valid existing rights, leases, rights-of-way, and permits.

(b) WITHDRAWAL OF AFFECTED LAND.—Subject to valid existing rights, the Secretary may withdraw the Federal parcel from operation of the public land laws (including mining laws).

TITLE II—WILDERNESS AREAS

SEC. 201. FINDINGS.

Congress finds that—

(1) public land in the County contains unique and spectacular natural resources, including—

(A) priceless habitat for numerous species of plants and wildlife; and

(B) thousands of acres of pristine land that remain in a natural state; and

(2) continued preservation of those areas would benefit the County and all of the United States by—

(A) ensuring the conservation of ecologically diverse habitat;

(B) conserving primitive recreational resources; and

(C) protecting air and water quality.

SEC. 202. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.

(a) ADDITIONS.—The following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

(1) ARROW CANYON WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 27,495 acres, as generally depicted on the map entitled ''Arrow Canyon'', dated June 5, 2002, which shall be known as the ''Arrow Canyon Wilderness''.

(2) BLACK CANYON WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 17,220 acres, as generally depicted on the map entitled ''El Dorado/Spirit Mountain'', dated June 10, 2002, which shall be known as the ''Black Canyon Wilderness''.

(3) BLACK MOUNTAIN WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 14,625 acres, as generally depicted on the map entitled ''Muddy Mountains'', dated June 5, 2002, which shall be known as the ''Black Mountain Wilderness''.

(4) BRIDGE CANYON WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 7,761 acres, as generally depicted on the map entitled ''El Dorado/Spirit Mountain'', dated June 10, 2002, which shall be known as the ''Bridge Canyon Wilderness''.

(5) EL DORADO WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 31,950 acres, as generally depicted on the map entitled ''El Dorado/Spirit Mountain'', dated June 10, 2002, which shall be known as the ''El Dorado Wilderness''.

(6) HAMBLIN MOUNTAIN WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 17,047 acres, as generally depicted on the map entitled ''Muddy Mountains'', dated June 5, 2002, which shall be known as the ''Hamblin Mountain Wilderness''.

(7) IRETEBA PEAKS WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 31,321 acres, as generally depicted on the map entitled ''El Dorado/Spirit Mountain'', dated June 10, 2002, which shall be known as the ''Ireteba Peaks Wilderness''.

(8) JIMBILNAN WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 18,879 acres, as generally depicted on the map entitled ''Muddy Mountains'', dated June 5, 2002, which shall be known as the ''Jimbilnan Wilderness''.

(9) JUMBO SPRINGS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 4,631 acres, as generally depicted on the map entitled ''Gold Butte'', dated June 5, 2002, which shall be known as the ''Jumbo Springs Wilderness''.

(10) LA MADRE MOUNTAIN WILDERNESS.—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 46,634 acres, as generally depicted on the map entitled ''Spring Mountains'', dated June 5, 2002, which shall be known as the ''La Madre Mountain Wilderness''.

(11) LIME CANYON WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 16,710 acres, as generally depicted on the map entitled ''Gold Butte'', dated June 5, 2002, which shall be known as the ''Lime Canyon Wilderness''.

(12) MT. CHARLESTON WILDERNESS ADDITIONS.—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 13,598 acres, as generally depicted on the map entitled ''Spring Mountains'', dated June 5, 2002, which shall be included in the Mt. Charleston Wilderness.

(13) MUDDY MOUNTAINS WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of land managed by the Bureau of Land Management, comprising approximately 48,019 acres, as generally depicted on the map entitled ''Muddy Mountains'', dated June 5, 2002, which shall be known as the ''Muddy Mountains Wilderness''.

(14) NELLIS WASH WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 16,423 acres, as generally depicted on the map entitled ''El Dorado/Spirit Mountain'', dated June 10, 2002, which shall be known as the ''Nellis Wash Wilderness''.

(15) NORTH MCCULLOUGH WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 14,763 acres, as generally depicted on the map entitled ''McCulloughs'', dated June 10, 2002, which shall be known as the ''North McCullough Wilderness''.

(16) PINE CREEK WILDERNESS.—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 25,375 acres, as generally depicted on the map entitled ''Spring Mountains'', dated June 5, 2002, which shall be known as the ''Pine Creek Wilderness''.

(17) PINTO VALLEY WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 6,912 acres, as generally depicted on the map entitled ''Muddy Mountains'', dated June 5, 2002, which shall be known as the ''Pinto Valley Wilderness''.

(18) SOUTH MCCULLOUGH WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 44,245 acres, as generally depicted on the map entitled ''McCulloughs'', dated June 10, 2002, which shall be known as the ''South McCullough Wilderness''.

(19) SPIRIT MOUNTAIN WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 34,261 acres, as generally depicted on the map entitled ''El Dorado/Spirit Mountain'', dated June 10, 2002, which shall be known as the ''Spirit Mountain Wilderness''.

(20) WEE THUMP JOSHUA TREE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 6,050 acres, as generally depicted on the map entitled ''McCulloughs'', dated June 10, 2002, which shall be known as the ''Wee Thump Joshua Tree Wilderness''.

(b) BOUNDARY.—The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by Lake Mead, Lake Mohave, or the Colorado River shall be 300 feet inland from the high water line.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) EFFECT.—Each map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the map or legal description.

(3) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the State Director of the Bureau of Land Management of the State;

(C) the Las Vegas District Office of the Bureau of Land Management;

(D) the Office of the Director of the National Park Service; and

(E) the Office of the Chief of the Forest Service.

SEC. 203. ADMINISTRATION.

(a) WILDERNESS AREA ADMINISTRATION.—Subject to valid existing rights, including

rights to access the area, each area designated as wilderness by this title shall be administered by the Secretary in accordance with the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.) governing areas designated by that Act as wilderness, except that any reference in the provisions to the effective date shall be considered to be a reference to the date of enactment of this Act.

(b) LIVESTOCK.—Within the wilderness areas designated under this title, the grazing of livestock in areas in which grazing is allowed on the date of enactment of this Act shall be allowed to continue subject to such reasonable regulations, policies, and practices that—

(1) the Secretary considers necessary; and

(2) conform to and implement the intent of Congress regarding grazing in those areas as such intent is expressed in—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.);

(B) section 101(f) of the Arizona Desert Wilderness Act of 1990 (104 Stat. 4473); and

(C) Appendix A of House Report No. 101–405 of the 101st Congress.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundaries of an area designated as wilderness by this title that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area within which the acquired land or interest in land is located.

(d) AIR QUALITY DESIGNATION.—Notwithstanding sections 162 and 164 of the Clean Air Act (42 U.S.C. 7472, 7474), any wilderness area designated under this title shall retain a Class II air quality designation and may not be redesignated as Class I.

SEC. 204. ADJACENT MANAGEMENT.

(a) IN GENERAL.—Congress does not intend for the designation of wilderness in the State pursuant to this title to lead to the creation of protective perimeters or buffer zones around any such wilderness area.

(b) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness designated under this title shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

SEC. 205. OVERFLIGHTS.

Nothing in this title restricts or precludes—

(1) overflights, including low-level overflights, over the areas designated as wilderness by this title, including military overflights that can be seen or heard within the wilderness areas;

(2) flight testing and evaluation; or

(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.

SEC. 206. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

In recognition of the past use of portions of the areas designated as wilderness by this title by Native Americans for traditional cultural and religious purposes, the Secretary shall ensure, from time to time, nonexclusive access by Native Americans to the areas for those purposes, including wood gathering for personal use and the collecting of plants or herbs.

SEC. 207. RELEASE OF WILDERNESS STUDY AREAS.

(a) FINDING.—Congress finds that, for the purposes of sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1782), the public land in the County administered by the Bureau of Land Management and the Forest Service in the following areas have been adequately studied for wilderness designation:

(1) The Garrett Buttes Wilderness Study Area.

(2) The Quail Springs Wilderness Study Area.

(3) The Nellis A,B,C Wilderness Study Area.

(4) Any portion of the wilderness study areas—

(A) not designated as wilderness by section 202(a); and

(B) designated for release on—

(i) the map entitled ''Muddy Mountains'' and dated June 5, 2002;

(ii) the map entitled ''Spring Mountains'' and dated June 5, 2002;

(iii) the map entitled ''Arrow Canyon'' and dated June 5, 2002;

(iv) the map entitled ''Gold Butte'' and dated June 5, 2002;

(v) the map entitled ''McCullough Mountains'' and dated June 10, 2002;

(vi) the map entitled ''El Dorado/Spirit Mountain'' and dated June 10, 2002; or

(vii) the map entitled ''Southern Nevada Public Land Management Act'' and dated June 10, 2002.

(b) RELEASE.—Except as provided in subsection (c), any public land described in subsection (a) that is not designated as wilderness by this title—

(1) shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(2) shall be managed in accordance with—

(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(B) the Clark County Multi-Species Habitat Conservation Plan, including any amendments to the plan.

(c) LAND NOT RELEASED.—The following land is not released from the wilderness study requirements of sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1782):

(1) Meadow Valley Mountains Wilderness Study Area.

(2) Million Hills Wilderness Study Area.

(3) Mt. Stirling Wilderness Study Area.

(4) Mormon Mountains Wilderness Study Area.

(5) Sunrise Mountain Instant Study Area.

(6) Virgin Mountain Instant Study Area.

(d) RIGHT-OF-WAY GRANTS.—

(1) SUNRISE MOUNTAIN.—

(A) IN GENERAL.—To facilitate energy security and the timely delivery of new energy supplies to the States of Nevada and California and the Southwest, notwithstanding section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the Secretary shall issue to the State-regulated sponsor of the Centennial Project a right-of-way grant for the construction and maintenance of 2 500-kilovolt electrical transmission lines.

(B) LOCATION.—The transmission lines described in subparagraph (A) shall be constructed within the 1,400-foot-wide utility right-of-way corridor in the Sunrise Mountain Instant Study Area in the County.

(2) MEADOW VALLEY MOUNTAINS WILDERNESS STUDY AREA.—The Secretary shall issue to the developers of the proposed Meadow Valley generating project a right-of-way grant for the construction and maintenance of electric and water transmission lines in the Meadow Valley Mountains Wilderness Study Area in Clark and Lincoln Counties in the State.

SEC. 208. WILDLIFE MANAGEMENT.

(a) IN GENERAL.—The Secretary shall conduct such management activities as are necessary to maintain or restore fish and wildlife populations and fish and wildlife habitats in the areas designated as wilderness by this title.

(b) HUNTING, FISHING, AND TRAPPING.—

(1) IN GENERAL.—The Secretary shall permit hunting, fishing, and trapping on land and water in wilderness areas designated by this title in accordance with applicable Federal and State laws.

(2) LIMITATIONS.—

(A) REGULATIONS.—The Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the wilderness areas designated by this title.

(B) CONSULTATION.—Except in emergencies, the Secretary shall consult with, and obtain the approval of, the appropriate State agency before promulgating regulations under subparagraph (A) that close a portion of the wilderness areas to hunting, fishing, or trapping.

(c) MOTORIZED VEHICLES.—

(1) IN GENERAL.—The Secretary shall authorize the occasional and temporary use of motorized vehicles in the wilderness areas, including the uses described in paragraph (2), if the use of motorized vehicles would—

(A) as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations and other natural resources; and

(B) accomplish the purposes for which the use is authorized while causing the least amount of damage to the wilderness areas, as compared with the alternatives.

(2) AUTHORIZED USES.—The uses referred to in paragraph (1) include—

(A) the use of motorized vehicles by—

(i) a State agency responsible for fish and wildlife management; or

(ii) a designee of such a State agency;

(B) the use of aircraft to survey, capture, transplant, and monitor wildlife populations;

(C) when necessary to protect or rehabilitate natural resources in the wilderness areas, access by motorized vehicles for the—

(i) repair, maintenance, and reconstruction of water developments, including guzzlers, in existence on the date of enactment of this Act; and

(ii) the installation, repair, maintenance, and reconstruction of new water developments, including guzzlers; and

(D) the use of motorized equipment, including aircraft, to manage and remove, as appropriate, feral stock, feral horses, and feral burros.

(d) WILDLIFE WATER DEVELOPMENT PROJECTS.—The Secretary shall authorize the construction of structures and facilities for wildlife water development projects, including guzzlers, in the wilderness areas designated by this title if—

(1) the construction activities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations; and

(2) the visual impacts of the construction activities on the wilderness areas can reasonably be minimized.

(e) BUFFER.—A road in the State that is bordered by a wilderness area designated by this title shall include a buffer on each side of the road that is the greater of—

(1) 100 feet wide; or

(2) the width of the buffer on the date of enactment of this Act.

(f) EFFECT.—Nothing in this title diminishes the jurisdiction of the State with respect to fish and wildlife management, including regulation of hunting and fishing on public land in the State.

SEC. 209. WILDFIRE MANAGEMENT.

Nothing in this title precludes a Federal, State, or local agency from conducting wildfire management operations (including operations using aircraft or mechanized equipment) to manage wildfires in the wilderness areas designated by this title.

SEC. 210. CLIMATOLOGICAL DATA COLLECTION.

Subject to such terms and conditions as the Secretary may prescribe, nothing in this title precludes the installation and maintenance of hydrologic, meteorologic, or climatological collection devices in the wilderness areas designated by this title if the facilities and access to the facilities are essential to flood warning, flood control, and water reservoir operation activities.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE III—TRANSFERS OF ADMINISTRATIVE JURISDICTION

SEC. 301. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE UNITED STATES FISH AND WILDLIFE SERVICE.

(a) IN GENERAL.—The Secretary of the Interior shall transfer to the United States Fish and Wildlife Service administrative jurisdiction over the parcel of land described in subsection (b) for inclusion in the Desert National Wildlife Range.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the approximately 49,817 acres of Bureau of Land Management land, as depicted on the map entitled ''Arrow Canyon'' and dated June 5, 2002.

(c) WILDERNESS RELEASE.—

(1) FINDING.—Congress finds that the parcel of land described in subsection (b) has been adequately studied for wilderness designation for the purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

(2) RELEASE.—The parcel of land described in subsection (b)—

(A) shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(B) shall be managed in accordance with—

(i) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(ii) the Clark County Multi-Species Habitat Conservation Plan.

(d) USE OF LAND.—To the extent not prohibited by Federal or State law, the parcel of land described in subsection (b) shall be available for the extraction of mineral resources.

SEC. 302. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE NATIONAL PARK SERVICE.

(a) IN GENERAL.—The Secretary of the Interior shall transfer to the National Park Service administrative jurisdiction over the parcel of land described in subsection (b) for inclusion in the Lake Mead National Recreation Area.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the approximately 10 acres of Bureau of Land Management land, as depicted on the map entitled ''El Dorado/Spirit Mountain'' and dated June 10, 2002.

(c) USE OF LAND.—The parcel of land described in subsection (b) shall be used by the National Park Service for administrative facilities.

TITLE IV—AMENDMENTS TO THE SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT

SEC. 401. DISPOSAL AND EXCHANGE.

(a) IN GENERAL.—Section 4 of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2344) is amended—

(1) in the first sentence of subsection (a), by striking ''entitled 'Las Vegas Valley, Nevada, Land Disposal Map', April 10, 1997'' and inserting ''entitled 'Southern Nevada Public Land Management Act', dated June 10, 2002''; and

(2) in subsection (e)(3)—

(A) in subparagraph (A)(iv), by inserting ''or regional governmental entity'' after ''local government''; and

(B) by striking subparagraph (C) and inserting the following:

''(C) ADMINISTRATION.—Of the amounts available to the Secretary from the special account in any fiscal year (determined without taking into account amounts deposited under subsection (g)(4))—

''(i) not more than 25 percent of the amounts may be used in any fiscal year for the purposes described in subparagraph (A)(ii); and

''(ii) not less than 25 percent of the amounts may be used in any fiscal year for the purposes described in subparagraph (A)(iv).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on January 31, 2003.

TITLE V—IVANPAH CORRIDOR

SEC. 501. INTERSTATE ROUTE 15 SOUTH CORRIDOR.

(a) MANAGEMENT OF INTERSTATE ROUTE 15 CORRIDOR LAND.—

(1) IN GENERAL.—The Secretary shall manage the land located along the Interstate Route 15 corridor south of the Las Vegas Valley to the border between the States of California and Nevada, as generally depicted on the map entitled ''Clark County Conservation of Public Land and Natural Resources Act of 2002'' and dated June 10, 2002, in accordance with the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2343) and this section.

(2) AVAILABILITY OF MAP.—The map described in paragraph (1) shall be on file and available for public inspection in—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the State Director of the Bureau of Land Management of the State; and

(C) the Las Vegas District Office of the Bureau of Land Management.

(3) MULTIPLE USE MANAGEMENT.—Subject to any land management designations under the 1998 Las Vegas District Resource Management Plan or the Clark County Multi-Species Conservation Plan, land depicted on the map described in paragraph (1) shall be managed for multiple use purposes.

(4) TERMINATION OF ADMINISTRATIVE WITHDRAWAL.—The administrative withdrawal of the land identified as the ''Interstate 15 South Corridor'' on the map entitled ''Clark County Conservation of Public Land and Natural Resources Act of 2002'' and dated June 10, 2002, from mineral entry dated July 23, 1997, and as amended March 9, 1998, is terminated.

(5) TRANSPORTATION AND UTILITIES CORRIDOR.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary, in accordance with this section and other applicable law and subject to valid existing rights, shall establish a 2,640-foot wide corridor between the Las Vegas valley and the proposed Ivanpah Airport for the placement, on a nonexclusive basis, of utilities and transportation.

(b) IVANPAH AIRPORT ENVIRONS OVERLAY DISTRICT LAND TRANSFER.—

(1) IN GENERAL.—Subject to paragraph (2) and valid existing rights, on request by the County, the Secretary shall transfer to the County, without consideration, all right, title, and interest of the United States in and to the land identified on the map entitled ''Clark County Conservation of Public Land and Natural Resources Act of 2002'' and dated June 10, 2002.

(2) CONDITIONS FOR TRANSFER.—As a condition of the transfer under paragraph (1), the County shall agree—

(A) to manage the transferred land in accordance with section 47504 of title 49, United States Code (including regulations promulgated under that section); and

(B) that if any portion of the transferred land is sold, leased, or otherwise conveyed or leased by the County—

(i) the sale, lease, or other conveyance shall be—

(I) subject to a limitation that requires that any use of the transferred land be consistent with the Agreement and section 47504 of title 49, United States Code (including regulations promulgated under that section); and

(II) for fair market value; and

(ii) of any gross proceeds received by the County from the sale, lease, or other conveyance of the land, the County shall—

(I) contribute 85 percent to the special account established by section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2345);

(II) contribute 5 percent to the State for use in the general education program of the State; and

(III) reserve 10 percent for use by the Clark County Department of Aviation for airport development and noise compatibility programs.

(c) WITHDRAWAL OF LAND.—

(1) IN GENERAL.—Subject to valid existing rights, the corridor described in subsection (a)(5) and the land transferred to the County under subsection (b)(1) are withdrawn from location and entry under the mining laws, and from operation under the mineral leasing and geothermal leasing laws, until such time as—

(A) the Secretary terminates the withdrawal; or

(B) the corridor or land, respectively, is patented.

(2) AREAS OF CRITICAL ENVIRONMENTAL CONCERN.—Subject to valid existing rights, any Federal land in an area of critical environmental concern that is designated for segregation and withdrawal under the 1998 Las Vegas Resource Management Plan is segregated and withdrawn from the operation of the mining laws in accordance with that plan.

TITLE VI—SLOAN CANYON NATIONAL CONSERVATION AREA

SEC. 601. SHORT TITLE.

This title may be cited as the ''Sloan Canyon National Conservation Area Act''.

SEC. 602. PURPOSE.

The purpose of this title is to establish the Sloan Canyon National Conservation Area to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the cultural, archaeological, natural, wilderness, scientific, geological, historical, biological, wildlife, education, and scenic resources of the Conservation Area.

SEC. 603. DEFINITIONS.

In this title:

(1) CONSERVATION AREA.—The term ''Conservation Area'' means the Sloan Canyon National Conservation Area established by section 604(a).

(2) FEDERAL PARCEL.—The term ''Federal parcel'' means the parcel of Federal land consisting of approximately 500 acres that is identified as ''Tract A'' on the map entitled ''Southern Nevada Public Land Management Act'' and dated June 10, 2002.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Conservation Area developed under section 605(b).

(4) MAP.—The term ''map'' means the map submitted under section 604(c).

SEC. 604. ESTABLISHMENT.

(a) IN GENERAL.—For the purpose described in section 602, there is established in the State a conservation area to be known as the ''Sloan Canyon National Conservation Area''.

(b) AREA INCLUDED.—The Conservation Area shall consist of approximately 47,000 acres of public land in the County, as generally depicted on the map.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the Conservation Area.

(2) EFFECT.—The map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct minor errors in the map or legal description.

(3) PUBLIC AVAILABILITY.—A copy of the map and legal description shall be on file and available for public inspection in—

(i) the Office of the Director of the Bureau of Land Management;

(ii) the Office of the State Director of the Bureau of Land Management of the State; and

(iii) the Las Vegas District Office of the Bureau of Land Management.

SEC. 605. MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Director of the Bureau of Land Management, shall manage the Conservation Area—

(1) in a manner that conserves, protects, and enhances the resources of the Conservation Area; and

(2) in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(B) other applicable law, including this Act.

(b) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with the State, the city of Henderson, the County, and any other interested persons, shall develop a comprehensive management plan for the Conservation Area.

(2) REQUIREMENTS.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area; and

(B)(i) authorize the use of motorized vehicles in the Conservation Area—

(I) for installing, repairing, maintaining, and reconstructing water development projects, including guzzlers, that would enhance the Conservation Area by promoting healthy, viable, and more naturally distributed wildlife populations; and

(II) subject to any limitations that are not more restrictive than the limitations on such uses authorized in wilderness areas under clauses (i) and (ii) of section 208(c)(2)(C); and

(ii) include or provide recommendations on ways of minimizing the visual impacts of such activities on the Conservation Area.

(c) USE.—The Secretary may allow any use of the Conservation Area that the Secretary determines will further the purpose described in section 602.

(d) MOTORIZED VEHICLES.—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Conservation Area shall be permitted only on roads and trails designated for the use of motorized vehicles by the management plan developed under subsection (b).

(e) WITHDRAWAL.—

(1) IN GENERAL.—Subject to valid existing rights and the right-of-way issued under subsection (h), all public land in the Conservation Area is withdrawn from—

(A) all forms of entry and appropriation under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) ADDITIONAL LAND.—Notwithstanding any other provision of law, if the Secretary acquires mineral or other interests in a parcel of land within the Conservation Area after the date of enactment of this Act, the parcel is withdrawn from operation of the laws referred to in paragraph (1) on the date of acquisition of the land.

(f) HUNTING, FISHING, AND TRAPPING.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall permit hunting, fishing, and trapping in the Conservation Area in accordance with applicable Federal and State laws.

(2) LIMITATIONS.—

(A) REGULATIONS.—The Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the Conservation Area.

(B) CONSULTATION.—Except in emergencies, the Secretary shall consult with, and obtain the approval of, the appropriate State agency before promulgating regulations under subparagraph (A) that close a portion of the Conservation Area to hunting, fishing, or trapping.

(g) NO BUFFER ZONES.—

(1) IN GENERAL.—The establishment of the Conservation Area shall not create an express or implied protective perimeter or buffer zone around the Conservation Area.

(2) PRIVATE LAND.—If the use of, or conduct of an activity on, private land that shares a boundary with the Conservation Area is consistent with applicable law, nothing in this title concerning the establishment of the Conservation Area shall prohibit or limit the use or conduct of the activity.

(h) RIGHT-OF-WAY.—Not later than 90 days after the date of enactment of this Act, the Secretary shall convey to the city of Henderson the public right-of-way requested for rural roadway and public trail purposes under the application numbered N–65874.

SEC. 606. SALE OF FEDERAL PARCEL.

(a) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713) and subject to valid existing rights, not later than 180 days after the date of enactment of this Act, the Secretary shall convey to the highest qualified bidder all right, title, and interest of the United States in and to the Federal parcel.

(b) DISPOSITION OF PROCEEDS.—Of the gross proceeds from the conveyance of land under subsection (a)—

(1) 5 percent shall be available to the State for use in the general education program of the State;

(2) 8 percent shall be deposited in the special account established by section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2345), to be available without further appropriation for a comprehensive southern Nevada litter cleanup and public awareness campaign; and

(3) the remainder shall be deposited in the special account described in paragraph (2), to be available to the Secretary, without further appropriation for—

(A) the construction and operation of facilities at, and other management activities in, the Conservation Area;

(B) the construction and repair of trails and roads in the Conservation Area authorized under the management plan;

(C) research on and interpretation of the archaeological and geological resources of Sloan Canyon; and

(D) any other purpose that the Secretary determines to be consistent with the purpose described in section 602.

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE VII—PUBLIC INTEREST CONVEYANCES

SEC. 701. DEFINITION OF MAP.

In this title, the term ''map'' means the map entitled ''Southern Nevada Public Land Management Act'' and dated June 10, 2002.

SEC. 702. CONVEYANCE TO THE UNIVERSITY OF NEVADA AT LAS VEGAS RESEARCH FOUNDATION.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the University of Nevada, Las Vegas, needs land in the greater Las Vegas area to provide for the future growth of the university;

(B) the proposal by the University of Nevada, Las Vegas, for construction of a research park and technology center in the greater Las Vegas area would enhance the high tech industry and entrepreneurship in the State; and

(C) the land transferred to the Clark County Department of Aviation under section 4(g) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346) is the best location for the research park and technology center.

(2) PURPOSES.—The purposes of this section are—

(A) to provide a suitable location for the construction of a research park and technology center in the greater Las Vegas area;

(B) to provide the public with opportunities for education and research in the field of high technology; and

(C) to provide the State with opportunities for competition and economic development in the field of high technology.

(b) TECHNOLOGY RESEARCH CENTER.—

(1) CONVEYANCE.—Notwithstanding section 4(g)(4) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2347), the Clark County Department of Aviation may convey, without consideration, all right, title, and interest in and to the parcel of land described in paragraph (2) to the University of Nevada at Las Vegas Research Foundation for the development of a technology research center.

(2) DESCRIPTION OF LAND.—The parcel of land referred to in paragraph (1) is the parcel of Clark County Department of Aviation land—

(A) consisting of approximately 115 acres; and

(B) located in the SW 1/4 of section 33, T. 21 S., R. 60 E., Mount Diablo Base and Meridian.

SEC. 703. CONVEYANCE TO THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT.

The Secretary shall convey to the Las Vegas Metropolitan Police Department, without consideration, all right, title, and interest in and to the parcel of land identified as ''Tract F'' on the map for use as a shooting range.

SEC. 704. CONVEYANCE TO THE CITY OF HENDERSON FOR THE NEVADA STATE COLLEGE AT HENDERSON.

(a) DEFINITIONS.—In this section:

(1) CHANCELLOR.—The term ''Chancellor'' means the Chancellor of the University system.

(2) CITY.—The term ''City'' means the city of Henderson, Nevada.

(3) COLLEGE.—The term ''College'' means the Nevada State College at Henderson.

(4) UNIVERSITY SYSTEM.—The term ''University system'' means the University and Community College System of Nevada.

(b) CONVEYANCE.—

(1) IN GENERAL.—Notwithstanding the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and section 1(c) of the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869(c)), not later than 60 days after the date on which the survey is approved under paragraph (3)(A)(ii), the Secretary shall convey to the City all right, title, and interest of the United States in and to the parcel of Federal land identified as ''Tract H'' on the map for use as a campus for the College.

(2) CONDITIONS.—

(A) IN GENERAL.—As a condition of the conveyance under paragraph (1), the Chancellor and the City shall agree in writing—

(i) to pay any administrative costs associated with the conveyance, including the costs of any environmental, wildlife, cultural, or historical resources studies;

(ii) to use the Federal land conveyed for educational and recreational purposes;

(iii) to release and indemnify the United States from any claims or liabilities which may arise from uses that are carried out on the Federal land on or before the date of enactment of this Act by the United States or any person;

(iv) to provide to the Secretary, on request, any report, data, or other information relating to the operations of the College that may be necessary, as determined by the Secretary, to determine whether the College is in compliance with this Act;

(v) as soon as practicable after the date of the conveyance under paragraph (1), to erect at the College an appropriate and centrally located monument that acknowledges the conveyance of the Federal land by the United States for the purpose of furthering the higher education of citizens in the State;

(vi) to provide information to the students of the College on the role of the United States in the establishment of the College; and

(vii) to assist the Bureau of Land Management in providing information to the students of the College and the citizens of the State on—

(I) public land in the State; and

(II) the role of the Bureau of Land Management in managing, preserving, and protecting the public land.

(B) VALID EXISTING RIGHTS.—The conveyance under paragraph (1) shall be subject to all valid existing rights.

(3) USE OF FEDERAL LAND.—

(A) IN GENERAL.—The College and the City may use the land conveyed under paragraph (1) for any purpose relating to the establishment, operation, growth, and maintenance of the College, including the construction, operation, maintenance, renovation, and demolition of—

(i) classroom facilities;

(ii) laboratories;

(iii) performance spaces;

(iv) student housing;

(v) administrative facilities;

(vi) sports and recreational facilities and fields;

(vii) food service, concession, and related facilities;

(viii) parks and roads; and

(ix) water, gas, electricity, phone, Internet, and other utility delivery systems.

(B) PROFITABLE ACTIVITIES.—The manufacturing, distribution, marketing, and selling of refreshments, books, sundries, College logo merchandise, and related materials on the Federal land for a profit shall be considered to be an educational or recreational use for the purposes of this section, if—

(i) the profitable activities are reasonably related to the educational or recreational purposes of the College; and

(ii) any profits are used to further the educational or recreational purposes of the College.

(C) OTHER ENTITIES.—The College may—

(i) consistent with Federal and State law, lease or otherwise provide property or space at the College, with or without consideration, to religious, public interest, community, or other groups for services and events that are of interest to the College, the City, or any community located in the Las Vegas Valley;

(ii) allow the City or any other community in the Las Vegas Valley to use facilities of the College for educational and recreational programs of the City or community; and

(iii) in conjunction with the City, plan, finance, (including the provision of cost-share assistance), construct, and operate facilities for the City on the Federal land conveyed for educational or recreational purposes consistent with this section.

(4) REVERSION.—

(A) NOTICE.—If the Federal land or any portion of the Federal land conveyed under paragraph (1) ceases to be used for the College, the Secretary shall notify the President and the City in writing of the intention of the Secretary to reclaim title to the Federal land or any portion of the Federal land, including any improvements to the Federal land, on behalf of the United States.

(B) EVIDENCE.—Not later than 180 days after the date of receipt of a notification under subparagraph (A), the President may submit to the Secretary any evidence that the Federal land, or any portion of the Federal land, is being used in accordance with the purposes of this section.

(C) PURCHASE BY UNIVERSITY SYSTEM.—

(i) OFFER.—Instead of reclaiming title to the Federal land or any portion of the Federal land under this paragraph, the Secretary may allow the University system to obtain title to the Federal land or any portion of the Federal land in exchange for payment by the University system of an amount equal to the fair market value of the land, excluding the value of any improvements, for any portions of the Federal land not being used for the purposes specified in this section.

(ii) AUCTION.—If the University system elects not to purchase the Federal land under clause (i)—

(I) the Federal land shall revert to the United States; and

(II) the Secretary shall—

(aa) dispose of the Federal land at public auction for fair market value; and

(bb) deposit the proceeds of the disposal in accordance with section 4(e)(1) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2343).

SEC. 705. CONVEYANCE TO THE CITY OF LAS VEGAS, NEVADA.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term ''City'' means the city of Las Vegas, Nevada.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(b) CONVEYANCE.—The Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the parcels of land identified as ''Tract C'' and ''Tract D'' on the map.

(c) REVERSION.—If a parcel of land conveyed to the City under subsection (b) ceases to be used for affordable housing or for a purpose related to affordable housing, the parcel shall, if determined to be appropriate by the Secretary, revert to the United States.

SEC. 706. HENDERSON ECONOMIC DEVELOPMENT ZONE.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term ''City'' means the city of Henderson, Nevada.

(2) FEDERAL LAND.—The term ''Federal land'' means the parcels of Federal land identified as ''Tract G'' on the map.

(b) CONVEYANCE.—

(1) IN GENERAL.—Subject to paragraph (2) and valid existing rights, on request by the City, the Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the Federal land.

(2) CONDITIONS.—As a condition of the conveyance of land under paragraph (1), the City shall agree—

(A) to manage, in consultation with the Clark County Department of Aviation, the land in accordance with section 47504 of title 49, United States Code; and

(B) that if any portion of the Federal land is sold, leased, or otherwise conveyed by the City—

(i) the sale, lease, or conveyance shall be—

(I) for the purposes of implementing the economic development goals of the City;

(II) subject to a requirement that any use of the transferred land be consistent with section 47504 of title 49, United States Code; and

(III) for an amount equal to—

(aa) at least fair market value; plus

(bb) as the City determines to be appropriate, any administrative costs of the City relating to the Federal land, including costs—

(AA) associated with the sale, lease, or conveyance of the Federal land;

(BB) for planning, engineering, surveying, and subdividing the land; and

(CC) as the City determines appropriate, for the planning, design, and construction of infrastructure for the economic development zone; and

(ii) the City shall deposit the proceeds from any sale, lease, or other conveyance of the Federal land, excluding any administrative costs received under item (bb), in accordance with section 4(e)(1) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2343).

(3) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the State Director of the Bureau of Land Management of the State; and

(C) the Las Vegas District Office of the Bureau of Land Management.

(4) RESERVATION FOR RECREATIONAL OR PUBLIC PURPOSES.—

(A) IN GENERAL.—The City may elect to use 1 or more parcels of Federal land for recreational or public purposes under the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.).

(B) CONSIDERATION.—If the City makes an election under subparagraph (A), the City shall pay to the Bureau of Land Management an amount determined under that Act.

(5) REVERSION.—A parcel of Federal land shall revert to the United States if—

(A) a parcel used by the City for local recreational or public purposes under paragraph (4)—

(i) ceases to be used by the City for such purposes; and

(ii) is not sold, leased, or conveyed in accordance with paragraph (2)(B); or

(B) by the date specified in paragraph (6), the City does not—

(i) elect to use the parcel for local recreational or public purposes under paragraph (4); or

(ii) sell, lease, or convey the Federal parcel in accordance with paragraph (2)(B).

(6) TERMINATION OF EFFECTIVENESS.—The authority provided by this section terminates on the date that is 20 years after the date of enactment of this Act.

SEC. 707. CONVEYANCE OF SUNRISE MOUNTAIN LANDFILL TO CLARK COUNTY, NEVADA.

(a) IN GENERAL.—Not later than 1 year after the date on which a cleanup of the land identified as ''Tract E'' on the map is completed, the Secretary shall convey to the County, without consideration, all right, title, and interest of the United States in and to the land.

(b) SURVEY.—

(1) IN GENERAL.—The Secretary shall conduct a survey to determine the exact acreage and legal description of the land to be conveyed under subsection (a).

(2) COST.—The County shall be responsible for the cost of the survey conducted under paragraph (1).

(c) CONDITIONS.—

(1) IN GENERAL.—As a condition of the conveyance of the land under subsection (a), the County shall enter into a written agreement with the Secretary that provides that—

(A) the Secretary shall not be liable for any claims arising from the land after the date of conveyance; and

(B) the County may use the land conveyed for any purpose.

(2) VALID EXISTING RIGHTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the conveyance of land under subsection (a) shall be subject to valid existing rights.

(B) EXCEPTION.—On conveyance of the land under subsection (a), the Secretary shall terminate any lease with respect to the land that—

(i) was issued under the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.); and

(ii) is in effect on the date of enactment of this Act.

(d) WAIVER OF CERTAIN REQUIREMENTS.—The conveyance of land under subsection (a)—

(1) shall not require the Secretary to update the 1998 Las Vegas Valley Resource Management Plan; and

(2) shall not be subject to any law (including a regulation) that limits the acreage authorized to be transferred by the Secretary in any transaction or year.

SEC. 708. OPEN SPACE LAND GRANTS.

(a) CONVEYANCE.—

(1) IN GENERAL.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), the Secretary shall convey to the city of Henderson, Nevada (referred to in this section as the ''City''), subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcel of land identified as ''Tract B'' on the map entitled ''McCulloughs'' and dated June 10, 2002.

(2) COSTS.—Any costs relating to the conveyance of the parcel of land under paragraph (1), including costs for a survey and other administrative costs, shall be paid by the City.

(b) USE OF LAND.—

(1) IN GENERAL.—The parcel of land conveyed to the City under subsection (a)(1) shall be used—

(A) for the conservation of natural resources;

(B) for public recreation, including hiking, horseback riding, biking, and birdwatching;

(C) as part of a regional trail system; and

(D) for flood control facilities.

(2) FACILITIES.—Any facility on the parcel of land conveyed under subsection (a)(1) shall be constructed and managed in a manner consistent with the uses specified in paragraph (1).

(3) REVERSION.—If the parcel of land conveyed under subsection (a)(1) is used in a manner that is inconsistent with the uses specified in paragraph (1), the parcel of land shall, if determined to be appropriate by the Secretary, revert to the United States.

(c) WILDERNESS RELEASE.—Congress finds that the parcel of land identified in subsection (a)(1)—

(1) has been adequately studied for wilderness designation for the purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(2) shall not be subject to the requirements of that section relating to the management of wilderness study areas.

SEC. 709. RELOCATION OF RIGHT-OF-WAY CORRIDOR LOCATED IN CLARK AND LINCOLN COUNTIES IN THE STATE OF NEVADA.

(a) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term ''Agreement'' means the land exchange agreement between Aerojet-General Corporation and the United States, dated July 13, 1988.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) RELOCATION.—The Secretary shall, without consideration, relocate the right-of-way corridor described in subsection (c) to the area described in subsection (d).

(c) DESCRIPTION OF RIGHT-OF-WAY CORRIDOR.—The right-of-way corridor referred to in subsection (a) consists of the right-of-way corridor—

(1) numbered U–42519;

(2) referred to in the patent numbered 27–88–0013 and dated July 18, 1988; and

(3) more particularly described in section 14(a) of the Agreement.

(d) DESCRIPTION OF AREA.—The area referred to in subsection (a) consists of an area—

(1) 1,000 feet wide; and

(2) located west of and parallel to the centerline of United States Route 93.

Mr. ENSIGN. Mr. President, today it is a great privilege and honor for me to introduce the Clark County Conservation of Public Land and Natural Resources Act of 2002 with my good friend and colleague from Nevada, Senator HARRY REID.

The introduction of this legislation today is the culmination of over a year of work. We held public forums in Clark County to solicit the input of interested parties. My staff spent many hours with local government officials, the environmental community, multiple-use groups, utility providers, home developers, sportsmen, and other Nevadans to reach a compromise on how we tackle the tough issues we face in Clark County. While it is a daunting job to bring Nevadans with opposing perspectives together on the controversial topic of wilderness, I believe we have achieved a consensus that is good for all citizens in Clark County. We will look back 30 years from now and realize how this legislation contributed to the quality of life we cherish in southern Nevada.

Because the Federal government manages 87 percent of the land in Nevada, the federal presence imposes enormous barriers to land use planning in a state that, again, outpaces every other state in population growth. I know I speak for many Nevadans when I say that we wish we did not have so much federal land within our borders. But the reality is that we do, and that this legislation is necessary to plan for growth and to set aside our pristine lands for future generations to enjoy and visit. In many states, land use planning takes place in city council chambers. We do not have that luxury, as we have to obtain the consent of the Congress to make some of the most basic decisions. Despite those obstacles, Senator REID and I are putting forward legislation that is a model for fast-growing communities struggling to balance the equally important goals of environmental protection, planned residential and business development, and the allocation of scarce resources such as water.

One of my proudest achievements during my service in the U.S. House of Representatives was the enactment of the Southern Nevada Public Land Management Act, or what is probably better known in Nevada as the Ensign-Bryan bill. Like the legislation Senator REID and I are introducing today, the Ensign-Bryan bill was the product of bipartisan cooperation and the spirit of inclusion. Senator Bryan, who deserves much credit for that landmark measure, and I hosted a public lands task force to identify and propose solutions to the unique problems we faced in the Las Vegas Valley. One of the major reforms that came about because of the Ensign-Bryan bill was the change in the way public land is disposed of in the Las Vegas Valley. We drew a disposal boundary around the valley and asked the Bureau of Land Management to auction the land to the highest bidder, in consultation with local governments. The proceeds of those land auctions millions of dollars have been going into a special fund to build parks and trails, acquire environmentally sensitive land, initiate capital improvements in our beautiful recreation and conservations areas, and maintain the Clark County Multi-Species Habitat Conservation Plan. We also allocated funds for water infrastructure and to the general education fund of the State of Nevada. This legislation continues to encourage orderly growth, improves the environment, and benefits the schoolchildren of Nevada.

Federal land has become so valuable because of the infrastructure installed by private developers, local governments, and the taxpayers of Nevada. It is because of the phenomenal growth in southern Nevada that public land auctions have brought in millions of dollars. Eighty-five percent of the proceeds from public land auctions in southern Nevada are reinvested in environmental projects. So, I would challenge those who claim that the federal government is not getting its fair share of the proceeds from land sales. In fact,

the federal government is receiving large sums of money because of the value-added infrastructure supported by Nevadans.

In the Clark County Conservation of Public Lands and Natural Resources Act, we build upon the Southern Nevada Public Lands Management Act and settle a number of wilderness designations that have been pending since 1991. This bill designates 224,000 acres of BLM wilderness while it releases 231,000 acres of wilderness study areas. In the jurisdiction of the National Park Service adjacent to the Colorado River and Lake Mead, 184,000 acres of wilderness are designated. In all, 444,000 acres in Clark County will be added to our national wilderness preservation system. While the acreage is more than supported by a coalition of multiple-use advocates in Nevada, the acreage is about one-fifth of the amount requested by the Friends of Nevada Wilderness. This compromise is fair.

I am particularly proud that the bill creates a second National Conservation Area in southern Nevada, the Sloan Canyon National Conservation Area. Having such a magnificent resource at the edge of the City of Henderson will provide countless new recreation opportunities for those residents and provide open space that is so important to the quality of life in the Las Vegas Valley. I am happy we were able to improve the existing Red Rock National Conservation Area by adding pristine land to the NCA held by the Howard Hughes Corporation.

An important feature of this legislation I worked to include is the creation of a comprehensive Southern Nevada Litter Cleanup Campaign. As is the case in many desert communities, there is unfortunately a prevalence of discarded trash along our highways and on tracts of vacant BLM land within city limits. We must instill an ethic in our community and sense of awareness that we cannot continue to treat our desert lands as garbage dumps. While I attended college in Oregon, I saw how effective the ''Keep Oregon Green'' campaign worked. I am certain the same approach can produce results in southern Nevada, and that it can be accomplished through the leadership of volunteers, civic organizations, environmental groups, and private industry, without the bureaucracy. I look forward to leaving to my children a community that is much cleaner than the one we have today.

I worked to include protections in the Clark County Conservation of Public Land and Natural Resources so that existing access in wilderness is preserved. In addition to reserving motorized access through cherry-stemmed roads on maps referred to in the bill, we make it clear that reasonable access to water developments is permitted in wilderness areas. Groups such as the Fraternity of the Big Horn Sheep provide critical water to ensure the health of big horn sheep populations in southern Nevada. Of course, all valid existing rights are honored including grazing and mining. Buffers of at least 100 along each side of the road are preserved. We also authorize fire suppression and climatological data collection. All in all, reasonable access to wilderness has been achieved and I am especially appreciative of Senator REID's flexibility in addressing the concerns of multiple-use groups in this regard.

This legislation ensures Clark County's orderly growth over the next several decades through the establishment of educational and research institutions, industrial parks, and residential development. The original disposal boundary defined in the Ensign-Bryan Act has been expanded to accommodate planned growth in Clark County, the City of Las Vegas, the City of North Las Vegas, and the City of Henderson. We have some of the finest planned communities in the world in southern Nevada and I know that the new lands will be showcases for quality living for a broad spectrum of Nevadans. The bill sets aside land for the Clark County Department of Aviation for the development of the Ivanpah Airport south of Las Vegas, the only major international airport in the United States that will be constructed from scratch in the next ten years. And very importantly, we have opened up an energy corridor that will augment Nevada's and the Southwest's electricity needs.

I also wanted to mention the Clark County Multi-Species Habitat Conservation Plan. As the home to many threatened species, Clark County has entered into an agreement with the Fish and Wildlife Service so that the rapid growth we have been experiencing does not destroy critical plant and animal habitats. Senator REID and I have included language to ensure that the MSHCP is not revoked when releasing lands from wilderness study status. However, the agreement Senator REID and I reached does not mean that lands will be unavailable for multiple-use in the future; we wanted to give Clark County and the Fish and Wildlife Service the flexibility they need to amend the MSHCP as circumstances warrant, particularly as this legislation is implemented.

Senator REID and I went through a spirited campaign for the U.S. Senate against each other in 1998. It was a very close race and I conceded it by 428 votes. Our friendship is now strong, and I believe that this bill is a testament to the fact that legislators from different political perspectives can come together for the good of their state. It is not easy work to bridge philosophical differences, but it can and must be done for the sake of the people we represent.

I would like to thank Congressman JIM GIBBONS for his support of this measure in the U.S. House of Representatives. Congressman GIBBONS was an active participant in the development of this bill, and he offered several constructive and good changes to its content. I appreciate very much his guidance and assistance.

Finally, I would like to thank members of my staff who worked hard on the development of this bill here in Washington and in Nevada: John Lopez, Margot Allen, Julene Haworth, and Mac Bybee are talented Nevadans who care very much about Clark County and our great state. I also appreciate the input and assistance of Clint Bentley, the tireless organizer of the Nevada Land Users Coalition. Clint was an articulate and reasoned advocate of multiple use principles and ensured that the Nevada Land Users Coalition spoke with one voice during these negotiations.

I look forward to quick passage of the Clark County Conservation of Public Lands and Natural Resources in the 107th Congress.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3827. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 625, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table.

SA 3828. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 625, supra; which was ordered to lie on the table.

SA 3829. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 3823 submitted by Mr. HATCH and intended to be proposed to the bill (S. 625) to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table.

SA 3830. Mr. MCCONNELL (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 3815 submitted by Mr. MCCONNELL and intended to be proposed to the bill (S. 625) supra; which was ordered to lie on the table.

SA 3831. Mr. CONRAD proposed an amendment to the bill H.R. 8, to amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period, and for other purposes.

TEXT OF AMENDMENTS

SA 3827. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 625, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

''§ 8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant

''(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words 'person', 'human being', 'child', and 'individual', shall include every infant member of the species homo sapiens

who is born alive at any stage of development.

''(b) As used in this section, the term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

''(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

''8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant.''.

SA 3828. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 625, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 10. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death proximately caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person if—

(1) the person's act or omission proximately causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This section preempts the laws of any State to the extent such laws are inconsistent with this section, except that notwithstanding subsection (b), this section shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term ''fire control or fire rescue equipment'' includes any fire vehicle, fire fighting tool, protective gear, fire hose, or breathing apparatus.

(3) GROSS NEGLIGENCE.—The term ''gross negligence'' means voluntary and conscious conduct harmful to the health or well-being of another person by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.

(4) INTENTIONAL MISCONDUCT.—The term ''intentional misconduct'' means voluntary and conscious conduct harmful to the health or well-being of another person by a person who, at the time of the conduct, knew that the conduct was harmful to the health or well-being of another person.

(5) STATE.—The term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(6) VOLUNTEER FIRE COMPANY.—The term ''volunteer fire company'' means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this Act.

SA 3829. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 3823 submitted by Mr. HATCH and intended to be proposed to the bill (S. 625) to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 3 and all that follows through line 6, and insert the following:

''(B) the State has requested that the Federal Government assume jurisdiction;

''(C) the State does not object to the Federal Government assuming jurisdiction; or

''(D) the State has failed to investigate or prosecute the bias-motived offense in a manner that denies the victim equal protection of the State's laws.

SA 3830. Mr. MCCONNELL (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 3815 submitted by Mr. MCCONNELL and intended to be proposed to the bill (S. 625) to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 1 through 17 and insert the following:

''§ 250. Newspaper theft in violation of first amendment rights

''(a) NEWSPAPER DEFINED.—In this section, the term 'newspaper' means any periodical that is distributed on a complimentary or compensatory basis on or near a college or university.

''(b) OFFENSE.—Whoever willfully or knowingly obtains or exerts unauthorized control over newspapers, or destroys such newspapers, with the intent to prevent other individuals from reading the newspapers shall be guilty of an offense under subsection (a)(1) of section 249 of this title and shall punished as provided in that section.''.

(2) CHAPTER ANALYSIS.—The chapter analysis for chapter 13 of title 18, United States Code, is amended by inserting at the end the following:

''250. Newspaper theft in violation of first amendment rights.''.

(b) STUDY.—The Attorney General, in cooperation

SA 3831. Mr. CONRAD proposed an amendment to the bill H.R. 8, to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period, and for other purposes; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. RESTORATION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(b) SUNSET NOT TO APPLY.—

(1) Subsection (a) of section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''this Act'' and all that follows and inserting ''this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.''.

(2) Subsection (b) of such section 901 is amended by striking '', estates, gifts, and transfers''.

(c) CONFORMING AMENDMENTS.—Subsections (d) and (e) of section 511 of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subsections, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsections, and amendments, had never been enacted.

SEC. 2. MODIFICATIONS TO ESTATE TAX.

(a) INCREASE IN EXCLUSION EQUIVALENT OF UNIFIED CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to applicable credit amount) is amended by striking all that follows ''the applicable exclusion amount'' and inserting ''. For purposes of the preceding sentence, the applicable exclusion amount is $3,000,000 ($3,500,000 in the case of estates of decedents dying after December 31, 2008).''.

(2) EARLIER TERMINATION OF SECTION 2057.—Subsection (f) of section 2057 of such Code is amended by striking ''December 31, 2003'' and inserting ''December 31, 2002''.

(b) MAXIMUM ESTATE TAX RATE TO REMAIN AT 50 PERCENT; RESTORATION OF PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—Paragraph (2) of section 2001(c) of such Code is amended to read as follows:

''(2) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative tax is to be computed) as exceeds $10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) and $224,200.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2002.

SEC. 3. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.

(a) IN GENERAL.—Section 2031 of the Internal Revenue Code of 1986 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

''(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

''(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

''(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation

discount shall be allowed with respect to such nonbusiness assets), and

''(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

''(2) NONBUSINESS ASSETS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'nonbusiness asset' means any asset which is not used in the active conduct of 1 or more trades or businesses.

''(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

''(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

''(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

''(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

''(3) PASSIVE ASSET.—For purposes of this subsection, the term 'passive asset' means any—

''(A) cash or cash equivalents,

''(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

''(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

''(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

''(E) annuity,

''(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

''(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

''(H) commodity,

''(I) collectible (within the meaning of section 401(m)), or

''(J) any other asset specified in regulations prescribed by the Secretary.

''(4) LOOK-THRU RULES.—

''(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

''(B) 10-PERCENT INTEREST.—The term '10-percent interest' means—

''(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

''(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

''(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

''(5) COORDINATION WITH SUBSECTION (b).—Subsection (b) shall apply after the application of this subsection.

''(e) LIMITATION ON MINORITY DISCOUNTS.—For purposes of this chapter and chapter 12, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), no discount shall be allowed by reason of the fact that the transferee does not have control of such entity if the transferee and members of the family (as defined in section 2032A(e)(2)) of the transferee have control of such entity.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 20, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills:

S. 139 and H.R. 3928, to assist in the preservation of archaeological, paleontological, zoological, geological, and botanical artifacts through construction of a new facility for the University of Utah Museum of Natural History, Salt Lake City, Utah;

S. 1609 and H.R. 1814, to amend the National Trails System Act to direct the Secretary of the Interior to conduct a study on the feasibility of designating the Metacomet-Mattabesett Trail extending through western Massachusetts and central Connecticut as a national historic trail;

S. 1925, to establish the Freedom's Way National Heritage Area in the States of Massachusetts and New Hampshire, and for other purposes;

S. 2196, to establish the National Mormon Pioneer Heritage Area in the State of Utah, and for other purposes;

S. 2388, to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era;

S. 2519, to direct the Secretary of the Interior to conduct a study of Coltsville in the State of Connecticut for potential inclusion in the National Park System; and

S. 2576, to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes.

Because of the limited time available for the hearing, witnesses must testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202–224–9863).

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, June 19, 2002, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills addressing the recreation fee program on Federal lands:

S. 2473, to enhance the Recreational Fee Demonstration Program for the National Park Service, and for other purposes; and

S. 2607, to authorize the Secretary of the Interior and the Secretary of Agriculture to collect recreation fees on Federal lands, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202) 224–9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 11, 2002, at 10:45 a.m., to hold a hearing on public diplomacy.

Agenda

Witnesses

Panel 1: The Honorable Charlotte Beers, Under Secretary for Public Diplomacy and Public Affairs, Department of State, Washington, DC; and the Honorable Norman Pattiz, Governor, Broadcasting Board of Governors, Washington, DC.

Panel 2: The Honorable Mark Ginsberg, Former Ambassador to Morocco, CEO and Managing Director, Northstar Equity Group, Washington, DC; the Honorable Newt Gingrich, Former Speaker, U.S. House of Representatives, Senior Fellow, American Enterprise Institute, Washington, DC; Mr. David Hoffman, President, Internews, Arcada, CA; and Mr. Veton Surroi, Chairman, Koha Media Group, Pristina, Kosovo.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate

on Tuesday, June 11, 2002, at 2:30 p.m., to hold a hearing on Liberia.

Agenda

Witnesses

Panel 1: The Honorable Walter Kansteiner, Assistant Secretary for African Affairs, Department of State, Washington, DC.

Panel 2: Ms. Binaifer Nowrojee, Senior Researcher, Human Rights Watch Africa Division, New York, New York; and Ms. Rory Anderson, Africa Policy Specialist, World Vision, Washington, DC.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, June 11, 2002 at 1:30 p.m. in room 485 of the Russell Senate Office Building to conduct an oversight hearing on the work of the U.S. Department of Interior's Branch of Acknowledgment and Research within the Bureau of Indian Affairs.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''The Criminal Justice System and Mentally Ill Offenders'' on Tuesday, June 11, 2002 in Dirksen room 226 at 10:00 a.m.

Agenda

Witnesses

Panel I: The Honorable Ted Strickland, U.S. Representative (D–OH–6th), Washington, DC.

Panel II: Chief Gary Margolis, University of Vermont, Director of Police Services, Burlington, VT; Ms. Marylou Sudders, Commissioner of Mental Health, Commonwealth of Massachusetts, Boston, MA; the Honorable Kenneth Mayfield, President-Elect, National Association of Counties, Commissioner, Dallas County, Dallas, TX; and Captain John Caceci, Monroe County Jail, Rochester, NY.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 11, 2002, at 10 a.m. to hold a closed hearing on the joint inquiry into the events of September 11, 2001.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 11, 2002, at 2:30 p.m. to hold a closed hearing on the joint inquiry into the events of September 11, 2001.

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

SUBCOMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Aging be authorized to meet for a hearing on ''Preventing Elder Falls'' during the session of the Senate on Tuesday, June 11, 2002, at 2:30 p.m. in SD–430.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 11, 2002, at 9:30 a.m. on ''Spectrum Management: Improving the Management of Government and Commercial Spectrum Domestically and Internationally.''

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

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on International Security, Proliferation and Federal Services be authorized to meet on Tuesday, June 11, 2002, at 10 a.m. for a hearing regarding ''Cruise Missile and UAV Threats to the United States.''

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

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. I ask unanimous consent that Nicolette Boehland be granted the privilege of the floor for the duration of the debate on S. 625.

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

ORDERS FOR WEDNESDAY, JUNE 12, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, June 12; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business until 10:40 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 10:40 a.m., the Senate proceed to the House Chamber for the Joint Meeting with the Prime Minister of Australia; and then the Senate stand in recess until 12:30 p.m.; further, that at 12:30 p.m., the Senate resume consideration of H.R. 8.

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

MEASURE RETURNED TO THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that S. 625 be returned to the calendar.

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

PROGRAM

Mr. REID. Mr. President, as I indicated, tomorrow we believe Senator DORGAN will lay down an amendment at 12:30. That would mean that debate would culminate at about 2:30 tomorrow afternoon, at which time we would have a vote on his amendment, the second-degree amendment, and the Conrad amendment. Following that, unless there is some other amendment, the Senator from Texas would lay down his amendment, and that would mean at approximately 5:15 or 5:30 we would vote on his amendment. We hope to complete this legislation tomorrow evening sometime.

The majority leader will make a determination as to what we will move to. That would be good because it is Thursday. I know he has been working with the Senator from Kansas to come up with an agreement to move forward on the cloning, stem cell legislation. That would allow us to hopefully complete that matter the following day. We have a lot of work to do.

Hopefully, on Friday we can even do something that is constructive in nature and complete more legislation.

The majority leader indicated on the floor today that prior to the July 4 recess, he will move to the defense authorization bill. That is a very difficult bill, as we know. There are a lot of amendments always. So that will take a good part of the legislative week. So there is a lot of work to do and little time to do it.

APPOINTMENT OF COMMITTEE TO ESCORT THE HONORABLE JOHN HOWARD, PRIME MINISTER OF AUSTRALIA

Mr. REID. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join a like committee on the part of the House of Representatives to escort the Honorable John Howard, Prime Minister of Australia, into the House Chamber for a joint meeting on Wednesday, June 12, 2002.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, I believe there is no further business to come before the Senate. That being the case, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:14 p.m., adjourned until Wednesday, June 12, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 11, 2002:

THE JUDICIARY

FERN FLANAGAN SADDLER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE PATRICIA A. WYNN, RETIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. WAYNE M. ERCK, 0000
BRIG. GEN. CHARLES E. MCCARTNEY JR., 0000
BRIG. GEN. BRUCE E. ROBINSON, 0000

To be brigadier general

COL. DAVID L. EVANS, 0000
COL. WILLIAM C. KIRKLAND, 0000
COL. JAMES B. MALLORY III, 0000
COL. JOHN P. MCLAREN JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL CLINTON T. ANDERSON, 0000
COLONEL MICHAEL D. BARBERO, 0000
COLONEL VINCENT K. BROOKS, 0000
COLONEL SALVATORE F. CAMBRIA, 0000
COLONEL SAMUEL M. CANNON, 0000
COLONEL JAMES A. CERRONE, 0000
COLONEL ROBERT W. CONE, 0000
COLONEL ROBERT CREAR, 0000
COLONEL JOHN M. CUSTER III, 0000
COLONEL DAVID P. FRIDOVICH, 0000
COLONEL RUSSELL L. FRUTIGER, 0000
COLONEL WILLIAM T. GRISOLI, 0000
COLONEL CARTER F. HAM, 0000
COLONEL JEFFERY W. HAMMOND, 0000
COLONEL THOMAS M. JORDAN, 0000
COLONEL FRANCIS H. KEARNEY III, 0000
COLONEL DANIEL J. KEEFE, 0000
COLONEL STEPHEN R. LAYFIELD, 0000
COLONEL JOHN A. MACDONALD, 0000
COLONEL RICHARD L. MCCABE, 0000
COLONEL WILLIAM H. MCCOY JR., 0000
COLONEL MARVIN K. MCNAMARA, 0000
COLONEL JOHN W. MORGAN III, 0000
COLONEL STEPHEN D. MUNDT, 0000
COLONEL MICHAEL L. OATES, 0000
COLONEL MARK E. ONEILL, 0000
COLONEL JOSEPH E. ORR, 0000
COLONEL ERVIN PEARSON, 0000
COLONEL ROBERT M. RADIN, 0000
COLONEL JOSE D. RIOJAS, 0000
COLONEL CURTIS M. SCAPARROTTI, 0000
COLONEL MARK E. SCHEID, 0000
COLONEL JAMES H. SCHWITTERS, 0000
COLONEL JOHN F. SHORTAL, 0000
COLONEL JOSEPH A. SMITH, 0000
COLONEL MERDITH W. TEMPLE, 0000
COLONEL LOUIS W. WEBER, 0000
COLONEL SCOTT G. WEST, 0000

Daily Digest

HIGHLIGHTS

Senate passed S. 2578, Debt Limit Extension.

Senate

Chamber Action

Routine Proceedings, pages S5319–S5389

Measures Introduced: Six bills were introduced, as follows: S. 2607–2612. **Page S5366**

Measures Reported:

H.R. 577, to amend title 44, United States Code, to require any organization that is established for the purpose of raising funds for creating, maintaining, expanding, or conducting activities at a Presidential archival depository or any facilities relating to a Presidential archival depository to disclose the sources and amounts of any funds raised. (S. Rept. No. 107–160)

S. 2039, to expand aviation capacity in the Chicago area, with an amendment in the nature of a substitute. (S. Rept. No. 107–161) **Pages S5365–66**

Measures Passed:

Debt Limit Extension: By 68 yeas to 29 nays (Vote No. 148), Senate passed S. 2578, to amend title 31 of the United States Code to increase the public debt limit. **Pages S5337–38**

Subsequently, the pending cloture vote on the motion to proceed to consideration of the bill was rendered moot, when the measure was laid down by unanimous consent.

Hate Crimes Bill: Senate continued consideration of S. 625, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, taking action on the following amendment and motion proposed thereto: **Pages S5325–37**

Pending:

Hatch Amendment No. 3824, to amend the penalty section to include the possibility of the death penalty. **Pages S5325–37**

Daschle Motion to reconsider the vote by the which cloture was not invoked. **Page S5335**

During consideration of this measure, Senate also took the following action:

By 54 yeas to 43 nays (Vote No. 147), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the bill. **Page S5335**

By unanimous-consent, S. 625 was returned to the Senate calendar. **Page S5388**

Death Tax Elimination Act: Senate began consideration of H.R. 8, to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period, taking action on the following amendment proposed thereto: **Pages S5343–58**

Pending:

Conrad Amendment No. 3831, in the nature of a substitute. **Pages S5346–58**

A unanimous-consent agreement was reached providing for further consideration of the bill at 12:30 p.m., on Wednesday, June 12, 2002. **Page S5388**

Escort Committee Agreement: A unanimous-consent agreement was reached providing that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the Honorable John Howard, Prime Minister of Australia, into the House Chamber for the joint meeting on Wednesday, June 12, 2002. **Page S5388**

Messages From the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, a report on the participation of the United States in the United Nations and its affiliated agencies during calendar year 2000; to the Committee on Foreign Relations. (PM–91) **Page S5363**

Nominations Received: Senate received the following nominations:

Fern Flanagan Saddler, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

45 Army nominations in the rank of general.
Page S5389

Messages From the House: Page S5363

Enrolled Bills Presented: Page S5363

Executive Communications: Pages S5363–65

Additional Cosponsors: Pages S5366–67

Statements on Introduced Bills/Resolutions: Pages S5367–85

Additional Statements: Pages S5360–63

Amendments Submitted: Pages S5385–87

Notices of Hearings/Meetings: Page S5387

Authority for Committees to Meet: Pages S5387–88

Privilege of the Floor: Page S5388

Record Votes: Two record votes were taken today. (Total—148) Pages S5335, S5337

Adjournment: Senate met at 9:30 a.m., and adjourned at 6:14 p.m., until 9:30 a.m., on Wednesday, June 12, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5388).

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—DISTRICT OF COLUMBIA

Committee on Appropriations: Subcommittee on District of Columbia concluded hearings on proposed budget estimates for fiscal year 2003 for the government of the District of Columbia, focusing on the Anacostia Waterfront Initiative, after receiving testimony from Mayor Anthony A. Williams, Margret Kellums, Deputy Mayor for Public Safety and Justice, Linda W. Cropp, Chairman, Council of the District of Columbia, Julia Friedman, Deputy Chief Financial Officer for Research and Analysis, Andrew Altman, Director, Office of Planning, and Jerry N. Johnson, General Manager, Water and Sewer Authority, all of the government of the District of Columbia.

SPECTRUM MANAGEMENT

Committee on Commerce, Science, and Transportation: Committee held hearings to examine the history and current issues related to radio spectrum management, focusing on improving the process for assigning and allocating spectrum, reimbursing government users for their relocation costs if they are required to relinquish their spectrum for commercial uses, increasing U.S. participation in the World Radio Conference process, and the status of third generation wireless service, receiving testimony from Senators Jeffords and Dodd; Peter F. Guerrero, Director, Physical Infrastructure Issues, General Accounting Office; Steven Price, Deputy Assistant Secretary of Defense for Spectrum, Space, and Sensors and C3; Nancy J. Victory, Assistant Secretary of Commerce for Communications and Information, National Telecommunications and Information Administration; and Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission.

PUBLIC DIPLOMACY

Committee on Foreign Relations: Committee concluded hearings to examine the status of U.S. public diplomacy and its role in the war on terrorism, particularly as it relates to our challenges in the Middle East, after receiving testimony from former Representative Newt Gingrich; Charlotte Beers, Under Secretary of State for Public Diplomacy and Public Affairs; Norman J. Pattiz, Governor, Broadcasting Board of Governors; Marc Charles Ginsberg, Northstar Equity Group, former Ambassador to Morocco, Washington, D.C.; David Hoffman, Internews, Arcada, California; and Veton Surroi, KOHA Media Group, Prishtina, Kosova.

U.S./LIBERIA POLICY

Committee on Foreign Relations: Subcommittee on African Affairs concluded hearings to examine how the decline in Liberia's fortunes have affected the sub region and created an opening for international criminal and terrorist activities, and how U.S. policy in Liberia can help to bring Liberia back into the fold of democratically well-governed nations, after receiving testimony from Walter Kansteiner, Assistant Secretary of State for Africa; Binaifer Nowrojee, Human Rights Watch, New York, New York; and Rory Anderson, World Vision, and Benedict F. Sannoh, National Endowment for Democracy, both of Washington, D.C.

CRUISE MISSILE AND UAV THREATS

Committee on Governmental Affairs: Subcommittee on International Security, Proliferation and Federal Services concluded hearings to examine proliferation issues of cruise missiles and unmanned aerial vehicle (UAV) threats to the United States, after receiving testimony from Vann H. Van Diepen, Acting Deputy Assistant Secretary of State for Nonproliferation; Christopher Bolkcom, Analyst in National Defense, Congressional Research Service, Library of Congress; and Dennis M. Gormley, Blue Ridge Consulting, Arlington, Virginia.

ELDERLY FALL PREVENTION

Committee on Health, Education, Labor, and Pensions: Subcommittee on Aging concluded hearings to examine the prevention of elderly falls, identifying opportunities to improve the health and safety of older Americans, reducing the negative economic impact that falls produce, and certain related provisions of S. 1922, to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls, after receiving testimony from Peter Merles, South East Senior Housing Initiative, Baltimore, Maryland; Mary E. Watson, Central Arkansas Veterans Healthcare System, Little Rock; Bobby Jackson, National Safety Council, and Lillie Maria Struchen, both of Washington, D.C.

INDIAN AFFAIRS BRANCH OF ACKNOWLEDGMENT AND RESEARCH

Committee on Indian Affairs: Committee held oversight hearings to examine the activities of the Department of the Interior's Bureau of Indian Affairs' Branch of Acknowledgment and Research for review of petitions of tribal groups that are seeking Federal recognition, receiving testimony from Michael R. Smith, Director, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, who was accompanied by several of his associates.

Hearings recessed subject to call.

MENTALLY ILL AND THE CRIMINAL JUSTICE SYSTEM

Committee on the Judiciary: Committee concluded hearings to examine the impact of mentally ill offenders on our justice system, focusing on the Council of State Governments' ''Criminal Justice/Mental Health Consensus Project'' report, which provides a guidebook and recommendations for the criminal justice system to improve their response to people with mental illness, after receiving testimony from Representative Strickland; Marylou Sudders, Commonwealth of Massachusetts Department of Mental Health, Boston, on behalf of the National Association of State Mental Health Program Directors; Kenneth Mayfield, Dallas County Commissioners Court, Dallas, Texas, on behalf of the National Association of Counties; Gary J. Margolis, University of Vermont Police Department, Burlington, on behalf of the Police Executive Research Forum; and John Caceci, Monroe County Jail, Rochester, New York.

House of Representatives

Chamber Action

Measures Introduced: 12 public bills, H.R. 4901–4913; and 4 resolutions, H.J. Res. 97; H. Con. Res. 415–416, and H. Res. 441, were introduced. **Pages H3452–53**

Reports Filed: Reports were filed as follows:

H.R. 3482, to provide greater cybersecurity, amended (H. Rept. 107–497);

H.R. 2388, to establish the criteria and mechanism for the designation and support of national heritage areas, amended (H. Rept. 107–498);

H.R. 2880, to amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, amended (H. Rept. 107–499);

H.R. 4103, to direct the Secretary of the Interior to transfer certain public lands in Natrona County, Wyoming, to the Corporation of the Presiding Bishop, amended (H. Rept. 107–500);

H. Con. Res. 395, celebrating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico, amended (H. Rept. 107–501);

H. Con. Res. 352, expressing the sense of Congress that Federal land management agencies should fully implement the Western Governors Association ''Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment'' to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National Prescribed Fire Strategy that minimizes risks of escape, amended (H. Rept. 107–502, Pt. 1);

H. Res. 439, providing for consideration of H.J. Res 96, proposing a tax limitation amendment to the Constitution of the United States (H. Rept. 107–503); and

H. Res. 440, providing for consideration of H.R. 4019, to provide that the marriage penalty relief provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent (H. Rept. 107–504). **Page H3452**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Boozman to act as Speaker pro tempore for today. **Page H3299**

Recess: The House recessed at 1 p.m. and reconvened at 2 p.m. **Page H3303**

Recess: The House recessed at 5:43 p.m. and reconvened at 6:30 p.m. **Page H3418**

Improving Men's Health Through Fitness and Reduction of Obesity: H. Res. 438, expressing the sense of the House of Representatives that improving men's health through fitness and the reduction of obesity should be a priority (agreed to by 2/3 yea-and-nay vote of 400 yeas to 2 nays, Roll No. 220); **Pages H3304–08, H3418–19**

Achievements of Italian-American Inventor Antonio Meucci: H. Res. 269, expressing the sense of the House of Representatives to honor the life and achievements of 19th Century Italian-American inventor Antonio Meucci, and his work in the invention of the telephone. **Pages H3308–11**

Sacrifices of Law Enforcement Officers: H. Res. 406, amended, commemorating and acknowledging the dedication and sacrifice made by the men and women killed or disabled while serving as peace officers; **Pages H3311–13**

Herbert Arlene Post Office, Philadelphia, Pennsylvania: H.R. 3738, to designate the facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, as the ''Herbert Arlene Post Office Building;'' **Page H3314**

Rev. Leon Sullivan Post Office, Philadelphia, Pennsylvania: H.R. 3739, to designate the facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, as the ''Rev. Leon Sullivan Post Office Building;'' **Pages H3314–15**

William V. Cibotti Post Office, Philadelphia, Pennsylvania: H.R. 3740, amended, to designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the ''William V. Cibotti Post Office Building.'' Agreed to amend the title so as to read: ''A bill to designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the 'William A. Cibotti Post Office Building'.''; **Pages H3315–16**

Public Buildings, Property, and Works Amendments: H.R. 2068, amended, to revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, ''Public Buildings, Property, and Works;'' **Pages H3316–93**

Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act: H.R. 3297, amended, to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits; **Pages H3393–95, H3399–H3400**

Compact Between Utah and Nevada Regarding Boundary Change: H.R. 2054, amended, to give the consent of Congress to an agreement or compact between Utah and Nevada regarding a change in the boundaries of those States; **Pages H3395–99**

Consumer Product Protection Act: H.R. 2621, amended, to amend title 18, United States Code, with respect to consumer product protection; **Pages H3400–01**

Five Nations Citizens Land Reform Act: H.R. 2880, amended, to amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes. Agreed to amend the title so as to read: ''a bill to amend laws relating to the lands of the enrollees and lineal descendants of enrollees whose names appear on the final Indian rolls of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations (historically referred to as the Five Civilized Tribes), and for other purposes.''; **Pages H3401–10**

2002 Federation International Football Association (FIFA) World Cup Korea/Japan: H. Con. Res. 394, expressing the sense of the Congress concerning the 2002 World Cup and co-hosts Republic of Korea and Japan (agreed to by 2/3 yea-and-nay vote of 402 yeas to 1 nay, Roll No. 221); and **Pages H3410–12, H3419–20**

North Korean Refugees Detained in China: H. Con. Res. 213, amended, expressing the sense of Congress regarding North Korean refugees who are detained in China and returned to North Korea where they face torture, imprisonment, and execution (agreed to by 2/3 yea-and-nay vote of 406 yeas with none voting ''nay,'' Roll No. 222). **Pages H3412–18, H3420–21**

Presidential Message—Participation in the United Nations: Message wherein he transmitted the final version of a report on the participation of the United States in the United Nations and its affiliated agencies during the calendar year 2000—referred to the Committee on International Relations. **Page H3418**

Senate Message: Messages received from the Senate appear on pages H3299 and H3412.

Referral: S. 2578 was held at the desk.

Quorum Calls—Votes: Three yea-and-nay votes developed during the proceedings of the House today and appear on pages H3419, H3419–20, and H3420–21. There were no quorum calls.

Adjournment: The House met at 12:30 p.m. and adjourned at 11:35 p.m.

Committee Meetings

PIPELINE INFRASTRUCTURE PROTECTION TO ENHANCE SECURITY AND SAFETY ACT

Committee on Energy and Commerce: Subcommittee on Energy and Air Quality approved for full Committee action, as amended, H.R. 3609, Pipeline Infrastructure Protection To Enhance Security and Safety Act.

WOMEN'S HEALTH OFFICE ACT; MAMMOGRAPHY QUALITY STANDARDS REAUTHORIZATION ACT

Committee on Energy and Commerce: Subcommittee on Health approved for full Committee action the following bills: H.R. 1784, amended, Women's Health Office Act of 2001; and H.R. 4888, Mammography Quality Standards Reauthorization Act of 2002.

INSURANCE REGULATION AND COMPETITION FOR THE 21ST CENTURY

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises continued hearings entitled "Insurance Regulation and Competition for the 21st Century," Part II. Testimony was heard from public witnesses.

Hearings continue June 18.

COMBATING TERRORISM

Committee on Government Reform: Subcommittee on National Security, Veterans' Affairs, and International Relations held a hearing on "Combating Terrorism: Improving the Federal Response." Testimony was heard from Senators Lieberman and Specter; Representatives Thornberry, Harman, Gibbons and Tauscher; Adm. Thomas Collins, USCG, Commandant, U.S. Coast Guard, Department of Transportation; Bruce Baughman, Director, Office of National Preparedness, FEMA; Douglas Browning, Deputy Commissioner, U.S. Customs Service, Department of the Treasury; Robert Acord, Administrator, Animal and Plant Health Inspection Service, USDA; John Tritak, Director, Critical Infrastructure Assurance Office, Bureau of Industry Security, Department of Commerce; Larry A. Mefford, Assistant Director, Cyber Division, FBI, Department of Justice; and former Senator Warren Rudman, State of New Hampshire and Co-Chairman, U.S. Commission on National Security/21st Century.

ANTI-TERRORISM EXPLOSIVES ACT

Committee on the Judiciary: Subcommittee on Crime, Terrorism and Homeland Security began markup of H.R. 4864, Anti-Terrorism Explosives Act of 2002.

Prior to the markup, the Subcommittee held a hearing on this legislation. Testimony was heard from the following officials of the Department of the Treasury: Kenneth Lawson, Assistant Under Secretary of Enforcement; and Bradley A. Buckles, Director, Bureau of Alcohol, Tobacco and Firearms; and a public witness.

TAX LIMITATION CONSTITUTIONAL AMENDMENT

Committee on Rules: Granted, by voice vote, a modified closed rule on H.J. Res. 96, proposing a tax limitation amendment to the Constitution of the United States, providing two hours of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule provides for an amendment in the nature of a substitute printed in the Congressional Record if offered by the Minority Leader or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Sensenbrenner and Representatives Nadler, Tanner, and Stenholm.

PERMANENT MARRIAGE PENALTY RELIEF PROVISIONS

Committee on Rules: Granted, by voice vote, a modified closed rule on H.R. 4019, to provide that the marriage penalty relief provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent, providing one hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule provides for consideration of the amendment in the nature of a substitute printed in the Rules Committee report accompanying the resolution, if offered by Representative Rangel or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent. The rule waives all points of order against the amendment printed in the report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Weller and Matsui.

VETERANS MEASURES

Committee on Veterans' Affairs: Subcommittee on Benefits held a hearing on the following: H.R. 3173, Servicemembers and Military Families Financial Protection Act of 2001; H.R. 3735, Department of Veterans Affairs Overpayment Administration Improvement Act of 2002; H.R. 3771, to amend title 38,

United States Code, to provide that monetary benefits paid to veterans by States and municipalities shall be excluded from consideration as income for purposes of pension benefits paid by the Secretary of Veterans Affairs; H.R. 4042, Veterans Home Loan Prepayment Protection Act of 2002; the Arlington National Cemetery Burial Eligibility Act; and a measure providing dependency and indemnity compensation to the surviving spouse of a veteran with a totally disabling service-connected cold-weather injury. Testimony was heard from Representative Gutierrez; the following officials of the Department of Veterans Affairs: Daniel L. Cooper, Under Secretary, Benefits, Veterans Benefits Administration; and Thurman Higginbotham, Deputy Superintendent, Arlington National Cemetery; Craig Duehring, Acting Assistant Secretary, Reserve Affairs, Department of Defense; representatives of veterans organizations; and a public witness.

UNEMPLOYMENT FRAUD AND ABUSE

Committee on Ways and Means: Subcommittee on Human Resources held a hearing on Unemployment Fraud and Abuse. Testimony was heard from the following officials of the Department of Labor: D. Cameron Findlay, Deputy Secretary; and Gordon S. Heddell, Inspector General; Sigurd R. Nilsen. Director, Health, Education, and Human Services Division, GAO; Miles Paris, Deputy Director, Program Support, Department of Employment Security, State of Illinois; and public witnesses.

SOCIAL SECURITY DISABILITY PROGRAMS' CHALLENGES AND OPPORTUNITIES

Committee on Ways and Means: Subcommittee on Social Security held a hearing on Social Security Disability Programs' Challenges and Opportunities. Testimony was heard from Martin Gerry, Deputy Commissioner, Disability and Income Security Programs, SSA; Robert Robertson, Director, Education, Workforce, and Income Security Issues, GAO; former Representative Hall Daub of Nebraska, Chairman, Social Security Advisory Board; and public witnesses.

Hearings continue June 18.

Joint Meetings

9/11 INTELLIGENCE INVESTIGATION

Joint Hearing: Senate Select Committee on Intelligence held joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, receiving testimony from officials of the intelligence community.

Hearings continue tomorrow.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST *of June 3, 2002, p. D549)*

H.R. 3167, to endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996. Signed on June 10, 2002. (Public Law 107–187)

COMMITTEE MEETINGS FOR WEDNESDAY, JUNE 12, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Defense, to hold hearings on proposed budget estimates for fiscal year 2003 for the Department of Defense and related programs, 9:30 a.m., SD–192.

Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine Medicare payments for medical supplies, 9:30 a.m., SD–124.

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology, and Space, to hold hearings to examine Internet corporations for assigned names and numbers, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: Subcommittee on National Parks, to hold hearings on S. 1257/H.R. 107, to require the Secretary of the Interior to conduct a theme study to identify sites and resources to commemorate and interpret the Cold War; S. 1312/H.R. 2109, to authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach, Florida, for possible inclusion in the National Park System; S. 1944, to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado; H.R. 38, to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska; H.R. 980, to establish the Moccasin Bend National Historic Site in the State of Tennessee as a unit of the National Park System; and H.R. 1712, to authorize the Secretary of the Interior to make adjustments to the boundary of the National Park of American Samoa to include certain portions of the islands of Ofu and Olosega within the park, 2:30 p.m., SD–366.

Committee on Environment and Public Works: to hold hearings to examine the costs and benefits of multi-pollutant legislation, 9:30 a.m., SD–406.

Committee on Governmental Affairs: to hold hearings to examine the status of childhood vaccines, 9:30 a.m., SD–342.

Select Committee on Intelligence: to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 2:30 p.m., S–407, Capitol.

Committee on the Judiciary: Subcommittee on Constitution, to hold hearings to examine issues with respect to reducing the risk of executing the innocent, focusing on the Report of the Illinois Governor's Commission on Capital Punishment, 9 a.m., SD–226.

House

Committee on Appropriations, Subcommittee on Military Construction, to mark up appropriations for fiscal year 2003, 2 p.m., B–300 Rayburn.

Committee on Armed Services, Subcommittee on Military Procurement, hearing on the Safety, Security, Reliability, and Performance of the U.S. Nuclear Stockpile, 1 p.m., 2118 Rayburn.

Committee on Education and the Workforce, to mark up the following bills: H.R. 4854, Citizen Service Act of 2002; and H.R. 4866, Fed Up Higher Education Technical Amendments of 2002, 10:30 a.m., 2175 Rayburn.

Committee on Financial Services, to mark up H.R. 1701, Consumer Rental Purchase Agreement Act, 10 a.m., 2128 Rayburn.

Committee on Government Reform, hearing on "Should the United States Do More to Help U.S. Citizens Held Against Their Will in Saudi Arabia?" 10 a.m., 2154 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, oversight hearing on Health Care Litigation Reform: "Does Limitless Litigation Restrict Access to Health Care?" 10 a.m., 2237 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, hearing on the following measures: H. Con. Res. 408, honoring the American Zoo and Aquarium Association for their continued service to Animal Welfare, Conservation Education, Conservation Research and Wildlife Conservation Programs; and H.R. 4807, the Susquehanna National Wildlife Refuge Expansion Act, 2 p.m., 1334 Longworth.

Subcommittee on Forests, and Forest Health, oversight hearing on Process Gridlock on the National Forests, 10 a.m., 1334 Longworth.

Committee on Small Business, hearing on the Effect of the Overvalued Dollar on Small Exporters, 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, hearing on H.R. 2228, Maritime Disaster Family Assistance Act of 2001, 10 a.m., 2167 Rayburn.

Joint Meetings

Joint Meetings: Senate Select Committee on Intelligence, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 2:30 p.m., S–407, Capitol.

Next Meeting of the **SENATE**

9:30 a.m., Wednesday, June 12

Senate Chamber

Program for Wednesday: After the transaction of any morning business (not to extend beyond 10:40 a.m.), Senate will proceed to the House Chamber for a Joint Meeting with the House of Representatives to receive Prime Minister of Australia John Howard; following which, the Senate will stand in recess until 12:30 p.m.

At 12:30 p.m., Senate will continue consideration of H.R. 8, Death Tax Elimination Act.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Wednesday, June 12

House Chamber

Program for Wednesday: Joint Meeting to Receive the Honorable John Howard, Prime Minister of Australia;

Consideration of motion to go to conference on H.R. 4, Securing America's Future Energy Act;

Consideration of motion to go to conference on H.R. 4775, Supplemental Appropriations;

Consideration of H.J. Res. 96, proposing a tax limitation amendment to the Constitution of the United States (modified closed rule, two hours of general debate).

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