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Senate

(Legislative day of Wednesday, July 10, 2002)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Blessed God, we praise You for this new day. You gave us good rest last night, replenishing our souls and our bodies. You awakened us with the reminder that this is Your day and You will show the way. With awe and wonder we acknowledge that any wisdom we will have will be a gift from You. You have given the Senators oversight of this Nation; now give them insight to know and do Your will. Give them humility to ask for a clear picture of Your best for each of the challenges ahead and for how they are to vote on the crucial legislation before them. You give wisdom to the humble, vision to the open-minded, and guidance to the receptive. Bless these Senators today, dear God. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 12, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator form the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Madam President, the two managers will be here shortly. Senator SARBANES is now here. The vote will occur at 9:30 a.m. There are a number of people who have requested I not extend the time because they have work to do. So we will vote at 9:30 a.m. Additional rollcall votes could be possible until 12 noon today. As indicated last night, there will be votes Monday afternoon beginning at 2 o'clock.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2673, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

Pending:

Edwards modified amendment No. 4187, to address rules of professional responsibility for attorneys.

Daschle (for Levin) amendment No. 4269 (to amendment No. 4187), to address procedures for banning certain individuals from serving as officers or directors of publicly traded companies, civil money penalties, obtaining financial records, broadened enforcement authority, and forfeiture of bonuses and profits.

McCain motion to recommit the bill to the Committee on Banking, Housing, and Urban Affairs with instructions to report back forthwith with amendment No. 4270, to require publicly traded companies to record and treat stock options as expenses when granted for purposes of their income statements.

Reid (for Edwards) amendment No. 4271 (to the instructions of the motion to recommit the bill to the Committee on Banking, Housing, and Urban Affairs), to address rules of professional responsibility for attorneys.

Reid (for Levin) amendment No. 4272 (to amendment No. 4271), to address procedures for banning certain individuals from serving as officers or directors of publicly traded companies, civil money penalties, obtaining financial records, broadened enforcement authority, and forfeiture of bonuses and profits.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 9:30 a.m. shall be equally divided between the two managers for debate only. Who yields time?

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The Senator from Maryland.

Mr. SARBANES. Madam President, I understand there will be about 5 minutes allotted each manager now. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. SARBANES. Madam President, very shortly we will be voting on a cloture petition with respect to this legislation, S. 2673. I urge my colleagues to vote for the cloture motion.

I know there are a lot of amendments pending, but we have now been on this legislation a full week. Even with the voting of cloture today, this matter will carry over into next week. There have been a range of amendments, some that are pending that are germane under cloture to the bill. In other words, they have been drawn in a way and the subject matter is focused and limited enough that they remain germane even after cloture.

There are a number of amendments that are relevant to the bill but not germane. Once cloture is invoked, they will fall. I know that is a matter of some concern to those who are proposing those amendments, but I do not know how we can handle this differently and move along towards a resolution.

In addition to those relevant amendments—and I have sympathy there because while they may not meet the very narrow definition of germaneness, they do touch the subject matter of the legislation—there are also amendments that are not even relevant to the bill that are sort of—I was going to say floating around, but it would be more accurate to say they are sort of present. They touch matters that have nothing to do with this legislation.

I am frank to say to my colleagues, I do not see how we can progress and move towards a final vote and resolution on this issue without invoking cloture this morning. We tried not to precipitate that early on, although I know people were then blocked from getting votes, and I regret that. I was concerned, as anyone, to get the votes and give people a chance to have their amendments considered. Nevertheless, we are now where we are, and I urge my colleagues to vote for cloture.

We have to move forward on this legislation. This is important legislation. I think the committee and my colleagues have fashioned legislation which will make a very important contribution toward addressing the serious economic challenge now confronting the country and this loss of confidence in the workings of our economic system. The fact that people cannot have any trust in or reliance on the basic financial information upon which they make important economic decisions is having a major impact on the workings of the economy and carries with it the very real potential of having an even more significant impact.

This is serious business, and the potential for an economic downturn, triggered in part by the difficulties we are trying to address in this legislation, I think is not insignificant. So I think it is important that we move forward and pass this legislation. This is but one step along the way, and there are many steps left yet to be done.

I am hopeful at some point the administration will come to see the necessity of putting into place a statutory framework to provide for an independent oversight board with respect to the accounting industry, to address the conflict that exists on the part of auditors when they are the auditor of a company and at the same time are providing certain consulting services to the company which carry with them an inherent conflict of interest with their responsibilities as an auditor.

There are extensive provisions in this bill with respect to corporate responsibility and accountability with respect to corporate disclosure and, of course, with respect to the conflict of interest we have seen manifest with respect to stock analysts who are often in the position of giving buy recommendations on the stock of a company with which the analyst's company is also having investment banking deals which, of course, raises the question: Is the recommendation on the stock being done in order to gain the investment banking business? So we try to provide some, as they call them, Chinese walls between those two sides of the company in order to reduce the degree of that conflict.

Furthermore, this has a very significant authorization of additional monies for the SEC in order to be able to meet its responsibilities, which I think is very important. The President asked the other day in his address for another $100 million. That is not sufficient. We have to do better than that so the SEC can do its job.

So we can move forward, I urge my colleagues to support the cloture motion which will be before us for a vote at 9:30.

I presume I have used my time, and I yield the floor so my colleague, the ranking Republican Member, may use his time.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. GRAMM. Madam President, we need to pass a bill. We are going to conference with a House bill that is substantially different from this bill. I believe that between the two bills, we can find a virtually unanimous vote. I think we can write a bill that will satisfy the President and both Houses of Congress. I do not think we are making the bill better. The amendments that are being offered now are largely nongermane. We have gotten into sort of a one-upmanship position, and I think we are harming the markets by convincing people that the cure may very well be worse than the disease.

It is very important that we get on with our business and that we pass this bill. I intend to vote for it today. I do not think it is the bill we need in the end, but it gets us to conference where we can get the bill we need in the end. I urge my Republican colleagues to vote for it, not because in the end they are for this version but because they want to do something. We need to bring this debate to a close. We do have some germane amendments. We will be dealing with those, but the time has come to get on about our business. Getting on about our business means bringing this debate to a close.

So I urge my colleagues to vote to end the debate. Let us go to conference. Let us write this bill. Let us let it be known with certainty what our policy is going to be. If we do that, it will help restore confidence in the country. So I urge my colleagues to vote for cloture and, as we get to the end of the process, for the bill.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. I do not know if the manager has any time.

Mr. SARBANES. Do I have any time remaining?

The ACTING PRESIDENT pro tempore. The manager has no time.

Mr. LEVIN. Madam President, I ask unanimous consent that I be allowed to proceed until 9:30 when cloture is invoked.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEVIN. Madam President, a number of amendments have been pending where we have been unable to get a vote. These are highly relevant amendments, including mine which would have given the SEC administrative powers to impose civil fines.

The Republican manager said the amendments were not particularly relevant. Well, we had a highly relevant amendment that goes directly to the issue of abuses by corporate officers and corporate directors. The current fine structure of the SEC does not reach officers and does not reach directors, except by going to court. They have no administrative authority in the SEC to impose civil fines, the way they do with brokers and the way a lot of other agencies that regulate business have authority to do. The SEC does not have the power to impose administrative fines on directors and on officers of corporations. They should have that power administratively.

We were blocked in getting a vote, and the amendment which is pending is going to fall if cloture is invoked. That is the use of the rules. But let it be clear what the rules were used to do, which was to prevent a strengthening amendment for this bill.

It is a good bill. I compliment the sponsors of this bill. I compliment Senator SARBANES and his cosponsors that this bill can be strengthened; it should be strengthened. One of the strengthening amendments was blocked from getting to a vote yesterday and will fall if cloture is invoked.

We also have a question. What about postcloture? There are 48 germane or

arguably germane amendments. The question is whether or not the rules are going to be used again to block votes on germane amendments. I will object to that happening. I will do everything I can to make sure germane amendments, including some that I have filed, are considered postcloture.

I thank the manager for yielding. I yield the floor.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 442, S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002:

Jon Corzine, Deborah Stabenow, Paul Wellstone, Ron Wyden, Daniel Akaka, Barbara Boxer, Charles Schumer, Byron Dorgan, Harry Reid, Paul Sarbanes, Daniel Inouye, John Edwards, Barbara Mikulski, Thomas Carper, Jack Reed, Tim Johnson.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum has been waived.

The question is, Is it the sense of the Senate that debate on S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002, 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. REID. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. VOLINOVICH), the Senator from Idaho (Mr. CRAPO), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

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

The yeas and nays resulted—yeas 91, nays 2, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—91

Akaka	Cleland	Frist
Allard	Clinton	Graham
Allen	Cochran	Gramm
Baucus	Collins	Grassley
Bayh	Conrad	Gregg
Bennett	Corzine	Hagel
Biden	Craig	Harkin
Bingaman	Daschle	Hatch
Bond	Dayton	Hollings
Boxer	DeWine	Hutchinson
Breaux	Dodd	Hutchison
Brownback	Domenici	Inhofe
Bunning	Dorgan	Jeffords
Burns	Durbin	Johnson
Byrd	Edwards	Kennedy
Campbell	Ensign	Kohl
Cantwell	Enzi	Kyl
Carnahan	Feingold	Leahy
Carper	Feinstein	Lieberman
Chafee	Fitzgerald	Lincoln
Lott	Reid	Specter
Lugar	Roberts	Stabenow
McConnell	Rockefeller	Stevens
Mikulski	Santorum	Thomas
Miller	Sarbanes	Thompson
Murkowski	Schumer	Thurmond
Murray	Sessions	Torricelli
Nelson (FL)	Shelby	Wellstone
Nelson (NE)	Smith (NH)	Wyden
Nickles	Smith (OR)	
Reed	Snowe	

NAYS—2

Levin	McCain

NOT VOTING—7

Crapo	Kerry	Warner
Helms	Landrieu	
Inouye	Voinovich	

The PRESIDING OFFICER (Mr. CARPER). On this vote, the yeas are 91, the nays are 2. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The pending motion to recommit is out of order.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. 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. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senate is not in order. The Senate will be in order. The Senate is not in order.

The Senator from West Virginia.

Mr. BYRD. Mr. President, we can have order in the Senate with Senators in their seats. At least they do not need to be cluttering up the well. I want to say a few words.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. I have the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

SUPPLEMENTAL APPROPRIATIONS

Mr. BYRD. Mr. President, no committee in this Senate works harder than the Appropriations Committee. We have been working for months on the supplemental appropriations bill. We held hearings, months ago now, on the supplemental appropriations bill, hearings specifically concerning budget requests for homeland security.

The administration put its feet in cement and its head in the sand and adamantly opposed the committee's request, which was in writing, and signed by Mr. STEVENS and myself, to have Mr. Ridge come up and testify so that the Appropriations Committee in the Senate, following a practice of 135 years of having witnesses appear in open sessions so that the people can hear what they said—the administration did not want that, and the President put a muzzle on his Homeland Security Director and said, no, he will not come.

Mr. STEVENS and I wrote a joint letter asking for an appointment with the President. We wanted to state our case. The President did not answer that letter. No. Some underling answered the letter.

So we had to proceed. We did. We proceeded as best we could. The full committee had excellent hearings over a period of 5 days, with testimony from firemen, policemen, local health officials, also testimony from seven Cabinet Members and the Director of FEMA.

So we proceeded as best we could. We put together a bill we thought was a good bill. Then, however, the President threatened to veto it because it had too much money, in his way of looking at it, too much money for homeland security. So there was the threat to veto the bill.

Only this week—perhaps it was Monday—the President, in a speech, assailed Congress for ''delay'' in getting this appropriations bill downtown, saying the Defense Department is hard up for moneys. So Mr. YOUNG, chairman of the House Appropriations Committee, Mr. OBEY, Mr. STEVENS, and I have been meeting. We met yesterday and we thought we had the whole thing pretty much wrapped up and that we could meet this morning in full committee and vote the conference report out, and send it back to both Houses for their judgments.

Lo and behold! At 7 o'clock last night, here comes a request from the White House to hold up further action. They want to send up a different budget.

So, who is holding up defense? The President, in a public speech, lambasts the Congress for not getting this appropriations bill to him sooner. We have been wanting to go with the President and get this bill on his desk, but he just has not supported the efforts of the appropriations members on both sides of the Capitol to move this bill, first withholding Mr. Ridge, who is the point man for the administration on homeland security, adamantly refusing to let him testify; then threatening to veto the bill. This is a difficult bill. The staffs work into the night around here on this bill; we try to work hard to get the bill down to the President. He assails the Congress for not sending the bill to him, saying that if he doesn't have it by a certain hour or day, it is going to affect the national defense, going to affect the military with personnel reductions and so on.

So we were prepared today to have a conference. I want all appropriations members within the sound of my voice to know that the meeting is canceled. Canceled, why? I understand that Mr.

YOUNG is going to call me to tell me that it is canceled at the request of the Speaker of the House, who often acts at the request of the White House, I assume.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. I don't mean any disrespect to the Speaker. I am just saying how this is being put off. Yes, I will, just in a moment, if I may.

I am upset about it. I am the chairman of this Appropriations Committee. I have never seen the appropriations process so meddled in and delayed by the White House. I know that Mr. YOUNG is doing this at the request of the White House. They want to send up a new budget right at the last minute, 7 o'clock last night. Mitch Daniels, I understand——

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. I will yield right in the middle of my sentence.

Mr. STEVENS. I am sorry to do this, Mr. President, but my distinguished friend, our chairman, I think is implying that this was done at the request of the White House. That is not my information. It was a decision of the Speaker because the Office of Management and Budget has not delivered to us the information we need to close this bill. The Speaker asked, notwithstanding the White House request that we get the bill done today, that we wait until we get the information from the Office of Management and Budget.

If the Senator will let me have one other comment, then I will yield back. I apologize for interrupting the distinguished President pro tempore, chairman of our committee, but the difficulty is this: We have faced such an enormous demand from the Office of Management and Budget to adhere to a line, a top line barrier that the Office of Management and Budget is willing to accept, $1.6 billion from the airline bill, airline supplemental bill, stabilization bill, that expired.

We have such a blind mindset down there about top lines that we are unwilling to look at reality. The reality is, the Senate and the House have worked, and we are almost closed, and now we are waiting for some more Enron-type offsets, offsets that are meaningless in order to justify this top line mentality with which we are dealing.

From my point of view, I think we should go see the President. I am going to ask to see the President. I have been here 34 years, not nearly as long as my friend from West Virginia, but I, too, have never gone through a period as I have gone through on this supplemental. This is not worthy of the constitutional process at all, and it is time we had an understanding of what the role of the Congress is with regard to appropriations.

Right now we face this demand, and because we wanted to get the bill out, we did meet with the Office of Management and Budget Director last night. Our staffs worked late into the night, and we came to an agreement about what we would do. But the Office of Management and Budget was to submit rescissions to us or at least changes in their budget by 8 a.m. this morning. They are not here.

But the Senator from West Virginia is absolutely right, part of it is a reduction in defense. We fought to increase defense. Some of these offsets may make a little sense in this sense; that the supplemental was submitted to us in March and there certainly has been a series of months pass by that people were not paid to carry out the work that was covered by the supplemental. That would be a legitimate offset, if it were identified properly.

We were told last night that there was such a list. When we asked to see it, it didn't appear. When we asked for it to appear here by 8, it was agreed to, to be here by 8. It didn't appear this morning either, hardly worthy of people who are working for the President.

The only thing on which I cannot agree with my friend from West Virginia is that this is the President. The President is ill served by what is going on, in my opinion. I hope people understand: This is blind adherence to a line that was established—a crazy line, in my opinion—without regard to the needs of the country at all, and we are asked now to get down on our knees and really thank God for this list when it comes. But I have to tell you, my good friend, I am up to here with this process. People know I have a short fuse anyway. I hope to calm down before I see the President, but I do thank the Senator from West Virginia for yielding to me.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska. He is precisely on point. If I have presumed to err in my judgment as to what was going on exactly in the process and have cast any reflection on the Speaker of the other body, I apologize for doing that.

My colleague is correct: This Office of Management and Budget, as far as I am concerned, is just above my ears. Upon what meat doth this our little Caesar feed? I am talking about Mitch Daniels, the Director of OMB. He is always meddling, always meddling in the Congress, in its work and in appropriations. Not only that; he is always lecturing the Congress. I have never mentioned his name publicly until now. But I am fed up to my ears also.

The appropriations process is being mangled. It is being maimed. It is being murdered at the hands of someone who is not elected by the people of this country. What bar of judgment does he stand before?

I repeat, ''Upon what meat doth this our Caesar feed that he is become so great?''

I want to voice my disappointment in the circumstances that have brought about a cancellation of this appropriations conference today. If I have said something amiss here, which Mr. STEVENS felt I might have, I certainly apologize for that. But I am just fed up. I am tired. I am tired of this mangling of the appropriations process. Here is this outfit, blows into town like a tornado and they are going to change the tone in Washington. And the tone has been changed. It is to the nth degree worse than what it has ever been before. I wish the President would step in and stop this interruption, this mangling of the appropriations process, this meddling by his Office of Management and Budget director, and stop that bigmouth down there from constantly meddling in appropriations bills and criticizing the Congress.

That man, Mitch Daniels, is not elected by anybody. I hate to say this about a man. I like him personally, but he just goes too far. I am tired of it. We have Members who had planned to leave town, who canceled their trips, believing they were going to have this meeting this morning and that we would wrap up this appropriations bill and send it down to the President.

I don't want to hear anybody in the administration accusing the Congress of delay in passing this bill. It is on their table. Let them come into court with clean hands before they attack the Congress.

I am sorry to my colleagues for taking so much of their time. I am sorry profusely, I say, to the members of the Appropriations Committee who were here and who made changes in their day's schedule on the presumption that we were going to have a conference. I don't know when we will have a meeting. I suppose it will be soon.

I hope those Senators who are attempting to hold up the military construction bill, because of the need for moneys to help their States and districts in the case of floods and fires and drought, will desist. That is what a supplemental is for. We have a supplemental now. Let's do something about the drought, the fires, and the floods in this supplemental. It is my desire, as chairman of the Appropriations Committee, to get all of these appropriations bills passed by the beginning of the new fiscal year. We are going to do that. Mr. STEVENS and I worked hard on this.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue calling the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection——

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue calling the roll.

The legislative clerk continued with the call of the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. REID. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard. The clerk will continue calling the roll.

The legislative clerk continued with the call of the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PUBLIC COMPANY ACCOUNTING AND INVESTOR PROTECTION ACT OF 2002—Continued

Mr. REID. Mr. President, will the Chair inform us what the matter before the Senate now is?

The PRESIDING OFFICER. The Daschle second-degree amendment to the Edwards first-degree amendment.

Mr. REID. That is Daschle for Levin; is that not right?

The PRESIDING OFFICER. That is correct.

The Senator from Nevada.

Mr. ENSIGN. Mr. President, I raise a point of order that the pending second-degree amendment is not germane to the bill postcloture.

The PRESIDING OFFICER. The point of order is well taken. The amendment falls.

The deputy majority leader.

AMENDMENT NO. 4286, AS MODIFIED, TO AMENDMENT NO. 4187

Mr. REID. I call up amendment No. 4286, and I ask unanimous consent that Carnahan amendment No. 4286 be modified with the change at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. CARNAHAN, for herself, Mr. DODD, Mr. DURBIN, Mr. LEVIN, Mr. HARKIN, and Mr. CORZINE, proposes an amendment numbered 4286, as modified, to amendment No. 4187.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require timely and public disclosure of transactions involving management and principal stockholders)

At the end of the amendment, insert the following:

(b) ELECTRONIC FILING.—Notwithstanding the provisions of section 403 of this Act, section 16(a)(2) of the Securities and Exchange Act of 1934, as added by section 403, is amended to read as follows:

''(2) if there has been a change in such ownership, or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving such equity security, shall file electronically with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement before the end of the second business day following the day on which the subject transaction has been executed, or at such other times as the Commission shall establish, by rule, in any case in which the Commission determines that such 2 day period is not feasible, and the Commission shall provide that statement on a publicly accessible Internet site not later than the end of the business day following that filing, and the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website not later than the end of the business day following that filing (the requirements of this paragraph with respect to electronic filing and providing the statement on a corporate website shall take effect 1 year after the date of enactment of this paragraph), indicating ownership by that person at the date of filing, any such changes in such ownership, and such purchases and sales of the security-based swap agreements as have occurred since the most recent such filing under this paragraph.''.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. CARNAHAN. Mr. President, I am offering this amendment on behalf of myself and Senators DODD, DUBBIN, LEVIN, HARKIN, and CORZINE.

The Senate is engaged in an important debate about how to improve our Nation's financial system. Today I am offering an amendment that is intended to provide more timely information to average investors. America has the most vibrant and dynamic economy in the world. Our robust and resilient capital markets are the foundation of our economy. But the success of those markets depends on the free flow of accurate, reliable information.

Recent disclosures about the inaccuracy of some companies' financial reports have shaken that confidence. I am pleased the Senate has acted quickly to take up this important reform legislation. I believe that this bill makes tremendous progress in improving the quality of information available to the markets. In the interest of further improvement, I am offering an amendment to modernize the method of disclosure required when insiders trade in their own companies' stock.

One warning sign that a company may be in trouble is when its executives are selling large amounts of company stock, as occurred at Enron. I have learned, however, that information about insider selling is not easily accessible.

Under our current system a company's officers are required to file a disclosure form with the Securities and Exchange Commission, SEC, any time they sell securities of their company. Tens of thousands of these forms are filed annually. These are not complicated forms. I have a copy here. It is a simple 2-page form.

The Office of Management and Budget estimates that the form should not take more than 30 minutes to fill out. With capital markets as sophisticated as they are in the U.S., information must be available quickly to be useful. However, insiders currently have up to six weeks to file their disclosure forms. And the overwhelming majority of these forms—95 percent—are filed on paper, rather than electronically.

The Banking Committee has already addressed the issue of timely disclosure. This legislation would require disclosure of sales within 2 days, a vast improvement over the current deadlines. However, this legislation is silent on the issue of modernizing this arcane paper filing system.

Right now, there is no way for an investor in Missouri to quickly learn that a company executive is selling off company stock. The only ways to get the information are to go to a reading room at the SEC in Washington, or to write a letter to the SEC. These written requests may take weeks to process. This is unacceptable in the electronic age.

My amendment requires that information about insider sales of publicly traded companies be filed electronically. The SEC would then be required to make the forms available to the public over the Internet. Any company that maintains a corporate Web site would be required to post these disclosure forms on the Web site. The SEC, itself, has acknowledged the value of having these forms filed electronically.

I have here a letter from SEC Chairman, Harvey Pitt. He wrote to me that ''expedited disclosure of trading by company insiders is imperative.'' In fact, he applauded the legislation I introduced earlier this year that requires electronic disclosure.

I ask unanimous consent that a copy of this letter be printed in the RECORD.

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

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, March 1, 2002.

Hon. JEAN CARNAHAN,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR CARNAHAN: Thank you for your February 14th letter regarding S. 1897, the Fully Informed Investor Act which you recently introduced. I share your concerns about the issues regarding reporting of insiders' securities transactions that your bill addresses. As we announced on February 13th, the Commission will shortly propose rules that would provide accelerated reporting by companies of insider transactions in public company securities. This is an integral part of our effort to supplement the periodic disclosure system with ''current disclosure'' in order to put information investors want and need into their hands more promptly.

I also share the view reflected in your bill that expedited electronic disclosure of trading by company insiders is imperative, and I applaud your initiative. As you know, the Securities Exchange Act of 1934, rather than

rules adopted by the Commission, sets the deadlines for officers, directors and beneficial owners of ten percent of a class of equity securities of a public company to report their trading in those securities. A legislative solution, therefore, will be necessary to address fully the issue of investors' timely access to information about insiders' securities transactions.

While formal Commission comment on legislation is normally reserved for testimony or a response to a request from a committee or subcommittee given jurisdiction over the bill, we would welcome the opportunity to provide you with technical assistance on your bill if you would find that helpful. I have asked Casey Carter, the Director of our Office of Legislative Affairs, to contact your staff to see if you would like our assistance. Please feel free to call me or to have your staff call Ms. Carter at (202) 942–0019 if you have any questions.

Yours truly,

HARVEY L. PITT.

Mrs. CARNAHAN. This is not a new idea. In fact, more than 2 years ago, in April 2000, the SEC published a rulemaking for its electronic data system. In that rulemaking, the SEC indicated that it ''anticipated'' making insiders file disclosure forms electronically. I applaud the SEC for recognizing the need to modernize, but I am frustrated by the delay. It has been over 2 years since the SEC made this proposal.

An agency that is responsible for monitoring markets where trillions of dollars are electronically exchanged ought to be able to develop a fairly simple electronic database to make this information available.

The Senate now has the opportunity to require the SEC to move quickly. I am very pleased that the bill I introduced earlier this year on this subject was included in the House accounting reform bill. The House has required that insiders file electronically, within one day of their transactions. The House has also required that corporations disclose insider sales on their corporate Web sites.

I encourage my colleagues to support my amendment. We should not make investors wait any longer for these basic reforms.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have an amendment at the desk.

Mr. DODD. Mr. President, I ask to be heard on the Carnahan amendment very briefly. Does the Senator mind?

Mr. DORGAN. How briefly?

Mr. DODD. Two minutes or so.

Mr. DORGAN. I am happy to yield to the Senator from Connecticut, provided that I am recognized following his presentation.

Mr. DODD. I appreciate that.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend my colleague from Missouri for this very fine amendment. I think it is going to make a strong difference by improving electronic reporting. It doesn't get the kind of attention it should.

This is a positive and constructive suggestion. I am a cosponsor of the amendment and commend the distinguished Senator from Missouri for offering the amendment. It makes the bill stronger. It is something all our colleagues will be willing to support. I commend the Senator for her work.

AMENDMENT NO. 4215, AS MODIFIED

Mr. DORGAN. Mr. President, I have an amendment numbered 4215 at the desk. I have submitted a modification of that amendment which I believe has been reviewed by both sides. I ask for its immediate consideration and I ask unanimous consent that the amendment be modified.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment of the Senator from Missouri?

Mr. SARBANES. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. SARBANES. Is this the amendment that deals with the offshore companies?

Mr. DORGAN. Yes.

Mr. SARBANES. I have no objection to setting aside the pending amendments in order to consider this amendment. I understand upon the conclusion of the consideration of this amendment we will revert to the Edwards-Carnahan amendment

Mr. SCHUMER. Reserving the right to object, I believe I have two amendments that have been cleared by both sides. I would like to offer them immediately after the Senator from North Dakota.

Mr. SARBANES. We are hoping to get to the Senator from New York. I make a unanimous consent request that following the disposition of the amendment of the Senator from North Dakota, we turn to the amendments referred to by the Senator from New York.

Mr. ENSIGN. Provided that no second-degree amendments are in order to any of the three amendments.

Mr. SARBANES. Furthermore, upon conclusion of the consideration of the Schumer amendments, we return to the regular order, which I take it would be the Edwards-Carnahan amendment.

Mr. REID. Reserving the right to object, Senator SCHUMER has a number of amendments on the list. I think we better get numbers of those amendments before there is an agreement they be next in order.

Mr. SARBANES. Let us withdraw the unanimous consent request and make it only that Senator SCHUMER be recognized after the disposition of the Dorgan amendment and we can address those questions.

The PRESIDING OFFICER. Is there objection?

Mr. ENSIGN. Reserving the right to object, just to make sure we have this clarified, the unanimous consent request is just to the Dorgan amendment pending, and we would not object as long as the second-degree amendment is not in order to his amendment.

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

The Senator from North Dakota.

Mr. DORGAN. Mr. President, first of all I will offer an amendment that I believe will be accepted. I understand the process is that those who have amendments that will be accepted will be allowed to offer them and those whose amendments are not approved by both sides will not be allowed to offer them. In my judgment, this is not the kind of procedure we ought to use when considering this legislation. But I understand the Senator from Texas indicated he will object to setting aside or laying aside an amendment for the purpose of offering another first-degree amendment unless he agrees with the amendment. I will talk a little bit more about that in a couple of minutes.

I had asked unanimous consent my amendment be modified. Was the consent agreed?

The PRESIDING OFFICER. It was agreed to.

Mr. DORGAN. Is amendment No. 4215 called up at this point?

The PRESIDING OFFICER. The pending amendment is set aside and the clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. GRAHAM of Florida, proposes an amendment numbered 4215, as modified.

Mr. DORGAN. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify that the requirement that certain officers certify financial reports applies to domestic and foreign issuers)

On page 82, after line 24, insert the following:

(c) FOREIGN REINCORPORATIONS HAVE NO EFFECT.—Nothing in this section 302 shall be interpreted or applied in any way to allow any issuer to lessen the legal force of the statement required under this section 302, by an issuer having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside of the United States.

Mr. DORGAN. Let me describe what this amendment is briefly. There was a Wall Street Journal article on July 8 this week titled: ''Offshore-based Firm's Officials Won't Have to Swear to Results.''

The Securities and Exchange Commission's new order requiring chief executives and chief financial officers of the nation's biggest companies to swear to the accuracy of their financial results was intended to restore investors' battered confidence. But two of the companies that have promised the biggest concerns don't have to comply.

Why? Because Tyco International Ltd. and Global Crossing Ltd. are based in Bermuda, even though they conduct many of their operations and have main office in the United States and are listed on the U.S. stock exchanges.

Securities and Exchange Commission spokesmen said large foreign-domiciled companies over which the SEC has jurisdiction,

such as and Global Crossing and Tyco, were excluded from the list because the agency wanted to issue the order ''very quickly.'' Therefore it focused only on U.S. companies.

So the Securities and Exchange Commission says that the chief executives and chief financial officers of some of the biggest companies must swear to the accuracy of their financial results. But in recent times, we have had U.S. corporations decide that they want to renounce their American citizenship and they want to become citizens, for example, of Bermuda. That is called a corporate inversion. They have essentially renounced their American citizenship, saying we are now corporate citizens of another country.

Guess what? Under the SEC order, they are rewarded for leaving the United States, in that their chief executives no longer have to certify financial results. The SEC says: We had to get this done quickly, and we don't expect to change it at this point.

Why does a company renounce its U.S. citizenship? They do it because they don't want to pay U.S. taxes. Very simple. If they can become a citizen of another country and renounce their U.S. citizenship, they can save substantial money on their U.S. tax bill.

At a time when we are at war with terrorists, is that a patriotic thing to do? No, I don't think so. I hope the Senate, and I certainly encourage my colleagues to do this, will shut that door tight and stop these corporate inversions. Stop these corporations from creating a sham of renouncing their U.S. citizenship in order to avoid paying U.S. taxes.

It might be interesting to ask companies such as Tyco: If you get yourself in trouble someplace around the world, who are you going to call? The Bermuda navy? The Bermuda army? The Bermuda marines? You want the full protection of the U.S. Government and the U.S. military and all the benefits that being a U.S. citizen brings along. But then you want to renounce your citizenship and move to Bermuda, in a technical sense, while keeping your offices in the United States and saving big money on taxes. And then, under the SEC order, you don't even have to have your chief executive officers certify the financial results of the corporation.

That is a shame. The SEC should know better. What could they have been thinking? I have accused them of sleeping, but this is not sleeping; this is making really dumb decisions.

I have discussed my concern with the staff of the Banking Committee. They believe that their bill implicitly addresses the reincorporation problem. But Senator GRAHAM of Florida and I said we are not satisfied with ''implicitly'' being covered. We want the issue addressed explicitly.

Let me also say, the technical people smile when I talk about this, but, frankly, it took a day and a half for us to evaluate whether it was implicitly covered in the bill. So because of that, I think it is important to have an explicit provision in this bill that says those companies involved in inversions that renounce their citizenship, they, too, will be required to certify their results. Their chief executive officers and their CFOs will be required to certify their results.

In a moment I will conclude and ask that this amendment be attached to the bill. As I do that, I ask for the attention of the Senator from Maryland and the manager on the other side to say that I have another amendment that I will offer. I understand, based on your process, you don't want it offered now. Let me describe it briefly.

The other amendment deals with the issue of what is called disgorgement of profits.

The top executives of these corporations make bonuses, commissions, and a substantial amount of compensation—some of them hundreds of millions of dollars. Then they issue a restatement of earnings and everything collapses. But they keep their profits and they keep their commissions and they keep their bonuses.

This legislation says you can't do that. When you restate, and just prior to restatement you have made all these bonuses, you have to disgorge this money. It is a $2 word, but I think everybody understands what it means.

The thing that is missing in this bill is that disgorgement should be required in cases of bankruptcy as well. So I have an amendment that will say: Yes, disgorgement in this bill with respect to periods prior to restatement, but also disgorgement for the 12 months prior to the filing of bankruptcy by a corporation as well.

A fair number of people have had a lot to say about this. Former SEC Chairman, Richard Breeden, who was the Chairman of the SEC under President H.W. Bush from 1989 to 1993, said:

> We should consider disgorgement to the company of any net proceeds of stock sales or option exercises within a 6-month or a 1-year period prior to a bankruptcy filing.

So he feels that way.

Goldman Sachs CEO Henry Paulson has also spoken in favor of this idea.

This bill will be incomplete if it does not include disgorgement in the period prior to bankruptcy. Those making a fortune, getting bonuses and commissions of tens of millions, yes hundreds of millions, as their companies are headed to bankruptcy—that is unfair. We need to do something about this.

I will not ask consent at the moment because I want to get my first amendment approved, but I will, following some discussions, either this morning or else on Monday, ask consent to set aside the second-degree amendment so we can consider, in first-degree, this issue. My hope is we would have a 100-to-0 vote on this matter because, failing that, this bill will be incomplete.

This bill is a great bill. I have credited Senator SARBANES and others at length. This is a wonderful piece of legislation that I fully support. It can be and will be improved by my amendments and by the amendments of Senator SCHUMER and others. Let's complete this amendment process.

Let me just say one last thing, if I might.

I know it has taken the patience of Job to try to manage this bill on the floor of the Senate. I understand all the difficulties that Senator SARBANES and Senator REID and many others have had these recent days because I have been here every day when this bill has been on the floor. My aggressiveness in trying to get these amendments considered has nothing at all to do with the wonderful stewardship of the chairman. I am very proud of the result he brings to the floor, and I believe both of my amendments will improve it. I hope I can work with him from now until Monday afternoon to have the bankruptcy amendment included in this legislation.

Mr. SARBANES. Will the Senator yield for just a moment?

Mr. DORGAN. I will be happy to yield.

Mr. SARBANES. Madam President, I simply want to say I think the subject matter with which the Senator's other amendment, that he just referred to, deals is a very important subject, and I think his observations are very much on point. Working with the other side, we are trying to work through the amendment. We are in the process of trying to do that. Of course, we will be continuing to talk with the Senator, and I hope we can resolve it. It would be very helpful. I appreciate his kind words.

Mr. DORGAN. I thank the Senator from Maryland. I ask my amendment be considered at this point and be voted upon.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 4215, as modified.

The amendment, (No. 4215), as modified, was agreed to.

Mr. SARBANES. I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from New York.

AMENDMENT NO. 4295

Mr. SCHUMER. I ask unanimous consent the Carnahan amendment be laid aside, and I send an amendment to the desk which we have talked about.

Mr. SARBANES. Will the Senator describe the amendment?

Mr. SCHUMER. Yes. This amendment is the amendment that enhances the conflict of interest provisions by prohibiting personal loans by issuers to chief officers of the issuer. It has been agreed to by both sides.

Mr. SARBANES. I ask unanimous consent no second-degree amendment to the Schumer amendment, when it is sent to the desk, be in order.

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

Is there objection to laying aside the pending amendment for purposes of

sending up a new amendment? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. SCHUMER) proposes an amendment No. 4295.

Mr. SCHUMER. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To enhance conflict of interest provisions by prohibiting personal loans by issuers to chief officers of the issue)

On page 91, strike line 19 and all that follows through page 93, line 22 and insert the following:

SEC. 402. ENHANCED CONFLICT OF INTEREST PROVISIONS.

(a) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

''(k) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—

''(1) IN GENERAL.—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, in the form of personal loan to or for any director or executive officer (or equivalent thereof) of that issuer.

''(2) LIMITATION.—Paragraph (1) does not preclude any home improvement and manufactured home loans (as that term is defined in Section 5 of the Home Owners Loan Act, consumer credit (as defined in section 103 of the truth in lending act), or any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), that is—

''(A) made in the ordinary course of the consumer credit business of such issuer;

''(B) of a type that is generally made available by such issuer to the public; and

''(C) made by such issue on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.''.

Mr. SCHUMER. Madam President, I also ask unanimous consent that Senator FEINSTEIN be added as a cosponsor of this amendment.

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

Mr. SCHUMER. Madam President, I am going to be very brief because I know we do not have too much time and we have other business. I thank both the majority and minority managers, Senator SARBANES and Senator GRAMM, for their work on this amendment. I have also spoken to the people in the White House who were supportive of this amendment. It is a very simple amendment. It basically says that with certain narrow exceptions, CEOs and CFOs of companies will not be able to get loans from those companies.

In his speech before Wall Street yesterday, President Bush forcefully stated: ''. . . I challenge compensation committees to put an end to all company loans to corporate officers.''

I couldn't agree more. It seems like we didn't learn our lessons during the S&L crisis in the 1980's? These same kinds of transactions were used then to ''cook the books'' and our Nation's economy and financial institutions paid the price for it. Once again, history repeats itself.

My amendment is very simple: it makes it unlawful for any publicly traded company to make loans to its executive officers. Let me give a few examples as to why we should do this.

Executives of major corporations, including Enron, WorldCom, and Adelphia, collectively received more than $5 billion in company funds in the form of personal loans. For example, Bernard Ebbers, CEO of WorldCom, borrowed a mind-boggling $408 million from the corporation over several years, while receiving a compensation package valued at over $10 million annually, all the while the company was facing massive losses. In the case of Adelphia, the Rigas Family received loans and other financial benefits totaling a staggering $3.1 billion, while that company has also reported huge financial losses.

The question is: Why can't these super rich corporate executives go to the corner bank, the Suntrust's or Bank of America's, like everyone else to take loans?

In the case of WorldCom, Ebbers had funded his personal stock market activities by borrowing on margin. When the value of those investments plunged, Ebbers had to pay up. How did he do it? He borrowed money from his board of directors to pay for the stock he had bought that was now being called in.

This is just wrong, and it must be stopped.

I urge the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 4295) was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4296

Mr. SCHUMER. I have a second amendment that has also been agreed to, so I ask, again, the Carnahan amendment be laid aside, and I send the amendment to the desk and ask for its consideration. I ask unanimous consent Senator SHELBY be added as a cosponsor on this amendment on the SPEs.

Mr. SARBANES. I ask unanimous consent no second-degree amendment be in order to the Schumer amendment being sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there objection to laying aside the pending amendments for the purpose of introducing a new amendment? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. SCHUMER), for himself and Mr. SHELBY, proposes an amendment numbered 4296.

Mr. SCHUMER. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require a study of the accounting treatment of special purpose entities)

On page 91, between lines 18 and 19, insert the following:

(c) STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.—

(1) STUDY REQUIRED.—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures to determine—

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.

(2) REPORT AND RECOMMENDATIONS.—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and losses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion;

(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity; and

(E) any recommendations of the Commission for improving the transparency and quality of reporting off-balance sheet transactions in the financial statements and disclosures required to be filed by an issuer with the Commission.

Mr. SCHUMER. Madam President, I will again be brief. This amendment relates to a second problem that we have seen in the latest crisis that we have faced in our financial markets, and that is the special purpose entities. Sometimes special purpose entities have a valid purpose. Many companies use them for valid purposes.

We have seen, particularly most egregiously in the case of Enron, these have been entities that have been used to take losses off the books, and then shareholders, and everybody else, don't know much about them.

Enron, for instance, conducted business through thousands of these with names such as LJM, Cayman LP, and

Raptor. They become pretty famous and the Enron's former CFO, Andrew Fastow, contributed hard assets and related debt to Raptor SPE and then Raptor would turn around and borrow large sums of money from a bank to purchase assets or conduct other business.

This is the key. The debts of this SPE, Raptor, never showed up on Enron's financial statements.

People make money on it. Fastow made $30 million in management fees. These things go way overboard. The way we had proposed originally legislating on this was too complicated, but there are some good ones. There are some with legitimate purposes and many with bad purposes.

Congress can't set these accounting standards, nor should we. Rather, that is the SEC and FASB's job.

We have asked in this amendment that the SEC do a comprehensive study of the SPEs to show where the damage is, point the way to reform, and make recommendations. This amendment does not put Congress in the business of setting accounting standards.

It does, however, say to thousands of Enron and other employees who have lost pensions that we are stepping up to the plate now to stop these kinds of egregious practices.

I add that there are probably many of these SPEs for bad purposes floating around in other companies, and this study cannot come too soon.

We have received agreement. I thank Senators SARBANES and GRAMM.

I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4296) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I thank Senator SARBANES and his staff as well as Senator GRAMM and his staff for their work on accepting these two important amendments that I think improves the bill, which is a very fine bill that I am proud to support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, let me spend a few minutes talking about the underlying legislation, S. 2673.

There has been a great deal of debate over the last good number of days on this issue. I am pleased that we were able to get cloture. It is time we move on to this issue.

The American public, a good many stockholders, a good many pension plans, a good many retirement plans are discussing what are we going to do about the meltdown that last occurred in corporate America at the executive level with some key corporations. It is really, in most instances, a crisis of confidence.

There are a lot of well-run corporations across America that are publicly held. They have historically observed the prudent rules. Their boards have acted responsibly. But there are bad players. There are big, bad players that have had a dramatic impact on the markets. There is no question that we have to deal with this straight away.

When I look at the whole of this issue, it isn't just in the markets where there is a crisis of confidence that Americans share: When you look at 9/11, then Enron, then WorldCom, and, of course, all the scandals that have occurred, and out in the West with the Ninth Circuit suggesting that the Pledge of Allegiance isn't constitutional, put all of that together, and America has to be scratching its head at this moment, asking: Where does all of this take us? Where is that rock of stability that we have come to rely on for so long?

I suggest that when we are debating this issue, while this is an issue that has to be dealt with, and we are now moving appropriately, it is one of a combination of factors that is critically important for our country to deal with.

One issue we have to deal with is the war on terrorism. The DOD appropriations ought to be the first bill we deal with on the defense side to begin to shore up again this sense of confidence in the American structure. Certainly, protecting our soldiers in the post-9/11 fighting that has gone on in Afghanistan is appropriate, and now, as we search out terrorism around the world, that is critical.

The next step I would suggest is the confirming of judges. It is important that we deal with judges. For the judicial system of this country to remain strong, vacancies need to be filled. People should receive their day in court in a timely fashion. That has been one of the hallmarks and the strengths of this country throughout its history, and it ought to be today.

Clearly, I hope we appoint judges who will not act as the ones in the Ninth Circuit who suggested that the Pledge of Allegiance is unconstitutional. I think President Bush has gone a long way in nominating good judges to the Senate.

Yet, the politics here in the Senate today is obvious: Withhold as long as you can. Withhold as long as you can.

The President spoke the other day on Wall Street relating to corporate accounting. The U.S. Senate is speaking today, as they should.

I ask unanimous consent that a commentary by Lawrence Kudlow be printed in the RECORD.

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

[From the Washington Times, July 11, 2002]

A CLASS ABOVE THE CORRUPTION AND CRITICS

(By Lawrence Kudlow)

In front of a New York audience on Tuesday, President Bush unveiled a revised plan to counter corporate wrongdoing and accounting fraud, saying, ''There can be no capitalism without conscience, no wealth without character.'' Adam Smith, the father of free-market economics, couldn't have said it better.

Smith always argued that smooth-functioning markets require ethical behavior at their center. From Day One of his presidency, Mr. Bush has applied this rule even more broadly, emphasizing the need for ethical clarity and moral certitude in all areas of American life. He has successfully applied the rule of ethics to the war on terror, and now he is transferring the very same principle to root out corporate corruption.

From the election campaign to today, poll after poll shows that the public believes Mr. Bush is a leader with strong character and unshakable moral principles. Following the blowups of WorldCom, Enron and Tyco—and many other rotten apples—Mr. Bush's honest outrage has been heartfelt, and not political.

It has also shone above the political carping of Tom Daschle, Al Gore, Richard Gephardt and other national Democrats who would locate the source of the contagious virus of accounting fraud and corporate corruption within the Bush administration. Theirs is a political, reckless, and silly approach to a serious situation. The bad-business bug gained strength and spread well before George W. Bush became president. And today it is a grave problem that requires sober solutions.

Serious Democrats, such as Senate Banking Committee head Paul Sarbanes and Senate Investigations Subcommittee Chairman Carl Levin, have taken a completely different tack from the business-as-usual partisan politics of the Daschle gang.

Mr. Sarbanes has crafted a significant proposal to set up an independent accounting-standards board—one that will end conflict of interests between the auditing and consulting functions, properly score stock options, create new pressure for independent boards of directors, and legislate tough legal sanctions on executives, bankers, auditors, accountants and others who violate the new standards.

The accounting system desperately needs a fix; it is even more incoherent than the dreaded tax code. A new accounting-standards board should come under the aegis of the Securities and Exchange Commission. Along with proposals from the New York Stock Exchange to create truly independent boards of directors, this action will promote honest accounting and shareholder-based corporate governance.

Meanwhile, Mr. Levin has just as seriously proposed giving the SEC, the federal government's principal accounting overseer, the right to levy tough fines on corporate evildoers without having to go to court first.

Suburban liberals like Sens. Sarbanes and Levin, its seems, have suddenly become conservative lawmakers who will ''move corporate accounting out of the shadows,'' as Mr. Bush rightly put it, and protect the basic workings of our wealth-creating capitalist system.

President Bush, in tune with these focused Democrats, has proposed a doubling of the maximum prison term for mail- and wire-fraud statutes from five to 10 years. This severe jail-time penalty will greatly concentrate the executive mind. And so will Mr. Bush's proposal that fraudulently earned bonuses and compensation must be returned;

and so will his request that corporate officers and directors who engage in serious misconduct be barred from again sitting in corporate-leadership positions. More, if the Bush corporate doctrine moves through Congress, top executives will now have to certify their financial statements with their own signatures. False reporting could lead to jail.

It seems that our more serious men in Washington want to bolster the rue of law by strengthening the incentive to choose right from wrong.

Incentives matter. If you tax something more you get less of it. If you tax something less you get more of it. A 10-year jail term for rotten corporate apples—or their accountants—is a huge legal tax on wrongful actions.

Of course, standing behind higher ethical standards in business is the great American investor class. Covering more than 50 percent of American households and more than 80 million people, this group is positively changing financial practices and the political culture. These shareholders have lost enormous wealth, in part from dishonest accounting and egocentric corporate misdeeds. And they're furious.

Financial markets have been democratized in the past 15 years with the rise of this investor class. They have already voted to depress the stock market as a signal of their indignation, and they're now prepared to vote this November against the silly politicians who fail to realize the enormity of the current problem. Consider this: Slightly more than 60 percent of the investor class voted in the last election. This may be the most powerful lobby in America.

In no uncertain terms, this new political movement is forcing Washington to renew the rule of law, strengthen accounting and financial standards across the board, and restore a proper incentive system that will return Adam Smith's ethical epicenter to the greatest wealth-creating machine in all of history. The days of egocentric and corrupt Soviet-style corporation have come to an end. In the stock market, moral amnesia is dead.

Mr. CRAIG. Madam President, I see Chairman SARBANES on the floor. It is not often that Lawrence Kudlow praises the chairman, but he did the other day in an op-ed and commentary that he often writes. He talked about the Sarbanes bill and said:

Serious Democrats, such as the Senate Banking Committee head Paul Sarbanes and Senate Investigations Subcommittee Chairman Carl Levin, have taken a completely different tact from the business as usual—

I will not repeat the remainder of it. But that ought to be a part of the RECORD because I think it reflects the spectrum of the thinking on the floor of the U.S. Senate at this moment. Whether you are conservative, moderate, or liberal, we know that we have to regain the confidence of the American investing public and the world investing public, and for that matter, the market systems of our country and in corporate America.

As long and as loud as many of us speak about the good corporations out there and how well run they are, the moment another Enron occurs or someone else speaks out about misdealings, that confidence is once again dashed.

This legislation moves to create a bright line between, good and bad accounting by separating auditing and consulting services for accountants in public corporations. It requires disclosure of off-balance sheet transactions and other obligations that might affect the corporate financial condition, and it establishes independent auditing boards to oversee corporate accounting.

All of those are very critical in creating bright lines of clarity, understanding, confidence, and stronger enforcement of criminal behavior.

Someone in my State said the other day: You don't have to strengthen the accounting procedure, CRAIG. Put the bums in jail. Those are criminal acts. When you knowingly are distorting the financial strength of a company which affects its stock, destroys retirement funds, employee's stock options, and all of that, it is, in fact, a criminal act.

Our President has said it. Others have spoken on the floor. But there is a line we have to draw. It is not one of grandstanding for political purposes but doing the right thing, to set in place good public policy that directs the free market system in the appropriate fashion. Do we want to make it so restrictive that decisionmaking in the board room means always looking over their shoulder to see that they have done it exactly right against a Federal law when the marketplace is a dynamic place and laws are static?

We know there have to be some static lines attached. There is no doubt about it. Those have to be clear. At the same time, we cannot be so restrictive that we blight the market and send investments outside the United States to the rest of the world.

The Wall Street Journal wrote yesterday that everything you are hearing now from Washington is aimed at winning the November elections and not at calming financial markets. I hope this bill is all about calming financial markets. And I believe the majority of this bill does have that goal. Some of rhetoric may not reflect it. But I truly believe the chairman and the ranking member are working in the direction of building a substantive bill that will go to conference, that works out our differences between the House and that goes to the President's desk.

I hope the Wall Street Journal is wrong. I hope we refrain from making corporate accountability simply another political exercise. It ought not be. It has not been. It should never be.

In Idaho they say: ''You can't hang the same man twice.'' ''You can't hang the same person twice.''

So let's make the laws clear, easily defined, not arbitrary, not like our tax laws today where even the best consultants cannot give good advice.

What we are working with, I hope, is clean and clear and appropriate. There are more than 16,000 corporations under the jurisdiction of the SEC. Of those, no more than a handful have been accused of criminal wrongdoing. In the end—when all the dust settles, the market stabilizes, and investors begin again to regain confidence, and the Congress has acted—no more than a handful of corporations will have been the bad actors.

So I hope and I trust we can finalize what we are doing here today, and Monday possibly. It is important. The bottom line is very simple: Congress needs to act, and act now, and reaffirm the confidence the American people have in our public institutions.

I just came from a Republican bicameral meeting between the House and the Senate Republican leaders. They said: Get us the bill immediately. Assign conferees. Let's go to work. Let's get this out before the August recess.

Let's send a message to the American and the world investor that we have acted timely, that we have acted responsibly. The President has laid down his marker. The House has laid down their marker. It is now time for us to do the same. And in doing so, and in moving with expeditious action—not haste, not in an irresponsible way—I think we can turn to the American people and say: We have put in place the right safeguards, the right protections, the right firewalls. Study the papers, study the financials, and begin, once again, to reinvest in the American marketplace because it will be the right place to put your money.

Madam President, I yield floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I want to pick up on what the Senator from Idaho just said, which is, we were just meeting on the House side among the leadership. One of the messages that was very clear was, when this bill passes, the House is very eager to appoint conferees and to move forward to get a bill out as quickly and as responsibly as possible, to send all the right messages to the investing public and to Wall Street that Congress has seen the problem and that we are ready, willing, and able to act, and act in an expeditious way.

I think it is important for us to act. I agree with that sentiment. The House, obviously, acted months ago in dealing with this problem. We have taken a little bit longer, which we have a tendency to do in the Senate—take a little longer to get things done. But we are now moving forward, and we should not delay in getting to conference. We should not delay in appointing conferees in the Senate. And we should have a process by which we engage in these meetings earnestly and come up with a product, if possible, by the August recess.

It is little difficult. The House is going to be out a week before the Senate. So it is a pretty big task ahead of us, but we should go about it in earnest, and we should do our best to move this forward and send the signals that the Congress has moved as expeditiously as possible to meet the concerns of the investing public about the markets and the reliability of the numbers that corporations are sending out to the investing public.

I have to say, as one of the four members of the committee who voted against this bill in the committee, I have some concerns about the underlying bill that came out of committee. I have some concerns about particularly the impact on some of the small companies that will be governed by this legislation.

A lot has been made that this is a piece of legislation that just deals with publicly traded companies, and so we are talking about the big companies. As any of you who have watched the market for any length of time know, there are a lot of small companies that go into the equity markets and are publicly traded, particularly a lot of technology companies.

A lot of the economic growth engines of our economy are small publicly traded companies. One of the concerns I have is this bill may be appropriate for large multinational corporations—such as General Motors or IBM; you can go down the list; Xerox, whatever—but it may not be particularly an appropriate vehicle of regulation for small-cap stocks.

As you know, there are small-capital stocks, mutual funds, small-cap funds. To apply the same rigorous accounting standards and rules and regulations that very well may be appropriate for these large companies to these smaller companies could have a very significant negative effect on economic growth in our country.

To put these kinds of rules and regulations in place for these small companies is going to be very expensive, very onerous, and make it very difficult for them to conduct business. And remember, folks, who is responsible for economic growth in America, job creation in America. Let me underscore this. We have job claims up again just last week. The economic engine for job creation is smaller businesses. A lot of them are these small publicly traded companies.

It is a very grave concern to me that, yes, we look at these companies we are talking about here. These are big companies that have done a lot of things that, obviously, they should not have done, and with big accounting firms. We are not hearing about scandal in these smaller publicly traded companies that use small accounting firms in most cases. To apply these rules to these smaller companies is really problematic and has a negative effect on our economy.

The last thing I want to see us do—yes, we want to strengthen confidence in the capital markets. Yes, we want to deal with the problems of fraud, and we want to hold people who commit fraud more accountable, and toughen punishments, which is what we have done on the floor. Those are very important things to do. But we should not do that at the expense of jobs and economic growth in our economy.

I understand there is a provision in the bill that allows smaller—any company, I guess, to seek a waiver as to some of the provisions of this act. I know a lot of small businesses, and most of them do not have a lot of money to hire lobbyists and lawyers and other people to come here to Washington, DC, or to New York and plead their case that they should somehow be preempted from the provisions of this act.

You are talking about 16,000 publicly traded companies, most of which—well over 75 percent—are relatively small in size. Imagine the burden of the regulators having to deal with petition after petition after petition.

Senator GRAMM has an amendment, which I presume he will offer on Monday. I am hopeful that the Senate will seriously consider giving the regulatory body some flexibility in providing blanket waivers to classes of companies, or based on some sort of rational scheme of determination of size and scope of a company, that we give a little flexibility to the regulators not to sort of throw all the babies in this one big basket, and understand that there are real significant consequences to jobs and future growth of this economy if we did that.

So I know that is an issue on which we are going to have a discussion next week. But, to me, it is a very significant issue, one where you can be for tougher regulation, you can be for increased accountability, you can be for tougher penalties—all those things, setting up this governing board, having standards in place—you can be for all these things in the bill, but you have to understand that General Motors and ABC Tech Company in Scranton, PA, are fundamentally different entities and should not be treated the same way.

It really is important for us to have some sort of provision for the regulatory body to exempt some of these smaller entities, where some of these regulations do not really apply or misapply, from this scheme of regulation that is in this bill.

So with that, it looks as if we have another Member who might be interested in offering an amendment or giving a speech.

I am happy to yield.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, later I want to address a couple of points made by the Senator from Pennsylvania, but the Senator from Delaware is in the Chamber and wishes to speak. So I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, I know the Senator from Maryland is getting tired of receiving all these bouquets, but he deserves them. Senator ENZI is not on the floor, but he deserves one or two as well, along with others of our colleagues, not just on the Banking Committee but other Members as recently as this morning who offered amendments to this legislation which improve it materially, especially the amendment offered by the Senator from Missouri, Mrs. CARNAHAN. It is all well and good that we say to those who are senior officials within companies, if you have a stock transaction, you have to report it. Give them the paperwork, they report it, and it goes somewhere where few people ever have a chance to see it or be aware of it. It is quite another thing to list that transaction, do it electronically so anyone who has access to the Internet can find out about it. Senator CARNAHAN's amendment includes this electronic disclosure, and that is a very good improvement to the legislation.

I like what the Senator from North Dakota, Mr. DORGAN, has offered today, with respect to the process where we have companies normally registered and incorporated here in a State in America who somehow slip off to Bermuda and incorporate. We actually provide an incentive; if we don't adopt the Dorgan amendment, we provide an incentive for that kind of behavior. Not only does that have an adverse effect on States such as New York or Delaware or Maryland or Pennsylvania, it also has an adverse effect on shareholders because the heads of companies that are registered or incorporated in a place such as Bermuda would otherwise not have to sign off and vouch for the financial statements they are providing.

Even as recently as this morning, a good bill has gotten better.

I appreciate the amendment offered earlier by Senator LOTT on behalf of the President and the addition of a number of provisions in the bill that the administration supports, and, frankly, I think we all should.

I came across an interesting column this week. I didn't know if I would read it, but given that the Senator from New York is presiding, I have to at least read the first paragraph. This is a column by a fellow who writes in the LA Times and is syndicated across the country, Ronald Brownstein. I will read a paragraph and perhaps ask unanimous consent that the entire column be printed in the RECORD.

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

BUSH NEEDS TO DROP THE VELVET GLOVE APPROACH

(By Ronald Brownstein)

It's easy to imagine the frenzy that would be engulfing Washington if it was President Clinton now revising his explanation of a controversial 12-year-old stock deal.

Bush Limbaugh would be roaring in outrage. Robert H. Bork would be decrying the loss of moral authority in the Oval Office. Sen. Arlen Specter, R-Pa., would be demanding a special prosecutor. Congressional committees would be subpoenaing the president's old business partners.

President Bush probably will be spared all that, even after suddenly altering his explanation for why he was eight months late in reporting to the Securities and Exchange Commission his 1990 sale of stock in Harken Energy Corp., a company on whose board he sat, shortly before it announced large losses. (For years he blamed it on the SEC; now he's fingering Harken's lawyers.)

After the fanatical ethics wars of the Clinton years, few in Washington have much stomach for a full-scale confrontation—though the Washington Post raised eyebrows by revealing Bush's former personal attorney was the SEC general counsel at the time commission cleared him of wrongdoing in the stock sale. The attorney, James Doty, says he reused himself.

The demands of the war against terrorism also will discourage a political firefight over the sale. But even so, the disclosures were still creating awkward moments for Bush as he prepared to call for greater corporate responsibility.

Actually, the focus on Bush's behavior 12 years ago may frame the wrong debate. It's likely that the dominant argument in Washington will be over whether it's credible for Bush to demand better corporate behavior while facing these personal questions. The more relevant issue is whether it's credible for Bush to threaten a crackdown now after his administration spent its frist 18 months promising business kinder and gentler enforcement of the range of federal laws against corporate misconduct—from the environment to the stock markets to the workplace.

In other words, can Bush plausibly shake the iron fist after stroking the Fortune 500 for so long with a velvet glove?

BUSINESS AS USUAL

For all the nouvelle elements of Bush's thinking on social issues such as education or home ownership, he's always been a conventional conservative on government oversight of business. As governor of Texas, presidential candidate and president, Bush has focused more on intrusive government than irresponsible corporations.

His consistent message has been that, in pursuing its goals and enforcing its laws, government should be more cooperative and less coercive. During the 2000 campaign, he crystallized his view on government's relationship with business when he insisted: ''I do not believe you can sue you way or regulate your way to clean air and clean water.''

Bush has put flesh on that philosophy by staffing many federal agencies with alumni of the industries they now regulate. The Interior Department is crowded with former lobbyists for the coal and oil industries. A former timber lobbyist is watching the national forests Harvey L. Pitt, the SEC chairman, came from the accounting industry; Bush already has appointed another accounting industry alum to the five-member commission and nominated yet a third. (That means Bush is seeking to construct an SEC, for the first time, with a majority of commissioners tied to accounting.)

To monitor safety in the workplace, Bush found an executive from the chemical industry. To monitor safety in the mines, he appointed an executive from the mining industry. The list goes on.

In chorus, Bush's appointees have sung the same tune. At her confirmation hearing last year, Environmental Protection Agency Administrator Christie Whitman promised more negotiation and less litigation against recalcitrant companies. ''Instilling fear does not solve problems,'' she insisted.

Over at the Occupational Safety and Health Administration, director John Henshaw as late as last month told a business audience: ''Hopefully we can put the days of OSHA as an adversary behind us.''

And before Enron and WorldCom and Martha Stewart forced the SEC chair to try to morph into Harvey Pitt-bull, he was sending the same message, telling the accounting industry last fall that he viewed them as the agency's ''partner'' and pledging ''a new era of respect and cooperation'' after the confrontations of the Clinton years.

Partnership with industry has its place. But enforcing federal law to police the market place isn't it. No cop anywhere would agree with Whitman; they instead would argue that the best way to discourage drug dealing or street crime is to instill fear—of relentless enforcement. The same is true in the boardroom. Polluters or stock swindlers are more likely to stop because they fear being caught than because Washington asks them nicely.

Mr. CARPER. Here is the first paragraph:

It's easy to imagine the frenzy that would be engulfing Washington if it was President Clinton now revising his explanation of a controversial 12-year-old stock deal. Rush Limbaugh would be reacting in outrage. Robert Bork would be decrying the loss of moral authority in the Oval Office. [One of our Senators] would be demanding a special prosecutor. Congressional committees would be subpoenaing the president's old business partners.

This is a whole lot more important than trying to find political advantage in a particularly difficult debate and a difficult time in this economic recovery. This is about the economy.

As a nation, we are trying to come out of a recession. There is a fair amount of financial data which suggests we are heading in the right direction. The number of people being laid off is slowing. Manufacturing activity is increasing. Even economic activity among some of the most hard-hit sectors of the economy, technology sectors, is showing signs of life. I am encouraged by that.

If you look at the stock exchange for much of the last several weeks and months, it does not really reflect the returning, emerging vibrancy in the rest of the economy. That is not a good thing.

One of the reasons why it is so important for us to pass this legislation is to send a clear signal to investors not just around the country, but around the world that the United States is a good place in which to invest. Our trade deficit last year was about $300 billion. This year it is going to be even more than $300 billion.

We are starting to see the value of American currency, the dollar, which was robust and strong for the last several years, deteriorate. The worst thing that could happen for us, at a time when we need to attract foreign investments, would be to send a message that the United States is not a good or safe place in which to invest. When we are looking to much of the rest of the world to help finance a trade deficit of over $300 billion, it is important that we send a strong message throughout the world that the U.S. remains the best place in which to invest.

There are a number of provisions. I will not go through this bill provision by provision. I want to talk about some of the groups that have the greatest interest, the most at stake, what our obligation is to them, and how this legislation seeks to make sure that we not only recognize that obligation but that we act on it.

Shareholders of companies, publicly traded companies, should have confidence. They should have confidence not only in the CEOs and top officials, but they should have confidence in the board of directors whose job it is to represent the interest of the shareholders and to know that that board is indeed independent. Shareholders should have confidence in the audit committees of the board. Investors should know that the audit committees of the board are comprised of independent-minded board members, knowledgeable board members who will act, not as a lap dog, but as a watchdog every day as they serve on the audit committee.

Shareholders should have confidence that there are rigorous auditing standards that exist in this country and not that there are rigorous auditing standards that are on a piece of paper somewhere, but there is a strong, independent, knowledgeable entity that is going to make sure that those auditing standards are enforced.

How about the auditors of publicly traded companies? We should take away from them the temptation to look the other way or give the benefit of the doubt to a company that they are auditing because of the temptation from some other part of the auditing company which deals with consulting services; in many cases, these are lucrative services. We want to make sure the folks doing the audits of publicly traded companies are interested in doing a good job because that is their responsibility. Auditors should not be interested in cutting corners, looking the other way because doing so might enable their accounting company to attract and to retain lucrative consulting services.

This bill goes a long way—some would say too far—toward curtailing that activity. To me, it strikes the right balance.

Most of us know of someone who used to work for one of the big eight, then big five, now the big four accounting firms who actually went to work for one of the companies that they audited. I do. I suspect all of us could think of someone who has made that transition in their lives. There is nothing wrong with that. However, the revolving door can be more troublesome when the person moves from the auditing company one day, the company responsible for doing the audit, and the next day, the next week, the next month ends up as a senior official of the company that last week, last month they were auditing.

This measure doesn't completely stop that revolving door, but it slows it down.

Another area that this bill tries to address is the question: How often is it appropriate to have a fresh set of eyes in charge of those independent auditors doing that independent audit of a publicly traded company? Under current standards every 7 years we say that the lead partner of an audit should be changed. This measure takes it down to 5 years. Not everyone agrees with

that. Some would like to have a change in auditing companies, requiring auditing companies to rotate every 5 or 7 years. I don't think that is a good idea. I do believe the approach we take in this measure, moving from 7 to 5 years the period of time after which the lead auditor, the lead partner has to be changed, is sound.

How about investors? I talked about shareholders, about the auditors themselves. How about investors? The investors in this country and other countries need to be comforted by the knowledge that when they hear an analyst on television or read of an analyst's recommendation of a particular stock or stocks, when an analyst says buy, they mean buy. When an analyst says sell, they mean sell. When an analyst says hold, they mean hold.

Investors have the right to know that the analysts whose advice they are following or attempting to follow are not being pressured to color their recommendations of a buy, sell, or hold by what is happening on the investment banking side of the business, and to know that the analyst's compensation is going to be derived more from how well the analyst does his job, providing good analysis and investment advice, and not about how much new business that analyst can help bring to the investment banking side of their company.

How about the CEOs and senior management? When they break the law, they should be fully prosecuted under the law, and if what they have done is an offense for which they can be imprisoned, they ought to be. Our job in the Congress is to pass laws and to say what the crime or penalty should be when people violate those laws.

It is the job of the Justice Department to fully prosecute—with the help of the SEC and the other watchdog agencies—people who violate the laws. Senator LEAHY, on behalf of a number of Senators, earlier this week—yesterday, I believe—offered legislation that provides a new law that says not only can we prosecute some of the corporate wrongdoers—I am tempted to call them criminals, but I won't—who violate the trust, and to not only say you have to go after them under the mail and fraud provisions of the criminal code, but to broaden that—which is sometimes difficult to do—and make the prosecutions more easily done and with very tough penalties under another part of the code.

CEOs should not be allowed to profit from financial misinformation or from manipulation of their books. I commend the President and those who have worked on this legislation to say, to the extent that this does happen—a CEO or senior official benefits financially from tampering or cooking the books—they would be compelled to give that money back.

I mentioned earlier the legislation offered by Senator CARNAHAN of Missouri which would actually make sure there is a disclosure of sale when a CEO or senior official sells their stock; that the transaction would not only have to be reported to the SEC, but disclosed electronically.

Another provision in the bill that I think is especially good and timely, given what has gone on at WorldCom, where apparently a senior official of that company received a $360 million loan from the company—a loan which I don't believe the shareholders ever knew about—at least when they found out about it, it was too late for a lot of them. That kind of information should be fully disclosed promptly and through a medium that allows those who have some need to know—investors and shareholders—to have that information in a timely way.

Finally, a word about the employees who work for some of these companies that have gone through, or are going through, a meltdown. They need, I think, recourse when they are urged, on the one hand, by senior officials to buy company stock for their 401(k) investment plans at the very time when senior officials are bailing out of the company stock. There should be some kind of recourse for employees when that happens. In the belief of what is good for the goose is good for the gander, employees should never again face the situation that Enron employees faced where, during a lockdown period of time, employees could not sell their stock while senior officials were able to bail out and sell their stock. What is good for the goose is good for the gander. To the extent that employees in a lockdown period are not able to sell their company stock in their 401(k) plan, the senior officials of the company should not be able to enter into transactions involving their stock either.

There is one thing I don't believe we address in this bill; the others I mentioned, we do. One area we do not address—and I suspect it comes later—and a member of the staff will tell me if I am mistaken. One of the problems we have with 401(k)s for the employees, the investors, is that they don't get very good advice. The companies don't want to be held liable if they provide bad advice when all is said and done. And when we move on to other issues, I hope we will have agreed on a way to better ensure that the employees who are not getting very good advice do get that good advice.

I worry about the concentration of assets and investments. I know some people believe there should be a cap and that they should not be able to invest any more than half or a quarter in company stock for your 401(k). If I am an employee and I am buying company stock, maybe I should have to sign a form that is an acknowledgment that I am about to do something very stupid—something similar to what the employees did at Enron, where they put all their eggs in one basket—and acknowledge that is not a bright thing to do, and acknowledge that I am doing that unwise thing myself. Maybe that is needed here. In addition to that kind of disclosure, I think we do need to address the need for better advice for employees.

I will go back to where I started; that is to say, a lot is riding on this legislation—a whole lot more than we would have guessed 6 months ago. Six months ago, as we saw Enron melt down and the disclosures come forward, we thought it was one company that was poorly run, maybe fraudulently run. A lot of people were hurt who worked at that company. A lot of people who worked for the auditor, the accounting firm, Arthur Andersen, have lost their jobs and were, frankly, fully innocent, but they have been harmed. Six months ago, there was a full sense of outrage at Enron and the people who led it to its fall.

We know now that what happened at Enron may not be precisely the same as other companies, but it is symptomatic of the behavior in other companies, where the people who run those companies do not meet their obligations to the shareholders, to the employees, and where greed has corrupted too many people. While it is difficult for us to pass a law outlawing greed, we can try to outlaw fraud. But it is tough to do that; I acknowledge that.

With the developments within a whole host of other companies—disclosures of financial mismanagement and misstatements, misrepresentation of performance of other companies in recent months—the importance of what we are doing this week and next has grown. We need to get this economy moving in the right direction. I believe that, underneath, a lot of the fundamentals are pretty sound. If you look at growth, and productivity, and the manufacturing activity to which I alluded earlier, there is some good news. The troubling news is what is going on in the stock market, as investors are skittish, and that is understandable.

We can begin to restore, in a very meaningful and tangible way, the confidence of those investors in America and in American companies, and we ought to do that.

The last word I will say is this. I commend Chairman SARBANES. He is not presently on the floor. I also commend the committee staff and personal staffs for the kinds of hearings that have been held this year which have led us to this day. Chairman SARBANES is not the sort of person who is interested in rushing out and being on television every night. He is not interested so much in seeing his name or picture in the newspaper. He is interested in getting at the truth. I think the hearings that were held over many months have led us to finding the truth and, maybe just as important, to finding the right course for us to take as a nation, to be able to right some of the wrongs that have been done and to reduce the likelihood that further wrongs will occur in the future.

I know some have been impatient for us to get to this day and to take up

this legislation, pass it, and to send it to the President. I think it has been worth the wait. I acknowledge that not everything that needs to be done ought to be done by the Congress. The stock exchanges have made a number of excellent changes, and they are to be commended. Many companies and many corporate boards, that have sort of been tarred with the same brush, and senior officials and CEOs who are doing a good job in acting and behaving in a most important way, have been tarred and feathered with the same brush.

A lot of companies have said, themselves, they have taken a look in the mirror—boards of directors, audit committees, and others—and said: We can do better. And they have adopted reforms. Shareholders—market forces—have come to bear on companies, their boards of directors, as they should, and that is helpful as well.

In the end, there are some things the Congress can do and ought to do, maybe not all of them, but a lot of them are included in this legislation before us. I am proud to have participated as a member of the Banking Committee in its development and proud to be a witness to the work that is going on in this Chamber to make a good bill even better. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan.

Mr. LEVIN. Madam President, in a moment I am going to ask unanimous consent that the pending amendment be set aside and that I be allowed to call up amendment No. 4283. This amendment relates to stock options. The amendment is one line. It says that the standard-setting body for accounting principles that is set up in this bill shall review the accounting treatment of employee stock options—just review it—and shall within a year of enactment of this act adopt an appropriate generally accepted accounting principle for the treatment of employee stock options. They shall review it within a year and adopt an appropriate standard.

There has been a huge amount of debate about stock options. Recently the Republican Senate staff of the Joint Economic Committee issued a report about ''Understanding the Stock Option Debate.'' In that report, it concluded that, ''Basic principles of financial accounting imply that stock option awards should be treated as a cost in corporate financial statements, and this cost should be recognized at the time of grant.''

We have a Republican Senate staff report which, after reviewing all of the pros and cons, concludes that stock option awards should be treated as costs in financial statements. It is a very strong document. It is an analysis that I recommend to people to read.

Our amendment, however, does not do that. Our amendment, which is an amendment I am offering on behalf of myself, Senator MCCAIN, and Senator CORZINE, simply says that the board we are funding in this bill should review the accounting treatment of employee stock options and adopt an appropriate standard.

How anybody can be opposed to the proper accounting board doing a review and coming up with an appropriate standard is something beyond my understanding. I can understand the arguments, the pros and the cons. I have been through them for 10 years. I have argued that we ought to treat stock options like any other form of compensation, and I believe we should. But I do not set accounting standards. That is not my job. That is the job of this newly independent board to set accounting standards, and we should urge them to take a look at this. This is where this matter should be referred and at a minimum, Madam President, I ought to be allowed to get a vote on this amendment.

This is a germane amendment. We are in a postcloture situation, and I do not know of a time—there may be; I have not been around here as long as some—but I do not know of a time when a germane amendment postcloture has not been permitted to go to a vote.

Apparently, that is what is going to happen, from what I hear. I hope it is not true, and I do not want to be unfair to my good friend from Pennsylvania. He may not object. But I think it is a misuse of our rules now I am going to get to a process issue—to not permit a germane amendment postcloture to be voted on. And this amendment is germane.

On the stock option issue, we have everyone from Alan Greenspan to economists. Let me read the list of some of the people who support a change in stock option accounting: Alan Greenspan; Paul Volcker; Arthur Levitt; Warren Buffett; TIAA-CREF, one of the largest pension funds in the United States for teachers; several economists; Paul O'Neill; Standard & Poors; Council for Institutional Investors; Citizens for Tax Justice; Consumer Federation of America; Consumers Union; AFLCIO; on and on. They believe that stock options are a form of compensation, they have value, and they should be part of the expenses on the books of a corporation just as they are taken as a tax deduction at this point.

One of the driving factors in the corporate abuses that we have seen are the huge gobs of stock options which have been handed out to executives. Then executives push accounting principles beyond any comprehension to raise the value of the stock and then exercise their options and sell the stock. We have seen this situation repeated in corporation after corporation, and I believe we ought to try to put an end to it, but that is not what this amendment does. This amendment simply says: We are creating a newly independent board. This independent board should decide on what the appropriate standard is. That is why we are providing independent funding for it.

I want to read a part of a Washington Post editorial of April 18, 2002:

> Alan Greenspan, perhaps the nation's most revered economist, thinks employee stock options should be counted, like salaries, as a company expense. Warren Buffett, perhaps the nation's foremost investor, has long argued the same line.

Skipping down:

> The London-based International Accounting Standards Board recently recommended the same approach. In short, a rather unshort list of experts endorses the commonsense idea that, whether you get paid in cash or company cars or options, the expense should be recorded. . . .

Why does this matter? Because the current rules—which allow companies to grant executives and other employees millions of dollars in stock options without recording a dime of expenses—make a mockery of corporate accounts. Companies that grant stock options lavishly can be reporting large profits when the truth is that they are taking a large loss. In 2000, for example, Yahoo reported a profit of $71 million, but the real number after adjusting for the cost of employee stock options was a loss of $1.3 billion. Cisco reported $4.6 billion in profits; the real number was a $2.7 billion loss. By reporting make-believe profits, companies may have conned investors into bidding up their stock prices. This is one cause of the Internet bubble.

Then this editorial goes on:

> But nobody wants to ban this form of compensation; the goal is merely to have it counted as an expense.

Madam President, that is what most of the accounting profession, economists, and business people, other than those executives who are taking such huge amounts of stock options, want to do. This is what the Accounting Standards Board wanted to do in 1993, but then were beaten down so badly that they had to come up with an alternative instead called disclosure.

Even when the accounting board decided to do that—which was not an independent accounting board because it did not have an independent source of financing, unlike this accounting board will have after we enact this bill—and now to read their report of 1994. The board issued an exposure draft called, ''Accounting for Stock-Based Compensation,'' and they decided that stock option values should be expensed. Then they said the draft was extraordinarily controversial, and the board not only expects but actively encourages debate on issues. Then they pointed out in the FASB document that the controversy escalated throughout the exposure process.

Then in paragraph 60 of their findings, the FASB board said the following, that ''the debate on accounting for stock-based compensation unfortunately became so divisive that it threatened the board's future working relationship with some of its constituents. The nature of the debate threatened the future of accounting standards-setting in the private sector.''

This is an extraordinary document and everybody should read it so people understand the kind of pressure that not only that board was under—hopefully, the newly independently funded board will not be under—but the kind of pressure which exists in this Congress. We have, in essence, a new board, because it has an independent source of funding. We ought to let that board reach an independent conclusion on one of the most controversial, contentious issues we have before us.

This is a tremendous bill we are voting on. But it can be strengthened. It is not a perfect bill, and from the point of view of pure fairness and deliberation, this Senate should be allowed to vote on a germane amendment postcloture.

I will read one additional paragraph from the FASB document report to set out the extent of the pressure which exists in this area and why it is so important there be a review of this whole matter by an independent board.

In December 1994, the board said it decided that ''the extent of improvement in financial reporting that was envisioned when this project was added to its technical agenda was not attainable.''

Why was it not attainable, the FASB said? Because the ''deliberate, logical consideration of issues that usually leads to improvement in financial reporting was no longer present.'' These are incredible words. This is from the board that is supposed to set accounting standards in this country. They wrote in their report that when their proposal to expense stock operations was issued, it was not attainable because the ''deliberate, logical consideration of issues that usually leads to the improvement in financial reporting was no longer present.''

Why was it no longer present? Because the debate had become so divisive, in their words, that it threatened the board's future working relationship with some of its constituents.

The nature of the debate, they wrote, threatened the future of accounting standards-setting in the private sector.

Finally, the board, beaten down, threatened with extinction, said this: ''The board chose a disclosure-based solution for stock-based employee compensation to bring closure to a divisive debate on this issue, not because it believes the solution is the best way to improve financial accounting and reporting.''

That was in 1994. We have seen what has happened in terms of stock option abuses because this board, if it had proceeded in the way it thought best, would have gone out of existence.

This bill creates a newly independent board, a board that has an independent source of revenue. This bill, it seems to me, is not complete, is not strong, unless we now say to this country that the newly independent board should review this accounting standard and reach an appropriate conclusion.

This amendment, which is cosponsored by Senators MCCAIN and CORZINE, does not say what that conclusion is. It does not, unlike the McCain amendment which was not allowed a vote yesterday, conclude that stock options should be expensed. It does say we have an independently funded board which should review this matter and reach the appropriate conclusion.

Mr. REID. Will the Senator yield for a question?

Mr. LEVIN. I would be happy to.

Mr. REID. I am just curious. I am not sure I should get involved at this stage because the Senator knows the subject so well, but this board that is set up in this proposed law, they would not have authority to do that on their own?

Mr. LEVIN. They would.

Mr. REID. Why do we need your amendment?

Mr. LEVIN. Because this Congress has been on record as saying what the accounting standard should be. In the early 1990s we took a position. This neutralizes that position. This says, the accounting board is the right place. The Senate is on record by a vote of 88 to 9 as saying there should not be the expensing of stock options. What this amendment says is that the board should decide. It should review this matter. It takes a neutral position, thereby clearing the record as to what the position of this Senate is.

As of now, all we have on record is that stock options should not be expensed. What this amendment would say is, you should review this and reach an appropriate standard.

Mr. REID. My question to the Senator was, If we did not have the Senator's amendment, would the board not have that authority anyway?

Mr. LEVIN. They could do it, but all that there would be on the record would be our last statement saying they should not expense. That same kind of pressure we put on them would still be on the record, and I think that should not be the last statement this Senate should make on this subject.

The last statement we ought to make on this subject is that the accounting board is the appropriate place to make that decision, not the Senate.

Mr. REID. I still ask my friend for the third time, if we have no Levin amendment, it would seem to me this newly created board would still have authority to do what the Senator is talking about.

Mr. LEVIN. Under the cloud we created in 1994. I would refer my friend to the debate in this body back on May 3, 1994, where the Senate reached a conclusion that it is the sense of the Senate, that was approved by, again, a vote of 88 to 9 or something like that, that the Financial Accounting Standards Board should not change the current generally accepted accounting treatment of stock options.

Mr. SARBANES. Will the Senator yield?

Mr. LEVIN. I am happy to yield.

Mr. SARBANES. I asked the Senator to yield because I do want to underscore that the legislation that is before us takes a major step in trying to guarantee the independence of the Financial Accounting Standards Board in terms of how it provides for its funding, and that is a dramatic improvement of the situation because heretofore the standard board had to seek voluntary funding. So the standards board ended up going to the people for whom it was establishing the standards in order to get money to fund its operations. Well, when it came to the crunch—and this issue was one such crunch as far as the Financial Accounting Standards Board was concerned—the people from whom they were voluntarily getting the money said we are not going to give you any money. You are not going to be able to carry out your activities.

So we moved in this legislation because one of the things we require is that the issuers pay a mandatory fee. If you are an issuer, you are registered with the SEC and you have to pay a fee. That goes into a fund and that fund pays for the budget of the Public Accounting Oversight Board and the budget of the Financial Accounting Standards Board, so they are assured a revenue source.

I urge people to stop and think about that because it is a very important step to ensuring the independence of both boards. But here we are talking about the Financial Accounting Standards Board, and the dramatic change from its previous situation.

So it really will have, at least on the budget side, the independence to go ahead and make these decisions as they choose to call them. The issue that becomes involved in all of this otherwise is the question, Should the Congress of the United States be itself actually establishing accounting standards? Of course, as the Senator indicated, when an opinion was voiced on that a few years ago, it went in one direction. And now people want the Congress to come along and express an opinion in another direction. I have some sympathy. Obviously, we have seen things happen. Most people might have sympathy.

But we come back to the basic question, whether the Congress should be doing this. We set up this accounting standards board so it could make independent judgments. Unfortunately, there is no question about the fact that previously the standards board was subjected to tremendous pressure which affected its ability to make an independent judgment. It got tremendous pressure from industry groups, pressure from Congress reflecting the pressure of industry groups, and of course this exposure on its budget.

We have tried in the legislation to address this very basic question of making sure this board has its independence. That does not reach to the specific issue the Senate is now addressing, but I wanted that on the record. It is important that be understood.

Mr. REID. Mr. President I ask unanimous consent I be allowed to speak using my own time for up to 2 minutes.

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

Mr. LEVIN. I will conclude, but I need to reclaim the floor because apparently all time otherwise is counted against my allotted time postcloture.

Mr. President, I ask unanimous consent the pending amendment be set aside and that I be allowed to call up the amendment I filed at the desk relative to this subject which I understand has been ruled germane.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Reserving the right to object, I want to make a couple of points.

No. 1, the Senator from Michigan suggested that all amendments that are germane postcloture should be allowed to be offered. I wish that were the case. I wish we had the opportunity to do that in all situations, but that has not been the case in this Senate, or has not been necessarily the history of the Senate. There have been many instances where germane amendments have not been allowed to be offered postcloture.

No. 2, I make a point and reiterate the point that the chairman of the committee has made. The Senator from Michigan has made the point that FASB has been compromised because it wanted to do things and it felt constrained by the constituency which funds it. We have set up an independent funding source for FASB now, and I think that would allow a lot more independence to be able to deal with these accounting issues, such as the way we treat stock options, in a way that allows an independent judgment.

Finally, while we do have a sense of the Senate that is 8 years old on this issue, the Congress has never directed FASB to study an issue of accounting. This is precedent setting. There is nothing in this bill that directs FASB to do anything. It is an independent board. It sets up the accounting standards. I think there is no question that it will in all likelihood review this issue.

For the Congress to begun to weigh in—even 8 years ago, we did not direct FASB to do this; we simply expressed our opinion. To direct FASB to do something would be a very bad precedent to set.

I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I see no reason that a vote should not be permitted on this amendment. That is what this objection leads to. I urge we come back on Monday, or whenever we do come back, and I will make this motion again because this is a critical issue, that is not addressed in this bill, which is a big part of the lack of credibility we have right now in our markets. It needs to be addressed in some way. This is a neutral way to do it.

The arguments given by our friend from Pennsylvania are reasons to vote no on an amendment. They are not reasons to prevent an amendment from being called up and being offered.

I will say again, I don't know where an amendment that is ready to be offered is not permitted to be offered because postcloture one side of the aisle has decided it is going to leave a first- and second-degree amendment standing out there without a vote in order to prevent other germane amendments from being voted on. I don't think that has ever happened. Obviously, we have reached the end of the 30 hours at times and there are still germane amendments that are pending. But this is not that situation.

There is no further debate on the Carnahan amendment that I know of. Why not vote on the Carnahan amendment? There is no further debate—or if there is, let the debate take place so that other people can offer their germane amendments. That is being precluded here. I believe it is a misuse of postcloture rules to do that.

That being the situation, I will be offering a unanimous consent at this time that my amendment be made in order at 2 p.m. on Monday.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. I object.

Mr. LEVIN. I thank the Chair, and I will make a unanimous consent request again on Monday that we be allowed to offer germane amendments in the time that remains on Monday and that we not be precluded by a blocking action which, it seems to me, is a distortion and a misuse of the postcloture rules which are intended to allow 30 hours to consider germane amendments. If that 30 hours is being used up and either being sworn off or not used, it seems to me that then precludes consideration of highly relevant—indeed, germane—amendments which are important to strengthening this bill.

I thank the sponsors of this bill. It is a strong bill. There is no reason we should not be able to vote on a way to make it stronger.

I yield the floor.

Mr. GRAHAM. Mr. President, I appreciate the chance to speak about the Public Company Accounting Reform and Investor Protection Act. I would like to strengthen section 302 of this legislation which is entitled, ''Corporate Responsibility For Financial Reports.''

I have discussed several ideas with Senator SARBANES and greatly appreciate his leadership on this legislation. He has been tireless in his efforts to strengthen corporate accountability and protect the American investing public.

My first area of concern involves companies that have chosen to move their headquarters overseas. This legislation requires that CEOs and CFOs sign a statement saying that the financial documents they have filed are fair and accurate. This is consistent with an order just issued by the Securities and Exchange Commission, SEC, that requires CEOs and CFOs to attest to the accuracy of their company's most recent financial statement.

But there is a glaring omission to this recent SEC order. Only companies that are U.S.-based would be required to send in these signed documents. If a company once based in the U.S. has fled our shores and gone overseas for tax reasons, they now just received a reward for leaving our Nation. Those CEOs and CFOs would not have to sign financial documents and attest to their accuracy.

The SEC has also overlooked the accuracy of future financial documents by non-U.S.-based companies. Under a proposed rule, that is in the ''open comment period,'' foreign based companies are again enjoying a lesser standard of accountability. This is wrong, and unfair to American companies.

In the proposed rule, the SEC does invite comments on how to cover overseas-based companies. However, this could be a case of ''too little too late.'' If companies are being publically traded in the United States, regardless of where their headquarters are located, they ought to be required to meet the same level of accountability that we are establishing for everyone else in this legislation.

Let's not give U.S.-based companies one more reason to leave our Nation and incorporate someplace else. We need to hold all companies in our markets to the same high standard—there should be no reward of a lower standard if your company leaves the U.S. for a new overseas headquarters.

My staff placed a call to the SEC to uncover the reason why foreign based companies were excluded from their recent order. To the credit of the SEC, they wanted to act quickly. They thought that the quickest way to promulgate this order was to cover only U.S. based companies. However, in doing this quickly, they ended up sending the wrong message. U.S. based CEOs and CFOs are ''on the hook'' in signed statements. Foreign-based CEOs and CFOs, simply put, are not.

Senator DORGAN and I want to change this. We want it to be clear in the statute that no matter where your company is based, you must comply with this obligation. Senator DORGAN has filed an amendment to correct this, amendment No. 4125.

I appreciate the consideration that the floor managers, Senator SARBANES and Senator GRAMM, have given our amendment and I encourage all my colleagues to support us in this effort. I look forward to seeing it in the final legislation.

Mr. JOHNSON. Mr. President, I rise today to urge my colleagues to take swift and decisive action to stem the tide of corporate greed that is eroding the integrity of America's capital markets. I am a strong believer in the free

enterprise system, and I am proud of America's leadership in creating tremendous economic opportunity for all investors, big or small, domestic or foreign. However, it is time that Congress curb the appalling corporate excesses and misinformation that have hurt investors, employees and taxpayers. Passage of the Public Company Accounting Reform and Investor Protection Act is a critical step in addressing these concerns.

It is tempting to blame the problems corporate America is facing on just a few bad actors. For the most part, America's business men and women are industrious, innovative, and honest people who work hard to build our economy and provide jobs for our communities. However, we simply cannot ignore the shocking number and size of failed or failing companies, the marked increase in earnings restatements, and the profound toll this has taken on hard-working Americans. In fact, state pension funds have plummeted more than $1 billion from the WorldCom restatement and billions more from other companies involved in the scandals.

In light of these inexcusable revelations, it is hard to believe that these problems are just isolated instances. Almost daily discoveries of accounting irregularities at some of America's largest and most highly respected companies, such as Enron, WorldCom, Tyco, and Xerox, to name just a few, clearly demonstrate the need for systemic accounting and corporate governance reform. Just recently, in fact, the Wall Street Journal reported that the drug company Merck may have understated revenue by over $12 billion.

We must address systemic problems that are undermining the efficiency and transparency of our free market system, and which are eroding the faith of everyday Americans in the fundamental fairness of American business practices. We must clean up the current corporate culture that rewards misleading financial reporting and lax or corrupt corporate governance. We need strong legislation that will end the conflicts of interest and lack of disclosure that have misled investors and shaken their faith in America's financial markets. And we need to ensure that the SEC has the tools and money it needs to become a strong and formidable enforcer of securities laws. A kinder and gentler SEC serves only those corporate executives who have something to hide.

The Public Company Accounting Reform and Investor Protection Act addresses these problems in a way that limits regulatory burden but provides affirmative measures to restore the integrity of our free market system. I support the bill's creation of a strong Public Company Accounting Oversight Board and restrictions on non-audit services accounting firms can provide to public company audit clients. Further, the bill imposes tough new corporate responsibility standards and implements controls over stock analyst conflicts of interest. Also, the bill requires public companies to quickly and accurately disclose financial information, so that high-level executives don't have a head start over small investors in bailing out when a company is in trouble. Finally, the bill ensures that the SEC has the resources to accomplish its mission of regulating the securities markets.

On this last point, I was disappointed that President Bush's budget did not include money that the Banking Committee authorized last year that would have strengthened the SEC. The SEC has long been hobbled by its inability to compete for top-notch employees because of a pay scale that was out of line with other financial regulators. Late last year, Congress passed, and the President signed, H.R. 1088, which provided pay parity for SEC employees. Unfortunately, the President's budget did not allocate additional funds, making it difficult if not impossible for the SEC to carry out its enforcement mission. I am pleased that President Bush is now calling for additional funding for the SEC, which should be better able to police public companies with adequate resources.

Without the threat of real consequences, however, dishonest corporate executives have little to fear from being caught with their hands in the cookie jar. For this reason, Congress must implement a plan to hold irresponsible corporate executives responsible for their actions. We must not allow these criminals to hide behind the corporate veil, while stealing millions of dollars from hard-working Americans. In that vein, I support provisions contained in the Corporate and Criminal Fraud Accountability Act, sponsored by Senator LEAHY. The bill would provide stronger criminal penalties for corporate managers who defraud investors of publicly traded securities, criminal prosecution of persons who alter or destroy documents related to investigations, and protection for corporate whistleblowers against retaliation by their employers, among other provisions designed to protect investors from corporate greed.

Finally, I believe that we should take a strong stance against another form of corporate greed: corporations that profit from American consumers, yet intentionally dodge U.S. taxes by moving their headquarters abroad. It is outrageous that these so-called ''American'' companies take advantage of the benefits of operating in this country and yet shirk even the most basic responsibilities of corporate citizenship. That's why I strongly support the Tax Shelter Transparency Act, sponsored by Senator BAUCUS, which would close the loopholes that allow corporate executives to use evasive accounting tactics to enrich themselves on the backs of American taxpayers.

Before I close, I would like to thank Chairman SARBANES for his leadership on this important issue. I also want to thank the Chairman as well as the Banking Committee staff for conducting a series of ten inclusive and comprehensive hearings on the issues addressed in his bill. The content of those hearings provided a conceptual foundation for our subsequent discussions of Senator SARBANES' bill and a previous bill proposed by Senators DODD and CORZINE. In addition, our work has been enhanced by the fine contributions of Senator ENZI, who is the Senate's only Certified Public Accountant. The deliberative process used to develop this legislation has led to an appropriate, thoughtful, bipartisan bill that makes great strides in addressing the problems in our financial markets and restoring investor confidence.

Ms. LANDRIEU. Mr. President, I would like to voice my strong support for S. 2673, the Public Company Accounting Reform and Investor Protection Act. This legislation will bring accountability to our corporate boardrooms and end the accounting abuses that threaten to undermine the free enterprise system.

The hallmark of our economic system is free, fair, and open competition. The system rewards innovation, efficiently, and hard work. It allows individuals to take an idea, a dream, or an invention; build a business around it; and turn it into a livelihood. Some of our greatest corporations today started with just one idea.

The recent revelations from Wall Street have thrown much of this in doubt. For the Enrons, and WorldComs of the world, success was based on hiding losses, misstating earnings, destroying documents, and getting cozy with their so-called ''independent'' auditors and the stock analysis who are supposed to give the stock buying public objective information. Instead of winning through open competition, these companies and others won through accounting sleight-of-hand.

The price of this deception has been too high. While much has been made in the media about how far the Dow, the NASDAQ, and the S & P 500 have fallen on Wall Street, the real pain is being felt on Main Street—in retirement plans, pensions, and the investment portfolios of hard working people in our country. The pain is being felt by the very wealthy and people with modest means. Fortunately no Louisiana-based corporation has been caught up in this mess and hopefully that will remain the case, but many Louisiana investors were not so lucky.

Many have said that all of these problems have been caused by a few bad apples. But when we hear about corporations hiding losses, creating off-book partnerships, insider trading, and inside loans to corporate officers, it means that something may be wrong with the whole tree: the tree is rotten because of loopholes in regulations and limited oversight.

My State of Louisiana is home to a large number of small businesses—94,000 of the employer businesses in my state employ fewer than 500 people—

and they employ about 54 percent of the state's workforce. This does not include the estimated 135,000 self-employed people in my state. I find myself wondering what small business owners think of all of the news reports about these big, sophisticated corporations and their crooked accounting?

Small business owners work hard to keep clean books. They do not have a team of creative accountants that turn losses into gains. The small business does not create sham, off-book partnerships to hide losses. I have never heard of a small business being forced to restate its earnings. Small business grow by playing by the rules. Many small business owners dream of taking the honest approach to turning their ideas and dreams into big businesses. How disheartening must it be for them to see that in the world of big corporate business the way to get ahead is by cheating.

The bill before us today will help restore faith in the free market. It creates a strong oversight board that will set auditing standards for public companies backed up with the power to investigate abuses. It gets rid of the inherent conflict of interest faced by accounting firms that provide management consulting services to their auditing clients. Here on the floor we have added tough criminal penalties to this bill and given greater protections to whistles blowers. The whistle blower protections are an especially needed reform. We want the honest people in business to know that there is still a place for them.

We must take this opportunity to restore confidence in the free market. I urge my colleagues to vote in favor of this legislation and I want to commend the chairman of the Committee, Mr. SARBANES, for bringing this legislation to the floor.

VOTE EXPLANATION

● Mr. KERRY. Mr. President, due to a longstanding commitment I was necessarily absent for the vote on cloture on the Public Company Accounting Reform and Investor Protection Act of 2002 (S. 2673). Although my vote would not have affected the outcome, had I been present, I would have voted for cloture on the bill.●

ANDEAN TRADE ACT

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 3009.

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

The Presiding Officer (Mr. BAUCUS) laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 3009) entitled ''An Act to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes'', and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House.

From the Committee on Ways and Means, for consideration of the House amendment and the Senate amendment, and modifications committed to conference: Mr. Thomas, Mr. Crane, and Mr. Rangel.

From the Committee on Education and the Workforce, for consideration of section 603 of the Senate amendment, and modifications committed to conference: Mr. Boehner, Mr. Sam Johnson of Texas, and Mr. George Miller of California.

From the Committee on Energy and Commerce, for consideration of section 603 of the Senate amendment, and modifications committed to conference: Mr. Tauzin, Mr. Bilirakis, and Mr. Dingell.

Mr. REID. Mr. President, I ask unanimous consent that the Senate disagree to the House amendment, agree to the request for a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate with the ratio being 3 to 2.

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

TO AMEND FOREIGN ASSISTANCE ACT AND THE GLOBAL AIDS AND TUBERCULOSIS RELIEF ACT

Mr. REID. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 2069 and the Senate proceed now to that matter.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2069) to amend the Foreign Assistance Act of 1961 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan Africa and other developing countries.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

AMENDMENT NO. 4297

(Purpose: To amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria; to amend the Public Health Service Act with respect to the authority of the Department of Health and Human Services to act internationally with respect to HIV/AIDS, tuberculosis, and malaria; and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KERRY, Mr. FRIST, Mr. KENNEDY, Mr. BIDEN, and Mr. HELMS, proposes an amendment numbered 4297.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments''.)

AMENDMENT NO. 4298

Mr. REID. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KERRY, Mr. FRIST, Mr. KENNEDY, Mr. BIDEN, and Mr. HELMS, proposes an amendment numbered 4298.

Mr. REID. I ask unanimous consent the 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 title)

Amend the title to read as follows: ''An Act to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria; to amend the Public Health Service Act with respect to the authority of the Department of Health and Human Services to act internationally with respect to HIV/AIDS, tuberculosis, and malaria; and for other purposes.''.

Mr. REID. I ask unanimous consent both amendments at the desk be agreed to; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table, all with no intervening action or debate; and any statements be placed in the RECORD at the appropriate place as if read.

Mr. SANTORUM. Reserving the right to object—and I will not object—this is a very important piece of legislation for the continent of Africa and has to do with AIDS relief, tuberculosis, and other infectious diseases. There is a provision in this legislation that Senator BIDEN and I have offered on debt relief for Third World countries. This is a vitally important piece of legislation that dovetails very well with the President's initiative in trying to stem the scourge of AIDS in Africa and provide some hope for some of these heavily debt ridden countries.

I am very pleased we were able to do this in wrap-up today. I will not object.

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

The amendment (No. 4297) was agreed to.

The amendment (No. 4298) was agreed to.

The bill (H.R. 2069), as amended, was read the third time and passed.

Mr. DASCHLE. Mr. President, I am very pleased that we have just passed a bill that will give the President and his team the tools they will need to back up their words about fighting the scourge of HIV and AIDS with action.

The omnibus HIV, AIDS, TB, and malaria authorization bill vastly increases our focus on treatment, giving hope to the millions of people already infected with this virus. It intensifies our ongoing prevention efforts. And it makes a new commitment to training local health care workers so that underdeveloped nations can create modern health infrastructures.

The bill also authorizes nearly $5 billion over 2 years so that this commitment is matched with the resources to get it done. But unless we work in a bipartisan fashion to see that money appropriated, this bill offers little more

than false hope. I want to commend Senators KENNEDY, KERRY, BIDEN, HELMS, FRIST, and GREGG for their leadership on this vital effort. And I want to ask the House of Representatives to match the commitment the Senate has shown.

More than 20 million people have already died from HIV/AIDS. Last year, 5 million people contracted the virus, more than half of these new infections in young people. The UN estimates that 65 million more people could die by 2020. These numbers are so horrible as to seem unreal. But they are real, and we must act. Nothing we can do here is the solution—but today the Senate is taking a step, and a meaningful one.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all I thank our majority leader for his leadership in the development of this legislation, which is true bipartisan legislation. It is the United States Leadership on HIV/AIDS, Tuberculosis, and Malaria Act to deal with the AIDS pandemic that is most evident in the continent of Africa, and also expanding it through India, central Asia, China, and so many parts of the Third World.

I am grateful to him for his persistence in making sure that this legislation would pass just a few moments ago. I thank him and I thank the cooperation of our Republican leader as well, making sure the Senate would go on record, as it did a few moments ago, in favor of this extremely important legislation.

At the outset I want to acknowledge the very strong leadership of my friends and colleagues in this body who have been very much involved in shaping and helping develop this legislation: Senator KERRY, my colleague from Massachusetts, who had introduced very similar legislation with members of the Foreign Relations Committee, Senators BIDEN, BOXER, DASCHLE, DEWINE, DODD, DURBIN, FEINGOLD, FRIST, HAGEL, HELMS, LEAHY, LUGAR, SANTORUM, SARBANES, SMITH of Oregon, and WELLSTONE. This is truly not only bipartisan, but it is also a real reflection from all different philosophies, of the recognition that the United States has an important opportunity—in many respects, a responsibility—to take action.

I am grateful to all those Members for their support of our legislation. I also thank a number of our colleagues, Senators EDWARDS, FEINSTEIN, FRIST, HARKIN, JEFFORDS, MIKULSKI, MURRAY, and REED, who are strong supporters of this program.

We, in America, know the pain and the loss that this disease cruelly inflicts. Millions of our fellow citizens—men, women, and children—are infected with HIV/AIDS, and far too many have lost their lives.

While we still seek a cure to AIDS, we have learned to help those infected by the virus to lead long and productive lives through the miracle of prescription drugs. But this disease knows no boundaries. It travels across borders to infect innocent people in every continent across the globe. We have an obligation to continue the fight against this disease at home. But we should also share what we have learned to help those in other countries in this life-and-death battle. And we must do all we can to provide new resources to help those who cannot afford today's therapies. We must carry the fight against AIDS to every corner of the globe, and the legislation passed this afternoon is a step in that direction.

The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2002 provides new legal authority and funding to our nation's strongest health care agencies to join the global battle against AIDS. It promotes models of community-based care that reach the real people affected by this disease; better access to the research and therapies needed to prevent transmission of this deadly disease; and most importantly, funds research and treatment models to prevent transmission of HIV/AIDS from mothers to their infants including the family support service necessary to stem the orphan crisis.

Governments can make the difference in battling this epidemic. When governments in poor countries have been provided resources to fight the spread of AIDS, infection rates have dropped 80 percent. With this legislation, the United States will do its part to support countries to turn the corner on AIDS on their own.

I am pleased that the administration increased funding for the fight against the global AIDS epidemic, and together with this legislation, we can truly lead the international community in the fight against the greatest public health threat of our times.

I have a summary of the legislation that I ask unanimous consent to have printed in the RECORD. I think it will help people better understand the aspects of the legislation that can really not only make an immediate lifesaving difference to millions of our fellow human beings in Africa but to those other Third World countries as well.

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

SUMMARY OF THE UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2002

The bill strikes all after the enacting clause of the House-passed HIV/AIDS bill (HR. 2069) and inserts S. 2525 (Kerry) and S. 2649 (Kennedy). Both bills have broad bi-partisan support.

S. 2525 (Kerry) was co-sponsored by Senators Biden, Boxer, Daschle, DeWine, Dodd, Durbin, Feingold, Frist, Hagel, Helms, Leahy, Lugar, Santorum, Sarbanes, Smith (OR), and Wellstone. S. 2649 (Kennedy) was co-sponsored by Senators Bingaman, Clinton, Corzine, Daschle, DeWine, Dodd, Durbin, Edwards, Feinstein, Frist, Harkin, Jeffords, Mikulski, Murray, Reed, Santorum, and Sarbanes.

The S. 2525 portion of the bill would:

Mandate a comprehensive, integrated 5-year U.S. government strategy for promoting goals and objectives of the June 2001 UN General Assembly Declaration of Commitment on HIV/AIDS;

Require the U.S. Agency for International Development (USAID) to develop an ''empowerment of women'' plan, including provision of currently available technologies to prevent the spread of HIV/AIDS;

Create a new HIV/AIDS Response Coordinator in the Department of State;

Create a new Health Care Provider Service and Training Program enabling American health care professionals to provide basic health care services and on-the-ground training to African and other countries severely affected by HIV/AIDS, tuberculosis and malaria; and

Require a comprehensive report on U.S. efforts to increase access to treatment for people living with HIV/AIDS.

The bill would authorize more than $4.5 billion over two years for U.S. efforts to fight global HIV/AIDS, tuberculosis and malaria. Of this, $2.152 billion would be authorized in FY 2003, including $1 billion for the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria, and $2.521 billion would be authorized in FY 2004, including $1.2 billion for the global Fund.

The bill would require a new 5-year strategy to meet or exceed the maternal-to-child transmission (MTCT) goals in the UN Declaration of Commitment on HIV/AIDS; create a new Assistance to Children Program to provide care and treatment to parents and/or care givers infected with HIV; and mandate a comprehensive report on U.S. government MTCT and MTCT plus programs.

The bill would authorize expansion of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative to achieve debt reduction for health programs; expand the Department of Defense's HIV/AIDS Prevention Education Program to include countries beyond Africa and international peacekeepers; and set forth an HIV/AIDS Code of Conduct for U.S. Businesses Abroad.

Funding levels for this portion of the bill are summarized in the attached chart.

The S. 2649 portion of the bill would: authorize $400 million (in 2003) for the Centers for Disease Control and Prevention (CDC) and Health Resources Services Administration (HRSA) to work in collaboration with USAID to carry out care, treatment, and capacity building for HIV/AIDS, malaria, and tuberculosis in countries with, or at-risk for severe HIV/AIDS epidemics.

The bill would authorize $50 million (in both 2003 and 2004) for grants for clinical education and training in the delivery of HIV/AIDS care and treatment services; authorize $45 million (in 2003) and $30 million (in 2004), out of amounts authorized under Prevention and Treatment, for public-private partnerships to prevent mother-to-child transmission; provide for inter-agency coordination of global HIV/AIDS initiatives under the Secretary of Health and Human Services (HHS); direct the HHS Secretary to write a strategic plan to carry out and support microbicide research, develop research teams through contacts with private and public entities, and report to Congress on this initiative; and authorize $10 million (in 2003) for the Department of Labor for work-based prevention and education programs that protect against discrimination, promote on-site wellness, and strengthen collaboration among governmental, business, and labor leaders.

Mr. KENNEDY. Mr. President, I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

ORDER OF PROCEDURE

Mr. REID. Mr. President, we intend to be back on this bill at 1 o'clock on Monday. I ask unanimous consent the Senator from Michigan, Mr. LEVIN, be recognized at 1 o'clock when we resume consideration of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that when the Senate reconvenes on Monday and resumes consideration of this bill at 1 o'clock, there be 5 hours of time left postcloture.

The PRESIDING OFFICER. 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 up to 10 minutes each.

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

ANNIVERSARY OF THE REORGANIZATION OF THE SENATE JUDICIARY COMMITTEE

Mr. LEAHY. Mr. President, this week marks the first anniversary of the reorganization of the Senate Judiciary Committee following the change in majority last year. This past year has been a busy one for our committee .

Just this week the Senate adopted as an amendment to the accounting reform and investor protection bill the text of S. 2010, the Corporate and Criminal Fraud Accountability Act. That is a bill we reported in May after committee action in February and April. The Senate also acted on important amendments offered by Senator BIDEN, Senator HATCH, and Senator EDWARDS to that bill and many members of this committee have made important contributions to improve these measures over the last several months.

In the days and months following the terrorist attacks on September 11, members of this committee led the Senate in its responses leading to enactment of the USA PATRIOT Act, the Enhanced Border Security and Visa Entry Reform Act, the Terrorist Bombings Convention Implementation Act, and the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act. The committee also reported a number of resolutions to honor the victims of those attacks with the Public Safety Medal of Valor and the Law Enforcement Tribute Act, S. 2431. We continue to work on important matters for victims of terrorism.

We have reported a number of other law enforcement related measures including the Drug Abuse Education, Prevention and Treatment Act, S. 304; the Federal Judiciary Protection Act, S. 1099; the National Child Protection Improvement Act, S. 1868; the Safe Explosives Act, S. 1956; the National Cyber Security Defense Team Authorization Act, S. 1989; a bill clarifying the definition of ''vehicle,'' S. 2621; and an annual authorization for the Department of Justice, S. 1319 and its House counterpart H.R. 2215. The committee reported the Local Law Enforcement Enhancement Act, S. 625, which is an important hate crimes bill; and the COPS Reauthorization Act, S. 924, which extends the highly successful COPS Program. We have also reported legislation on identity theft, such as the Social Security Number Misuse Prevention Act, S. 848, and the Restore Your Identity Act, S. 1742.

In addition, we have reported a number of measures to improve competitive business conditions and protect consumers, such as the Drug Competition Act, S. 754; the Motor Vehicle Franchise Contract Arbitration Fairness Act, S. 1140; and the Product Packaging Protection Act, S. 1233. We have acted on important intellectual property legislation, such as the Madrid Protocol Implementation Act, S. 407; the TEACH Act, S. 487; and the Patent and Trademark Office Authorization Act, S. 1754, as well as related House measures H.R. 1866 and H.R. 1886.

We have reported and worked on a number of immigration matters, including the Anti-Atrocity Alien Deportation Act, S. 864; the Child Status Protection Act, S. 672, and its House counterpart, H.R. 1209; a bill for children of Vietnamese refugees, H.R. 1840; bills to provide work authorization for spouses, H.R. 2277 and H.R. 2278; and others.

Among our most important work has been our aggressive oversight efforts involving the Department of Justice, the FBI, the INS, and the Civil Rights Division. Our oversight efforts have already led to the committee's reporting a bipartisan FBI Reform Act, S. 1974, which is awaiting Senate action.

This week the committee finally began its consideration of a most important legislative initiative we began years ago, the Innocence Protection Act, S. 486.

All in all, in our first year we reported 80 legislative matters and over 250 Presidential nominations to the Senate. We have held more than 100 hearings during our first tumultuous year.

We have had a record year in considering this President's nominees. Partisans have perpetuated an untrue and unfortunate myth that the Democratic-led Senate and Judiciary Committee have blocked the President's nominees. Nothing could be further from the truth.

The Democratic-led Judiciary Committee has had a recordbreaking year fairly and promptly considering President Bush's nominees. In addition to the dozens of high-ranking Justice Department officials for whom we held hearings, and our work in connection with more than 180 executive branch nominees the committee reported, we have had a record year with respect to judicial nominees.

In this, our first year, we held hearings for 78 of the President's nominees. That is more hearings for this President's district and circuit court nominees than ever held in any of the 6½ years that preceded the change in majority last summer.

In particular, we held more hearings for more of President Bush's circuit court nominees, 16, than in any of the 6½ years in which the Republicans controlled the committee before the change in majority last summer. For that matter, we held twice as many hearings for court of appeals nominees than were held in the first year of the Reagan administration when the Senate was controlled by Republicans and five times more than in the first year of the Clinton administration when the Senate was controlled by Democrats. Those are the facts.

Under Democratic leadership, this Committee in its first year also voted on more judicial nominees, 74, than in any of the 6½ years of Republican control that preceded the change in majority. We voted on almost twice as many circuit court nominees, 15, than the Republican majority averaged in the years they were in control. In fact, this last year we voted on more nominees than were voted on in 1999 and 2000 combined and on more circuit court nominees than the Republicans allowed during 1996 and 1997 combined. And the committee voted on an additional court of appeals nominee yesterday.

We have achieved what we said we would by treating President Bush's nominees more fairly and more expeditiously than President Clinton's nominees were treated by Republicans. By many measures the Senate Judiciary Committee has achieved almost twice as much this last year as Republicans averaged during their years in control.

The Senate has confirmed more circuit and district court judges, 57, than were confirmed during 2000, 1999, 1997, 1996, and 1995, 5 of the prior 6 years of Republican control of the Senate. Republicans averaged 38 confirmations a year. By contrast the Democratic Senate achieved 57 judicial confirmations in our first 10 months, before the Administration's obstructionism stalled Senate floor actions on nominations for more than 2 months. There are another 17 judicial nominees on the Senate Executive Calendar. The delay in the votes on these nominees has been due to the delay in the administration's fulfilling its responsibility to work with the Senate in the naming of members of bipartisan boards and commissions.

I congratulate the majority leader for overcoming this impediment and for his patience and determination in achieving some movement on these matters. I understand that he hopes to be able to resume voting on judicial nominations as soon as next Monday. Had the administration not caused this delay, I am confident that the Senate would have confirmed more than 70 judicial nominations before the end of this week and far outdistanced any Republican total for any preceding year. Nonetheless, we were able to overcome the other obstacles created by the administration and proceed to confirm 57 circuit and district court nominees in our first 10 months in the majority, a record outpacing any Republican total in any 10-month period in which they held the majority.

We have also addressed longstanding vacancies on circuit courts caused by Republican obstruction of President Clinton's judicial nominees. We held the first hearing for a Fifth Circuit nominee in 7 years, the first hearings for Sixth Circuit nominees in almost 5 years, the first hearing for a Tenth Circuit nominee in 6 years, and the first hearings for Fourth Circuit nominees in 3 years.

We have reformed the process for considering judicial nominees. For example, we have ended the practice of anonymous holds that plagued the period of Republican control, when any Republican Senator could hold any nominee from his home State, his own circuit or any part of the country for any reason, or no reason, without any acknowledgment or accountability. We have returned to the Democratic tradition of holding regular hearings, every few weeks, rather than going for months without a single hearing.

It would certainly have been easier and less work to retaliate for the unfair treatment of the last President's judicial nominees. We did not. We have been, and will continue to be, more fair than the Republican majority was to President Clinton's judicial nominees. More than 50 of Clinton's nominees never got a vote; many languished for months and years before they were returned without a hearing. Others waited years—not just a year, but up to more than 4 years to be confirmed. Some never were accorded a hearing, some were finally confirmed after years of delay.

Those who now seek to pretend that the Democratic majority in the Senate caused a vacancy crisis in the Federal courts are ignoring the facts. Under Republicans, court vacancies rose from 63 in January 1995 to 110 in July 2001, when the committee reorganized. During Republican control before the reorganization of the committee, vacancies on the courts of appeals more than doubled, increasing from 16 to 33. That is what we inherited. But in 1 year of Democratic control, and despite 45 additional vacancies caused largely by the retirements of many past Republican appointees, we have reduced the number of district and circuit court vacancies.

Vacancies continue to exist on the court of appeals, in particular, because a Republican Senate majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's circuit nominees in 1999 and 2000, and was not willing to confirm a single circuit judge during the entire 1996 session. Republicans caused the circuit vacancy crisis, and it has taken a tremendous effort to evaluate and have hearings for 16 circuit court nominees in less than a year.

We are hard at work evaluating the records of the few remaining nominees who have not yet had hearings. While we have moved as quickly as possible to evaluate all of the nominees, the Senate is not, and should not be, a rubber stamp. If this President is successful in filling all of the vacancies he inherited due to Republican obstruction as well as the new vacancies that have arisen on the circuits, Republican appointees will constitute the majority, and often a two-thirds majority, on 11 of the 13 appellate courts below the Supreme Court. Such a takeover would affect the next 20 years of judicial decisions coming from the courts of appeal.

The President and his advisers know this and, aside from the few relatively moderate nominees we have been able to confirm quickly, they have also chosen a number of people with records of judicial activism or out-of-mainstream ideology, including several young men in their thirties and early forties, for many of these lifetime appointments to the federal bench. What the President and his advisers acknowledge they are doing is nominating ideologically conservative judicial nominees to stack the fifth, sixth, and DC Circuits with judicial activists of their choice. That is part two of the Republican strategy.

In part one, several Republicans in the Senate prevented many of these vacancies from being filled in the first place, so that whatever balance there might be, or might have been, on those courts is missing. They kept off well qualified moderate nominees, not chosen because of any litmus test or ideology. They did so to provide a Republican President with the opportunity to load the bench, especially the appellate court bench, with right wingers.

Advice and consent does not mean giving the President carte blanche to pack the courts. The ingenious system of checks and balances in our Constitution does not give the power to make lifetime appointments to one person alone, to remake the courts along narrow ideological lines, to pack the courts with judges whose views are outside of the mainstream, and whose decisions would further divide our Nation.

We have worked hard to balance these competing concerns over the past year: how to address the vacancy crisis we inherited, while also not being a rubberstamp and abdicating our responsibilities to provide a democratic check on the President's choices for lifetime appointment to the Federal courts. These are the only lifetime appointments in our system of government, and they matter a great deal to our future.

In 1801, when Thomas Jefferson, the first President who was not a member of the Federalist Party was elected, he faced a similar situation. The Federalists in Congress had passed, and the lame duck President Adams had signed, a bill creating a number of new seats on the Federal courts. President Adams then appointed a number of Federalists who have been called ''midnight judges.'' One of the first things President Jefferson did was to get that law repealed and to refuse to sign the appointment papers of some of those judges. That is part of the story of the famous Supreme Court case, Marbury v. Madison.

Thus, it took only 12 years of our new Nation for an effort to pack the courts to occur. It took the first transition in political parties for one to give in to the temptation to try to stack the deck and affect the outcome of cases through the appointment of judges.

The best-known attempt to pack the courts occurred during the administration of President Franklin Roosevelt. President Roosevelt's attempt to pack the Supreme Court with justices of his choosing, to get more votes on the side of cases he wanted to win, was rejected by Congress and the American people.

If one thoroughly examines the types of nominees this President is sending us, one might conclude that we are facing another attempt to pack the courts. The Senate Judiciary Committee is working very hard to analyze all of President Bush's judicial nominees fairly, one by one. In our first year, we have already had 21 hearings on 78 judicial nominees, including 16 circuit court nominees. We are planning another hearing for next week.

In the meantime, Republicans have been unfairly critical that not every nominee has yet had a hearing or been confirmed. Some have asserted that there is some sort of ''honeymoon'' period for Presidents in getting confirmation of their first choices for the courts. Of course, the Constitution provides for no such abdication of responsibility for a President's first few lifetime appointees or his last. To support this extra-constitutional theory, Republicans assert that the last three Presidents had a 100-percent confirmation rate of their first several circuit court nominees. When they say this, they conveniently leave a few details out. First, it took previous Senates more than a year to confirm 11 circuit court nominees of past Presidents. We have only had a year and the Senate has already confirmed nine of this President's circuit court nominees and five more are awaiting a vote by the full Senate.

President George W. Bush has said previously that he would choose judges

in the mold of two ideologically conservative activists, Justice Scalia and Justice Thomas. No judicial nominees should be rubber-stamped by the Senate, not even a President's first few choices. All nominees for these lifetime positions merit careful review by the Senate. When a President is using ideological criterion to select nominees, it is fair for the Senate to consider it as well. Federalist Society credentials are not a substitute for fairness, moderation or judicial temperament. When a President is intent on packing the courts and stacking the deck on outcomes, consideration of balance and how ideological and activist nominees will affect a court are valid considerations for Senators entrusted by the Constitution to evaluate these lifetime appointees.

The high dudgeon expressed by Republicans about the order in which we have been considering this President's circuit court nominees is especially unwarranted in light of the objectively unfair way they treated President Clinton's circuit court nominees. Some of the vacancies we inherited date back to 1990, 1994 and 1996.

Partisans conveniently ignore the Republicans' terrible record of obstruction when they complain that a few of President Bush's nominees have not yet had a hearing. Those nominees chosen without consultation with both parties in the Senate and, in particular, those who do not have home-State Senator support do not get hearings, according to longstanding Senate tradition. Republicans have tried to measure our achievements by standards they never met but surely even they are not now suggesting overriding the longstanding Senate tradition of consent or blue slips from both home-State Senators on which they themselves insisted. Republicans averaged only seven confirmations a year for President Clinton's circuit court nominees. We confirmed nine in our first 10 months.

I have tried to work with the White House on judicial nominations. I have gone out of my way to encourage them to work in a bipartisan way with the Senate, like past Presidents, but in all too many instances they have chosen to bypass bipartisanship. I have encouraged them to include the ABA in the process earlier, like past Presidents, but they have refused to do so even though their decision adds to the length of time nominations must be pending before the Senate before they can be considered.

This past January, I again called on the President to stop playing politics with judicial nominations and act in a bipartisan manner. Just last month I sent a detailed letter to the President on these issues. My efforts to help the White House improve the judicial nominations process have been rejected. My most recent effort met with a perfunctory acknowledgment or receipt, which I will ask unanimous consent to have printed in the RECORD at the end of my remarks. Unfortunately, this letter is about the most constructive response that I have received from the White House to my many efforts to improve the process and speed up the filling of judicial vacancies with qualified, fair-minded judges.

Republican statements on judicial nominees regularly rely on superficially appealing but misleading statistics to gloss over the types of nominees they are choosing for our Federal courts. For example, they complain that Presidents Reagan, Bush and Clinton got 97, 95 and 97 percent, respectively, of their first 100 judicial nominations confirmed. What they conveniently fail to mention is that it took 2 full years for President Reagan to have 89 of his judicial nominees confirmed, and well into year 3 to reach the 100 mark. Similarly, the first President Bush had only 71 judicial nominees confirmed after 2 full years, and it took well into year 3 to reach 100 confirmations.

We are moving quickly, but responsibly, to fill judicial vacancies with qualified nominees we hope will not be activists. In our first year we confirmed 57 judges and reported 74 judicial nominees. Partisans ignore these facts. The facts are that we are reporting President Bush's nominees at a faster pace than the nominees of prior Presidents, including those who worked closely with a Senate majority of the same political party. We have accomplished all this during a period of tremendous tumult and crisis.

The Judiciary Committee noticed the first hearing on judicial nominations within 10 minutes of the reorganization of the Senate, and held that hearing on the day after the committee was assigned new members. Yesterday was the 1-year anniversary of that first hearing for Judge Roger Gregory, who was initially nominated by President Clinton, but like so many other judicial candidates, including other African-American nominees to the Fourth Circuit, his nomination languished without a hearing by the Republican-controlled Senate. Because of this history of inaction on such nominees to that court, President Clinton made a recess appointment to make Roger Gregory the first African-American judge in history to sit on the Fourth Circuit, and he sent his nomination for a permanent position on that court back to the Senate at the beginning of the 107th Congress. Unfortunately, President Bush withdrew Judge Gregory's nomination in March of 2001, but he finally sent it back to us later that year. When the Senate Judiciary Committee held the hearing on the nomination of Judge Roger Gregory to the Fourth Circuit last year, it was the first hearing on a Fourth Circuit nominee in 3 years, although five nominees to that court during that period were never given hearings by Republicans.

Subsequent to that hearing, we held unprecedented hearings during the August recess last year and proceeded with a hearing 2 days after the 9 11 attacks and shortly after the anthrax attack. We will hold our 22nd hearing for judicial nominees next week. We are doing our best to address the vacancy crisis we inherited.

The Senate Judiciary Committee and the Democratic-led Senate has a record of achievement and of fairness to be proud of on this anniversary. I thank the Members who have worked cooperatively with me to make progress in so many areas over the last year.

Mr. President, I ask unanimous consent that the letter previously referred to be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, June 27, 2002.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: This is to acknowledge the receipt of your letter to the President expressing the need for bipartisan cooperation while the Senate considers judicial nominations.

I hope you will understand that in light of the tragic events of September 11th, enhanced screening of all incoming White House mail prevented our office from receiving your correspondence and providing you with a prompt reply to your letter.

I have shared your letter with the President's advisors and the appropriate agencies who have been formulating policy recommendations in this area. Your letter is receiving their close and careful attention.

Thank you for your patience.

Sincerely,

NICHOLAS E. CALIO,
Assistant to the President and Director of Legislative Affairs.

HONORING 65 MEN FROM ALEXANDRIA WHO WERE KILLED IN ACTION OR MISSING IN ACTION IN SOUTHEAST ASIA DURING THE VIETNAM WAR

Mr. ALLEN. Mr President, I rise today to recognize 65 fallen servicemen from Alexandria, VA, who paid the ultimate sacrifice with their life while defending freedom in the Vietnam war.

No mere words can express the depth of gratitude this country owes to the families of our fallen service members for the loss of their sons, daughters, brothers, sisters, husbands, or wives. By touching their names etched in granite and marble on monuments and statues in countries around the world, we who are living and those who come after us have the ability to connect with these fallen heroes. We must never take the sacrifices of past generations of Americans for granted, for each new generation is called upon to defend representative democracy's first axiom: that ''freedom is not free.''

On July 6, 2002, the city of Alexandria dedicated a beautiful memorial plaza to pay tribute to the 65 fallen American heroes from Alexandria who were killed in action or who remain missing in action in southeast Asia from the Vietnam war. Toby Mendez, a brilliant

young sculptor, has created a work that will allow us to touch the names of the brave men whose sacrifice will be memorialized for all time.

A statue of U.S. Army Cpt. Humbert Roque ''Rocky'' Versace is the centerpiece of the plaza. On July 8, 2002, I had the distinct honor of being present at the White House for the posthumous awarding of the Medal of Honor by President George W. Bush for Rocky's conspicuous gallantry at the risk of his life above and beyond the call of duty while a captive of the Viet Cong from October 29, 1965, until he was executed on or about September 26, 1965. His captors took his life after they had given up trying to break Rocky's indomitable will to resist interrogation and indoctrination, his unshakable faith in God, and his steadfast trust in his country and his fellow prisoners.

Captain Versace was a 1959 graduate of the U.S. Military Academy and lived his life by the West Point ideals of Duty, Honor, and Country. His fellow prisoner, U.S. Army 1 Lt James Nicholas ''Nick'' Rowe recalled that Rocky told his captors that ''as long as he was true to God and true to himself, what was waiting for him after this life was far better than anything that could happen now. So he told his captors that they might as well kill him then and there if the price of his life was getting more from him than name, rank, and serial number.''

Captain Versace's statue shows him holding hands with two Vietnamese children, who had been orphaned by Viet Cong terror against their parents. Rocky did many good works on his own to improve the lives of the many orphans he came in contact with. In fact, he planned on entering the Maryknoll priesthood after his tour of duty ended in Vietnam. It was Rocky's desire to return to Vietnam after ordination to be a missionary priest to work among the villagers and help educate their children so they could achieve a better life for themselves, free of Communist domination.

The remains of Captain Versace and three other men from Alexandria lie in unmarked graves in southeast Asia, known only to God. They are: U.S. Army SSG Douglas Randolph Blodgett; U.S. Air Force Maj Joseph Edwin Davies; and U.S. Air Force Maj Morgan Jefferson Donahue.

Additionally, two other servicemen drowned, and their bodies did not resurface: U.S. Army 1 Lt Leland S. McCants III, who drowned on his first day in Vietnam while trying to save another soldier; and U.S. Navy Seaman Apprentice John Anthony Winkler, who was swept off of the deck of the Navy aircraft carrier USS *Bon Homme Richard* and was lost at sea. The waters, jungles, and mountains of southeast Asia may never reveal these missing men's remains, but the U.S. Government is committed to continue to search for all those of our missing in action personnel, those brave souls who, in the words of General of the Army Douglas MacArthur gave up their ''youth and strength, . . . love and loyalty . . . all that mortality can give.''

Each of the 65 names engrave on the limestone benches in Alexandria has a story to tell of honor and courage. Two outstanding examples of the dedication and service of this fine group of men are Robert William Cupp and Herman Leroy Judy, Jr.

U.S. Army Cpl., Robert William Cupp served proudly with Company D, 2d Battalion, 1st Infantry Brigade of the Americal Division. He was killed in action in South Vietnam on June 6, 1968, by an enemy booby trap. Corporal Cupp was laid to rest in his family's plot at Mount Comfort Cemetery on June 17, 1968, his 21st birthday.

U.S. Cpl., Herman Leroy Judy, Jr. served proudly with Company B, 2nd Battalion, 505th Infantry, 82nd Airborne Division. He was killed in action in South Vietnam on May 29, 1969, a day before his first wedding anniversary. He is buried in Arlington National Cemetery.

Both of these brave men received the Combat Infantryman's Badge, Bronze Star Medal, and Purple Heart Medal for their heroism in combat.

Plato, that wise philosopher of ancient times, observed that ''only the dead have known the end of war.'' So it is today with the never-ending struggle between freedom and evil. All those brave men and women who proudly wear the uniform of our armed services, and who willingly risk their lives to achieve battlefield victories over our enemies, deserve our Nation's eternal gratitude.

Mr. President, it is my great honor to enter into the CONGRESSIONAL RECORD the names of the 65 men from Alexandria who were killed in action or remain missing in action in southeast Asia during the Vietnam war, and who were memorialized on July 6, 2002.

I ask unanimous consent that the list be printed in the RECORD.

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

NAMES AND DATES OF CASUALTY FOR 65 MEN KILLED IN ACTION OR MISSING IN ACTION, ENTERING SERVICE FROM ALEXANDRIA, VA

(Dates are from thevirtualwall.org website.)

Lewis L. Stone, January 11, 1963.
Ray B. Browne, January 16, 1964.
Humbert R. Versace, September 26, 1965.
John A. Winkler, November 22, 1965.
Paul M. Bayliss, November 7, 1966.
Carl L. Young, December 24, 1966.
Paul R. Karas, February 3, 1967.
Wayne L. Jordan, March 17, 1967.
Ralph B. Pappas, March 30, 1967.
Ronald W. Ward, May 22, 1967.
Richard H. Freudenthal, June 30, 1967.
Joseph C. Shartzer, July 29, 1967.
Foster J.G. Touhart, Jr., September 6, 1967.
Darrell L. Gibbons, October 11, 1967.
Robert E. Whitbeck, January 30, 1968.
Harry F. Richardson, Jr., January 31, 1968.
Raymond L. Conway, February 1, 1968.
Douglas R. Blodgett, April 19, 1968.
Jeron F. Valentine, May 7, 1968.
Michael E. Ludwig, May 27, 1968.
Robert W. Cupp, June 6, 1968.
Henry L. Page III, June 25, 1968.
Henry A. Ledford, July 5, 1968.
Charles H. Elliott, Jr., August 21, 1968.
Henry L. Warner III, August 27, 1968.
Joseph L. Powell, Jr., October 17, 1968.
James E. King, November 25, 1968.
Morgan J. Donahue, December 13, 1968.
Leland S. McCants III, December 30, 1968.
Matthew W. Thornton, January 11, 1969.
Kenneth E. Norris, January 31, 1969.
Charles L. Suthard, Jr., February 6, 1969.
Kenneth R. Sawyer, February 12, 1969.
David J. Warczak, March 4, 1969.
Philip N. Malone, March 6, 1969.
Ross W. Collins, Jr., March 29, 1969.
Robert W. Clirehugh, Jr., April 22, 1969.
James W. Ward, May 9, 1969.
Raymond L. Williams, May 13, 1969.
Herman L. Judy, Jr., May 29, 1969.
Robert W. Dean, July 11, 1969.
Michael O. Thomas, July 26, 1969.
Richard W. Hoffler, August 31, 1969.
Michael J. Keberline, October 1, 1969.
Donald W. Gill, Jr., November 12, 1969.
David A. Lerner, November 20, 1969.
George B. Colgan III, December 1, 1969.
Brian J. O'Callaghan, January 16, 1970.
Thomas M. Gaither, January 21, 1970.
Michael J. McCarron, March 9, 1970.
Kermit W. Holland, Jr., March 22, 1970.
Tschann S. Mashburn, May 5, 1970.
Johnny J. Smith, May 20, 1970.
Bruce E. Graham, May 26, 1970.
Clarence M. Overbay, Jr., June 25, 1970.
Kevin C. McElhannon, Jr., September 15, 1970.
James W. Dickey, October 21, 1970.
Cleveland R. Harvey, November 18, 1970.
William D. Holmes, April 22, 1971.
Bernard G.J. Dillenseger, September 4, 1971.
Michael J. Kilduff, September 11, 1971.
Henry M. Spengler III, April 5, 1972.
George B. Lockhart, December 21, 1972.
Richard T. Gray, January 5, 1973.
Joseph E. Davies, October 9, 1973.

ADDITIONAL STATEMENTS

RECOGNIZING THE NATIONAL HIGH SCHOOL FINALS RODEO IN FARMINGTON, NM

• Mr. DOMENICI. Mr. President, I rise to recognize the Tres Rios High School Rodeo Association, which will soon host the 2002 National High School Finals Rodeo in Farmington, NM. The association, formed in cooperation with San Juan County and the cities of Farmington, Aztec, and Bloomfield, is rolling out the welcome mat for all to visit the beautiful Four Corners area of New Mexico for the July 22–28 competition.

I join in welcoming the thousands of student athletes and spectators who will descend on Farmington to celebrate the athleticism associated with the rodeo competitions. Farmington, a burgeoning city that has already proven itself as an excellent host for sporting events with the annual Connie Mack World Series tournament, will be a wonderful setting for this rodeo. The Tres Rios High School Rodeo Association knows it is in a national spotlight for showcasing a richly blessed, multicultural region that has been cherished since the dawn of the ancient Anasazi and Navajo cultures.

Just last month, I had the pleasure of meeting with students from San Juan

County who briefed me on their work to host this national competition. Their enthusiasm and excitement was contagious, and I share in their anticipation for hosting the rodeo in northwest New Mexico. This is a great opportunity for the youth in the area to showcase their talents, and an excellent chance to boost the Four Corners area economy.

This year's competition is a continuation of a tradition begun in 1949 in Halletsville, TX, with the first National Championship Rodeo. That contest laid the foundation for what became the National Championship High School Rodeo Association. New Mexico was one of the first five charter members. Subsequently, in 1961, this association was incorporated into the National High School Rodeo Association and included 20 states. Today, they have grown to include 39 States and two foreign countries.

Every year, the National High School Rodeo Association holds a National High School Finals Rodeo. New Mexico has been the proud host of three previous finals, and is proudly hosting the 2002 and 2003 competitions at the San Juan County Fairgrounds.

The National High School Rodeo Association serves to challenge high school students to keep alive a rich tradition of Western life through rodeo competitions. By providing a competitive environment, participants learn the spirit of sportsmanship and grow as individuals. In addition, participation in the association promotes student achievement and provides opportunities for college scholarships and further professional development. I believe their efforts at furthering student education bodes well for the association, and I applaud them for impacting young lives in such a positive manner.

Being selected as a host site is an honor, and I commend the Tres Rios High School Rodeo Association, San Juan County, the cities of Farmington, Aztec and Bloomfield, and everyone associated with the event for their efforts to prepare for the National High School Finals Rodeo. I wish all participants in the rodeo the best of luck.●

TRIBUTE TO JOE FORD

● Mrs. LINCOLN. Mr. President, for the last several months the American people have been subjected to a string of stunning revelations from some of our largest public companies. Accounting irregularities, shady business practices, and exorbitant executive compensation packages are apparently standard operating practice in some of our corporate boardrooms. As a result, thousands of families have lost their jobs and their savings, and investor confidence in our system of free enterprise has been severely shaken.

I would like to take a few minutes today to pay tribute to an Arkansas businessman who represents a vastly different picture of the American business leader Joe Ford of ALLTEL Corporation, who retired from his position as CEO this year.

A native of Conway, AR, Joe graduated from the University of Arkansas in 1959 before joining Little Rock's Allied Telephone Company. He advanced through several management positions and was named vice-president in 1963. By 1977, he was named president of Allied, a position he held until 1983 when his company merged with the Mid-Continent Telephone Corporation of Hudson, OH, to form ALLTEL. This merger, along with the 1990 purchase of Systematics, Inc., in Little Rock, laid the foundation for the telecommunications leader that ALLTEL has since become. Joe Ford was named ALLTEL president and CEO in 1987. He became chairman and CEO in 1991.

In a competitive and rapidly changing environment, Joe steered ALLTEL through a number of changes, including the deregulation of the telephone industry. He also led ALLTEL into a number of new, growing markets most notably wireless communications.

When ALLTEL turned on its cellular service in 1986, they had only 310 customers. Ford and many of his colleagues were unsure as to whether the new technology would catch on. But as we know now, the wireless industry exploded, and ALLTEL expanded across the southeastern United States. Today, ALLTEL covers portions of 23 States, serving six million wireless customers. Today, the company has expanded even further into information services, financial services, and mortgage processing.

When Joe Ford joined Allied Telephone in 1959, the company had 65 employees and 5,000 telephone customers. Today, ALLTEL is my State's largest high-tech company, with 4,100 employees working at the main campus in Little Rock. ALLTEL is also the sixth largest wireline and wireless company in the world, a Fortune 500 company with 26,000 employees worldwide serving 8 million communications customers. Many have contributed to ALLTEL's success in the American marketplace, but clearly it has been Joe Ford's vision and leadership that has brought the company to this level.

I will also pause to note that, throughout his career, Joe Ford has been the very embodiment of the engaged corporate citizen. In 1966, while serving as a vice-president for Allied Telephone, Joe ran for a seat in the Arkansas Senate. He served in this body from 1967 to 1982, a term spanning the administrations of five governors. A longtime advocate for public education, Joe chaired the Senate Education Committee, where he worked to improve our state's educational system and helped to create the kindergarten program in Arkansas public schools. He has also been involved with numerous civic organizations.

Joe Ford once offered the following words of advice to his son: ''In all that you do in life, seek to make life better for others, work hard and honestly, be a man of strong character, humble in times of greatness, and try to leave things a little better than they were left to you.'' His record certainly indicates that he has lived by these words himself. On the occasion of Joe's retirement, I'm proud to pay tribute to an Arkansan whose every move has represented the ideals of the American business world: trust, responsibility, hard work, and the greater public good. I hope that all of our business leaders will follow Joe's example in adhering to these ideals.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in November 1998 in Providence, MA. A gay man was assaulted outside a bar. The assailants, David E. Sheldon, 19, and Taylor Grenier, 18, who used antigay slurs during the attack, were charged with a hate crime in the incident.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

DO THE WRITE THING CHALLENGE 2002

● Mr. LEVIN. Mr. President, Do the Write Thing Challenge, sponsored by the National Campaign to Stop Violence, is a national writing contest in which students express their concerns about subjects such as domestic violence, easy access to guns, and gang activity. DtWT currently operates in 14 cities, including Detroit, MI. In 2002, more than 75,000 students from more than 550 schools participated in the DtWT program. This week 38 Do the Write Thing national finalists came to Washington, DC, to talk to lawmakers about the impact of and solutions to the epidemic of youth violence in our Nation.

The national student finalists, along with their teachers and family members, also attended a ceremony at the Library of Congress on Monday. Representatives of the Secretary of Education and the Library of Congress placed the students' writings in the Library of Congress. The writings, ranging from poems to essays to stories, describe the impact of youth violence on the lives of children. Two students from Michigan, Chastity Stewart and Justin Mozader, were honored by the National Campaign to Stop Violence for their writings on youth violence.

Justin's poem offers excellent advice on dealing with feelings of anger and aggression.

What can I do about the problem at hand?
It can't be solved by one man
To begin, I must look inside myself
And put my violence on the shelf

One of the top priorities of the Do the Write Thing Challenge is to address youth violence by drawing attention to the problem of easy access to guns. This is a laudable and important goal. One step the Senate can take to prevent easy access to guns is to pass the Children's Access Prevention Act, which Senator DURBIN introduced. Under this bill, adults who fail to lock up a loaded firearm or an unloaded firearm with ammunition would be held criminally liable if a child uses the weapon to kill or injure him or herself or another person. The bill also increases the penalties for selling a gun to a juvenile and creates a gun safety education program that includes parent-teacher organizations, local law enforcement, and community organizations. This bill is similar to a bill President Bush signed into law during his tenure as the Governor of Texas. I support this bill and hope the Senate will act on it during this Congress.

In addition to preventing our youth from having unsupervised access to deadly weapons, we should encourage schools to conduct violence prevention programs. We need to provide funding to allow schools to partner with local law enforcement in crime prevention, creative onsite school violence prevention programs, and alcohol and drug counseling.

I know my colleagues will want to join me in congratulating Chastity and Justin for their writings and efforts to combat youth violence, and I urge my colleagues to join me in pushing for the passage of sensible gun safety legislation like Senator DURBIN's bill.●

CEDAR GROVE'S 100TH YEAR OF INCORPORATION

● Mr. ROCKEFELLER. Mr. President, I rise today in recognition of a historical milestone in my State of West Virginia. July 13, 2002, marks the 100th year of incorporation for the town of Cedar Grove—making it the oldest town in Kanawha County. I take this opportunity to congratulate Cedar Grove on its centennial.

Cedar Grove is a small community nestled along the upper Kanawha Valley. Although only in existence for 100 years, the history of the town's site is much longer. The first settlement in the Kanawha Valley was on the site of what is now Cedar Grove. Walter Kelly first settled the area, then known as Kelly's Fort, in 1744. This was one of the first settlements started after the English bought what is now West Virginia from the Iroquois Indians. This site was also hotly contested land during the Civil War, when control of the Kanawha Valley went back and forth between the North and the South.

From being the oldest settlement in the area to the oldest town, Cedar Grove has stood the test of time and remains strong to this day. It has been a historical keystone to the Kanawha Valley, and has greatly contributed to the richness of West Virginia culture and history.

On behalf of all citizens from the Mountain State, I would like to once again commend Cedar Grove on its 100th birthday and ask that my distinguished colleagues join with me in recognizing its rich history.●

DISTRICT OF COLUMBIA'S FISCAL YEAR 2003 BUDGET REQUEST ACT—PM 102

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 Governmental Affairs:

To the Congress of the United States:

Pursuant to my constitutional authority and consistent with sections 202(c) and (e) of The District of Columbia Financial Management and Responsibility Assistance Act of 1995 and section 446 of The District of Columbia Self-Governmental Reorganization Act as amended in 1989, I am transmitting the District of Columbia's Fiscal Year 2003 Budget Request Act.

The proposed FY 2003 Budget Request Act reflects the major programmatic objectives of the Mayor and the Council of the District of Columbia. For FY 2003, the District estimates total revenues and expenditures of $5.7 billion

GEORGE BUSH.

THE WHITE HOUSE, *July 11, 2002*.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:29 a.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 bills and joint resolution:

H.R. 2362. An act to establish the Benjamin Franklin Tercentenary Commission.

H.R. 3971. An act to provide for an independent investigation of Forest Service fighter deaths that are caused by wildlife entrapment or burnover.

H.J. Res. 87. A joint resolution approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursant to the Nuclear Waste Policy Act of 1982.

The enrolled bills and joint resolution was signed subsequently by the President pro tempore (Mr. BYRD).

At 11:08 a.m., a message from the House of Representatives, delivered by Ms. Niland, the of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2486. An act to authorize the National Oceanic and Atmospheric Administraiton, through the United States National Weather Research Program, to conduct research and development, training, and outreach activities relating to inland flood forecasting improvement, and for other purposes.

H.R. 2733. An act to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise intergration.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2486. An act to authorize the National Oceanic and Atmospheric Administration, through the United States National Weather Research Program, to conduct research and development, training, and outreach activities relating to inland flood forecasting improvement, and for other purposes, to the Committee on Commerce, Science, and Transportation.

H.R. 2733. An act to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration; to the Committee on Commerce, Science, and Transportation.

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 (for himself, Mr. BREAUX, Mr. CONRAD, and Mrs. LINCOLN):

S. 2726. A bill to treat certain motor dealer transitional assistance as an involuntary conversion, and for other purposes; to the Committee on Finance.

By Mr. AKAKA:

S. 2727. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU (for herself and Mr. BREAUX):

S. Res. 303. A resolution expressing the sense of the Senate that a commemorative postage stamp should be issued to celebrate the 250th anniversary of the arrival of the first Acadians in the American colonies; to the Committee on Governmental Affairs.

ADDITIONAL COSPONSORS

S. 1828

At the request of Mr. LEAHY, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1828, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 2513

At the request of Mr. BIDEN, the name of the Senator from Vermont

(Mr. JEFFORDS) was added as a cosponsor of S. 2513, a bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

S. 2528

At the request of Mr. DOMENICI, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2528, a bill to establish a National Drought Council within the Federal Emergency Management Agency, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 2622

At the request of Mr. HOLLINGS, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2642

At the request of Mr. NELSON of Florida, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2642, a bill to require background checks of alien flight school applicants without regard to the maximum certificated weight of the aircraft for which they seek training, and to require a report on the effectiveness of the requirement.

S. 2654

At the request of Ms. CANTWELL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2654, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan payments received under the National Health Service Corps Loan Repayment Program established in the Public Health Service Act.

S. 2667

At the request of Mr. DODD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2667, a bill to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes.

S. RES. 293

At the request of Mr. BIDEN, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. Res. 293, a resolution designating the week of November 10 through November 16, 2002, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

AMENDMENT NO. 4215

At the request of Mr. DORGAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 4215 proposed to S. 2673, an original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. BREAUX, Mr. CONRAD, and Mrs. LINCOLN):

S. 2726. A bill to treat certain motor dealer transitional assistance as an involuntary conversion, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation important to thousands of independent small businesses across the country. The legislation I am introducing is a modest tax proposal designed to aid the Nation's 2,801 Oldsmobile franchised automobile dealers who are currently in the process of ending that relationship with General Motors, GM, due to GM's decision to eliminate the Oldsmobile product line. This legislation is similar to legislation that has been introduced in the House with bipartisan majority of the House Ways and Means Committee.

As many of my colleagues know, GM notified their 2,801 Oldsmobile dealers in the United States on December 12, 2000 that they were phasing out the 100 year-old Oldsmobile brand and its complete line-up of vehicles. The announcement came with little warning to Oldsmobile dealers. In fact, many of the dealers had recently signed a new agreement with GM on November 1, 2000, with most dealers receiving a five-year term.

As a consequence of its actions, GM is in the process of compensating Oldsmobile dealers to assist in the phase-out of their Oldsmobile dealerships. These dealers will be required, out of financial necessity, to reinvest the payment from GM into other dealership opportunities. In many cases, these dealers may face a significant financial burden in connection with their efforts to continue in the automobile retail business.

The legislation I am introducing today seeks to lessen that burden by treating GM's financial assistance payments, made in connection with GM's unilateral decision to phase-out the Oldsmobile product line, as an involuntary conversion under an existing section of the Internal Revenue Code. Thus, the effect of the legislation is to allow the Oldsmobile dealer to defer tax consequences on GM's payments, provided that the proceeds are reinvested in other dealership properties in the time period specified in the Code.

Small and family-owned businesses, such as automobile dealerships, form the economic backbone of local communities across our country, particularly in rural states like my home state of New Mexico. Allowing Oldsmobile dealers to reinvest the entire payment received from GM into replacement dealership property gives these dealers an opportunity to continue family-owned businesses and greatly benefits local economies throughout New Mexico and the Nation. I look forward to working with my colleagues on advancing this legislation.

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. 2726

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

SECTION 1. MOTOR VEHICLE DEALER TRANSITIONAL ASSISTANCE TREATED AS AN INVOLUNTARY CONVERSION.

(a) IN GENERAL.—For purposes of subtitle A of the Internal Revenue Code of 1986, in the case of a taxpayer who was a party to a motor vehicle sales and service agreement with a motor vehicle manufacturer who announced in December 2000 that it would phase-out the motor vehicle brand to which such agreement relates—

(1) amounts received by such taxpayer from such manufacturer on account of the termination of such agreement shall be treated as received in an involuntary conversion to which section 1033 of such Code applies, and

(2) the period described in section 1033(a)(2)(B) of such Code shall begin on December 12, 2000.

(b) CHARACTER OF CONVERTED PROPERTY.—In applying section 1033 of such Code for purposes of this section, the property involuntarily converted shall be treated as being property used in the trade or business of a motor vehicle retail sales and service dealership.

(c) EFFECTIVE DATE.—This section shall apply to amounts received after December 12, 2000, in taxable years ending after such date.

By Mr. AKAKA:

S. 2727. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce the Paleontological Resources Preservation Act to protect and preserve the Nation's important fossil record for the benefit of our citizens. Vertebrate fossils are rare and valuable natural resources that are threatened by a growing commercial market which is being supplied, in part, by the illegal collection of fossil specimens. This Act establishes a comprehensive national policy for preserving and managing paleontological resources found on Federal lands. It provides uniformity to the patchwork of statutes and regulations that currently exist, and it ensures that the

public will have educational and scientific access to this part of their geological and biological past.

I would like to emphasize that this bill in no way affects archaeological or cultural resources under the Archaeological Resources Protection Act of 1979 or the Native American Graves Protection and Rehabilitation Act. They are exempted. This bill covers paleontological remains, fossils on Federal lands only.

Fossils are the remains, imprints and traces of once-living organisms preserved in the earth's crust. Fossils of vertebrates are the remains of animals with a backbone or spinal column, such as dinosaur bones, sabertooth tiger teeth, or imprints of bear paws and mammoth tusks. The fossil record is our only evidence that life existed on earth 3.5 billion years ago. Fossils show us that dinosaurs evolved about 220 million years ago, and that four-legged creatures first walked on land about 350 million years ago. Fossils tell us how the physical earth has changed over time, how the climate has warmed and cooled, and how the mountains have been lifted up from the ocean depths. Fossils can also explain how living things have responded to changing conditions, such as why mass extinctions of species have occurred at certain times in our planet's history.

In 1999, Congress requested that the Secretary of the Interior review and report on the Federal policy concerning paleontological resources on Federal lands. In its request, Congress noted that no unified Federal policy exists regarding the treatment of fossils by Federal land management agencies, and our concern was that the lack of appropriate standards would lead to the deterioration or loss of fossils, which are valuable scientific resources.

In response, seven Federal agencies and the Smithsonian Institution released a report in May 2000 entitled, ''Assessment of Fossil Management on Federal and Indian Lands.'' The report presented seven governing principles for the management of fossils on Federal lands. These principles are that fossils on Federal lands are rare and a part of America's heritage; that effective stewardship requires accurate information and inventories; that penalties for fossil theft should be strengthened; and that Federal fossil collections should be preserved and available for research and public education.

The Paleontological Resources Preservation Act embodies these principles, and provides the paleontological equivalent of protections found in the Archeological Resources Preservation Act. The bill finds that fossil resources on Federal lands are an irreplaceable part of the heritage of the United States. It affirms that reasonable access to fossil resources should be provided for scientific, educational, and recreational purposes. The bill acknowledges the value of amateur collecting, but protects vertebrate fossils under a system of permits.

You might wonder why such a bill is needed. Who would want to take these fossils, and what would a person do with them? Let me give you an example. On September 24, 2000, four individuals at Badlands National Park in South Dakota collected 1,700 fossil specimens that represented a variety of different types of animals. This area was scheduled for a scientific survey in July 2002, but because these four individuals removed the fossils from their context, scientists could no longer ascertain the position of the fossils in the layers of rock, and the scientific and educational value of the fossils was destroyed. So what happened to these individuals? To be honest, not much. Each one of the four was fined between $250 and $1,000 for the theft of 1,700 pieces of our paleontological history.

You might think the fines were a lot of money until you realize how much fossils are worth. Trade in fossils is big business. With the popularity of paleontology programs on the Discovery Channel and movies like Jurassic Park, people are starting their own collections at home, and corporations are buying fossils as investments, similar to the purchase of works of art. For example, the complete skeleton of a T-Rex was recently sold for $8.6 million at auction to the Field Museum of Chicago.

Paleontological resources can be sold on the market for a hefty price, and they are being stolen from public lands without regard to science and education. Even worse is the fact that the people who steal fossils aren't being held responsible for their actions and there is no incentive to stop the theft in the future. Less than one percent of organisms become fossils, and they are the key to understanding evolutionary patterns and processes. We need to protect these resources before it's too late.

The protections I offer in this Act are not new. Federal land management agencies have individual regulations prohibiting theft of government property. However, the reality is that U.S. Attorneys are reluctant to prosecute cases involving fossil theft because they are difficult. We in Congress have not provided a clear statute stating the value of paleontological resources to our nation, as we did for archeological resources. Fossils are too valuable to be left within the general theft provisions that are impossible to defend in court, and they are too valuable to the education of our children to not ensure public access. We need to work together to make sure that we in Congress fulfill our responsibility as stewards of public lands, and as protectors of our nation's natural resources.

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. 2727

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 ''Paleontological Resources Preservation Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Paleontological resources are nonrenewable. Such resources on Federal lands are an accessible and irreplaceable part of the heritage of the United States and offer significant educational opportunities to all citizens.

(2) Existing Federal laws, statutes, and other provisions that manage paleontological resources are not articulated in a unified national policy for Federal land management agencies and the public. Such a policy is needed to improve scientific understanding, to promote responsible stewardship, and to facilitate the enhancement of responsible paleontological collecting activities on Federal lands.

(3) Consistent with the statutory provisions applicable to each Federal land management system, reasonable access to paleontological resources on Federal lands should be provided for scientific, educational, and recreational purposes.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a comprehensive national policy for preserving and managing paleontological resources on Federal lands.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term ''casual collecting'' means the collecting of a reasonable amount of paleontological resources for noncommercial use with the use of non-powered hand tools resulting in negligible disturbance to the Earth's surface.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior with respect to lands administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands administered by the Secretary of Agriculture.

(3) FEDERAL LANDS.—The term ''Federal lands'' means lands administered by the Secretary of the Interior or National Forest System Lands administered by the Secretary of Agriculture.

(4) PERSON.—The term ''person' includes an individual, corporation, partnership, trust, institution, association, any other private entity, an officer, employee, agent, department, or instrumentality of the United States, an Indian tribe, and a State or political subdivision of a State.

(5) STATE.—The term ''State'' means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) PALEONTOLOGICAL RESOURCE.—The term ''paleontological resource'' means any fossilized remains, traces, or imprints of organisms, preserved in or on the Earth's crust, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1));

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Rehabilitation Act (25 U.S.C. 3001)); or

(C) energy minerals such as coal, oil and gas, oil shale, bitumen, lignite, asphaltum, and tar sands.

SEC. 5. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and

the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION OF IMPLEMENTATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

SEC. 6. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 7. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this subsection, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting of abundant invertebrate and plant paleontological resources, for scientific, educational, and recreational uses, without a permit, where such collection is consistent with the laws governing the management of those Federal lands and this Act.

(3) PREVIOUS PERMIT EXCEPTION.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

(1) The Secretary shall modify, suspend, or revoke a permit—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 9 or is assessed a civil penalty under section 10.

(e) AREA CLOSURES.—In order to protect paleontological resource or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 8. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 9. PROHIBITED ACTS; PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if such resource was excavated, removed, exchanged, transported, or received from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if such resource was excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) PENALITIES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a person who knowingly or willingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be guilty of a class A misdemeanor.

(2) DAMAGE OVER $1,000.—If the sum of the scientific or fair market value of the paleontological resources involved and the cost of restoration and repair of such resources exceeds the sum of $1,000, such person shall, upon conviction, be guilty of a class E felony.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent such violation, such person shall, upon conviction, be guilty of a class D felony.

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any palentological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 10. CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS OR PERMIT CONDITIONS.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved.

(B) The cost of response, restoration, and repair of the resource and the paleontolgical site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITAITON.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order with an appropriate Federal district court within the 30-day period beginning on the date the order making the assessment was issued. The court shall hear the action on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(b) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(c) USE OF RECOVERED AMOUNTS.—No penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about palenotological resources and sites.

(3) To provide for the payment of Rewards as provided in section 11.

SEC. 11. REWARDS FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under section 9 or 10 of this Act an amount equal to the lesser of one-half of the penalty or $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under section 9 or 10 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, may be subject to forfeiture to the United States upon—

(1) the person's conviction of the violation under section 9;

(2) assessment of a civil penalty against any person under section 10 with respect to the violation; or

(3) a determination by any court that the paleontological resources, vehicles, or equipment were involved in the violation.

SEC. 12. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be withheld from the public under subchapter II of chapter 5 of title 5, United States Code, or under any other provision of law unless the responsible

Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 13. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

SEC. 14. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose additional restrictions on any activities permitted under the general mining laws, or the mineral leasing, geothermal leasing, and mineral materials disposal laws;

(2) apply to, or require a permit for, amateur collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(3) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands; or

(4) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 303—EXPRESSING THE SENSE OF THE SENATE THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO CELEBRATE THE 250TH ANNIVERSARY OF THE ARRIVAL OF THE FIRST ACADIANS IN THE AMERICA COLONIES

Ms. LANDRIEU (for herself and Mr. BREAUX) submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 303

Whereas, in 1755, British troops expelled 6,000 Acadians from their home in Acadie, an area that is part of modern-day Nova Scotia, Canada, and many of these Acadians relocated to the American colonies;

Whereas this expulsion, known as the Grand Derangement, resulted in the dispersal of the Acadians and the spread of their French-Canadian culture throughout the American colonies;

Whereas, as a result of the Treaty of Paris in 1763, many Acadians migrated to Louisiana;

Whereas the unique Acadian culture had a strong influence on life in the American colonies;

Whereas, the 1990 census found that there were just under 700,000 people of Acadian ancestry in the United States, and the uniquely Acadian culture and traditions of this group continue to influence culture in the United States;

Whereas the 250th anniversary of the arrival of the first Acadians in the United States occurs in 2005; and

Whereas a postage stamp would be an appropriate commemoration of this anniversary, would increase public awareness of the history of American prerevolutionary immigration, and would benefit the American public by giving recognition to a distinct and truly American subculture: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE.

It is the sense of the Senate that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that a commemorative postage stamp be issued in 2005 to celebrate the 250th anniversary of the arrival of the first Acadians in the American colonies in 1755.

SEC. 2. TRANSMITTAL TO CITIZENS' STAMP ADVISORY COMMITTEE.

The Secretary of the Senate shall transmit a copy of this resolution to the chairperson of the Citizens' Stamp Advisory Committee.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4273. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table.

SA 4274. Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. LOTT, Mr. BENNETT, Mr. WYDEN, Mrs. MURRAY, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4275. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4276. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4277. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4278. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4279. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4280. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4281. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4282. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4283. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4284. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4285. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4286. Mr. REID (for Mrs. CARNAHAN) proposed an amendment to the bill S. 2673, supra.

SA 4287. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4288. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4267 submitted by Mr. DORGAN and intended to be proposed to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4289. Mr. DORGAN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4290. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4291. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4292. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4293. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4294. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 4293 submitted by Mr. GRAHAM and intended to be proposed to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4295. Mr. SCHUMER (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2673, supra.

SA 4296. Mr. SCHUMER (for himself and Mr. SHELBY) proposed an amendment to the bill S. 2673, supra.

SA 4297. Mr. REID (for Mr. KERRY (for himself, Mr. FRIST, Mr. KENNEDY, Mr. BIDEN, and Mr. HELMS)) proposed an amendment to the bill H.R. 2069, To amend the Foreign Assistance Act of 1961 and the Global AIDS and Tuberculosis Relief Act of 2000 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan Africa and other developing countries.

SA 4298. Mr. REID (for Mr. KERRY (for himself, Mr. FRIST, Mr. KENNEDY, Mr. BIDEN, and Mr. HELMS)) proposed an amendment to the bill H.R. 2069, supra.

TEXT OF AMENDMENTS

SA 4273. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting

practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

On page 82, line 24, insert before the period the following: '', and shall include a brief narrative of the basis for the decision to so certify, including a discussion of any questionable accounting treatment.''.

SA 4274. Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. LOTT, Mr. BENNETT, Mr. WYDEN, Mrs. MURRAY, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. RECOMMENDATIONS ON THE TREATMENT OF STOCK OPTIONS.

(a) ANALYSIS.—The Commission shall conduct an analysis and make regulatory and legislative recommendations on the treatment of stock options in which the Commission shall analyze—

(1) the accounting treatment for employee stock options, including the accuracy of available stock option pricing models;

(2) the adequacy of current disclosure requirements to investors and shareholders on stock options;

(3) the adequacy of corporate governance requirements, including shareholder approval of stock option plans;

(4) any need for new stock holding period requirements for senior executives; and

(5) the benefit and detriment of any new options expensing rules on—

(A) the productivity and performance of large, medium, and small companies, and start-up enterprises;

(B) the recruitment and retention of skilled workers; and

(C) employees at various income levels, with a particular focus on the effect on rank-and-file employees and the income of women.

(b) RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit regulatory and legislative recommendations and supporting analysis to—

(A) the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 106 of this Act;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) the Committee on Financial Services of the House of Representatives.

(2) CONTENTS.—The analysis, and regulatory and legislative recommendations submitted under paragraph (1) shall include—

(A) the results of the analysis conducted under subsection (a); and

(B) regulatory and legislative recommendations, if any, for changes in the treatment of stock options.

SA 4275. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after ''options'' insert the following: ''and the standard setting body mentioned in Sections 3, 107, 108, 208, 301, 501, and 601, and the body directed to conduct studies and reports in Section 702 shall, within six months of the date of enactment of this Act, conduct an analysis and make recommendations regarding an appropriate generally accepted accounting principle for the treatment of employee stock options and transmit it to the standard setting body funded pursuant to Section 109.''.

SA 4276. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after ''options'' insert the following: ''and the standard setting body mentioned in Sections 3, 107, 108, 208, 301, 501, and 601, and the body directed to conduct studies and reports in Section 702 shall, within six months of the date of enactment of this Act, conduct an analysis and make recommendations to the standard setting body funded pursuant to Section 109 regarding an appropriate generally accepted accounting principle for the treatment of employee stock options and conduct an analysis and make recommendations to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House regarding the adequacy of disclosure requirement to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives.''.

SA 4277. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after ''options'' insert the following: ''provided that this standard setting body shall not take action to adopt such standard until the standard setting body mentioned in Sections 3, 107, 108, 208, 301, 501 and 601 has conducted an analysis and made regulatory and legislative recommendations regarding the adequacy of disclosure requirements to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives''.

SA 4278. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after ''options'' insert the following: ''provided that this standard setting body shall not take action to adopt such standard until the standard setting body mentioned in Sections 3, 107, 108, 208, 301, 501 and 601 has conducted an analysis and made regulatory and legislative recommendations regarding the adequacy of disclosure requirements to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives, which shall be completed within nine months.''

SA 4279. Mr. LIEBERMAN submitted an amendment intended to be proposed

by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after ''options'' insert the following: ''and the standard setting body mentioned in Section 3, shall, within six months of the date of enactment of this Act, conduct an analysis and make recommendations regarding an appropriate generally accepted accounting principle for the treatment of employee stock options and transmit it to the standard setting body funded pursuant to Section 109.''.

SA 4280. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after ''options'' insert the following: ''and the standard setting body mentioned in Section 3, shall, within six months of the date of enactment of this Act, conduct an analysis and make recommendations to the standard setting body funded pursuant to Section 109 regarding an appropriate generally accepted accounting principle for the treatment of employee stock options and conduct an analysis and make recommendations to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House regarding the adequacy of disclosure requirements to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives.''.

SA 4281. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after ''options'' insert the following: ''provided that this standard setting body shall not take action to adopt such standard until the standard setting body mentioned in Section 3, has conducted an analysis and made regulatory and legislative recommendations regarding the adequacy of disclosure requirements to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives.''

SA 4282. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after ''options'' insert the following: ''provided that this standard setting body shall not take action to adopt such standard until the standard setting body mentioned in Section 3, has conducted an analysis and made regulatory and legislative recommendations regarding the adequacy of disclosure requirements to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives, which shall be completed within nine months.''

SA 4283. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysis, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 17 strike ''directors.'' and insert the following: ''directors.

''SEC. . REVIEW OF STOCK OPTION ACCOUNTING TREATMENT.

''A standard setting body described in Section 108 paragraph (1) of this Act and funded pursuant to Section 109 of this Act shall review the accounting treatment of employee stock options and shall, within one year of the date of enactment of this Act, adopt an appropriate generally accepted accounting principle for the treatment of employee stock options.''.

SA 4284. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysis, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 17 strike ''directors.'' and insert the following: ''directors.

SEC. . INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking ''$5,000'' and inserting ''$100,000''; and

(B) striking ''$50,000'' and inserting ''$250,000'';

(2) in subparagraph (B)(i), by—

(A) striking ''$50,000'' and inserting ''$500,000''; and

(B) striking ''$250,000'' and inserting ''$1,000,000''; and

(3) in subparagraph (C)(i), by—

(A) striking ''$100,000'' and inserting ''$1,000,000''; and

(B) striking ''$500,000'' and inserting ''$2,000,000''.

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking ''$100'' and inserting ''$10,000''; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking ''$10,000'' and inserting ''$500,000''; and

(ii) in paragraph (2)(B), by striking ''$10,000'' and inserting ''$500,000''.

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(3)) is amended by striking ''$1,000,000'' and inserting ''$2,000,000''.

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(A) in paragraph (1), by—

(i) striking ''$5,000'' and inserting ''$100,000''; and

(ii) striking ''$50,000'' and inserting ''$250,000'';

(B) in paragraph (2), by—

(i) striking ''$50,000'' and inserting ''$500,000''; and
(ii) striking ''$250,000'' and inserting ''$1,000,000''; and
(C) in paragraph (3), by—
(i) striking ''$100,000'' and inserting ''$1,000,000''; and
(ii) striking ''$500,000'' and inserting ''$2,000,000''.
(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—
(A) in clause (i), by—
(i) striking ''$5,000'' and inserting ''$100,000''; and
(ii) striking ''$50,000'' and inserting ''$250,000'';
(B) in clause (ii), by—
(i) striking ''$50,000'' and inserting ''$500,000''; and
(ii) striking ''$250,000'' and inserting ''$1,000,000''; and
(C) in clause (iii), by—
(i) striking ''$100,000'' and inserting ''$1,000,000''; and
(ii) striking ''$500,000'' and inserting ''$2,000,000''.
(c) INVESTMENT COMPANY ACT OF 1940.—
(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—
(A) in subparagraph (A), by—
(i) striking ''$5,000'' and inserting ''$100,000''; and
(ii) striking ''$50,000'' and inserting ''$250,000'';
(B) in subparagraph (B), by—
(i) striking ''$50,000'' and inserting ''$500,000''; and
(ii) striking ''$250,000'' and inserting ''$1,000,000''; and
(C) in subparagraph (C), by—
(i) striking ''$100,000'' and inserting ''$1,000,000''; and
(ii) striking ''$500,000'' and inserting ''$2,000,000''.
(2) ENFORCEMENT INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—
(A) in subparagraph (A), by—
(i) striking ''$5,000'' and inserting ''$100,000''; and
(ii) striking ''$50,000'' and inserting ''$250,000'';
(B) in subparagraph (B), by—
(i) striking ''$50,000'' and inserting ''$500,000''; and
(ii) striking ''$250,000'' and inserting ''$1,000,000''; and
(C) in subparagraph (C), by—
(i) striking ''$100,000'' and inserting ''$1,000,000''; and
(ii) striking ''$500,000'' and inserting ''$2,000,000''.
(d) INVESTMENT ADVISORS ACT OF 1940.—
(1) REGISTRATION.—Section 203(i)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—
(A) in subparagraph (A), by—
(i) striking ''$5,000'' and inserting ''$100,000''; and
(ii) striking ''$50,000'' and inserting ''$250,000'';
(B) in subparagraph (B), by—
(i) striking ''$50,000'' and inserting ''$500,000''; and
(ii) striking ''$250,000'' and inserting ''$1,000,000''; and
(C) in subparagraph (C), by—
(i) striking ''$100,000'' and inserting ''$1,000,000''; and
(ii) striking ''$500,000'' and inserting ''$2,000,000''.
(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—
(A) in subparagraph (A), by—
(i) striking ''$5,000'' and inserting ''$100,000''; and
(ii) striking ''$50,000'' and inserting ''$250,000'';
(B) in subparagraph (B), by—
(i) striking ''$50,000'' and inserting ''$500,000''; and
(ii) striking ''$250,000'' and inserting ''$1,000,000''; and
(C) in subparagraph (C), by—
(i) striking ''$100,000'' and inserting ''$1,000,000''; and
(ii) striking ''$500,000'' and inserting ''$2,000,000''.

SA 4285. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673. to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securties analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment insert the following new section

SEC. .—(a) RULES REQUIRED.—Notwithstanding section 404 of the Act, the Commission shall prescribe rules requiring each annual report required by section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) to contain an internal control report, which shall—

(1) state the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

(2) contain an assessment, as of the end of the most recent fiscal year of the issuer, of the effectiveness of the internal control structure and procedures of the issuer of financial reporting.

(b) INTERNAL CONTROL EVALUATION AND REPORTING.—With respect to the internal control assessment required by subsection (a), each registered public accounting firm that prepares or issues the audit report for the issuer shall attest to, and report on, the assessment made by the management of the issuer. An attestation made under this subsection shall be made in accordance with standards for attestation engagements issues or adopted by the Board.

SA 4286. Mr. REID (for Mrs. CARNAHAN) proposed an amendment to the bill S. 2673. to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securties analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the end of the amendment, insert the following:

(b) ELECTRONIC FILING.—Notwithstanding the provisions of section 403 of this Act, section 16(a)(2) of the Securities and Exchange Act of 1934, as added by section 403, is amended to read as follows:

''(2) if there has been a change in such ownership, or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving such equity security, shall file electronically with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement before the end of the second business day following the day on which the subject transaction has been executed, or at such other times as the Commission shall establish, by rule, in any case in which the Commission determines that such 2 day period is not feasible, and the Commission shall provide that statement on a publicly accessible Internet site not later than the end of the business day following that filing, and the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website not later than the end of the business day following that filing (the requirements of this paragraph with respect to electronic filing and providing the statement on a corporate website shall take effect 1 year after the date of enactment of this paragraph), indicating ownership by that person at the date of filing, any such changes in such ownership, and such purchases and sales of the security-based swap agreements as have occurred since the most recent such filing under this paragraph.''.

SA 4287. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after ''**SEC.**'' and insert: ''____. PROVISION OF BOOK AND TAX DIFFERENCES TO COMMISSION.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

''(1) SUBMISSION OF TAX FORMS AND SCHEDULES RELATING TO BOOK AND TAX DIFFERENCES.—

''(1) IN GENERAL.—Each issuer shall provide to the Commission—

''(A) any schedule or form included with its return of income tax required to be filed under section 6012 of the Internal Revenue Code of 1986 which reconciles the differences between the treatment of an item for purposes of such return and the treatment of such item for purposes of audited financial statements required to be filed under this Act, and

''(B) any supporting documents filed with any such schedule or form.

''(2) TIME AND MANNER.—An issuer shall file information required to be submitted under

paragraph (1) at such time, and in such form and manner, as the Commission determines appropriate after consultation with the Secretary of the Treasury.

''(3) INFORMATION MADE AVAILABLE TO THE PUBLIC.—The Commission shall make information required to be submitted under paragraph (1) available to the public.''

SA 4288. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4267 submitted by Mr. DORGAN and intended to be proposed to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

''REINCORPORATIONS HAVE NO EFFECT.—Nothing in section 302 shall be interpreted or applied in any way to allow any issuer to lessen the legal force of the statement required under section 302, by having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside of the United States.''.

SA 4289. Mr. DORGAN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table, as follows:

At the end of the matter proposed to be inserted insert the following:

(2) PUBLIC HEARINGS.—Notwithstanding all hearings under that subsection (c) shall be public, unless otherwise ordered by the Board for good cause shown on its own motion or after considering the motion of a party to the hearing.

SA 4290. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

(c) FOREIGN REINCORPORATIONS HAVE NO EFFECT.—Nothing in section 302 shall be interpreted or applied in any way to allow any issuer to lessen the legal force of the statement required under section 302, by having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside the United States.

SA 4291. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

(b) PROCEEDS FROM THE SALE OF SECURITIES PRIOR TO BANKRUPTCY FILING.—If an issuer files for bankruptcy protection under title 11, United States Code, each director, chief executive officer, and chief financial officer of the issuer shall pay to the issuer all amounts described in paragraphs (1) and (2) of section 304(a) (to the extent that such amounts have not been reimbursed under that section 304(a)) realized by such director or officer from the sale of the securities of the issuer during the 12-month period preceding the date of the bankruptcy filing.

SA 4292. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

Section 302 shall apply whether the issuer is domiciled, incorporated, or reincorporated under the laws of the United States or any individual State, or under the laws of a foreign country or political subdivision thereof.

SA 4293. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 18, strike the period and all that follows through ''certify'' on line 20 and insert the following: '', regardless of whether such issuer is located in or organized under the laws of the United States or any State, or any foreign country.

SA 4294. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 4293 submitted by the Mr. GRAHAM and intended to be proposed to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 1 of this amendment, strike after ''on page 82,'' and insert:

(c) FOREIGN REINCORPORATIONS.—This subsection shall not be interpreted or applied in any way to lessen the legal force of the statement required under this subsection by an issuer having reincorporated or having engaged in any other action that results in the transfer of corporate domicile or offices from inside to outside the United States.

SA 4295. Mr. SCHUMER (for himself and Mrs. FEINSTEIN) proposed an

amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

On page 91, strike line 19 and all that follows through page 93, line 22 and insert the following:

SEC. 402. ENHANCED CONFLICT OF INTEREST PROVISIONS.

(a) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act is amended by adding at the end the following:

''(k) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—

''(1) IN GENERAL.—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit or arrange for the extension of credit in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer.

''(2) LIMITATION.—Paragraph (1) does not preclude any home improvement and manufactured home loan (as that term is defined in section 5 of the Home Owners Loan Act), consumer credit (as defined in section 103 of the Truth in Lending Act), or any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), that is—

''(A) made in the ordinary course of the consumer credit business of such issuer;

''(B) of a type that is generally made available by such issuer to the public; and

''(C) made by such issuer on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.''.

SA 4296. Mr. SCHUMER (for himself and Mr. SHELBY) proposed an amendment to bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

On page 91, between lines 18 and 19, insert the following:

(c) STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.—

(1) STUDY REQUIRED.—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures to determine—

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.

(2) REPORT AND RECOMMENDATIONS.—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and loses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion;

(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity; and

(E) any recommendations of the Commission for improving the transparency and quality of reporting off-balance sheet transactions in the financial statements and disclosures required to be filed by an issuer with the Commission.

SA 4297. Mr. REID (for Mr. KERRY (for himself, Mr. FRIST, Mr. KENNEDY, Mr. BIDEN, and Mr. HELMS)) proposed an amendment to the bill H.R. 2069, To amend the Foreign Assistance Act of 1961 and the Global AIDS and Tuberculosis Relief Act of 2000 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan African and other developing countries; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2002''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) During the last 20 years, HIV/AIDS has assumed pandemic proportions, spreading from the most severely affected region, sub-Saharan Africa, to all corners of the world, and leaving an unprecedented path of death and devastation.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 60,000,000 people worldwide have been infected with HIV since the epidemic began; more than 22,000,000 of these have lost their lives to the disease; and more than 13,000,000 children have been orphaned by the disease. HIV/AIDS is the fourth-highest cause of death in the world.

(3) At the end of 2001, an estimated 40,000,000 people were infected with HIV or living with AIDS. Of these, more than 2,700,000 were children under the age of fifteen and more than 17,600,000 were women. Women are four times more vulnerable to infection than are men and are becoming infected at increasingly high rates because in many societies women lack control over sexual encounters and cannot insist on the use of protective measures. Women and children who are refugees or are internally displaced persons are especially vulnerable to sexual violence, thereby increasing the possibility of HIV infection.

(4) As the leading cause of death in sub-Saharan Africa, AIDS has killed more than 17,000,000 people (more than 3 times the number of AIDS deaths in the rest of the world) and will claim the lives of one-quarter of the population, mostly adults, in the next decade.

(5) An estimated 1,800,000 people in Latin America and the Caribbean and another 7,100,000 people in Asia and the Pacific region are infected with HIV or living with AIDS. Infection rates are rising alarmingly in Eastern Europe (especially in the Russian Federation), Central Asia, and China.

(6) HIV/AIDS threatens personal security by affecting the health, lifespan, and productive capacity of the individual and the social cohesion and economic well-being of the family.

(7) HIV/AIDS undermines the economic security of a country and individual businesses in that country by weakening the productivity and longevity of the labor force across a broad array of economic sectors and by reducing the potential for economic growth over the long term.

(8) HIV/AIDS destabilizes communities by striking at the most mobile and educated members of society, many of whom are responsible for security at the local level and governance at the national and subnational levels as well as many teachers, health care personnel, and other community workers vital to community development and the effort to combat HIV/AIDS. In some countries the overwhelming challenges of the HIV/AIDS epidemic are accelerating the outward migration of critically important health care professionals.

(9) HIV/AIDS weakens the defenses of countries severely affected by the HIV/AIDS crisis through high infection rates among members of their military forces. According to UNAIDS, in sub-Saharan Africa, many military forces have infection rates as much as five times that of the civilian population.

(10) HIV/AIDS poses a serious security issue for the international community by—

(A) increasing the potential for political instability and economic devastation, particularly in those countries and regions most severely affected by the disease; and

(B) decreasing the capacity to resolve conflicts through the introduction of peacekeeping forces because the environments into which these forces are introduced pose a high risk for the spread of HIV/AIDS.

(11) The devastation wrought by the HIV/AIDS pandemic is compounded by the prevalence of tuberculosis and malaria, particularly in developing countries where the poorest and most vulnerable members of society, including women, children, and those living with HIV/AIDS, become infected. According to the World Health Organization (WHO), HIV/AIDS, tuberculosis, and malaria accounted for more than 5,700,000 deaths in 2001 and caused debilitating illnesses in millions more.

(12) Tuberculosis is the cause of death for one out of every three people with AIDS worldwide and is a highly communicable disease. HIV infection is the leading threat to tuberculosis control. Because HIV infection so severely weakens the immune system, individuals with HIV and latent tuberculosis infection have a 100 times greater risk of developing active tuberculosis diseases thereby increasing the risk of spreading tuberculosis to others. Tuberculosis, in turn, accelerates the onset of AIDS in individuals infected with HIV.

(13) Malaria, the most deadly of all tropical parasitic diseases, has been undergoing a dramatic resurgence in recent years due to increasing resistance of the malaria parasite to inexpensive and effective drugs. At the same time, increasing resistance of mosquitoes to standard insecticides makes control of transmission difficult to achieve. The World Health Organization estimates that between 300,000,000 and 500,000,000 new cases of malaria occur each year, and annual deaths from the disease number between 2,000,000 and 3,000,000. Persons infected with HIV are particularly vulnerable to the malaria parasite. The spread of HIV infection contributes to the difficulties of controlling resurgence of the drug resistant malaria parasite.

(14) Although HIV/AIDS is first and foremost a health problem, successful strategies to stem the spread of the pandemic will require not only medical interventions, the strengthening of health care delivery systems and infrastructure and determined national leadership and increased budgetary allocations for the health sector in countries affected by the epidemic but also measures to address the social and behavioral causes of the problem and its impact on families, communities, and societal sectors.

(15) Basic interventions to prevent new HIV infections and to bring care and treatment to people living with AIDS, such as voluntary counseling and testing and mother-to-child transmission programs, are achieving meaningful results and are cost-effective. The challenge is to expand these interventions from a pilot program basis to a national basis in a coherent and sustainable manner.

(16) The magnitude and scope of the HIV/AIDS crisis demands a comprehensive, long-term, international response focused upon addressing the causes, reducing the spread, and ameliorating the consequences of the HIV/AIDS pandemic, including—

(A) prevention and education, care and treatment, basic and applied research, and training of health care workers, particularly at the community and provincial levels, and other community workers and leaders needed to cope with the range of consequences of the HIV/AIDS crisis;

(B) development of health care infrastructure and delivery systems through cooperative and coordinated public efforts and public and private partnerships;

(C) development and implementation of national and community-based multisector strategies that address the impact of HIV/AIDS on the individual, family, community, and nation and increase the participation of at-risk populations in programs designed to encourage behavioral and social change and reduce the stigma associated with HIV/AIDS; and

(D) coordination of efforts between international organizations such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the Joint United Nations Programme on HIV/AIDS (UNAIDS), the World Health Organization (WHO), national governments, and private sector organizations.

(17) The United States has the capacity to lead and enhance the effectiveness of the international community's response by—

(A) providing substantial financial resources, technical expertise, and training, particularly of health care personnel and community workers and leaders;

(B) promoting vaccine and microbicide research and the development of new treatment protocols in the public and commercial pharmaceutical research sectors;

(C) encouraging governments and community-based organizations to adopt policies that treat HIV/AIDS as a multisectoral problem affecting not only health but other areas such as education, the economy, the family and society, and assisting them to develop and implement programs corresponding to these needs; and

(D) encouraging active involvement of the private sector, including businesses, pharmaceutical and biotechnology companies, the medical and scientific communities, charitable foundations, private and voluntary organizations and nongovernmental organizations, faith-based organizations, community-based organizations, and other nonprofit entities.

SEC. 3. DEFINITIONS.

In this Act:

(1) AIDS.—The term ''AIDS'' means the acquired immune deficiency syndrome.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) DESIGNATED CONGRESSIONAL COMMITTEES.—The term ''designated congressional committees'' means the Committee on Foreign Relations and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on International Relations and the Committee on Energy and Commerce of the House of Representatives.

(4) GLOBAL FUND.—The term ''Global Fund'' means the public-private partnership known as the Global Fund to Fight AIDS, Tuberculosis and Malaria that was established upon the call of the United Nations Secretary General in April 2001.

(5) HIV.—The term ''HIV'' means the human immunodeficiency virus, the pathogen that causes AIDS.

(6) HIV/AIDS.—The term ''HIV/AIDS'' means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(7) RELEVANT EXECUTIVE BRANCH AGENCIES.—The term ''relevant Executive branch agencies'' means the Department of State, the United States Agency for International Development, the Department of Health and Human Services (including the Centers for Disease Control and Prevention, the Health Resources and Services Administration, the National Institutes of Health, the Agency for Health Care Research and Quality, and the Food and Drug Administration), the Department of Labor, the Department of Commerce, the Department of the Treasury, and the Department of Defense.

SEC. 4. PURPOSE.

The purpose of this Act is to strengthen United States leadership and the effectiveness of the United States response to certain global infectious diseases by—

(1) establishing a comprehensive, integrated five-year, global strategy to fight HIV/AIDS that encompasses a plan for phased expansion of critical programs and improved coordination among relevant Executive branch agencies and between the United States and foreign governments and international organizations;

(2) providing increased resources for multilateral efforts to fight HIV/AIDS;

(3) providing increased resources for United States bilateral efforts, particularly for technical assistance and training, to combat HIV/AIDS, tuberculosis, and malaria;

(4) encouraging the expansion of private sector efforts and expanding public-private sector partnerships to combat HIV/AIDS; and

(5) intensifying efforts to support the development of vaccines and treatment for HIV/AIDS, tuberculosis, and malaria.

TITLE I—POLICY PLANNING AND COORDINATION

SEC. 101. DEVELOPMENT OF A COMPREHENSIVE, FIVE-YEAR, GLOBAL STRATEGY.

(a) STRATEGY.—The President shall establish a comprehensive, integrated, five-year strategy to combat global HIV/AIDS that promotes the goals and objectives of the Declaration of Commitment on HIV/AIDS, adopted by the United Nations General Assembly at its Special Session on HIV/AIDS in June 2001, and strengthens the capacity of the United States to be an effective leader of the international campaign against HIV/AIDS. Such strategy shall—

(1) include specific objectives, multisectoral approaches, and specific strategies to

treat individuals infected with HIV/AIDS and to prevent the further spread of HIV infections, with a particular focus on the needs of women, young people, and children;

(2) assign priorities for relevant Executive branch agencies;

(3) improve coordination among relevant Executive branch agencies and foreign governments and international organizations;

(4) project general levels of resources needed to achieve the stated objectives;

(5) expand public-private partnerships and the leveraging of resources; and

(6) maximize United States capabilities in the areas of technical assistance and training and research, including vaccine research.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the President shall submit to designated congressional committees a report setting forth the strategy described in subsection (a).

(2) REPORT ELEMENTS.—The report required by paragraph (1) shall include a discussion of the following:

(A) The objectives, general and specific, of the strategy.

(B) A description of the criteria for determining success of the strategy.

(C) A description of the manner in which the strategy will address the fundamental elements of prevention and education; care and treatment, including increasing access to pharmaceuticals and to vaccines and microbicides when available; research, including incentives for vaccine development and new protocols; and training of health care workers, and the development of health care infrastructure and delivery systems.

(D) A description of the manner in which the strategy will promote the development and implementation of national and community-based multisectoral strategies and programs, including those designed to enhance leadership capacity particularly at the community level.

(E) A description of the specific strategies developed to meet the unique needs of women, including the empowerment of women in interpersonal situations, young people and children, including those orphaned by HIV/AIDS.

(F) A description of the programs to be undertaken to maximize United States contributions in the areas of technical assistance, training particularly of health care workers and community-based leaders in affected sectors, and research including the promotion of research on vaccines.

(G) An identification of the relevant Executive branch agencies that will be involved and the assignment of priorities to those agencies.

(H) A description of the role of each relevant Executive branch agency and the types of programs that the agency will be undertaking.

(I) A description of the mechanisms that will be utilized to coordinate the efforts of the relevant Executive branch agencies, to avoid duplication of efforts, to enhance onsite coordination efforts, and to ensure that each agency undertakes programs primarily in those areas where the agency has the greatest expertise, technical capabilities, and potential for success.

(J) A description of the mechanisms that will be utilized to ensure greater coordination between the United States and foreign governments and international organizations including the Global Fund, UNAIDS, international financial institutions, and private sector organizations.

(K) The level of resources that will be needed on an annual basis and the manner in which those resources would generally be allocated among relevant Executive agencies.

(L) A description of the mechanisms to be established for monitoring and evaluating programs and for terminating unsuccessful programs.

(M) A description of the manner in which private, nongovernmental entities will factor into the United States Government-led effort and a description of the type of partnerships that will be created to maximize the capabilities of these private sector entities and to leverage resources.

(N) A description of the manner in which the United States strategy for combating HIV/AIDS relates to and promotes the goals and objectives of the United Nations General Assembly's Declaration of Commitment on HIV/AIDS.

(O) A description of the ways in which United States leadership will be used to enhance the overall international response to the HIV/AIDS pandemic and particularly to heighten the engagement of the member states of the G–8 and to strengthen key financial and coordination mechanisms such as the Global Fund and UNAIDS.

(P) A description of the manner in which the United States strategy for combating HIV/AIDS relates to and enhances other United States assistance strategies in developing countries.

SEC. 102. COMPREHENSIVE PLAN TO EMPOWER WOMEN TO PREVENT THE SPREAD OF HIV/AIDS.

(a) STATEMENT OF POLICY.—It is in the national interest of the United States—

(1) to assist in empowering women socially, economically, and intellectually to prevent coercive practices which contribute to the spread of HIV/AIDS;

(2) to ensure that there are affordable effective female controlled preventative technologies widely available;

(3) to assist in providing adequate pre- and post-natal care to women infected with HIV or living with AIDS to prevent an increase in the number of AIDS orphans; and

(4) to educate communities in order to lessen the stigma facing women who are infected with HIV or living with AIDS.

(b) DEVELOPMENT OF PLAN.—The United States Agency for International Development, working in conjunction with other relevant Executive branch agencies, shall develop a comprehensive plan to empower women to protect themselves against the spread of HIV/AIDS. The plan shall include—

(1) immediately providing women greatly increased access to and program support for currently available prevention technologies for women and microbicides when they become available;

(2) providing funding for research to develop safe, effective, usable microbicides, including support for—

(A) development and preclinical evaluation of topical microbicides;

(B) the conduct of clinical studies of candidate microbicides to assess safety, acceptability, and effectiveness in reducing the HIV infection and other sexually transmitted infections;

(C) behavioral and social science research relevant to microbicide development, testing, acceptability, and use; and

(D) introductory studies of safe and effective microbicides in developing countries;

(3) increasing women's access to microfinance programs;

(4) comprehensive education for women and girls including health education that emphasizes skills building on negotiation and the prevention of sexually transmitted infections and other related reproductive health risks and strategies that emphasize the delay of sexual debut;

(5) community-based strategies to combat gender-based violence and sexual coercion of women and minors;

(6) expansion of peer education strategies for men which emphasize responsible sexual behavior and consultation with their wives and partners in making decisions about sex and reproduction;

(7) resources for households headed by females caring for AIDS orphans;

(8) followup monitoring of and care and support for post-natal women living with HIV or at high risk of infection; and

(9) targeted plans to reduce the vulnerability of HIV/AIDS for women, young people, and children who are refugees or internally displaced persons.

(c) REQUIREMENT.—The plan shall specify, for the assistance to achieve each of the objectives set forth in paragraphs (1) through (9) of subsection (b), the section of the Foreign Assistance Act of 1961 or other law that authorizes such assistance.

(d) STAFFING.—The Administrator of the United States Agency for International Development shall ensure that the Agency dedicates a sufficient number of employees to implementing the plan described in subsection (b).

(e) REPORT.—Not later than 270 days after the date of enactment of this Act and every year for the next 3 years thereafter, the Administrator of the United States Agency for International Development shall submit to the appropriate congressional committees a report on the plan being implemented by the United States Agency for International Development on empowering women in order to prevent the spread of HIV/AIDS. The report shall include a description of—

(1) the programs being carried out that are specifically targeted at women and girls to educate them about the spread of HIV/AIDS and the use and availability of currently available prevention technologies for women, together with the number of women and girls reached through these programs;

(2) the steps taken to increase the availability of such technologies; and

(3) the progress on developing a safe, effective, user-friendly microbicide.

SEC. 103. HIV/AIDS RESPONSE COORDINATOR.

(a) ESTABLISHMENT OF POSITION.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 265(a)) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by adding after subsection (e) the following:

''(f) HIV/AIDS RESPONSE COORDINATOR.—

''(1) IN GENERAL.—There shall be within the Department of State a Coordinator of United States Government Activities to Combat HIV/AIDS Globally, who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary of State and shall have the rank and status of ambassador.

''(2) DUTIES.—

''(A) IN GENERAL.—The Coordinator shall have primary responsibility for the oversight and coordination of all activities of the United States Government to combat the international HIV/AIDS pandemic, including all programs, projects, and activities of the United States Government under titles I through V of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2002 or any amendment made by those titles.

''(B) SPECIFIC DUTIES.—The duties of the Coordinator shall specifically include the following:

''(i) Ensuring program and policy coordination among the relevant Executive branch agencies.

''(ii) Ensuring that each relevant Executive branch agency undertakes programs primarily in those areas where the agency has

the greatest expertise, technical capabilities, and potential for success.

''(iii) Avoiding duplication of effort.

''(iv) Enhancing onsite coordination.

''(v) Pursuing coordination with other countries and international organizations.

''(vi) Resolving policy, program, and funding disputes among the relevant Executive branch agencies.''.

(b) FIRST COORDINATOR.—The President may designate the incumbent Special Representative of the Secretary of State for HIV/AIDS as of the date of enactment of this Act as the first Coordinator of United States Government Activities to Combat HIV/AIDS Globally.

SEC. 104. REPORT ON REVERSING THE EXODUS OF CRITICAL TALENT.

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the President shall submit a report to designated congressional committees analyzing the emigration of critically important medical and public health personnel, including physicians, nurses, and supervisors from sub-Saharan African countries that are acutely impacted by HIV/AIDS.

(b) ELEMENTS OF THE REPORT.—The report shall include—

(1) an analysis of the causes for the exodus of such personnel, the present and projected trend lines, and the impact on the stability of health infrastructures; and

(2) a description of incentives and programs that the United States could provide, in concert with other private and public sector partners and international organizations, to stabilize health institutions by encouraging critical personnel to remain in their home countries.

TITLE II—PUBLIC-PRIVATE PARTNERSHIPS

SEC. 201. SENSE OF CONGRESS ON PUBLIC-PRIVATE PARTNERSHIPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Innovative partnerships between governments and organizations in the private sector (including foundations, universities, corporations, faith-based and community-based organizations, and other nongovernmental organizations) have proliferated in recent years, particularly in the area of health.

(2) Public-private sector partnerships multiply local and international capacities to strengthen the delivery of health services in developing countries and to accelerate research for vaccines and other pharmaceutical products that are essential to combat infectious diseases decimating the populations of these countries.

(3) These partnerships maximize the unique capabilities of each sector while combining financial and other resources, scientific knowledge, and expertise toward common goals which neither the public nor the private sector can achieve alone.

(4) Sustaining existing public-private partnerships and building new ones are critical to the success of the international community's efforts to combat HIV/AIDS and other infectious diseases around the globe.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the sustainment and promotion of public-private partnerships should be a priority element of the strategy pursued by the United States to combat the HIV/AIDS pandemic and other global health crises; and

(2) the United States should systematically track the evolution of these partnerships and work with others in the public and private sector to profile and build upon those models that are most effective.

SEC. 202. PARTICIPATION IN THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS, AND MALARIA.

(a) AUTHORITY FOR UNITED STATES PARTICIPATION.—

(1) UNITED STATES PARTICIPATION.—The United States is hereby authorized to participate in the Global Fund to Fight AIDS, Tuberculosis and Malaria.

(2) PRIVILEGES AND IMMUNITIES.—The Global Fund shall be considered a public international organization for purposes of section 1 of the International Organizations Immunities Act (22 U.S.C. 288).

(b) REPORTS TO CONGRESS.—Not later than one year after the date of the enactment of this Act, and annually thereafter for the duration of the Global Fund, the President shall submit to the appropriate congressional committees a report on the Global Fund, including contributions pledged, contributions received (including donations from the private sector), projects funded, and the mechanisms established for transparency and accountability in the grant making process.

(c) UNITED STATES FINANCIAL PARTICIPATION.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated to the President $1,000,000,000 for the fiscal year 2003 and $1,200,000,000 for the fiscal year 2004 for contributions to the Global Fund.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) REPROGRAMMING OF FISCAL YEAR 2001 FUNDS.—Funds made available for fiscal year 2001 under section 141 of the Global AIDS and Tuberculosis Relief Act of 2000—

(A) are authorized to remain available until expended; and

(B) shall be transferred to, merged with, and made available for the same purposes as, funds made available for fiscal year 2002 under paragraph (1).

(4) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed to substitute for, or reduce resources provided under any other law for bilateral and multilateral HIV/AIDS, tuberculosis, and malaria programs.

SEC. 203. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL VACCINE FUNDS.

(a) VACCINE FUND.—Section 302(k) of the Foreign Assistance Act of 1961 (22 U.S.C. 2222(k)) is amended—

(1) by striking ''$50,000,000'' and all that follows through ''2002'' and inserting ''$60,000,000 for the fiscal year 2003 and $70,000,000 for the fiscal year 2004''; and

(2) by striking ''Global Alliance for Vaccines and Immunizations'' and inserting ''Vaccine Fund''.

(b) INTERNATIONAL AIDS VACCINE INITIATIVE.—Section 302(l) of the Foreign Assistance Act of 1961 (22 U.S.C. 2222(l)) is amended by striking ''$10,000,000'' and all that follows through ''2002'' and inserting ''$12,000,000 for the fiscal year 2003 and $15,000,000 for the fiscal year 2004''.

(c) MALARIA VACCINE INITIATIVE OF THE PROGRAM FOR APPROPRIATE TECHNOLOGIES IN HEALTH (PATH).—Section 302 of the Foreign Assistance Act of 1961 (22 U.S.C. 2222)) is amended by adding at the end the following new subsection:

''(m) In addition to amounts otherwise available under this section, there are authorized to be appropriated to the President $5,000,000 for the fiscal year 2003 and $6,000,000 for the fiscal year 2004 to be available only for United States contributions to the Malaria Vaccine Initiative of the Program for Appropriate Technologies in Health (PATH).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 2002.

TITLE III—MULTILATERAL EFFORTS

SEC. 301. IMPROVEMENT OF THE ENHANCED HIPC INITIATIVE.

(a) AMENDMENT OF THE INTERNATIONAL FINANCIAL INSTITUTIONS ACT.—Title XVI of the International Financial Institutions Act (22 U.S.C. 262p–262p–5) is amended by adding at the end the following new section:

''SEC. 1625. IMPROVEMENT OF THE ENHANCED HIPC INITIATIVE.

''(a) AUTHORITY.—In order to ensure that the Enhanced HIPC Initiative achieves the objective of substantially increasing resources available for human development and poverty reduction in heavily indebted poor countries, the Secretary of the Treasury is authorized and requested to conclude as soon as possible an agreement within the Paris Club of Official Creditors, as well as the International Bank for Reconstruction and Development (World Bank), the International Monetary Fund, and other appropriate multilateral development institutions to accomplish the modifications in the Enhanced HIPC Initiative described in subsection (b).

''(b) AGREEMENT.—The agreement referred to in subsection (a) is an agreement that provides the following:

''(1) LEVEL OF EXPORTS AND REVENUES.—

''(A) IN GENERAL.—The amount of debt stock reduction approved for a country eligible for debt relief under the Enhanced HIPC Initiative shall be sufficient to reduce, for at least each of the first 3 years after date of enactment of this section or the Decision Point, whichever is later—

''(i) the net present value of the outstanding public and publicly guaranteed debt of the country to not more than 150 percent of the annual value of exports of the country for the year preceding the Decision Point; and

''(ii) the annual payments due on such public and publicly guaranteed debt to not more than 10 percent or, in the case of a country suffering a public health crisis (as defined in subsection (c)), not more than 5 percent, of the amount of the annual current revenues received by the country from internal sources.

''(B) LIMITATION.—In financing the objectives of the Enhanced HIPC Initiative, an international financial institution shall give priority to using its own resources.

''(2) RELATION TO POVERTY AND THE ENVIRONMENT.—The debt cancellation under the Enhanced HIPC Initiative shall not be conditioned on any agreement by an impoverished country to implement or comply with policies that deepen poverty or degrade the environment, including any policy that—

''(A) implements or extends user fees on primary education or primary health care, including prevention and treatment efforts for HIV/AIDS, tuberculosis, malaria, and infant, child, and maternal well-being;

''(B) provides for increased cost recovery from poor people to finance basic public services such as education, health care, clean water, or sanitation;

''(C) reduces the country's minimum wage to a level of less than $2 per day or undermines workers' ability to exercise effectively their internationally recognized worker rights, as defined under section 526(e) of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1995 (22 U.S.C. 262p–4p); or

''(D) promotes unsustainable extraction of resources or results in reduced budget support for environmental programs.

''(3) FOREIGN GOVERNMENT POLICIES.—A country shall not be eligible for cancellation

of debt under the Enhanced HIPC Initiative if the government of the country—

''(A) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)); and

''(B) engages in a consistent pattern of gross violations of internationally recognized human rights (including its military or other security forces).

''(4) PROGRAMS TO COMBAT HIV/AIDS, TUBERCULOSIS, AND MALARIA.—A country that is otherwise eligible to receive cancellation of debt under the Enhanced HIPC Initiative may receive such cancellation only if the country has agreed—

''(A) in the case of a country suffering a public health crisis (as defined in subsection (c)), to ensure that, where practicable, 10 to 20 percent of the financial benefits of debt cancellation are applied to programs to combat HIV/AIDS, tuberculosis, and malaria in that country;

''(B) to ensure that the financial benefits of debt cancellation are applied to programs to combat poverty (in particular through concrete measures to improve basic services in education, nutrition, and health), and to redress environmental degradation;

''(C) to ensure that the financial benefits of debt cancellation are in addition to the government's total spending on programs to combat HIV/AIDS and poverty reduction for the previous year or the average total of such expenditures for the previous 3 years, whichever is greater;

''(D) to implement transparent and participatory policymaking and budget procedures, good governance, and effective anticorruption measures; and

''(E) to broaden public participation and popular understanding of the principles and goals of poverty reduction.

''(c) DEFINITIONS.—In this section:

''(1) COUNTRY SUFFERING A PUBLIC HEALTH CRISIS.—The term 'country suffering a public health crisis' means—

''(A) a country in which HIV/AIDS, tuberculosis, or malaria is causing significant family, community, or societal disruption; and

''(B) a country that has rapidly rising rates of incidence of at least one of such diseases that is likely to lead to conditions described in subparagraph (A).

''(2) DECISION POINT.—The term 'Decision Point' means the date on which the executive boards of the World Bank and the International Monetary Fund review the debt sustainability analysis for a country and determine that the country is eligible for debt relief under the Enhanced HIPC Initiative.

''(3) ENHANCED HIPC INITIATIVE.—The term 'Enhanced HIPC Initiative' means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary for the fiscal year 2003 and each fiscal year thereafter to carry out section 1625 of the International Financial Institutions Act, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 302. REPORTS ON IMPLEMENTATION OF IMPROVEMENTS TO THE ENHANCED HIPC INITIATIVE.

(a) INITIAL REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to the appropriate congressional committees a report describing the progress made in concluding an agreement under section 1625(b) of the International Financial Institutions Act (as added by section 301 of this Act) to modify the Enhanced HIPC Initiative.

(b) SUBSEQUENT REPORT.—Not later than one year after the date of submission of the initial report under subsection (a), the Secretary of the Treasury shall submit to the appropriate congressional committees a report describing the actions taken by countries to satisfy the conditions set forth in the agreement referred to in subsection (a).

TITLE IV—BILATERAL EFFORTS

Subtitle A—General Assistance and Programs

SEC. 401. ASSISTANCE TO COMBAT HIV/AIDS.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) in section 104(c) (22 U.S.C. 2151b(c)), by striking paragraphs (4) through (7); and

(2) by inserting after section 104 the following new section:

''SEC. 104A. ASSISTANCE TO COMBAT HIV/AIDS.

''(a) FINDING.—Congress recognizes that the alarming spread of HIV/AIDS in countries in sub-Saharan Africa and other developing countries is a major global health, national security, and humanitarian crisis.

''(b) POLICY.—It is a major objective of the foreign assistance program of the United States to provide assistance for the prevention, treatment, and control of HIV/AIDS. The United States and other developed countries should provide assistance to countries in sub-Saharan Africa and other countries and areas to control this crisis through HIV/AIDS prevention, treatment, monitoring, and related activities, particularly activities focused on women and youth, including strategies to prevent mother-to-child transmission of the HIV infection.

''(c) AUTHORIZATION.—

''(1) IN GENERAL.—Consistent with section 104(c), the President is authorized to furnish assistance, on such terms and conditions as the President may determine, to prevent, treat, and monitor HIV/AIDS, and carry out related activities, in countries in sub-Saharan Africa and other countries and areas.

''(2) ROLE OF NGOS.—It is the sense of Congress that the President should provide an appropriate level of assistance under paragraph (1) through nongovernmental organizations in countries in sub-Saharan Africa and other countries and areas affected by the HIV/AIDS pandemic.

''(3) COORDINATION OF ASSISTANCE EFFORTS.—The President shall coordinate the provision of assistance under paragraph (1) with the provision of related assistance by the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the United Nations Development Programme (UNDP), the Global Fund to Fight AIDS, Tuberculosis and Malaria and other appropriate international organizations (such as the International Bank for Reconstruction and Development), relevant regional multilateral development institutions, national, state, and local governments of foreign countries, appropriate governmental and nongovernmental organizations, and relevant Executive branch agencies.

''(d) ACTIVITIES SUPPORTED.—Assistance provided under subsection (c) shall, to the maximum extent practicable, be used to carry out the following activities:

''(1) PREVENTION.—Prevention of HIV/AIDS through activities including—

''(A) education, voluntary testing, and counseling (including the incorporation of confidentiality protections with respect to such testing and counseling), including integration of such programs into health programs and the inclusion in counseling programs of information on methods of preventing transmission of the HIV infection, including delaying sexual debut, abstinence, reduction of casual sexual partnering, and, where appropriate, the use of condoms;

''(B) assistance for the purpose of preventing mother-to-child transmission of the HIV infection, including medications to prevent such transmission and access to infant formula and other alternatives for infant feeding;

''(C) assistance to ensure a safe blood supply, to provide—

''(i) post-exposure prophylaxis to victims of rape and sexual assault and in cases of occupational exposure of health care workers; and

''(ii) necessary commodities, including test kits, pharmaceuticals, and condoms;

''(D) assistance through nongovernmental organizations, including faith-based organizations, particularly those organizations that utilize both professionals and volunteers with appropriate skills and experience, to establish and implement culturally appropriate HIV/AIDS education and prevention programs;

''(E) research on microbicides which prevent the spread of HIV/AIDS; and

''(F) bulk purchases of available prevention technologies for women and for appropriate program support for the introduction and distribution of these technologies, as well as education and training on the use of the technologies.

''(2) TREATMENT.—The treatment and care of individuals with HIV/AIDS, including—

''(A) assistance to establish and implement programs to strengthen and broaden indigenous health care delivery systems and the capacity of such systems to deliver HIV/AIDS pharmaceuticals and otherwise provide for the treatment of individuals with HIV/AIDS, including clinical training for indigenous organizations and health care providers;

''(B) assistance to strengthen and expand hospice and palliative care programs to assist patients debilitated by HIV/AIDS, their families, and the primary caregivers of such patients, including programs that utilize faith-based and community-based organizations; and

''(C) assistance for the purpose of the care and treatment of individuals with HIV/AIDS through the provision of pharmaceuticals, including antiretrovirals and other pharmaceuticals and therapies for the treatment of opportunistic infections, nutritional support, and other treatment modalities.

''(3) MONITORING.—The monitoring of programs, projects, and activities carried out pursuant to paragraphs (1) and (2), including—

''(A) monitoring to ensure that adequate controls are established and implemented to provide HIV/AIDS pharmaceuticals and other appropriate medicines to poor individuals with HIV/AIDS; and

''(B) appropriate evaluation and surveillance activities.

''(4) PHARMACEUTICALS.—

''(A) PROCUREMENT.—The procurement of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections.

''(B) MECHANISMS FOR QUALITY CONTROL AND SUSTAINABLE SUPPLY.—Mechanisms to ensure that such HIV/AIDS pharmaceuticals, antiretroviral therapies, and other appropriate medicines are quality-controlled and sustainably supplied.

''(C) DISTRIBUTION.—The distribution of such HIV/AIDS pharmaceuticals, antiviral

therapies, and other appropriate medicines (including medicines to treat opportunistic infections) to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and treatment protocols and for the prevention of mother-to-child transmission of the HIV infection.

''(5) RELATED ACTIVITIES.—The conduct of related activities, including—

''(A) the care and support of children who are orphaned by the HIV/AIDS pandemic, including services designed to care for orphaned children in a family environment which rely on extended family members;

''(B) improved infrastructure and institutional capacity to develop and manage education, prevention, and treatment programs, including training and the resources to collect and maintain accurate HIV surveillance data to target programs and measure the effectiveness of interventions;

''(C) vaccine research and development partnership programs with specific plans of action to develop a safe, effective, accessible, preventive HIV vaccine for use throughout the world; and

''(D) the development and expansion of financially sustainable microfinance institutions and other income generation programs that strengthen the economic and social viability of communities afflicted by the HIV/AIDS pandemic, including support for the savings and productive capacity of affected poor households caring for orphans.

''(e) ANNUAL REPORT.—

''(1) IN GENERAL.—Not later than January 31 of each year, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the implementation of this section for the prior fiscal year.

''(2) REPORT ELEMENTS.—Each report shall include—

''(A) a description of efforts made to implement the policies set forth in this section;

''(B) a description of the programs established pursuant to this section; and

''(C) a detailed assessment of the impact of programs established pursuant to this section, including—

''(i) the effectiveness of such programs in reducing the spread of the HIV infection, particularly in women and girls, in reducing mother-to-child transmission of the HIV infection, and in reducing mortality rates from HIV/AIDS; and

''(ii) the progress made toward improving health care delivery systems (including the training of adequate numbers of staff) and infrastructure to ensure increased access to care and treatment.

''(f) FUNDING LIMITATION.—Of the funds made available to carry out this section in any fiscal year, not more than 7 percent may be used for the administrative expenses of the United States Agency for International Development in support of activities described in this section. Such amount shall be in addition to other amounts otherwise available for such purposes.

''(g) DEFINITIONS.—In this section:

''(1) AIDS.—The term 'AIDS' means acquired immune deficiency syndrome.

''(2) HIV.—The term 'HIV' means the human immunodeficiency virus, the pathogen that causes AIDS.

''(3) HIV/AIDS.—The term 'HIV/AIDS' means, with respect to an individual, an individual who is infected with HIV or living with AIDS.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President $800,000,000 for the fiscal year 2003 and $900,000,000 for the fiscal year 2004 to carry out section 104A of the Foreign Assistance Act of 1961, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) ALLOCATION OF FUNDS.—

(A) RESEARCH ON MICROBICIDES.—Of the amounts authorized to be appropriated by paragraph (1) for the fiscal years 2003 and 2004, $20,000,000 for the fiscal year 2003 and $24,000,000 for the fiscal year 2004 are authorized to be available to carry out section 104A(d)(1)(D) of the Foreign Assistance Act of 1961 (as added by subsection (a)), relating to research on microbicides which prevent the spread of HIV/AIDS.

(B) PHARMACEUTICALS.—Of the amounts authorized to be appropriated by paragraph (1) for the fiscal years 2003 and 2004, $100,000,000 for the fiscal year 2003 and $120,000,000 for the fiscal year 2004 are authorized to be available to carry out section 104A(d)(4) of the Foreign Assistance Act of 1961 (as added by subsection (a)), relating to the procurement and distribution of HIV/AIDS pharmaceuticals.

(4) TRANSFER OF PRIOR YEAR FUNDS.—Unobligated balances of funds made available for the fiscal year 2001 or the fiscal year 2002 under section 104(c)(6) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(6) (as in effect immediately before the date of enactment of this Act) shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal year 2003 under paragraph (1).

SEC. 402. ASSISTANCE TO COMBAT TUBERCULOSIS.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by section 401 of this Act, is further amended by inserting after section 104A the following new section:

''SEC. 104B. ASSISTANCE TO COMBAT TUBERCULOSIS.

''(a) FINDINGS.—Congress makes the following findings:

''(1) Congress recognizes the growing international problem of tuberculosis and the impact its continued existence has on those countries that had previously largely controlled the disease.

''(2) Congress further recognizes that the means exist to control and treat tuberculosis through expanded use of the DOTS (Directly Observed Treatment Short-course) treatment strategy and adequate investment in newly created mechanisms to increase access to treatment, including the Global Tuberculosis Drug Facility established in 2001 pursuant to the Amsterdam Declaration to Stop TB.

''(b) POLICY.—It is a major objective of the foreign assistance program of the United States to control tuberculosis, including the detection of at least 70 percent of the cases of infectious tuberculosis, and the cure of at least 85 percent of the cases detected, not later than December 31, 2005, in those countries classified by the World Health Organization as among the highest tuberculosis burden, and not later than December 31, 2010, in all countries in which the United States Agency for International Development has established development programs.

''(c) AUTHORIZATION.—To carry out this section and consistent with section 104(c), the President is authorized to furnish assistance, on such terms and conditions as the President may determine, for the prevention, treatment, control, and elimination of tuberculosis.

''(d) COORDINATION.—In carrying out this section, the President shall coordinate with the World Health Organization, the Global Fund to Fight AIDS, Tuberculosis, and Malaria, the Department of Health and Human Services (including the Centers for Disease Control and Prevention and the National Institutes of Health), and other organizations with respect to the development and implementation of a comprehensive tuberculosis control program.

''(e) ANNUAL REPORT.—Not later than January 31 of each year, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives specifying the increases in the number of people treated and the increases in number of tuberculosis patients cured through each program, project, or activity receiving United States foreign assistance for tuberculosis control purposes.

''(f) PRIORITY TO DOTS COVERAGE.—In furnishing assistance under subsection (c), the President shall give priority to activities that increase directly observed treatment shortcourse (DOTS) coverage, including funding for the Global Tuberculosis Drug Facility and the Stop Tuberculosis Partnership.

''(g) DEFINITIONS.—In this section:

''(1) DOTS.—The term 'DOTS' or 'Directly Observed Treatment Short-course' means the World Health Organization-recommended strategy for treating tuberculosis.

''(2) GLOBAL TUBERCULOSIS DRUG FACILITY.—The term 'Global Tuberculosis Drug Facility (GDF)' means the new initiative of the Stop Tuberculosis Partnership to increase access to high-quality tuberculosis drugs to facilitate DOTS expansion.

''(3) STOP TUBERCULOSIS PARTNERSHIP.—The term 'Stop Tuberculosis Partnership' means the partnership of the World Health Organization, donors including the United States, high tuberculosis burden countries, multilateral agencies, and nongovernmental and technical agencies committed to short- and long-term measures required to control and eventually eliminate tuberculosis as a public health problem in the world.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President $150,000,000 for the fiscal year 2003 and $200,000,000 for the fiscal year 2004 to carry out section 104B of the Foreign Assistance Act of 1961, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) TRANSFER OF PRIOR YEAR FUNDS.—Unobligated balances of funds made available for the fiscal year 2001 or the fiscal year 2002 under section 104(c)(7) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7) (as in effect immediately before the date of enactment of this Act) shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal year 2003 under paragraph (1).

SEC. 403. ASSISTANCE TO COMBAT MALARIA.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by sections 401 and 402 of this Act, is further amended by inserting after section 104B the following new section:

''SEC. 104C. ASSISTANCE TO COMBAT MALARIA.

''(a) FINDING.—Congress finds that malaria kills more people annually than any other communicable disease except tuberculosis, that more than 90 percent of all malaria cases are in sub-Saharan Africa, and that children and women are particularly at risk.

Congress recognizes that there are cost-effective tools to decrease the spread of malaria and that malaria is a curable disease if promptly diagnosed and adequately treated.

''(b) POLICY.—It is a major objective of the foreign assistance program of the United States to provide assistance for the prevention, control, and cure of malaria.

''(c) AUTHORIZATION.—To carry out this section and consistent with section 104(c), the President is authorized to furnish assistance, on such terms and conditions as the President may determine, for the prevention, treatment, control, and elimination of malaria.

''(d) COORDINATION.—In carrying out this section, the President shall coordinate with the World Health Organization, the Global Fund to Fight AIDS, Tuberculosis, and Malaria, the Department of Health and Human Services (the Centers for Disease Control and Prevention and the National Institutes of Health), and other organizations with respect to the development and implementation of a comprehensive malaria control program.

''(e) ANNUAL REPORT.—Not later than January 31 of each year, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives specifying the increases in the number of people treated and the increases in number of malaria patients cured through each program, project, or activity receiving United States foreign assistance for malaria control purposes.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President $70,000,000 for the fiscal year 2003 and $80,000,000 for the fiscal year 2004 to carry out section 104C of the Foreign Assistance Act of 1961, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) TRANSFER OF PRIOR YEAR FUNDS.—Unobligated balances of funds made available for the fiscal year 2001 or the fiscal year 2002 under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c) (as in effect immediately before the date of enactment of this Act) and made available for the control of malaria shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal year 2003 under paragraph (1).

(c) CONFORMING AMENDMENT.—Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)), as amended by section 401 of this Act, is further amended by adding after paragraph (3) the following:

''(4) RELATIONSHIP TO OTHER LAWS.—Assistance made available under this subsection and sections 104A, 104B, and 104C, and assistance made available under chapter 4 of part II to carry out the purposes of this subsection and such other sections of this Act, may be made available in accordance with this subsection and such other provisions of this Act notwithstanding any other provision of law.''.

SEC. 404. PILOT PROGRAM FOR THE PLACEMENT OF HEALTH CARE PROFESSIONALS IN OVERSEAS AREAS SEVERELY AFFECTED BY HIV/AIDS, TUBERCULOSIS, AND MALARIA.

(a) IN GENERAL.—The President shall establish a program to demonstrate the feasibility of facilitating the service of American health care professionals in sub-Saharan Africa and other parts of the world severely affected by HIV/AIDS, tuberculosis, and malaria.

(b) REQUIREMENTS.—Participants in the program shall—

(1) provide basic health care services for those infected and affected by HIV/AIDS, tuberculosis, and malaria in the area in which they are serving;

(2) provide on-the-job training to medical and other personnel in the area in which they are serving to strengthen the basic health care system of the affected countries;

(3) provide health care educational training for residents of the area in which they are serving;

(4) serve for a period of up to two years; and

(5) meet the eligibility requirements in subsection (d).

(c) ELIGIBILITY REQUIREMENTS.—To be eligible to participate in the program, a candidate shall—

(1) be a national of the United States who is a trained health care professional and who meets the educational and licensure requirements necessary to be such a professional such as a physician, nurse, nurse practitioner, pharmacist, or other individual determined to be appropriate by the President; or

(2) a retired commissioned officer of the Public Health Service Corps.

(d) RECRUITMENT.—The President shall ensure that information on the program is widely distributed, including the distribution of information to schools for health professionals, hospitals, clinics, and nongovernmental organizations working in the areas of international health and aid.

(e) PLACEMENT OF PARTICIPANTS.—To the maximum extent practicable, participants in the program shall serve in the poorest areas of the affected countries, where health care needs are likely to be the greatest. The decision on the placement of a participant should be made in consultation with relevant officials of the affected country at both the national and local level as well as with local community leaders and organizations.

(f) EXTENDED PERIOD OF SERVICE.—The President may extend the period of service of a participant by an additional period of 6 to 12 months.

(g) INCENTIVES.—The President may offer such incentives as the President determines to be necessary to encourage individuals to participate in the program, such as partial payment of principal, interest, and related expenses on government and commercial loans for educational expenses relating to professional health training and, where possible, deferment of repayments on such loans, the provision of retirement benefits that would otherwise be jeopardized by participation in the program, and other incentives.

(h) REPORT.—Not later than 18 months after the date of enactment of this Act, the President shall submit a report to the designated congressional committees on steps taken to establish the program, including—

(1) the process of recruitment, including the venues for recruitment, the number of candidates recruited, the incentives offered, if any, and the cost of those incentives;

(2) the process, including the criteria used, for the selection of participants;

(3) the number of participants placed, the countries in which they were placed, and why those countries were selected; and

(4) the potential for expansion of the program.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $10,000,000 for the fiscal year 2003 and $20,000,000 for the fiscal year 2004 to carry out the program.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 405. DEPARTMENT OF DEFENSE HIV/AIDS PREVENTION ASSISTANCE PROGRAM.

(a) EXPANSION OF PROGRAM.—The Secretary of Defense is authorized to expand, in accordance with this section, the Department of Defense program of HIV/AIDS prevention educational activities undertaken in connection with the conduct of United States military training, exercises, and humanitarian assistance in sub-Saharan African countries.

(b) ELIGIBLE COUNTRIES.—The Secretary of Defense may carry out the program in all eligible countries. A country shall be eligible for activities under the program if the country—

(1) is a country suffering a public health crisis (as defined in subsection (e)); and

(2) participates in the military-to-military contacts program of the Department of Defense.

(c) PROGRAM ACTIVITIES.—The Secretary of Defense shall provide for the activities under the program—

(1) to focus, to the extent possible, on military units that participate in peace keeping operations; and

(2) to include HIV/AIDS-related voluntary counseling and testing and HIV/AIDS-related surveillance.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amount authorized to be appropriated to the Department of Defense for operation and maintenance of the Defense Health Program for the fiscal year 2003, $30,000,000 may be available for carrying out the program described in subsection (a) as expanded pursuant to this section.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(e) COUNTRY SUFFERING A PUBLIC HEALTH CRISIS DEFINED.—In this section, the term ''country suffering a public health crisis'' means a country that has rapidly rising rates of incidence of HIV/AIDS or in which HIV/AIDS is causing significant family, community, or societal disruption.

SEC. 406. REPORT ON TREATMENT ACTIVITIES BY RELEVANT EXECUTIVE BRANCH AGENCIES.

(a) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, the President shall submit to designated congressional committees a report on the programs and activities of the United States Agency for International Development, the Centers for Disease Control and Prevention, and other relevant Executive branch agencies that are directed to the treatment of individuals in foreign countries infected with HIV or living with AIDS.

(b) REPORT ELEMENTS.—The report shall include—

(1) a description of the activities of relevant Executive branch agencies with respect to—

(A) the treatment of opportunistic infections;

(B) the use of antiretrovirals;

(C) the status of research into successful treatment protocols for individuals in the developing world; and

(D) technical assistance and training of local health care workers (in countries affected by the pandemic) to administer antiretrovirals, manage side effects, and monitor patients' viral loads and immune status;

(2) information on existing pilot projects, including a discussion of why a given population was selected, the number of people treated, the cost of treatment, the mechanisms established to ensure that treatment is being administered effectively and safely, and plans for scaling up pilot projects (including projected timelines and required resources); and

(3) an explanation of how those activities relate to efforts to prevent the transmission of the HIV infection.

Subtitle B—Assistance for Children and Families

SEC. 411. FINDINGS.

Congress makes the following findings:

(1) Approximately 2,000 children around the world are infected each day with HIV through mother-to-child transmission. Transmission can occur during pregnancy, labor, and delivery or through breast feeding. Over ninety percent of these cases are in developing nations with little or no access to public health facilities.

(2) Mother-to-child transmission is largely preventable with the proper application of pharmaceuticals, therapies, and other public health interventions.

(3) The drug nevirapine, reduces mother-to-child transmission by nearly 50 percent. Universal availability of this drug could prevent up to 400,000 infections per year and dramatically reduce the number of AIDS-related deaths.

(4) At the United Nations Special Session on HIV/AIDS in June 2001, the United States committed to the specific goals with respect to the prevention of mother-to-child transmission, including the goals of reducing the proportion of infants infected with HIV by 20 percent by the year 2005 and by 50 percent by the year 2010, as specified in the Declaration of Commitment on HIV/AIDS adopted by the United Nations General Assembly at the Special Session.

(5) Several United States Government agencies including the United States Agency for International Development and the Centers for Disease Control are already supporting programs to prevent mother-to-child transmission in resource-poor nations and have the capacity to expand these programs rapidly by working closely with foreign governments and nongovernmental organizations.

(6) Efforts to prevent mother-to-child transmission can provide the basis for a broader response that includes care and treatment of mothers, fathers, and other family members that are infected with HIV or living with AIDS.

(7) HIV/AIDS has devastated the lives of countless children and families across the globe. Since the epidemic began, an estimated 13,200,000 children under the age of 15 have been orphaned by AIDS, that is they have lost their mother or both parents to the disease. The Joint United Nations Program on HIV/AIDS (UNAIDS) estimates that this number will double by the year 2010.

(8) HIV/AIDS also targets young people between the ages of 15 to 24, many of whom carry the burden of caring for family members living with HIV/AIDS. An estimated 10,300,000 young people are now living with HIV/AIDS. One-half of all new infections are occurring among this age group.

SEC. 412. POLICY AND REQUIREMENTS.

(a) POLICY.—The United States Government's response to the global HIV/AIDS pandemic should place high priority on the prevention of mother-to-child transmission, the care and treatment of family members and caregivers, and the care of children orphaned by AIDS. To the maximum extent possible, the United States Government should seek to leverage its funds by seeking matching contributions from the private sector, other national governments, and international organizations.

(b) REQUIREMENTS.—The 5-year United States Government strategy required by section 101 of this Act shall—

(1) provide for meeting or exceeding the goal set by the United Nations General Assembly Declaration of Commitment on HIV/AIDS to reduce the rate of mother-to-child transmission of HIV by 20 percent by 2005 and by 50 percent by 2010;

(2) include programs to make available testing and treatment to HIV-positive women and their family members, including drug treatment and therapies to prevent mother-to-child transmission; and

(3) expand programs designed to care for children orphaned by AIDS.

SEC. 413. ANNUAL REPORTS ON PREVENTION OF MOTHER-TO-CHILD TRANSMISSION OF THE HIV INFECTION.

(a) IN GENERAL.—Beginning 270 days after the date of enactment of this Act, and annually thereafter for the ensuing eight years, the President shall submit to designated congressional committees a report on the activities of relevant Executive branch agencies during the reporting period to assist in the prevention of mother-to-child transmission of the HIV infection.

(b) REPORT ELEMENTS.—Each report shall include—

(1) a statement of whether or not all relevant Executive branch agencies have adopted the targets set by the United Nations General Assembly at the Special Session for HIV/AIDS, held June 25 to 27, 2001, with respect to mother-to-child transmission of the HIV infection;

(2) a description of efforts made by the United States Agency for International Development and the Centers for Disease Control and Prevention to expand those activities, including—

(A) information on the number of sites supported for the prevention of mother-to-child transmission of the HIV infection;

(B) the specific activities supported;

(C) the number of women tested and counseled; and

(D) the number of women receiving preventative drug therapies;

(3) a statement of the percentage of funds expended out of the budget of each relevant Executive branch agency for activities to prevent mother-to-child transmission of the HIV infection and, in the case of United States Agency for International Development, whether or not its expenditures on bilateral assistance have met the 8.3 percent target in section 104(c)(6)(D) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(6)(D)), as in effect immediately before the date of enactment of this Act, with respect to strategies to prevent mother-to-child transmission of the HIV infection;

(4) a discussion of the extent to which the programs of the relevant Executive branch agencies are meeting targets set by the United Nations General Assembly; and

(5) a description of efforts made by the Centers for Disease Control and Prevention and the United States Agency for International Development to expand care and treatment services for families at established sites for the prevention of mother-to-child transmission of HIV infection.

(c) REPORTING PERIOD DEFINED.—In this section, the term ''reporting period'' means, in the case of the initial report, the period since the date of enactment of this Act and, in the case of any subsequent report, the period since the date of submission of the most recent report.

SEC. 414. PILOT PROGRAM OF ASSISTANCE FOR CHILDREN AND FAMILIES AFFECTED BY HIV/AIDS.

(a) IN GENERAL.—The President, acting through the United States Agency for International Development, shall establish a program of assistance that would demonstrate the feasibility of the provision of care and treatment to orphans and other children and young people affected by HIV/AIDS in foreign countries.

(b) PROGRAM REQUIREMENTS.—The program shall—

(1) build upon and be integrated into programs administered as of the date of enactment of this Act by the United States Agency for International Development for children affected by HIV/AIDS;

(2) work in conjunction with indigenous community-based programs and activities, particularly those that offer proven services for children;

(3) reduce the stigma of HIV/AIDS to encourage vulnerable children infected with HIV or living with AIDS and their family members and caregivers to avail themselves of voluntary counseling and testing, and related programs, including treatments;

(4) provide, in conjunction with other relevant Executive branch agencies, the range of services for the care and treatment, including the provision of antiretrovirals and other necessary pharmaceuticals, of children, parents, and caregivers infected with HIV or living with AIDS;

(5) provide nutritional support and food security, and the improvement of overall family health;

(6) work with parents, caregivers, and community-based organizations to provide children with educational opportunities; and

(7) provide appropriate counseling and legal assistance for the appointment of guardians and the handling of other issues relating to the protection of children.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the President, acting through the United States Agency for International Development, shall submit a report on the implementation of this section to the appropriate congressional committees. The report shall include a plan for scaling up the program over the following year.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $15,000,000 for the fiscal year 2003 and $30,000,000 for the fiscal year 2004 to carry out the program.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

TITLE V—BUSINESS PRINCIPLES

SEC. 501. PRINCIPLES FOR UNITED STATES FIRMS OPERATING IN COUNTRIES AFFECTED BY THE HIV/AIDS PANDEMIC.

(a) FINDINGS.—Congress finds that the global spread of HIV/AIDS presents not only a health crisis but also a crisis in the workplace that affects—

(1) the productivity, earning power, and longevity of individual workers;

(2) the productivity, competitiveness, and financial solvency of individual businesses; and

(3) the economic productivity and development of individual communities and the United States as a whole.

(b) SENSE OF CONGRESS.—It is the sense of Congress that United States firms operating in countries affected by the HIV/AIDS pandemic can make significant contributions to the United States effort to respond to this pandemic through the voluntary adoption of the principles and practices described in subsection (c).

(c) PRINCIPLES AND PRACTICES.—The principles and practices referred to in subsection (b) are the following:

(1) With respect to employment and health policies and practices, the treatment of HIV/AIDS in the same manner as any other illness.

(2) The promotion of policies and practices that eliminate discrimination and stigmatization against employees on the basis of real or perceived HIV/AIDS status, including—

(A) assessing employees on merit and ability to perform;

(B) not subjecting employees to personal discrimination or abuse; and

(C) imposing disciplinary measures where discrimination occurs.

(3) A prohibition on compulsory HIV/AIDS testing for recruitment, promotion, or career development.

(4) An assurance of the confidentiality of an employee's HIV/AIDS status.

(5) Permission for employees with HIV/AIDS-related illnesses to work as long as they are medically fit and, when they are no longer able to work and sick leave has been exhausted, an assurance that the employment relationship will be terminated in accordance with antidiscrimination and labor laws and respect for general procedures and full benefits.

(6) An assurance that employment practices will comply, at a minimum, with national and international employment and labor laws and codes.

(7) The involvement of employees and individuals infected with HIV or living with AIDS, drawn from the workplace or the community, in the development and assessment of HIV/AIDS policies and programs for the workplace.

(8) An offer to all employees of access to culturally appropriate preventive education programs and services to support those programs.

(9) An assurance that programs offered in the workplace will support and be integrated into larger community-based responses to the problems posed by HIV/AIDS.

(10) Work with community leaders to expand the availability of treatment for those employees and others infected with HIV or living with AIDS.

TITLE VI—ADDITIONAL AUTHORITIES

SEC. 601. AUTHORITY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) IN GENERAL.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART R—HIV/AIDS, TUBERCULOSIS, AND MALARIA PREVENTION, CARE AND TREATMENT IN DEVELOPING COUNTRIES

"SEC. 399AA. GENERAL AUTHORITY OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

''(a) PURPOSE.—It is the purpose of this section to provide the Secretary, acting through the Director of the Centers for Disease Control and Prevention, with the authority to act internationally to carry out prevention, care, treatment, support, capacity development, and other activities (determined appropriate by the Secretary) for HIV/AIDS, tuberculosis, and malaria in countries determined by the Secretary to have or be at risk for severe HIV epidemic with particular attention to resource constrained countries.

''(b) ACTIVITIES AND ASSISTANCE.—In carrying out the purpose described in subsection (a), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, in coordination with the Administrator of the United States Agency for International Development and the Administrator of the Health Resources and Services Administration, may provide support and assistance under this section relating to—

''(1) HIV prevention services provided through—

''(A) education and voluntary counseling and testing activities, including rapid testing, the development and application of confidentiality protections with respect to such counseling and testing, and the integration of such activities into programs serving women and children;

''(B) programs to reduce the mother-to-child transmission of HIV, including the treatment and care of HIV-infected women, their children, and families, and including the involvement of fathers in such programs;

''(C) activities involving behavioral interventions for youth, women, and other vulnerable populations;

''(D) programs to prevent the transmission of HIV and other pathogens at health care facilities (including the use of universal precautions, equipment sterilization, post-exposure prophylaxis for health care workers and other individuals determined to be appropriate, and other interventions appropriate to the resources available), and to support the use of post exposure prophylaxis, when indicated, for patients;

''(E) activities to ensure a safe blood supply;

''(F) programs to provide prevention, care, treatment, and patient management services for sexually transmitted infections to infected individuals and individuals at risk of infection; and

''(G) activities, including laboratory support, to collect and maintain accurate HIV/AIDS surveillance and epidemiologic data, to target and monitor programs, and to measure the effectiveness of interventions;

''(2) HIV/AIDS care and treatment services provided through—

''(A) programs to provide care and treatment, integrated with prevention services to further reduce the transmission of HIV, for individuals living with HIV/AIDS, including the treatment of opportunistic infections (including tuberculosis) and the provision of antiretroviral therapies and nutritional services;

''(B) programs to provide support services that are needed to enhance the effectiveness of health services and to promote family stability, including services for family members affected by, but not infected with, HIV such as children orphaned by AIDS; and

''(C) programs that link care and treatment services to proven prevention programs, including linkages with voluntary counseling and testing efforts (including rapid testing);

''(3) infrastructure and training through—

''(A) activities to improve the health infrastructure and institutional capacity within participating countries, including the training of appropriate personnel, and to assist such countries in expanding and improving the availability of health care facilities, to enable such countries to develop and manage HIV/AIDS education, prevention, care and treatment programs and to conduct evaluations of such programs; and

''(B) activities to provide laboratory support as well as technical assistance and training to increase the capacity for the diagnosis, care, and treatment of HIV/AIDS and related health conditions (including rapid testing);

''(4) HIV/AIDS treatment protocols through—

''(A) the provision of support and assistance to countries determined by the Secretary to have or be at risk for severe HIV epidemic with particular attention to resource constrained countries for the development of treatment protocols for the delivery of HIV/AIDS treatment and prevention services; and

''(B) the provision of assistance to countries determined by the Secretary to have or be at risk for severe HIV epidemic with particular attention to resource constrained countries, and to be ready to implement the protocols described in subparagraph (A); and

''(5) other activities determined appropriated by the Secretary.

''(c) UTILIZATION OF EXISTING CAPACITIES.—In carrying out activities under subsection (b), the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Administrator of the United States Agency for International Development and the Administrator of the Health Resources and Services Administration, shall, to the maximum extent practicable, utilize existing indigenous capacity in developing countries, including coordinating with relevant government ministries and carrying out activities in partnership with non-governmental organizations and affected communities.

''(d) HEALTH RESOURCES AND SERVICES ADMINISTRATION.—In carrying out activities under paragraphs (2) and (3) of subsection (b), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall enter into interagency agreements, monetary transfers, and contracts with the Administrator of the Health Resources and Services Administration to ensure that such activities benefit from the specialized expertise of such Administration related to the assessment of needs as well as the development and implementation of community-based systems of care and appropriate infrastructure, including the training of health care providers and community workers.

''(e) BLOOD SUPPLY.—In carrying out activities under subsection (b)(1)(E), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall assist participating countries in developing national, regional, or local systems to—

''(1) monitor, manage, and test the blood supply to ensure that such supply is screened for HIV;

''(2) increase recruitment and retention of appropriate blood donors; and

''(3) provide for technology transfer and capacity building in proven best blood safety practices appropriate to local conditions, including anemia prevention efforts.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $400,000,000 for fiscal year 2003, and such sums as may be necessary for fiscal year 2004. Of the amount appropriated under the preceding sentence for each fiscal year, the Secretary shall make available $45,000,000 in fiscal year 2003 and $30,000,000 in fiscal year 2004 to carry out section 399DD. Amounts appropriated under this subsection shall remain available until expended.

"SEC. 399BB. GENERAL AUTHORITY OF THE HEALTH RESOURCES AND SERVICES ADMINISTRATION.

''(a) PURPOSE.—It is the purpose of this section to provide the Secretary, acting through the Administrator of the Health Resources and Services Administration, with the authority to act internationally to carry out prevention, care, treatment, support, capacity development, and other activities (determined appropriate by the Secretary) for HIV/AIDS, tuberculosis, and malaria in countries determined by the Secretary to have or be at risk for severe HIV epidemic with particular attention to resource constrained countries.

''(b) ACTIVITIES AND ASSISTANCE.—In carrying out the purpose described in subsection (a), the Secretary, acting through the Administrator of the Health Resources and Services Administration, in coordination with the Director of the Centers for Disease Control and Prevention and the Administrator of the United States Agency for International Development, may provide assistance under this section relating to—

''(1) activities to assist communities in assessing the strengths and capabilities of the existing system of care and treatment relating to HIV/AIDS and other opportunistic infections, including critical unmet needs;

''(2) activities to assist communities in the development and implementation of appropriate systems of care that provide for a continuum of HIV/AIDS-related services for prevention, treatment, palliative care, and hospice services based on an assessment under paragraph (1);

''(3) activities to improve the health-related infrastructure and institutional capacity of participating countries, including the training of health care providers and community workers, to enable such countries to develop and manage HIV/AIDS education, prevention, care and treatment programs and to conduct evaluations of such programs;

''(4) activities to assist in the development of training modules and curricula on HIV/AIDS and associated conditions as part of the professional training programs for physicians, nurses, dentists, pharmacists, and other health care providers;

''(5) activities to improve the coordination between American medical centers and hospitals and indigenous hospitals and clinics in participating countries; and

''(6) other activities determined appropriated by the Secretary.

''(c) UTILIZATION OF EXISTING CAPACITIES.—In carrying out activities under subsection (b), the Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the Centers for Disease Control and Prevention and the Administrator of the United States Agency for International Development, shall, to the maximum extent practicable, utilize existing indigenous capacity in countries determined by the Secretary to have or be at risk for severe HIV epidemic with particular attention to resource constrained countries, including coordinating with relevant government ministries and carrying out activities in partnership with non-governmental organizations and affected communities.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $40,000,000 for fiscal year 2003, and such sums as may be necessary for fiscal year 2004. Amounts appropriated under this subsection shall remain available until expended.

''SEC. 399CC. HIV/AIDS TRAINING PARTNERSHIP.

''(a) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health and in coordination with the Administrator of the Health Resources and Services Administration, shall award supplemental grants to eligible entities to enable such entities to provide support for clinical education and training in the delivery of HIV/AIDS care and treatment services.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a supplemental grant under subsection (a), an entity shall—

''(1) be a recipient of an international HIV/AIDS clinical research, education, or training grant awarded by the National Institutes of Health or the Health Resources and Services Administration;

''(2) provide assurances to the Secretary that the entity has developed a partnership with a hospital-based or community-based health care entity in the host country for the purpose of providing services under each grant; and

''(3) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be carried out with amounts received under the grant.

''(c) USE OF FUNDS.—An entity shall use amounts received under a supplemental grant under subsection (a) to provide clinical education and training in the delivery of HIV/AIDS care and treatment services. Such education and training shall be designed to develop health care provider capacity to deliver HIV/AIDS care and treatment services in a variety of institutional and community-based settings.

''(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to applicants that will carry out activities that assess existing provider capacity and address the training needs of a range of health care providers (from physicians to nurses to other health care providers).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 2003, and such sums as may be necessary for fiscal year 2004. Amounts appropriated under this subsection shall remain available until expended.

''SEC. 399DD. FAMILY SURVIVAL PARTNERSHIPS.

''(a) PURPOSE.—The purpose of this section is to provide support, through a public-private partnership, for the provision of medical care and support services to HIV positive parents and their children identified through existing programs to prevent mother-to-child transmission of HIV in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary.

''(b) GRANTS.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, is authorized to award a grant to an eligible administrative organization to enable the organization to award subgrants to eligible entities to expand activities to prevent the mother-to-child transmission of HIV by providing medical care and support services to HIV infected parents and their children.

''(2) ADMINISTRATIVE ORGANIZATION.—To be eligible to receive a grant under paragraph (1), an administrative organization shall—

''(A) have a demonstrable record in managing large scale maternal and child health programs in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary, and sufficient HIV/AIDS expertise;

''(B) have established relationships with major international organizations and multilateral institutions;

''(C) provide an assurance to the Secretary that the organization will contribute (either directly or through private sector financial support) non-Federal funds to the costs of the activities to be carried out under this section in an amount that is not less than the amount of funds provided to the organization under a grant this section; and

''(D) prepare and submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(3) USE OF FUNDS.—Amounts provided under a grant awarded under paragraph (1) shall be used—

''(A) to award subgrants to eligible entities to enable such entities to carry out activities described in subsection (c);

''(B) for administrative support and subgrant management;

''(C) for administrative data collection and reporting concerning grant activities;

''(D) for the monitoring and evaluation of grant activities;

''(E) for training and technical assistance for subgrantees; and

''(F) to promote sustainability.

''(c) SUBGRANTS.—

''(1) IN GENERAL.—An organization awarded a grant under subsection (b) shall use amounts received under the grant to award subgrants to eligible entities.

''(2) ELIGIBILITY.—To be eligible to receive a subgrant under paragraph (1), an entity shall—

''(A) be a local health organization, an international organization, or a partnership of such organizations;

''(B) demonstrate to the awarding organization that such entity—

''(i) is currently administering a proven intervention to prevent mother-to-child transmission of HIV in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary;

''(ii) serves a catchment area with a minimum HIV seroprevalence of 3 percent in pregnant women;

''(iii) has demonstrated support for the proposed program from relevant government entities;

''(iv) is able to provide HIV care, including antiretroviral treatment when medically indicated, to HIV positive women, men, and children with the support of the project funding; and

''(v) has the ability to enroll a minimum of 250 HIV infected women per service site, based on the current uptake rate, into existing HIV mother-to-child transmission programs; and

''(C) prepare and submit to the awarding organization an application at such time, in such manner, and containing such information as the organization may require.

''(3) LOCAL HEALTH AND INTERNATIONAL ORGANIZATIONS.—For purposes of paragraph (2)(A)—

''(A) the term 'local health organization' means a public sector health system, nongovernmental organization, institution of higher education, community-based organization, or non-profit health system that provides directly, or has a clear link with a provider for the indirect provision of, primary health care services; and

''(B) the term 'international organization' means—

''(i) a non-profit international entity;

''(ii) an international charitable institution;

''(iii) a private voluntary international entity; or

''(iv) a multilateral institution.

''(4) SELECTION OF SUBGRANT RECIPIENTS.—In awarding subgrants under this subsection, the organization shall—

''(A) consider applicants from a range of health care settings, program approaches, and geographic locations; and

''(B) if appropriate, award not less than 1 grant to an applicant to fund a national system of health care delivery to HIV positive families.

''(5) USE OF SUBGRANT FUNDS.—An eligible entity awarded a subgrant under this subsection shall use subgrant funds to expand activities to prevent mother-to-child transmission of HIV by providing medical treatment and care and support services to parents and their children, including—

''(A) providing treatment and therapy, when medically indicated, to HIV-infected women, their children, and families;

''(B) the hiring and training of local personnel, including physicians, nurses, other health care providers, counselors, social workers, outreach personnel, laboratory technicians, data managers, and administrative support personnel;

''(C) paying laboratory costs, including costs related to necessary equipment and diagnostic testing and monitoring (including rapid testing), complete blood counts, standard chemistries, and liver function testing for infants, children, and parents, and costs related to the purchase of necessary laboratory equipment;

''(D) purchasing pharmaceuticals for HIV-related conditions, including antiretroviral therapies;

''(E) funding support services including adherence and psychosocial support services;

''(F) operational support activities; and

''(G) conducting community outreach and capacity building activities, including activities to raise the awareness of individuals of the program carried out by the subgrantee, other communications activities in support of the program, local advisory board functions, and transportation necessary to ensure program participation.

''(d) REPORTS.—Not later than 6 months after the date of enactment of this section, and annually thereafter, an administrative organization awarded a grant under subsection (b)(1) shall submit to the Secretary and the appropriate committees of Congress, a report that includes—

''(1) the progress of programs funded under this section;

''(2) the benchmarks of success of programs funded under this section; and

''(3) recommendations of how best to proceed with the programs funded under this section upon the expiration of funding under subsection (e).

''(e) FUNDING.—In making amounts available under section 399AA(f) to carry out this section, the Secretary shall ensure that not less than—

''(1) $45,000,000 is made available to carry out this section for fiscal year 2003; and

''(2) $30,000,000 is made available to carry out this section for fiscal year 2004.

''(f) LIMITATION ON ADMINISTRATIVE EXPENSES.—An administrative organization shall ensure that not more than 12 percent of the amount of a grant received under this section by the organization is used for the administrative activities described in subparagraphs (B), (C), (D), and (E) of subsection (b)(3) and subsection (b)(5)(E).

''SEC. 399EE. INTRA-AGENCY COORDINATION OF GLOBAL HIV/AIDS INITIATIVES.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Global Health Affairs (referred to in this section as the 'Director') of the Department of Health and Human Services (referred to in this section as the 'Department'), shall ensure—

''(1) the coordination of all Department programs related to the prevention, treatment, and monitoring of HIV/AIDS, tuberculosis, and malaria in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary (referred to in this section as 'Department programs'); and

''(2) that global HIV/AIDS, tuberculosis, and malaria activities are conducted in a coordinated, strategic fashion, utilizing the expertise from the various agencies within the Department, to the maximum extent practicable.

''(b) DUTIES.—In carrying out this section, the Secretary shall—

''(1) review all Departmental programs to ensure proper coordination and compatibility of the activities, strategies, and policies of such programs; and

''(2) ensure that the Departmental programs utilize the best possible practices for HIV/AIDS prevention, treatment, and monitoring to improve the effectiveness of Department programs in countries in which the Department operates.

''(c) REPORT.—

''(1) IN GENERAL.—The Director shall prepare an annual report that—

''(A) describes the actions that are being taken to coordinate the multiple roles and policies of, and foster collaboration among, the offices and agencies of the Department that contribute to global HIV/AIDS activities;

''(B) describes the respective roles and activities of each of the offices and agencies of the Department;

''(C) contains any recommendations for legislative and funding actions that are needed to create a coherent, effective departmental approach to global HIV/AIDS that achieves the goals for Department programs; and

''(D) describes the progress made towards meeting the HIV/AIDS goals and outcomes as identified by the Director.

''(2) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this part, and annually thereafter, the Secretary shall submit the report described in paragraph (1) to the appropriate committees of Congress.''.

(b) EXTENSION OF TUBERCULOSIS PREVENTION PROGRAM.—Section 317E(g) of the Public Health Service Act (42 U.S.C. 247b–6(g)) is amended—

(1) in paragraph (1)(A), by striking ''2002'' and inserting ''2004'';

(2) in paragraph (2), by striking ''2002'' and inserting ''2004''; and

(3) by adding at the end the following:

''(3) COORDINATION.—Activities under this section shall, to the extent practicable, be coordinated with related activities carried out under title VI of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2002 (and the amendments made by that title).''.

SEC. 602. MICROBICIDE RESEARCH AT THE NATIONAL INSTITUTES OF HEALTH.

Subpart I of part D of title XXIII of the Public Health Service Act (42 U.S.C. 300cc-40 et seq.) is amended by inserting after section 2351 the following:

''SEC. 2351A. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER SEXUALLY TRANSMITTED INFECTIONS.

''(a) EXPANSION AND COORDINATION OF ACTIVITIES.—The Secretary, acting through the Director of the Office of AIDS Research and in coordination with other relevant institutes and offices, shall expand, intensify, and coordinate the activities of all appropriate institutes and components of the National Institutes of Health with respect to research on the development of microbicides to prevent the transmission of HIV and other sexually transmitted infections (in this section referred to as 'microbicide research').

''(b) RESEARCH PLAN.—The Secretary, acting through the Director of the Office of AIDS Research and in consultation with the Director of the Institute of Allergy and Infectious Diseases, shall expedite the implementation of the strategic plan for the conduct and support of microbicide research, and shall annually review and as appropriate revise the plan. In developing, implementing, and reviewing the plan, the Director of the Office of AIDS Research shall coordinate with the heads of other Federal agencies, including the Director of the Centers for Disease Control and Prevention and the Administrator of the United States Agency for International Development, involved in microbicide research, with the microbicide research community, and with health advocates.

''(c) MICROBICIDE RESEARCH AND DEVELOPMENT TEAMS.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health, shall award grants or contracts to public and private entities for the development and operation of multidisciplinary teams to conduct research on innovative microbicide concepts, including combination microbicides.

''(2) PEER REVIEW REQUIREMENT.—The Director shall award a grant or contract to an entity under paragraph (1) only if the grant or contract has been recommended after technical and scientific peer review in accordance with regulations under section 492.

''(d) REPORT.—Not later than 1 year after the date of the initial submission of the research plan under subsection (b), and annually thereafter, the Secretary, acting through the Director of the Office of AIDS Research and in consultation with the Director of the Institute of Allergy and Infectious Diseases, shall submit to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate a report that describes the activities of the National Institutes of Health regarding microbicide research. Each such report shall include—

''(1) an updated research plan;

''(2) a description and evaluation of the progress made, during the period for which such report is prepared, in research on microbicides;

''(3) a summary and analysis of expenditures made, during the period for which the report is made, for activities with respect to microbicides research conducted and supported by the National Institutes of Health, including the number of full-time equivalent employees; and

''(4) recommendations as the Director of the Office of AIDS Research considers appropriate.

''(f) DEFINITION.—In this section, the term 'HIV' means the human immunodeficiency virus. Such term includes acquired immune deficiency syndrome.''.

SEC. 603. AUTHORITY OF THE DEPARTMENT OF LABOR.

(a) PURPOSE.—It is the purpose of this section to provide the Secretary of Labor with the authority to carry out workplace-based HIV/AIDS programs in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary.

(b) ACTIVITIES AND ASSISTANCE.—In carrying out the purpose described in subsection (a), the Secretary of Labor, in coordination with the Secretary of Health and Human Services and the Administrator of the United States Agency for International Development, may provide assistance under this section relating to—

(1) the establishment and implementation of workplace HIV/AIDS prevention and education programs in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary, including programs that emphasize protections against discrimination and the creation of supportive environments for individuals living with HIV/AIDS;

(2) the development and implementation of on-site care and wellness programs that enhance the health and productivity of the workforce in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary;

(3) activities to strengthen collaboration among governments, business, and labor leaders to respond to the HIV/AIDS pandemic; and

(4) other activities determined appropriated by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 2003, and such sums as may be necessary for fiscal year 2004. Amounts appropriated under this subsection shall remain available until expended.

SEC. 604. AUTHORITY FOR INTERNATIONAL PROGRAMS.

Section 307 of the Public Health Service Act (42 U.S.C. 242l) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by adding ''and'' at the end;

(B) in paragraph (7), by striking ''; and'' and inserting a period;

(C) in the flush sentence after paragraph (7), by inserting ''new'' before ''facility in any foreign country''; and

(D) by striking paragraph (8); and

(2) by adding at the end the following:

''(d)(1) The Secretary is authorized to utilize the authority contained in section 2 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669), subject to the limitations set forth in subsection (e).

''(2) The Secretary is authorized to use the authority contained in section 1 of the Act of April 18, 1930 (46 Stat. 177; 22 U.S.C. 291) and section 1 of the Foreign Service Buildings Act (22 U.S.C. 292) directly or through contract, grant, or cooperative agreement to lease, alter, or renovate facilities in foreign countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad.

''(e) In exercising the authority set forth in paragraphs (1) and (2) of subsection (d), the Secretary shall consult with the Secretary of State to ensure that planned activities are within the legal strictures of the State Department Basic Authorities Act of 1956 and other applicable laws.''.

SA 4298. Mr. REID (for Mr. KERRY (for himself, Mr. FRIST, Mr. KENNEDY, Mr. BIDEN, and Mr. HELMS)) proposed an amendment to the bill H.R. 2069, To amend the Foreign Assistance Act of 1961 and the Global AIDS and Tuberculosis Relief Act of 2000 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan African and other developing countries; as follows:

Amend the title to read as follows: ''An Act to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria; to amend the Public Health Service Act with respect to the authority of the Department of Health and Human Services to act internationally with respect to HIV/AIDS, tuberculosis, and malaria; and for other purposes.''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on July 16, 2002 in SD–562 at 10 a.m. The purpose of this hearing will be to discuss the proposed ban on packer ownership and also the enforcement of the packers and stockyards act.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on July 17, 2002 in SH–216 at 2 p.m. The purpose of this hearing will be to discuss homeland security.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Production and Price Competitiveness will conduct a hearing on July 18, 2002 in SR–328A at 2 p.m. The purpose of this hearing will be to discuss S. 532, the Pesticide Harmonization Act.

HONORING THE 19 UNITED STATES SERVICEMEN WHO DIED IN THE TERRORIST BOMBING OF THE KHOBAR TOWERS MILITARY HOUSING COMPOUND IN DHAHRAN, SAUDI ARABIA

Mr. REID. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H. Con. Res. 161 and the Senate now proceed to its consideration.

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

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con Res. 161) honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers military housing compound in Dhahran, Saudi Arabia, on June 25, 1996.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD, without further intervening action or debate.

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

The concurrent resolution (H. Con. Res. 161) was agreed to.

The preamble was agreed to.

COMMENDING THE DISTRICT OF COLUMBIA NATIONAL GUARD, THE NATIONAL GUARD BUREAU, AND THE ENTIRE DEPARTMENT OF DEFENSE

Mr. REID. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H. Con. Res. 378 and that the Senate proceed to its consideration.

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

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 378) commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

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

The concurrent resolution (H. Con. Res. 378) was agreed to.

The preamble was agreed to.

ORDER FOR RECORD TO REMAIN OPEN

Mr. REID. Mr. President, I ask unanimous consent that the RECORD remain open today until 2 p.m. for the submission of statements and the introduction of legislation.

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

ORDERS FOR MONDAY, JULY 15, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon, Monday, July 15; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 1 p.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the minority, that is, Senator LOTT or his designee, and the second half under the control of Senator DASCHLE or his designee; that at 1 p.m., the Senate resume consideration of the accounting reform bill under the previous order.

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

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, following the remarks of the Senator from West Virginia, Mr. BYRD, I ask unanimous consent the Senate stand in adjournment under the previous order.

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

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Montana, asks unanimous consent that further proceedings under the quorum call be dispensed with.

Without objection, it is so ordered.

APPOINTMENT OF CONFEREES—H.R. 3009

The PRESIDING OFFICER. Pursuant to the previous order, the Chair will appoint the following conferees.

The Presiding Officer appointed Senators BAUCUS, ROCKEFELLER, BREAUX, GRASSLEY, and HATCH conferees on the part of the Senate.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Montana, suggests the absence of a quorum.

The clerk will call the roll.

The 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.

ADJOURNMENT UNTIL MONDAY, JULY 15, 2002

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until Monday, July 15, at 12 noon.

There being no objection, the Senate, at 12:53 p.m. Adjourned until Monday, July 15, 2002, at 12 noon.